Gorsuch, Neil M

Subject:	John elwood
Start:	Thursday, June 01, 2006 3:00 PM
End:	Thursday, June 01, 2006 4:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	Framing issue
Start:	Friday, May 26, 2006 9:00 AM
End:	Friday, May 26, 2006 9:30 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject: [redacted] nephew

Start: Wednesday, July 26, 2006 2:00 PM
End: Wednesday, July 26, 2006 3:00 PM

Recurrence: (none)

Meeting Status: No response required

Organizer: Gorsuch, Neil M

Gorsuch, Neil M

Subject: [redacted]

Start: Wednesday, July 12, 2006 12:00 PM
End: Wednesday, July 12, 2006 12:00 PM

Recurrence: (none)

Meeting Status: No response required

Organizer: Gorsuch, Neil M

Gorsuch, Neil M

Subject:	Call w senate
Start:	Monday, June 19, 2006 11:45 AM
End:	Monday, June 19, 2006 12:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	Call judge rymer and foia iSsue
Start:	Monday, April 17, 2006 10:30 AM
End:	Monday, April 17, 2006 10:30 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	Clement lumch
Start:	Wednesday, August 02, 2006 12:00 PM
End:	Wednesday, August 02, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	Carl nichols
Start:	Tuesday, May 23, 2006 12:00 PM
End:	Tuesday, May 23, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	Dc legal aid clinic
Start:	Saturday, April 08, 2006 9:00 AM
End:	Saturday, April 08, 2006 10:00 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	Lunch w Jamil Jaffer
Start:	Wednesday, May 17, 2006 12:00 PM
End:	Wednesday, May 17, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	Lunch w[redacted]
Start:	Tuesday, May 16, 2006 12:00 PM
End:	Tuesday, May 16, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject: [redacted]

Start: Wednesday, April 26, 2006 2:30 PM
End: Wednesday, April 26, 2006 4:45 PM

Recurrence: (none)

Meeting Status: No response required

Organizer: Gorsuch, Neil M

Gorsuch, Neil M

Subject: Call [redacted]

Start: Friday, May 26, 2006 10:00 AM
End: Friday, May 26, 2006 10:30 AM

Recurrence: (none)

Meeting Status: No response required

Organizer: Gorsuch, Neil M

Gorsuch, Neil M

Subject: [redacted]

Start: Friday, May 26, 2006 11:30 AM
End: Friday, May 26, 2006 12:00 PM

Recurrence: (none)

Meeting Status: No response required

Organizer: Gorsuch, Neil M

Gorsuch, Neil M

Subject:	Senger judges
Start:	Wednesday, July 12, 2006 11:00 AM
End:	Wednesday, July 12, 2006 12:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Image not available for this document, ID: 0.7.10316.10030

AD 343 Payroll Action Request
AD 354 Request for Information
AD 663 Req. for Issuance of Replacement Check
AD 581 Lump Sum Leave or Compensatory Time Payments
BC-1 GSA Reimbursement Voucher
BP-S101 Delivery Order
CA 1 Federal Employees Notice of Traumatic Injury
CA 16 Authorization For Examination and/or Treatment
CA 17 Duty Status Report
CA 2 Notice of Occupational Disease & Claim Comp.
CA 20 Attending Physicians Report
CA 20A Attending Physicians Supplemental Report
CA 2A Notice of Employees Recurrence of Disability
CA 3 Report of Termination of Disability
CA 7 Claim for Comp. on Account of Traumatic Injury
CA 8 Claim for Continuing Comp. on Account of Disab
CCPR Credit Card Purchase Request
CO 275 Central Office Correspondence Ctrl. and Routin
CO-340 Training/Travel-Request Authorization/Approval
CO-363 Property Transfer Request
CO-80 Request for Amend to Operation Inst., or Reg.
DJ 136 Telephone Service Request
DOJ 2 Request For Printing & Design
DOJ 231 Statemt of Anticipated Reimbursement
DOJ 369 Copying Duplication Inventory
DOJ 369A Duplicating Production
DOJ 430 Audiovisual services Request
DOJ 450 Req. for Copying/Duplicating Equipment
DOJ 522 Performance Appraisal Record
DOJ 529 Publication Planning Guide
DOJ 551 Requisition/Order and Supplies or Services
DOJ 553 Printing Procurement Unit Production Request
DOJ-110 Emp. Claim for Loss or Damage to Personal Prop
DOJ-110A Schedule of Property
DOJ-182 Stocked Printed Item Requisition
DOJ-216 Reimbursement Agreement Between Agencies
DOJ-233 Employee Locator Information
DOJ-274 Notice of Document Classification Action
DOJ-2D Quick Copy Duplicating Service Requisition
DOJ-364 Req. for Restoration of Forfeited Annual Leave
DOJ-504 Notification of Foreign Travel
DOJ-547 Action Memorandum
DPSC 1533-1 Statement of Completion of Deliveries or Svcs.
DSP 11 Application for Passport/Registration
DSP 64 Statement Regarding Lost or Stolen Passport
DSP 82 Application for Passport by Mail
FMS 196 Judgment Fund Award Data Sheet
FORM 8741 Relocation Voucher
FS-FOS-3 Fiscal Payment Request
G-104 Obligation Authorization
G-119A Transfer Questionnaire
G-179 Request for Forms Service
G-2 Memorandum
G-201 Request for Clearance to Classified Informatio
G-204 Estimated Quarterly Fiscal Requirements
G-22.16 Workload Record

G-22.2 Workload Summary
G-22.3A Daily Operations Report
G-24 Certification
G-250 Travel - Request - Authorization
G-259 Work and Assignment Sheet
G-259A Duty Assignment Sheet
G-260 Fines - Notice of Final Decision
G-40 Long Distance Telephone Call Report
G-435 Daily Timesheet
G-504 Report of Property Shipped - Received
G-514 Requisition - Materials - Supplies - Equipment
G-514.1 Req. - Materials - Supplies - Equipment (Cont)
G-602 Promotion & Reassignment/Request for Rating
G-610 Basic Appraisal Worksheet
G-610A Basic Appraisal Worksheet Transmittal Memo
G-625 Record of Security Forms
G-657 Privacy Act Information Request
G-676 Merit Staffing Plan II Application Form
G-689 Facsimile Transmission Log
G-861 Request for Information Services
GAO 563 End of Assignment/Period Performance Appraisal
GPO 2511 Print Order
GPO 2511A Print Order
GPO 2511B Print Order
GPO 26-938 United States House of Representatives
GPO 2694A Agency Onsite Inspection Report
GPO 32-152 United States House of Representatives
GPO 3868 Notification of Intent to Publish
GPO 952 Desktop Publishing Disk Information
GSA 1291 Recommendation for Performance Recognition
GSA 135 Request for Photographic Services
GSA 1535 Recommendation for Award(s)
GSA 1781 Motor Vehicle Requisition - Delivery Order
GSA 220 Inspection Report on Work Under Contract
GSA 2511 Temporary Quarters Expense Report
GSA 2742 Publications Distribution Mailing Lists
GSA 276 Supplemental Lease Agreement
GSA 2957 Reimbursable Work Authorization
GSA 2972 Request for Adjustment/SIBAC
GSA 300 Order for Supplies and Services
GSA 300-A Order for Supplies and Services (Continued)
GSA 3076 Req. Author., Agree. and Certificate of Train.
GSA 3081 Imprest Fund Register
GSA 3440 Employee Performance Rating
GSA 3530 Work Space Mngmt and Budget Justification
GSA 3542 Customer Supply Center Order
GSA 3580 Customer Supply Center Discrepancy Report
GSA 3626 U.S. Govt Lease for Real Property
GSA 49 Req./Procurement Request for Equipment, Suppli
GSA 50 Request for Reproduction Services
GSA 525 Property Transfer Authorization
GSA 544 Req. Authorization/Report of Overtime
GSA 87 Travel Authorization
GSA-1 Flex Sheet
GSA-2 Request for Government Credit Card Purchase
I-272 US Dept. of Justice Reply to Application

I-9 Employment Eligibility Verification
N-340 Notice of Interview
OBD 13 Requisition for Repairs - Office Machines
OBD 14 OBD Property Transfer Request
OBD 186 Requisition for Equipment, Supplies or Service
OBD 203 Special Messenger Request
OBD 219 Memorandum
OBD 228 Monetary Award Approval
OBD 232 Request for Perm. and Temp. Id Document
OBD 233 Building Modification Services Request
OBD 235 Request for Waiver of Preapt. Inves.
OBD 236 Inquiry Regarding Suitablitity of Applicant
OBD 29 Monthly Estimates for Recurring Obligation
OBD 35 Merit Promotion Program Appraisal Form
OBD 47 Request, Auth. & Agreement for Fees & Expenses
OEP/PRA90-1 Presidential Rank Awards Program
OF 11 Reference Request - Federal Records Center
OF 1129 Reimbursement Voucher and/or Accountability
OF 1129A Reimbursement Voucher and/or Accountability
OF 127 Receiving and Inspection Report
OF 206 Purchase Order, Receiving Report and Voucher
OF 208 Statement of Collections
OF 21 Cross Reference
OF 26 Data Upon Scope of Employment(Vehicle Operator
OF 271 Conversation Record
OF 306 Declaration for Federal Employment
OF 333 Procurement Integ. Cert. for Procurement Offic
OF 336 Continuation Sheet
OF 347 Order for Supplies or Services
OF 348 Order for Supplies or Svcs. Schedule Cont
OF 41 Routing and Transmittal Slip
OF 5 Inquiry as to Availability
OF 612 Optional Application for Federal Employment
OF 630 Leave Recepient Appl. Under the Vol. Leave
OF 630A Req. to Donate Annual Leave-W/in Agency
OF 630B Req. to Donate Annual Leave (Outside Agency)
OF 69 Assignment Agreement
OF 7 Property Pass
OF 8 Position Description
OFI 16A Specific Release
OFI 36 Additional Data/Single Scope Bkground Invest.
OFI 79B Request For Search of OPM Records
OFI 79A Rpt. of Agency Adjudicative Action/OPM Invest.
OFI 86C Special Agreement Checks (SAC)
OGE 101 Requisition for Supplies, Equipment, & Service
OGE 105 Request for TDY Travel Authorization/Advance
OGE 301 Performance Appraisal Form
OGE 302 Performance Standards Form
OGE 303 Senior Executive Performance Appraisal
OGE 306 Spot Cash Awards Program
OGE 307 Position Sensitivity Designation
OGE 450 Confidential Financial Disclosure Report
OJP 1590/1 Employee Arrival/Departure Record
OJP 1590/2 Employee Attendance Report
OJP 1800/1 Requisition
OMB 83-C Paperwork Reduction Act Change Worksheet

OMB 83-I Paperwork Reduction Act Submission
OPM 1019 Information on Schedule C Positions & Incumb.
OPM 1170 List of Colleges & Cert. of Scholastic Achieve
OPM 1386 Background Survey Questionnaire 79-2
OPM 1390 Executive Personnel Transaction Form
OPM 1425 Application for Refund of Retirement Deduction
OPM 1425B Current/Former Spouses Notification of Refund
OPM 1510 Cert. of Agency Offer of Position & Required
OPM 1514 Military Deposit Worksheet
OPM 1555 Election of Coverage--FERS
OPM 1556 Former Spouses Consent to FERS Election
OPM 813 Verify Military Retirees Service/Nonwartime
OWCP 1500 Health Insurance Claim Form
RI-94-5 Death Benefits Elections - FERS
RI-95-3 FERS Death in Service Lump-sum Computation
SF 1 Printing and Binding Requisition
SF 1-C Printing & Binding Requisition for Specialty
SF 1012 Travel Voucher
SF 1012A Travel Voucher (Continuation Sheets)
SF 1034 Public Voucher for Purchases & Svcs. Other
SF 1035 Public Voucher for Purchases & Svcs. Other
SF 1035A Public Voucher for Purchases & Svcs. (Memoran.
SF 1038 Advance of Funds Application and Account
SF 1047 Public Voucher for Refunds
SF 1080 Voucher for Transfers Between Appropriations
SF 1081 Voucher and Schedule of Withdrawals and Credit
SF 1098 Schedule of Canceled or Undelivered Checks
SF 1103 U.S. Government Bill of Lading
SF 1113 Public Voucher for Transportation Charges
SF 1129 Cashier Voucher and/or Acct. Reimbursement
SF 114 Bid and Award
SF 1145 Voucher for Payment Under Fed Tort Claims Act
SF 114A Item Bid Page - Sealed Bid
SF 114B Sale of Government Property
SF 114C General Sale Terms and Conditions
SF 115 Record Disposition (with Continuation)
SF 1150 Record of Leave Data
SF 1151 Nonexpenditure Transfer Authorization
SF 1152 Designation of Beneficiary-Unpaid Compensation
SF 1153 Claim-Unpaid Compensation-Deceased Civilian
SF 115A Record Disposition Auth. (Continuation)
SF 1164 Reimbursement for Expenditures Official
SF 1165 Receipt for Cash--Subvoucher
SF 1184 Unavailable Check Cancellation
SF 1188 Cancellation of Payroll Deductions
SF 1189 Payment of Salary to Account at Fin. Insti.
SF 1192 Authorization for Purchase of Bonds
SF 1198 Request by Employee for Allotment of Pay for
SF 1199A Direct Deposit Sign-up Form
SF 120 Report of Excess Personal Property
SF 1200 Government Bill of Lading Correction Notice
SF 1203 U.S. Govt. Bill of Lading (Priv. Owned Prop.)
SF 120A Continuation Sht (RPT of Exec. Personal Prop.)
SF 1219 Statement of Accountability
SF 122 Transfer Order--Excess Personal Property
SF 126 Report of Personal Property for Sale (W/ Cont.

SF 126A Report of Personal Property for Sale (cont)
SF 127 Req. for Official Personnel Folder (Separate)
SF 129 Solicitation Mailing List Application
SF 132 Apportionment & Reapportionment Schedule
SF 135 Records Transmittal and Receipt (W/ Cont.)
SF 135A Records Transmittal and Receipt (Cont Sheet)
SF 14 Telegraphic Message
SF 1403 Preaward Survey of Prospective Contractor
SF 1409 Abstract of Offers
SF 1410 Abstract of Offers -- Continuation
SF 1411 Contract Pricing Proposal Cover Sheet
SF 1412 Claim for Exemption from Submission of Cert.
SF 1421 Performance Evaluation (Architect-Engineer)
SF 144 Statement of Prior Federal Service
SF 1442 Solic., Offer, & Award (Construction, Alter..)
SF 1445 Labor Standard Interview
SF 1448 Proposal Cover Sheet
SF 1449 Solicitation/Contract/Order for Commercial Ite
SF 145 Telephone Service Request
SF 145B Telephone Service Request(Natl Capital Region)
SF 15 Application for 10-Point Veteran Preference
SF 153 COMSEC Material Report
SF 171 Application for Federal Employment
SF 171A Standard Form
SF 172 Amendment to Application for Federal Employmen
SF 177 Statement of Physical Ability
SF 18 Request for Quotations
SF 180 Request Pertaining to Military Record
SF 181 Race and National Origin Identification
SF 182 Req. Authorization Agree/Certif. of Training
SF 211 Req. for Change or Establishment of Imprest
SF 215 Deposit Ticket
SF 220 Report on Financial Position
SF 220-1 Additional Financial Information
SF 220-9 Report on Accounts and Loans Receivable Due
SF 221 Report on Operations
SF 254 Architect-Engineer & Related Svcs. Questionair
SF 255 Architect-Engineer & Related Svc/Specific Proj
SF 256 Self-Identification of Handicap
SF 258 Transfer-Approv/Receipt of Records to Natl Arc
SF 26 Award/Contract
SF 270 Request for Advance or Reimbursement
SF 271 Outlay Report and Req. for Reimbursement
SF 272 Federal Cash Transactions Report (W/ Cont.)
SF 272A Federal Cash Transactions Report (Continuation
SF 278 Exec. Branch Public Financial Disclosure Repor
SF 279 Fed. Procurement Data Sys. (FPDS) Indiv. Actio
SF 2800 Application for Death Benefits
SF 2800A Agency Certification for Death in Service
SF 2801 Application for Immediate Retirement
SF 2801-1 Certified Summary of Federal Service CSRS
SF 2801-2 Spouses Consent to Survivor Election
SF 2801-3 Former Spouse Survivor Annuity or Current
SF 2801D CSRS Checklist
SF 2803 Application to Make Deposit or Redeposit CSR
SF 2804 Application to Make Voluntary Contributions

SF 2805 Request for Recovery of Debt Due the U.S.
SF 2808 Designation of Beneficiary CSRS
SF 2809 Health Benefits Registration Form
SF 281 Federal Procurement Data System (FPDS)
SF 2810 Notice of Change in Health Benefits Enrollment
SF 2817 Life Insurance Elect.--Federal Employee
SF 2818 Continuation of Life Insurance Coverage/Retire
SF 2819 Notice of Conversion Privilege-FEGLI
SF 2821 Agency Certification of Insurance Status-FEGLI
SF 2822 Request for Insurance-FEGLI
SF 2823 Designation of Beneficiary-FEGLI
SF 2824A Applicants Statement/Disability/Disab. Retire.
SF 2824B Supervisors Statement/Disability Retirement
SF 2824C Physicians Statement/Disability Retire CSRS
SF 2824D Agency Certif. of Reassign/Accomm. Efforts CSR
SF 2824E Disability Retirement Application Checklist CS
SF 294 Subcontracting Report for Individual Contracts
SF 295 Summary Subcontract Report
SF 298 Report Documentation Page
SF 30 Amendment of Solicitation/Modification of Cont
SF 308 Req. for Wage Determination & Response
SF 30A Contract Modification
SF 3102 Designation of Beneficiary - FERS
SF 3104 Application for Death Benefits - FERS
SF 3104B Document. & Election/In Support of Death Bene.
SF 3105A Applicantss Statement/Disability Retirement
SF 3105B Supervisors Statement/Disability Retirement
SF 3105C Physicians Statement/Disability Retire.-FER
SF 3105D Agency Certif. of Reassign./Accomm. Efforts-
SF 3105E Disability Retirement Application Checklist-
SF 3106 Application/Refund of Retirement Deductions-
SF 3106A Current/Former Spouses Not. of App. for Refund
SF 3107 Application for Immediate Retirement-FERS
SF 3107-1 Certified Summary of Federal Service - FERS
SF 3107-2 Spouses Consent to Survivor Election
SF 3107D Agency Checklist/Immed. Retire. Procedures-FER
SF 3108 Application to Make Service Credit Payment-FER
SF 3109 Election of Coverage
SF 312 Classified Information Nonclosure Agreement
SF 33 Solicitation, Offer and Award
SF 334 Minority Business Utilization Under Fed. Grant
SF 344 Multiuse Standard Requisitioning/Issue System
SF 36 Continuation Sheet
SF 3881 ACH Vendor/Miscellaneous Payment Enrollment
SF 39 Request for Referral of Eligible
SF 39A Request/Justif. for Select. & Qual. Ranking
SF 424 Application for Federal Assistance
SF 424A Budget Information - Non-Construction Program
SF 424B Assurances - Non-Construction Programs
SF 50-B Notification of Personnel Action
SF 52 Request for Personnel Action
SF 52-A Recruit/Placement Action
SF 59 Request for Approval of Noncompetitive Action
SF 61 Appointment Affidavits
SF 61B Declaration of Appointee
SF 62 Agency Request to Pass Over a Preference Elig.

SF 63 Memorandum of Call
SF 7 Employee Record Card
SF 700 Security Container Information
SF 701 Activity Service Checklist
SF 702 Security Container Check Sheet
SF 71 Application for Leave
SF 75 Request for Preliminary Employment Data
SF 78 Certificate of Medical Examination
SF 7B Employee Record
SF 8 Note to Federal Employee About Unemp. Insuranc
SF 81 Request for Space
SF 813 Verification of a Mil. Ret.s Service in Nonwar
SF 81A Space Requirements Worksheet
SF 82 Agency Report of Motor Vehicle Data
SF 85 Questionnaire for Non-Sensitive Positions
SF 85P Background Investigations
SF 85P-S Supp. Questionnaire for Selected Positions
SF 86 Questionnaire for Sensitive Positions
SF 86A Cont Sheet/Questionnaire Sensitive Positions
SF 91 Operators Report of Motor Vehicle Accident
SF 93 Report of Medical History
SF 95 Claim for Damage, Injury, or Death
SF 98 Not. Intention-Make a Serv Cont/Res-Notice
SF 98A Not. Intention-Make a Serv Cont/Res-Notice
SF 99 Notice of Award of Contract
SSW 18 Rpt. of Appt./Direct-Hire Auth. for Clerical
SSW 605 Rpt. of Appt./Direct-Hire Auth. for Sect. Pos.
TSP 1 Election Form
TSP 17 Application for Account Balance of Deceased
TSP 18 Validation of Retirement Information
TSP 19 Transfer Thrift Savings Plan Info. Between
TSP 20 TSP Loan Application
TSP 3 Designation of Beneficiary
TSP 30 Thrift Savings Plan Interfund Transfer Request
USA 475 Req. of US Att. for Production of Fed. Prisone

AD 343	AD343.WPF	FALSE	FALSE
AD 354	AD354.WPF	FALSE	FALSE
AD 663	AD663.WPF	FALSE	FALSE
AD 581	AD581.WPF	FALSE	FALSE
BC-1	BC1.WPF	FALSE	FALSE
BP-S101	BPS101.WPF	FALSE	FALSE
CA 1	CA1.WPF	FALSE	FALSE
CA 16	CA16.WPF	FALSE	FALSE
CA 17	CA17.WPF	FALSE	FALSE
CA 2	CA2.WPF	FALSE	FALSE
CA 20	CA20.WPF	FALSE	FALSE
CA 20A	CA20A.WPF	FALSE	FALSE
CA 2A	CA2A.WPF	FALSE	FALSE
CA 3	CA3.WPF	FALSE	FALSE
CA 7	CA7.WPF	FALSE	FALSE
CA 8	CA8.WPF	FALSE	FALSE
CCPR	CCPR.WPF	FALSE	FALSE
CO 275	CO275.WPF	FALSE	FALSE
CO-340	CO340.WPF	FALSE	FALSE
CO-363	CO363.WPF	FALSE	FALSE
CO-80	CO80.WPF	FALSE	FALSE
DJ 136	DJ136.WPF	FALSE	FALSE
DOJ 2	DOJ2.WPF	FALSE	FALSE
DOJ 231	DOJ231.WPF	FALSE	FALSE
DOJ 369	DOJ369.WPF	FALSE	FALSE
DOJ 369A	DOJ369A.WPF	FALSE	FALSE
DOJ 430	DOJ430.WPF	FALSE	FALSE
DOJ 450	DOJ450.WPF	FALSE	FALSE
DOJ 522	DOJ522.WPF	FALSE	FALSE
DOJ 529	DOJ529.WPF	FALSE	FALSE
DOJ 551	DOJ551.WPF	FALSE	FALSE
DOJ 553	DOJ553.WPF	FALSE	FALSE
DOJ-110	DOJ110.WPF	FALSE	FALSE
DOJ-110A	DOJ110A.WPF	FALSE	FALSE
DOJ-182	DOJ182.WPF	FALSE	FALSE
DOJ-216	DOJ216.WPF	FALSE	FALSE
DOJ-233	DOJ233.WPF	FALSE	FALSE
DOJ-274	DOJ274.WPF	FALSE	FALSE
DOJ-2D	DOJ2D.WPF	FALSE	FALSE
DOJ-364	DOJ364.WPF	FALSE	FALSE
DOJ-504	DOJ504.WPF	FALSE	FALSE
DOJ-547	DOJ547.WPF	FALSE	FALSE
DPSC 1533-1	DPSC1533.WPF	FALSE	FALSE
DSP 11	DSP11.WPF	FALSE	FALSE
DSP 64	DSP64.WPF	FALSE	FALSE
DSP 82	DSP82.WPF	FALSE	FALSE
FMS 196	FMS196.WPF	FALSE	FALSE
FORM 8741	FM8741.WPF	FALSE	FALSE
FS-FOS-3	FSFOS3.WPF	FALSE	FALSE
G-104	G104.WPF	FALSE	FALSE
G-119A	G119A.WPF	FALSE	FALSE
G-179	G179.WPF	FALSE	FALSE
G-2	G2.WPF	FALSE	FALSE
G-201	G201.WPF	FALSE	FALSE
G-204	G204.WPF	FALSE	FALSE
G-22.16	G2216.WPF	FALSE	FALSE

G-22.2	G222.WPF	FALSE	FALSE
G-22.3A	G223A.WPF	FALSE	FALSE
G-24	G24.WPF	FALSE	FALSE
G-250	G250.WPF	FALSE	FALSE
G-259	G259.WPF	FALSE	FALSE
G-259A	G259A.WPF	FALSE	FALSE
G-260	G260.WPF	FALSE	FALSE
G-40	G40.WPF	FALSE	FALSE
G-435	G435.WPF	FALSE	FALSE
G-504	G504.WPF	FALSE	FALSE
G-514	G514.WPF	FALSE	FALSE
G-514.1	G5141.WPF	FALSE	FALSE
G-602	G602.WPF	FALSE	FALSE
G-610	G610.WPF	FALSE	FALSE
G-610A	G610A.WPF	FALSE	FALSE
G-625	G625.WPF	FALSE	FALSE
G-657	G657.WPF	FALSE	FALSE
G-676	G676.WPF	FALSE	FALSE
G-689	G689.WPF	FALSE	FALSE
G-861	G861.WPF	FALSE	FALSE
GAO 563	GAO563.WPF	FALSE	FALSE
GPO 2511	GPO2511.WPF	FALSE	FALSE
GPO 2511A	GPO2511A.WPF	FALSE	FALSE
GPO 2511B	GPO2511B.WPF	FALSE	FALSE
GPO 26-938	GPO26938.WPF	FALSE	FALSE
GPO 2694A	GPO2694A.WPF	FALSE	FALSE
GPO 32-152	GPO32152.WPF	FALSE	FALSE
GPO 3868	GPO3868.WPF	FALSE	FALSE
GPO 952	GPO952.WPF	FALSE	FALSE
GSA 1291	GSA1291.WPF	FALSE	FALSE
GSA 135	GSA135.WPF	FALSE	FALSE
GSA 1535	GSA1535.WPF	FALSE	FALSE
GSA 1781	GSA1781.WPF	FALSE	FALSE
GSA 220	GSA220.WPF	FALSE	FALSE
GSA 2511	GSA2511.WPF	FALSE	FALSE
GSA 2742	GSA2742.WPF	FALSE	FALSE
GSA 276	GSA276.WPF	FALSE	FALSE
GSA 2957	GSA2957.WPF	FALSE	FALSE
GSA 2972	GSA2972.WPF	FALSE	FALSE
GSA 300	GSA300.WPF	FALSE	FALSE
GSA 300-A	GSA300A.WPF	FALSE	FALSE
GSA 3076	GSA3076.WPF	FALSE	FALSE
GSA 3081	GSA3081.WPF	FALSE	FALSE
GSA 3440	GSA3440.WPF	FALSE	FALSE
GSA 3530	GSA3530.WPF	FALSE	FALSE
GSA 3542	GSA3542.WPF	FALSE	FALSE
GSA 3580	GSA3580.WPF	FALSE	FALSE
GSA 3626	GSA3626.WPF	FALSE	FALSE
GSA 49	GSA49.WPF	FALSE	FALSE
GSA 50	GSA50.WPF	FALSE	FALSE
GSA 525	GSA525.WPF	FALSE	FALSE
GSA 544	GSA544.WPF	FALSE	FALSE
GSA 87	GSA87.WPF	FALSE	FALSE
GSA-1	GSA1.WPF	FALSE	FALSE
GSA-2	GSA2.WPF	FALSE	FALSE
I-272	I272.WPF	FALSE	FALSE

I-9	FORMI9.WPF	FALSE	FALSE
N-340	N340.WPF	FALSE	FALSE
OBD 13	OBD13.WPF	FALSE	FALSE
OBD 14	OBD14.WPF	FALSE	FALSE
OBD 186	OBD186.WPF	FALSE	FALSE
OBD 203	OBD203.WPF	FALSE	FALSE
OBD 219	OBD219.WPF	FALSE	FALSE
OBD 228	OBD228.WPF	FALSE	FALSE
OBD 232	OBD232.WPF	FALSE	FALSE
OBD 233	OBD233.WPF	FALSE	FALSE
OBD 235	OBD235.WPF	FALSE	FALSE
OBD 236	OBD236.WPF	FALSE	FALSE
OBD 29	OBD29.WPF	FALSE	FALSE
OBD 35	OBD35.WPF	FALSE	FALSE
OBD 47	OBD47.WPF	FALSE	FALSE
OEP/PRA90-1	OEPRA901.WPF	FALSE	FALSE
OF 11	OF11.WPF	FALSE	FALSE
OF 1129	OF1129.WPF	FALSE	FALSE
OF 1129A	OF1129.WPF	FALSE	FALSE
OF 127	OF127.WPF	FALSE	FALSE
OF 206	OF206.WPF	FALSE	FALSE
OF 208	OF208.WPF	FALSE	FALSE
OF 21	OF21.WPF	FALSE	FALSE
OF 26	OF26.WPF	FALSE	FALSE
OF 271	OF271.WPF	FALSE	FALSE
OF 306	OF306.WPF	FALSE	FALSE
OF 333	OF333.WPF	FALSE	FALSE
OF 336	OF336.WPF	FALSE	FALSE
OF 347	OF347.WPF	FALSE	FALSE
OF 348	OF348.WPF	FALSE	FALSE
OF 41	OF41.WPF	FALSE	FALSE
OF 5	OF5.WPF	FALSE	FALSE
OF 612	OF612.WPF	FALSE	FALSE
OF 630	OF630.WPF	FALSE	FALSE
OF 630A	OF630A.WPF	FALSE	FALSE
OF 630B	OF630B.WPF	FALSE	FALSE
OF 69	OF69.WPF	FALSE	FALSE
OF 7	OF7.WPF	FALSE	FALSE
OF 8	OF8.WPF	FALSE	FALSE
OFI 16A	OFI16A.WPF	FALSE	FALSE
OFI 36	OFI36.WPF	FALSE	FALSE
OFI 79B	OFI79B.WPF	FALSE	FALSE
OFI 79A	OFI79A.WPF	FALSE	FALSE
OFI 86C	OFI86C.WPF	FALSE	FALSE
OGE 101	OGE101.WPF	FALSE	FALSE
OGE 105	OGE105.WPF	FALSE	FALSE
OGE 301	OGE301.WPF	FALSE	FALSE
OGE 302	OGE302.WPF	FALSE	FALSE
OGE 303	OGE303.WPF	FALSE	FALSE
OGE 306	OGE306.WPF	FALSE	FALSE
OGE 307	OGE307.WPF	FALSE	FALSE
OGE 450	OGE450.WPF	FALSE	FALSE
OJP 1590/1	OJP15901.WPF	FALSE	FALSE
OJP 1590/2	OJP15902.WPF	FALSE	FALSE
OJP 1800/1	OJP18001.WPF	FALSE	FALSE
OMB 83-C	OMB83C.WPF	FALSE	FALSE

OMB 83-I	OMB83I.WPF	FALSE	FALSE
OPM 1019	OPM1019.WPF	FALSE	FALSE
OPM 1170	OPM1170.WPF	FALSE	FALSE
OPM 1386	OPM1386.WPF	FALSE	FALSE
OPM 1390	OPM1390.WPF	FALSE	FALSE
OPM 1425	OPM1425.WPF	FALSE	FALSE
OPM 1425B	OPM1425B.WPF	FALSE	FALSE
OPM 1510	OPM1510.WPF	FALSE	FALSE
OPM 1514	OPM1514.WPF	FALSE	FALSE
OPM 1555	OPM1555.WPF	FALSE	FALSE
OPM 1556	OPM1556.WPF	FALSE	FALSE
OPM 813	OPM813.WPF	FALSE	FALSE
OWCP 1500	OWCP1500.WPF	FALSE	FALSE
RI-94-5	RI94-5.WPF	FALSE	FALSE
RI-95-3	RI95-3.WPF	FALSE	FALSE
SF 1	SF1.WPF	FALSE	FALSE
SF 1-C	SF1C.WPF	FALSE	FALSE
SF 1012	SF1012.WPF	FALSE	FALSE
SF 1012A	SF1012.WPF	FALSE	FALSE
SF 1034	SF1034.WPF	FALSE	FALSE
SF 1035	SF1035.WPF	FALSE	FALSE
SF 1035A	SF1035A.WPF	FALSE	FALSE
SF 1038	SF1038.WPF	FALSE	FALSE
SF 1047	SF1047.WPF	FALSE	FALSE
SF 1080	SF1080.WPF	FALSE	FALSE
SF 1081	SF1081.WPF	FALSE	FALSE
SF 1098	SF1098.WPF	FALSE	FALSE
SF 1103	SF1103.WPF	FALSE	FALSE
SF 1113	SF1113.WPF	FALSE	FALSE
SF 1129	SF1129.WPF	FALSE	FALSE
SF 114	SF114.WPF	FALSE	FALSE
SF 1145	SF1145.WPF	FALSE	FALSE
SF 114A	SF114A.WPF	FALSE	FALSE
SF 114B	SF114B.WPF	FALSE	FALSE
SF 114C	SF114C.WPF	FALSE	FALSE
SF 115	SF115.WPF	FALSE	FALSE
SF 1150	SF1150.WPF	FALSE	FALSE
SF 1151	SF1151.WPF	FALSE	FALSE
SF 1152	SF1152.WPF	FALSE	FALSE
SF 1153	SF1153.WPF	FALSE	FALSE
SF 115A	SF115A.WPF	FALSE	FALSE
SF 1164	SF1164.WPF	FALSE	FALSE
SF 1165	SF1165.WPF	FALSE	FALSE
SF 1184	SF1184.WPF	FALSE	FALSE
SF 1188	SF1188.WPF	FALSE	FALSE
SF 1189	SF1189.WPF	FALSE	FALSE
SF 1192	SF1192.WPF	FALSE	FALSE
SF 1198	SF1198.WPF	FALSE	FALSE
SF 1199A	SF1199A.WPF	FALSE	FALSE
SF 120	SF120.WPF	FALSE	FALSE
SF 1200	SF1200.WPF	FALSE	FALSE
SF 1203	SF1203.WPF	FALSE	FALSE
SF 120A	SF120A.WPF	FALSE	FALSE
SF 1219	SF1219.WPF	FALSE	FALSE
SF 122	SF122.WPF	FALSE	FALSE
SF 126	SF126.WPF	FALSE	FALSE

SF 126A	SF126A.WPF	FALSE	FALSE
SF 127	SF127.WPF	FALSE	FALSE
SF 129	SF129.WPF	FALSE	FALSE
SF 132	SF132.WPF	FALSE	FALSE
SF 135	SF135.WPF	FALSE	FALSE
SF 135A	SF135A.WPF	FALSE	FALSE
SF 14	SF14.WPF	FALSE	FALSE
SF 1403	SF1403.WPF	FALSE	FALSE
SF 1409	SF1409.WPF	FALSE	FALSE
SF 1410	SF1410.WPF	FALSE	FALSE
SF 1411	SF1411.WPF	FALSE	FALSE
SF 1412	SF1412.WPF	FALSE	FALSE
SF 1421	SF1421.WPF	FALSE	FALSE
SF 144	SF144.WPF	FALSE	FALSE
SF 1442	SF1442.WPF	FALSE	FALSE
SF 1445	SF1445.WPF	FALSE	FALSE
SF 1448	SF1448.WPF	FALSE	FALSE
SF 1449	SF1449.WPF	FALSE	FALSE
SF 145	SF145.WPF	FALSE	FALSE
SF 145B	SF145B.WPF	FALSE	FALSE
SF 15	SF15.WPF	FALSE	FALSE
SF 153	SF153.WPF	FALSE	FALSE
SF 171	SF171.WPF	FALSE	FALSE
SF 171A	SF171A.WPF	FALSE	FALSE
SF 172	SF172.WPF	FALSE	FALSE
SF 177	SF177.WPF	FALSE	FALSE
SF 18	SF18.WPF	FALSE	FALSE
SF 180	SF180.WPF	FALSE	FALSE
SF 181	SF181.WPF	FALSE	FALSE
SF 182	SF182.WPF	FALSE	FALSE
SF 211	SF211.WPF	FALSE	FALSE
SF 215	SF215.WPF	FALSE	FALSE
SF 220	SF220.WPF	FALSE	FALSE
SF 220-1	SF220-1.WPF	FALSE	FALSE
SF 220-9	SF220-9.WPF	FALSE	FALSE
SF 221	SF221.WPF	FALSE	FALSE
SF 254	SF254.WPF	FALSE	FALSE
SF 255	SF255.WPF	FALSE	FALSE
SF 256	SF256.WPF	FALSE	FALSE
SF 258	SF258.WPF	FALSE	FALSE
SF 26	SF26.WPF	FALSE	FALSE
SF 270	SF270.WPF	FALSE	FALSE
SF 271	SF271.WPF	FALSE	FALSE
SF 272	SF272.WPF	FALSE	FALSE
SF 272A	SF272A.WPF	FALSE	FALSE
SF 278	SF278.WPF	FALSE	FALSE
SF 279	SF279.WPF	FALSE	FALSE
SF 2800	SF2800.WPF	FALSE	FALSE
SF 2800A	SF2800A.WPF	FALSE	FALSE
SF 2801	SF2801.WPF	FALSE	FALSE
SF 2801-1	SF2801-1.WPF	FALSE	FALSE
SF 2801-2	SF2801-2.WPF	FALSE	FALSE
SF 2801-3	SF2801-3.WPF	FALSE	FALSE
SF 2801D	SF2801D.WPF	FALSE	FALSE
SF 2803	SF2803.WPF	FALSE	FALSE
SF 2804	SF2804.WPF	FALSE	FALSE

SF 2805	SF2805.WPF	FALSE	FALSE
SF 2808	SF2808.WPF	FALSE	FALSE
SF 2809	SF2809.WPF	FALSE	FALSE
SF 281	SF281.WPF	FALSE	FALSE
SF 2810	SF2810.WPF	FALSE	FALSE
SF 2817	SF2817.WPF	FALSE	FALSE
SF 2818	SF2818.WPF	FALSE	FALSE
SF 2819	SF2819.WPF	FALSE	FALSE
SF 2821	SF2821.WPF	FALSE	FALSE
SF 2822	SF2822.WPF	FALSE	FALSE
SF 2823	SF2823.WPF	FALSE	FALSE
SF 2824A	SF2824A.WPF	FALSE	FALSE
SF 2824B	SF2824B.WPF	FALSE	FALSE
SF 2824C	SF2824C.WPF	FALSE	FALSE
SF 2824D	SF2824D.WPF	FALSE	FALSE
SF 2824E	SF2824E.WPF	FALSE	FALSE
SF 294	SF294.WPF	FALSE	FALSE
SF 295	SF295.WPF	FALSE	FALSE
SF 298	SF298.WPF	FALSE	FALSE
SF 30	SF30.WPF	FALSE	FALSE
SF 308	SF308.WPF	FALSE	FALSE
SF 30A	SF30A.WPF	FALSE	FALSE
SF 3102	SF3102.WPF	FALSE	FALSE
SF 3104	SF3104.WPF	FALSE	FALSE
SF 3104B	SF3104B.WPF	FALSE	FALSE
SF 3105A	SF3105A.WPF	FALSE	FALSE
SF 3105B	SF3105B.WPF	FALSE	FALSE
SF 3105C	SF3105C.WPF	FALSE	FALSE
SF 3105D	SF3105D.WPF	FALSE	FALSE
SF 3105E	SF3105E.WPF	FALSE	FALSE
SF 3106	SF3106.WPF	FALSE	FALSE
SF 3106A	SF3106A.WPF	FALSE	FALSE
SF 3107	SF3107.WPF	FALSE	FALSE
SF 3107-1	SF3107-1.WPF	FALSE	FALSE
SF 3107-2	SF3107-2.WPF	FALSE	FALSE
SF 3107D	SF3107D.WPF	FALSE	FALSE
SF 3108	SF3108.WPF	FALSE	FALSE
SF 3109	SF3109.WPF	FALSE	FALSE
SF 312	SF312.WPF	FALSE	FALSE
SF 33	SF33.WPF	FALSE	FALSE
SF 334	SF334.WPF	FALSE	FALSE
SF 344	SF344.WPF	FALSE	FALSE
SF 36	SF36.WPF	FALSE	FALSE
SF 3881	SF3881.WPF	FALSE	FALSE
SF 39	SF39.WPF	FALSE	FALSE
SF 39A	SF39A.WPF	FALSE	FALSE
SF 424	SF424.WPF	FALSE	FALSE
SF 424A	SF424A.WPF	FALSE	FALSE
SF 424B	SF424B.WPF	FALSE	FALSE
SF 50-B	SF50B.WPF	FALSE	FALSE
SF 52	SF52.WPF	FALSE	FALSE
SF 52-A	SF52A.WPF	FALSE	FALSE
SF 59	SF59.WPF	FALSE	FALSE
SF 61	SF61.WPF	FALSE	FALSE
SF 61B	SF61B.WPF	FALSE	FALSE
SF 62	SF62.WPF	FALSE	FALSE

SF 63	SF63.WPF	FALSE	FALSE
SF 7	SF7.WPF	FALSE	FALSE
SF 700	SF700.WPF	FALSE	FALSE
SF 701	SF701.WPF	FALSE	FALSE
SF 702	SF702.WPF	FALSE	FALSE
SF 71	SF71.WPF	FALSE	FALSE
SF 75	SF75.WPF	FALSE	FALSE
SF 78	SF78.WPF	FALSE	FALSE
SF 7B	SF7B.WPF	FALSE	FALSE
SF 8	SF8.WPF	FALSE	FALSE
SF 81	SF81.WPF	FALSE	FALSE
SF 813	SF813.WPF	FALSE	FALSE
SF 81A	SF81AP1.WPF	FALSE	FALSE
SF 82	SF82.WPF	FALSE	FALSE
SF 85	SF85.WPF	FALSE	FALSE
SF 85P	SF85P.WPF	FALSE	FALSE
SF 85P-S	SF85P-S.WPF	FALSE	FALSE
SF 86	SF86.WPF	FALSE	FALSE
SF 86A	SF86A.WPF	FALSE	FALSE
SF 91	SF91.WPF	FALSE	FALSE
SF 93	SF93.WPF	FALSE	FALSE
SF 95	SF95.WPF	FALSE	FALSE
SF 98	SF98.WPF	FALSE	FALSE
SF 98A	SF98A.WPF	FALSE	FALSE
SF 99	SF99.WPF	FALSE	FALSE
SSW 18	SSW18.WPF	FALSE	FALSE
SSW 605	SSW605.WPF	FALSE	FALSE
TSP 1	TSP1.WPF	FALSE	FALSE
TSP 17	TSP17.WPF	FALSE	FALSE
TSP 18	TSP18.WPF	FALSE	FALSE
TSP 19	TSP19.WPF	FALSE	FALSE
TSP 20	TSP20.WPF	FALSE	FALSE
TSP 3	TSP3.WPF	FALSE	FALSE
TSP 30	TSP30.WPF	FALSE	FALSE
USA 475	USA475.WPF	FALSE	FALSE

(Memo File)
(Memo File)
(Memo File)

(Memo File)
(Memo File)
(Memo File)

(Memo File)
(Memo File)
(Memo File)

(Memo File)
(Memo File)
(Memo File)

(Memo File)
(Memo File)
(Memo File)

(Memo File)
(Memo File)
(Memo File)

(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)
(Memo File)

CorelCENTRAL 9 Address Book

Image not available for this document, ID: 0.7.10316.10035

Image not available for this document, ID: 0.7.10316.9983

Image not available for this document, ID: 0.7.10316.10039

Image not available for this document, ID: 0.7.10316.10023

Image not available for this document, ID: 0.7.10316.9962

Image not available for this document, ID: 0.7.10316.9955

Image not available for this document, ID: 0.7.10316.10033

Image not available for this document, ID: 0.7.10316.9985

Austin Schlick

From: Austin Schlick
Sent: Monday, May 23, 2005 7:51 PM
To: Gorsuch, Neil M.
Subject: Re: Lunch tomorrow or wedns?

Welcome back. Free Wednesday.

-----Original Message-----
From: Gorsuch, Neil M. <[redacted]
To: Austin Schlick <[redacted]@fcc.gov>
Sent: Mon May 23 19:14:14 2005
Subject: Lunch tomorrow or wedns?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 13, 2005 11:32 AM
To: Byrnes, Kathleen T
Subject: RE: SECURITY PAPERWORK

Kathy - I have a copy of the sf-86 form with me and will bring it to our meeting at 2pm. If there's something else I need, please let me know. Regards, Neil Gorsuch

-----Original Message-----
From: Byrnes, Kathleen T
Sent: Monday, June 13, 2005 11:30 AM
To: Gorsuch, Neil M
Subject: SECURITY PAPERWORK
Importance: High

Neil,

We've been asked to obtain national security clearance for you; however, I am not in receipt of your security paperwork. Please advise if you have completed your security paperwork and when you will be submitting it to 20 Mass for processing. We cannot grant your security clearance until we initiate your background. Please call if you have any questions. Thks.....

Kathy Byrnes
Personnel Security
202-514-2325

Gunn, Currie (SMO)

Subject:	Updated: OASG Staff Meeting
Location:	Conference Room 5710
Start:	Tuesday, March 29, 2005 6:00 PM
End:	Tuesday, March 29, 2005 7:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Tuesday and Thursday from 5:00 PM to 6:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Kessler, Elizabeth A; Senger, Jeffrey M; Reyes, Luis (SMO); Henke, Tracy (SMO); Wiggins, Mike; Swenson, Lily F; Wiggins, Mike; Gorsuch, Neil M
Optional Attendees:	Shaw, Aloma A

When: Occurs every Tuesday and Thursday effective 3/29/05 from 5:00 PM to 6:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Conference Room 5710

~~*~*~*~*~*~*~*~*~*

Addition of Neil Gorsuch

Attendees: ASG Robert McCallum, Elizabeth Kessler-OASG, Tracy Henke-OASG, Mike Wiggins-OASG, Jeff Senger-OASG, Luis Reyes-OASG, Lily Fu Swenson-OASG

POC: Currie Gunn x4-9500

Gunn, Currie (SMO)

Subject:	Updated: OASG Staff Meeting
Location:	Conference Room 5710
Start:	Tuesday, June 14, 2005 9:00 AM
End:	Tuesday, June 14, 2005 10:00 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Tuesday and Thursday from 5:00 PM to 6:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Kessler, Elizabeth A; Senger, Jeffrey M; Reyes, Luis (SMO); Henke, Tracy (SMO); Wiggins, Mike; Swenson, Lily F; Wiggins, Mike; Gorsuch, Neil M
Optional Attendees:	Shaw, Aloma A

When: Tuesday, June 14, 2005 9:00 AM-10:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: Conference Room 5710

~~*~*~*~*~*~*~*~*~*

Note time change for staff meeting. This meeting only.

Attendees: ASG Robert McCallum, Elizabeth Kessler-OASG, Tracy Henke-OASG, Mike Wiggins-OASG, Jeff Senger-OASG, Luis Reyes-OASG, Lily Fu Swenson-OASG

POC: Currie Gunn x4-9500

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, June 13, 2005 6:04 PM
To: Schofield, Regina
Cc: Henke, Tracy (SMO); Gorsuch, Neil M
Subject: RE: Assistant Attorney General

Regina: WELCOME ON BOARD!!!!!!! We are glad that you are here and I look forward to working with you. Let me and Tracy know if we can be of any assistance in any way. I also want you to meet my new PDASG Neil Gorsuch who also just started today. Although he will not have direct responsibility for OJP, he will be getting involved in literally everything that I do. He may give you and Tracy a call to come by and meet you and your Deputies. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 09, 2005 9:19 AM
To: 'allstaff@ojp.usdoj.gov'
Subject: Assistant Attorney General

Everyone:
Last night the Senate confirmed Regina Schofield as the new Assistant Attorney General for OJP. I know that Regina is eager to arrive and become part of the OJP team. She will bring great enthusiasm and leadership to the organization. If everything proceeds accordingly, Regina will start on Monday. I know that you will provide her the same welcome and support you did me.

In conjuction with Regina's arrival, I will have one less hat to wear. I will return to my office at Main Justice and continue my role as Deputy Associate Attorney General. As you know, in this role I will continue my interaction with OJP.

Thank you for your support, assistance, and good work during my time back at OJP. I appreciate your efforts, your commitment, and most importantly, your kindness.
Please feel free to stop by and see me down at Main Justice. The office information will be in the system.

Thanks and best wishes.

Tracy

Tracy A. Henke
Deputy Associate Attorney General
U.S. Department of Justice
202-514-9500

Gorsuch, Neil M

Subject:	Lunch with Jeff
Start:	Thursday, June 16, 2005 12:00 PM
End:	Thursday, June 16, 2005 12:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	Lunch with raul and kyle
Start:	Tuesday, June 14, 2005 12:00 PM
End:	Tuesday, June 14, 2005 12:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 13, 2005 6:34 PM
To: McCallum, Robert (SMO); Schofield, Regina
Cc: Henke, Tracy (SMO)
Subject: RE: Assistant Attorney General

I look forward to working with you, Regina. I know you have a million things on your plate at the moment, but when you find you have a moment, please let me know. I'd very much like to stop by or grab lunch with you and Tracy. Warm regards and many congratulations! Neil (305-1434).

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, June 13, 2005 6:05 PM
To: Schofield, Regina
Cc: Henke, Tracy (SMO); Gorsuch, Neil M
Subject: RE: Assistant Attorney General

Regina: WELCOME ON BOARD!!!!!!! We are glad that you are here and I look forward to working with you. Let me and Tracy know if we can be of any assistance in any way. I also want you to meet my new PDASG Neil Gorsuch who also just started today. Although he will not have direct responsibility for OJP, he will be getting involved in literally everything that I do. He may give you and Tracy a call to come by and meet you and your Deputies. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 09, 2005 9:19 AM
To: 'allstaff@ojp.usdoj.gov'
Subject: Assistant Attorney General

Everyone:
Last night the Senate confirmed Regina Schofield as the new Assistant Attorney General for OJP. I know that Regina is eager to arrive and become part of the OJP team. She will bring great enthusiasm and leadership to the organization. If everything proceeds accordingly, Regina will start on Monday. I know that you will provide her the same welcome and support you did me.

In conjuction with Regina's arrival, I will have one less hat to wear. I will return to my office at Main Justice and continue my role as Deputy Associate Attorney General. As you know, in this role I will continue my interaction with OJP.

Thank you for your support, assistance, and good work during my time back at OJP. I appreciate your efforts, your commitment, and most importantly, your kindness.
Please feel free to stop by and see me down at Main Justice. The office information will be in the system.

Thanks and best wishes.

Tracy

Tracy A. Henke
Deputy Associate Attorney General
U.S. Department of Justice
202-514-9500

Gorsuch, Neil M

Subject:	430 meet with Greg Katsas, C Nichols, L Reyes
Start:	Tuesday, June 14, 2005 4:00 PM
End:	Tuesday, June 14, 2005 4:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, June 14, 2005 8:45 AM
To: Beach, Andrew
Cc: Ullyot, Theodore; Sampson, Kyle; Yanes, Raul; Reyes, Luis (SMO); Gorsuch, Neil M
Subject: Invitation to AG from ABA Pres Robert Grey

Andy: Heads up. You have already received and are considering an invitation (letter dated Feb 28th with a follow-up letter dated May 16th) from the Chair of the ABA House of Delegates, Stephen Zack, to the AG to address the House of Delegates on either Mon or Tues Aug 8-9 at the ABA annual convention in Chicago. Robert Grey, the ABA Pres, called me yesterday and issued a SECOND invitation to the AG: this second one is to address the Opening Assembly on Sunday evening Aug 7th as the keynote speaker. The Opening Assembly is a general meeting of all members who attend the convention whereas the House of Delegates is the 546 elected local, state, and regional reps to the ABA, sort of a large policy-making body who pass resolutions, etc in the name of the ABA. The AG is a member of the House of Delegates by virtue of his office. The Opening Assembly will be a much larger group and will be held in the Chicago Auditorium. Grey is going to fax me a letter regarding the keynote speech invited and send on a hard copy to the AG. I got yesterday from your office a copy of the letter from Zack dated May 16th following up on the Feb 28th letter, and you have requested my rec on the AG's attendance. I would rec doing one or the other of the two invites, but not both. My preference would be for the AG to address the larger group, the Opening Assembly, on the Sunday and thereby reach more ABA members. It is probably a less hostile group that the House of Delegates. For planning purposes, promo materials, etc, Grey would like to know as soon as possible whether the AG can do either, or both, or none. Let me know what you would like for me to do, if anything, regarding these invites. Robt.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, June 14, 2005 8:48 AM
To: Keisler, Peter D. (CIV)
Cc: Gorsuch, Neil M; Swenson, Lily F
Subject: RE: OIL Study

Peter: I will ask Lily and Neil to look into this and see what the problem is with you seeing the study. Robt.

-----Original Message-----
From: Keisler, Peter D. (CIV)
Sent: Tuesday, June 14, 2005 8:22 AM
To: McCallum, Robert (SMO)
Subject: Fw: OIL Study

Robert: Is this something we get could approval to see? Peter

-----Original Message-----
From: Zwick, Ken (CIV) <kzwick@CIV.USDOJ.GOV>
To: Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>; Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>
Sent: Tue Jun 14 08:01:26 2005
Subject: Fw: OIL Study

I guess we're not about to find out if we have a problem in OIL.

-----Original Message-----
From: Allen, Michael (JMD) <Michael.Allen@SMOJMD.USDOJ.gov>
To: Zwick, Ken (CIV) <kzwick@CIV.USDOJ.GOV>
Sent: Tue Jun 14 07:43:20 2005
Subject: RE: OIL Study

Ken-

I just realized I hadn't replied to you. Sorry. We prepared that study at the request of leadership and we aren't cleared to release it yet. I'm not sure what else they may want us to look at.

Mike

-----Original Message-----
From: Zwick, Ken (CIV)
Sent: Tuesday, June 07, 2005 12:32 PM
To: Allen, Michael (JMD)
Subject: OIL Study

Mike: Could we get a copy of the study done by the Management and Planning Staff on the Civil Division's Office of Immigration Litigation?

Thanks,
Ken

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 14, 2005 8:50 AM
To: McCallum, Robert (SMO); Keisler, Peter D. (CIV)
Cc: Swenson, Lily F
Subject: RE: OIL Study

Will do in coordination with Lily.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, June 14, 2005 8:48 AM
To: Keisler, Peter D. (CIV)
Cc: Gorsuch, Neil M; Swenson, Lily F
Subject: RE: OIL Study

Peter: I will ask Lily and Neil to look into this and see what the problem is with you seeing the study.
Robt.

-----Original Message-----
From: Keisler, Peter D. (CIV)
Sent: Tuesday, June 14, 2005 8:22 AM
To: McCallum, Robert (SMO)
Subject: Fw: OIL Study

Robert: Is this something we get could approval to see? Peter

-----Original Message-----
From: Zwick, Ken (CIV) <kzwick@CIV.USDOJ.GOV>
To: Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>; Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>
Sent: Tue Jun 14 08:01:26 2005
Subject: Fw: OIL Study

I guess we're not about to find out if we have a problem in OIL.

-----Original Message-----
From: Allen, Michael (JMD) <Michael.Allen@SMOJMD.USDOJ.gov>
To: Zwick, Ken (CIV) <kzwick@CIV.USDOJ.GOV>
Sent: Tue Jun 14 07:43:20 2005
Subject: RE: OIL Study

Ken-

I just realized I hadn't replied to you. Sorry. We prepared that study at the request of leadership and we

aren't cleared to release it yet. I'm not sure what else they may want us to look at.

Mike

-----Original Message-----
From: Zwick, Ken (CIV)
Sent: Tuesday, June 07, 2005 12:32 PM
To: Allen, Michael (JMD)
Subject: OIL Study

Mike: Could we get a copy of the study done by the Management and Planning Staff on the Civil Division's Office of Immigration Litigation?

Thanks,
Ken

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 14, 2005 8:54 AM
To: Swenson, Lily F
Subject: FW: OIL Study

Shall we call M Allen after our morning meeting?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, June 14, 2005 8:48 AM
To: Keisler, Peter D. (CIV)
Cc: Gorsuch, Neil M; Swenson, Lily F
Subject: RE: OIL Study

Peter: I will ask Lily and Neil to look into this and see what the problem is with you seeing the study.
Robt.

-----Original Message-----
From: Keisler, Peter D. (CIV)
Sent: Tuesday, June 14, 2005 8:22 AM
To: McCallum, Robert (SMO)
Subject: Fw: OIL Study

Robert: Is this something we get could approval to see? Peter

-----Original Message-----
From: Zwick, Ken (CIV) <kzwick@CIV.USDOJ.GOV>
To: Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>; Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>
Sent: Tue Jun 14 08:01:26 2005
Subject: Fw: OIL Study

I guess we're not about to find out if we have a problem in OIL.

-----Original Message-----
From: Allen, Michael (JMD) <Michael.Allen@SMOJMD.USDOJ.gov>
To: Zwick, Ken (CIV) <kzwick@CIV.USDOJ.GOV>
Sent: Tue Jun 14 07:43:20 2005
Subject: RE: OIL Study

Ken-

I just realized I hadn't replied to you. Sorry. We prepared that study at the request of leadership and we aren't cleared to release it yet. I'm not sure what else they may want us to look at.

Mike

-----Original Message-----
From: Zwick, Ken (CIV)
Sent: Tuesday, June 07, 2005 12:32 PM
To: Allen, Michael (JMD)
Subject: OIL Study

Mike: Could we get a copy of the study done by the Management and Planning Staff on the Civil Division's Office of Immigration Litigation?

Thanks,
Ken

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 14, 2005 8:58 AM
To: Keisler, Peter D. (CIV)
Subject: RE: OIL Study

Peter, I just came on board yesterday as Robert's principal deputy and am really looking forward to working with you and your stellar team. Given your experience with this office, I'd really appreciate the chance to get your advice and thoughts over lunch sometime soon. Would that work with your schedule? Warm regards, Neil

-----Original Message-----
From: Keisler, Peter D. (CIV)
Sent: Tuesday, June 14, 2005 8:50 AM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: OIL Study

I will be out of the office until Wednesday, June 15, and will not be able to access and check email regularly. Please feel free to contact Dan Meron, Principal Deputy Assistant Attorney General (202-353-2793), or my Assistant Chris Calvert (202-514-3301), while I am away.

Sampson, Kyle

From: Sampson, Kyle
Sent: Tuesday, June 14, 2005 10:04 AM
To: Gorsuch, Neil M
Subject: Read: Invitation to AG from ABA Pres Robert Grey

Keisler, Peter D. (CIV)

From: Keisler, Peter D. (CIV)
Sent: Tuesday, June 14, 2005 10:10 AM
To: Gorsuch, Neil M
Subject: Re: OIL Study

Neil: I'm delighted that you're here. Were I not out of town yesterday and today, I'd have given you a proper welcome. Lunch would be great -- are you free Friday? Peter

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>
Sent: Tue Jun 14 08:58:20 2005
Subject: RE: OIL Study

Peter, I just came on board yesterday as Robert's principal deputy and am really looking forward to working with you and your stellar team. Given your experience with this office, I'd really appreciate the chance to get your advice and thoughts over lunch sometime soon. Would that work with your schedule? Warm regards, Neil

-----Original Message-----
From: Keisler, Peter D. (CIV)
Sent: Tuesday, June 14, 2005 8:50 AM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: OIL Study

I will be out of the office until Wednesday, June 15, and will not be able to access and check email regularly. Please feel free to contact Dan Meron, Principal Deputy Assistant Attorney General (202-353-2793), or my Assistant Chris Calvert (202-514-3301), while I am away.

Gunn, Currie (SMO)

Subject:	Updated: Civil Division Weekly
Location:	5710
Start:	Wednesday, July 14, 2004 10:00 AM
End:	Wednesday, July 14, 2004 11:00 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Wednesday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M

When: Occurs every Wednesday effective 7/14/04 from 10:00 AM to 11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Addition of Neil Gorsuch - PDAAG OASG

Attendees: ASG Robert McCallum, Peter Keisler-AAG Civil, Dan Meron-Civil, Wendell Taylor-ODAG, Brian Boyle-OASG, Jeff Senger-OASG, Mike Wiggins-OASG, Liz Kessler-OASG, Stuart Schiffer-Civil, Carl Nichols-Civil, Jonathan Cohn-Civil, Jeff Bucholtz-Civil, Greg Katsas-Civil, Lily Swenson-OASG, Neil Gorsuch-OASG

POC: Currie Gunn x4-9500

Gunn, Currie (SMO)

Subject:	Updated: Civil Rights Weekly
Location:	5710
Start:	Thursday, February 10, 2005 11:00 AM
End:	Thursday, February 10, 2005 12:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Thursday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M

When: Occurs every Thursday effective 2/10/05 from 11:00 AM to 12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Addition of Jason Torchinsky
Attendees: ASG Robert McCallum, Mike Wiggins-OASG, Neil Gorsuch-OASG, Brad Schlozman-CRT, Wan Kim-CRT, Loretta King-CRT, Jason Torchinsky-CRT, Luis Reyes-OASG

POC: Currie Gunn x4-9500

Gunn, Currie (SMO)

Subject:	Updated: Civil Components Leadership Meeting Group I
Location:	5710
Start:	Monday, February 21, 2005 11:00 AM
End:	Monday, February 21, 2005 12:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M

When: Occurs every Monday effective 2/21/05 from 11:00 AM to 12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Addition of Neil Gorsuch

Attendees: OASG, CRTS, Tax, OLC, OLP, CRS, USTP, ATR, DAG, ENRD, OIPL, Civil, OPA, OLA

POC: Currie Gunn 4-9500

Gunn, Currie (SMO)

Subject:	Updated: Bi-Weekly UST Meetings
Location:	5710
Start:	Monday, May 24, 2004 2:00 PM
End:	Monday, May 24, 2004 2:30 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Monday from 2:00 PM to 2:30 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M

When: Occurs every 2 week(s) on Monday effective 5/24/04 from 2:00 PM to 2:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Addition of Neil Gorsuch

Attendees: ASG Robert McCallum, Lily Fu Swenson, Tim Coleman-ODAG, Lawrence Friedman, Luis Reyes, Neil Gorsuch

POC: Currie Gunn x49500

Gunn, Currie (SMO)

Subject:	Updated: Antitrust Bi-weekly
Location:	5710
Start:	Tuesday, November 25, 2003 11:00 AM
End:	Tuesday, November 25, 2003 12:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Tuesday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M

When: Occurs every 2 week(s) on Tuesday effective 11/25/03 from 11:00 AM to 12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Addition of Neil Gorsuch

Attendees: ASG Robert McCallum, Lily Swenson, Neil Gorsuch, Hew Pate, Ken Heyer, Makan Delrahim, Bruce McDonald, Brian Boyle, David Higbee, Scott Hammond & Thomas Barnett

POC: Currie Gunn x4-9500

Gunn, Currie (SMO)

Subject:	Updated: ENRD Bi-Weekly Meeting
Location:	5710
Start:	Wednesday, November 26, 2003 11:00 AM
End:	Wednesday, November 26, 2003 12:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Wednesday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M

When: Occurs every 2 week(s) on Wednesday effective 11/26/03 from 11:00 AM to 12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Addition of Neil Gorsuch

Attendees: Associate AG Robert McCallum, Neil Gorsuch, Kelly Johnson(A) AAG ENRD, Jeff Clark, Eileen Sobeck, John Cruden, Elizabeth Kessler, John Davis

POC: Currie Gunn x4-9500

Gunn, Currie (SMO)

Subject:	Updated: Tax Bi-Weekly Meeting
Location:	5710
Start:	Thursday, October 28, 2004 10:00 AM
End:	Thursday, October 28, 2004 11:00 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Thursday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M

When: Occurs every 2 week(s) on Thursday effective 10/28/04 from 10:00 AM to 11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Addition of Neil Gorsuch

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Jeff Senger-OASG, Eileen O'Connor-AAG Tax, Claire Fallon-Tax, Rod Rosenstein-Tax, Patrick Hoffer-Tax

POC: Currie Gunn x4-9500

Gunn, Currie (SMO)

Subject:	Updated: Group II ASG Leadership Meeting
Location:	5710
Start:	Friday, December 12, 2003 10:30 AM
End:	Friday, December 12, 2003 11:30 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Friday from 10:30 AM to 11:30 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M

When: Occurs every 2 week(s) on Friday effective 12/12/03 from 10:30 AM to 11:30 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Addition of Neil Gorsuch

Attendees: Robert McCallum, Neil Gorsuch, Tracy Henke, Elizabeth Kessler, Gerald Reynolds, Mike Wiggins, Deborah Daniels, Diane Stuart, Carl Peed, Richard Huff, Daniel Metcalfe, Linda Cinciotta and Mauricio Tamargo, Uttam Dhillon, Greg Harris, Richard Hertling, Dan Bryant

POC: Currie Gunn x-49500

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, June 14, 2005 10:30 AM
To: Gorsuch, Neil M
Subject: Phone Call

[redacted]
([redacted]
Re: [redacted]

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Tuesday, June 14, 2005 10:35 AM
To: Shaw, Aloma A
Cc: Wiggins, Mike; Gorsuch, Neil M
Subject: OMB Bi-weekly Conference Calls

Aloma: Could you re-do the meeting notice for the OMB bi-weekly conference calls (the ones on every other Friday afternoon) so that they include Neil, me and Mike? Thanks much. - Liz

p.s. Mike: I figured it made sense to keep this on your calendar for civil stuff, but whether you actually take part on any particular week(s) I'm inclined to leave totally up to you.

Shaw, Aloma A

Subject:	Updated: OMB Biweekly Conference Call w/ Jennifer Newstead
Location:	Room 254 EEOB
Start:	Friday, June 17, 2005 2:30 PM
End:	Friday, June 17, 2005 3:30 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Friday from 2:30 PM to 3:30 PM
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Kessler, Elizabeth A; [redacted]; Gorsuch, Neil M

When: Friday, June 17, 2005 2:30 PM-3:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 254 EEOB

~~*~*~*~*~*~*~*~*~*

Addition of Neil Gorsuch

Jennifer's secy - Carla [redacted]

Gunn, Currie (SMO)

Subject:	Updated: Trade Working Group Meeting
Location:	5710
Start:	Wednesday, June 29, 2005 3:30 PM
End:	Wednesday, June 29, 2005 4:30 PM
Recurrence:	Weekly
Recurrence Pattern:	every 4 week(s) on Wednesday from 3:30 PM to 4:30 PM
Meeting Status:	Accepted
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Melnick, Mark (CIV); Larm, Richard; Roth, Monique; Kessler, Elizabeth A; Shenkman, Ethan; Chemtob, Stuart; Rubin, Jim (ENRD); Smith, Justin (ENRD); Gorsuch, Neil M
Optional Attendees:	Delrahim, Makan; Johnson, Kelly A. (ENRD)

Addition of Neil Gorsuch and change of meeting recurrences to every 4 weeks.

POC: Currie Gunn
x4-9500

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, November 16, 2005 9:44 AM
To: Gunn, Currie (SMO); Melnick, Mark (CIV); Larm, Richard; Roth, Monique; Kessler, Elizabeth A; Shenkman, Ethan; Chemtob, Stuart; Rubin, Jim (ENRD); Smith, Justin (ENRD-LPS Attorney); Gorsuch, Neil M
Cc: Delrahim, Makan; Johnson, Kelly A. (ENRD)
Subject: Canceled: Trade Working Group Meeting
Importance: High

Meeting cancelled today.

Addition of Neil Gorsuch and change of meeting recurrences to every 4 weeks.

POC: Currie Gunn
x4-9500

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, January 18, 2006 4:50 PM
To: Gunn, Currie (SMO); Melnick, Mark (CIV); Larm, Richard; Roth, Monique; Kessler, Elizabeth A; Shenkman, Ethan; Chemtob, Stuart; Rubin, Jim (ENRD); Smith, Justin (ENRD); Gorsuch, Neil M
Cc: Delrahim, Makan; Johnson, Kelly A. (ENRD)
Subject: Updated: Trade Working Group Meeting

Addition of Jeffrey Senger

POC: Currie Gunn
x4-9500

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, March 07, 2006 10:20 AM
To: Melnick, Mark (CIV); Larm, Richard; Roth, Monique; 'Shenkman, Ethan'; Chemtob, Stuart; Rubin, Jim (ENRD); Smith, Justin (ENRD-LPS Attorney); Gorsuch, Neil M; Senger, Jeffrey M
Cc: 'Delrahim, Makan'; Wooldridge, Sue Ellen (ENRD)
Subject: Updated: Trade Working Group Meeting

When: Friday, March 10, 2006 3:30 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Please note time and date change for this meeting only,

POC: Currie Gunn
x4-9500

Gorsuch, Neil M

Subject:	Meet with Brad re Chicago
Start:	Tuesday, June 14, 2005 3:00 PM
End:	Tuesday, June 14, 2005 3:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 14, 2005 11:17 AM
To: Kessler, Elizabeth A; 'Jennifer Newstead (E-mail)'
Cc: 'John Knepper (E-mail)'
Subject: RE: Electronic Introduction to Neil Gorsuch

Jennifer -- I look forward to working with you and please do let me know if I can be of assistance to you and your team. Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: [redacted]
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Tuesday, June 14, 2005 10:49 AM
To: Jennifer Newstead (E-mail)
Cc: John Knepper (E-mail); Gorsuch, Neil M
Subject: Electronic Introduction to Neil Gorsuch

Jennifer: I wanted to let you know that Neil Gorsuch joined DOJ this week as our new Principal Deputy Associate Attorney General. I have told him about our bi-weekly calls, and he plans to do the one this week. If you'd like to sit down in person with him at some point, I'm sure we can arrange that too. I'll still be on the calls, primarily for ENRD matters. Hope all is well. - Liz

Elizabeth A. Kessler
Deputy Associate Attorney General
United States Department of Justice
phone: [redacted]
fax: (202)307-3904
elizabeth.a.kessler@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 14, 2005 11:19 AM
To: Swenson, Lily F
Subject: lunch

Can we push lunch to tomorrow? Kyle and Raul want to see me today. I'm around for talking with Dr Corts, though, anytime.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 14, 2005 11:33 AM
To: Reyes, Luis
Subject: tomorrow

Is the civil division wkly mtg on tomorrow at 10 in Robert's absence, or are we free to attend the Senate hearing in the morning do you think?

Shaw, Aloma A

Subject:	Blackberry Set-Up
Location:	Neil's Office
Start:	Tuesday, June 14, 2005 2:00 PM
End:	Tuesday, June 14, 2005 2:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Khoi

Swenson, Lily F

From: Swenson, Lily F
Sent: Tuesday, June 14, 2005 12:02 PM
To: Gorsuch, Neil M
Subject: Read: ATR conflicts

Wiggins, Mike

From: Wiggins, Mike
Sent: Tuesday, June 14, 2005 12:03 PM
To: Gorsuch, Neil M
Subject: FW: hearing
Attachments: tmp.htm

fyi

-

http://judiciary.senate.gov/hearing.cfm?id=1542

This message is intended only for the use of the Addressee and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please erase all copies of the message and its attachments and notify us immediately.

http://judiciary.senate.gov/hearing.cfm?id=1542

This message is intended only for the use of the Addressee and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please erase all copies of the message and its attachments and notify us immediately.

Swenson, Lily F

From: Swenson, Lily F
Sent: Tuesday, June 14, 2005 12:05 PM
To: Corts, Paul R
Cc: Lapara, Joan M; Allen, Michael (JMD); Gorsuch, Neil M
Subject: RE: OIL Study

How about 5:30 this afternoon.

-----Original Message-----
From: Corts, Paul R
Sent: Tuesday, June 14, 2005 11:33 AM
To: Swenson, Lily F
Cc: Lapara, Joan M; Allen, Michael (JMD)
Subject: Re: OIL Study

I'm over at State this morning through a noon luncheon. I'm in meetings all afternoon. I'm schedule over here through 1:30 today, but I'm hoping to be back to Main early - say about 1pm. Would that work? I'd have 30 min then at 1pm. If that doesn't work, late this afternoon at 5:30 would work.

-----Original Message-----
From: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
To: Corts, Paul R <Paul.R.Corts@SMOJMD.USDOJ.gov>
Sent: Tue Jun 14 10:42:16 2005
Subject: OIL Study

Dr. Corts --
If you have time today, I'd like to bring Neil Gorsuch, the new principal deputy in OASG around to meet you, and we'd like to talk to you briefly about the OIL study that MPS did. Thanks.
--Lily Swenson

Lapara, Joan M

From: Lapara, Joan M
Sent: Tuesday, June 14, 2005 12:18 PM
To: Swenson, Lily F; Corts, Paul R
Cc: Allen, Michael (JMD); Gorsuch, Neil M
Subject: RE: OIL Study

I will send out an e-calendar.

-----Original Message-----
From: Swenson, Lily F
Sent: Tuesday, June 14, 2005 12:05 PM
To: Corts, Paul R
Cc: Lapara, Joan M; Allen, Michael (JMD); Gorsuch, Neil M
Subject: RE: OIL Study

How about 5:30 this afternoon.

-----Original Message-----
From: Corts, Paul R
Sent: Tuesday, June 14, 2005 11:33 AM
To: Swenson, Lily F
Cc: Lapara, Joan M; Allen, Michael (JMD)
Subject: Re: OIL Study

I'm over at State this morning through a noon luncheon. I'm in meetings all afternoon. I'm schedule over here through 1:30 today, but I'm hoping to be back to Main early - say about 1pm. Would that work? I'd have 30 min then at 1pm. If that doesn't work, late this afternoon at 5:30 would work.

-----Original Message-----
From: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
To: Corts, Paul R <Paul.R.Corts@SMOJMD.USDOJ.gov>
Sent: Tue Jun 14 10:42:16 2005
Subject: OIL Study

Dr. Corts --
If you have time today, I'd like to bring Neil Gorsuch, the new principal deputy in OASG around to meet you, and we'd like to talk to you briefly about the OIL study that MPS did. Thanks.
--Lily Swenson

Corts, Paul R

Subject:	OIL meeting w/Lily Swensen and Neil Gorsuch
Location:	Rm 1103
Start:	Tuesday, June 14, 2005 5:30 PM
End:	Tuesday, June 14, 2005 6:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Corts, Paul R
Required Attendees:	Swenson, Lily F; Allen, Michael (JMD); Gorsuch, Neil M

Jenkins, Gloria

From: Jenkins, Gloria
Sent: Tuesday, June 21, 2005 12:04 PM
To: Fowler, Liane (SMO); Nisbet, Lesley; McCallum, Robert (SMO); Davis, Deborah J
Cc: Kessler, Elizabeth A; Higbee, David; O'Connor, Eileen J. (AAG/TAX); Shaw, Aloma A; Swenson, Lily F; Gorsuch, Neil M
Subject: Resending: Antitrust Division's Weekly Report for Week of June 20, 2005
Attachments: 05 June 20 -- AG Weekly Report.WPD

Attached is the Weekly Report from the Antitrust Division for the week of June 20, 2005. Thank you.

Gloria Jenkins
Confidential Assistant to R. Hewitt Pate
Antitrust Division
U.S. Department of Justice
gloria.jenkins@usdoj.gov
(202) 514-2401

Washington, DC 20530-0001

WEEKLY REPORT OF THE ANTITRUST DIVISION:

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL
THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: R. Hewitt Pate
Assistant Attorney General
Antitrust Division

DATE: June 20, 2005

A. Next Week

· ***United States v. Irving Materials, Inc. ("IMI"); Daniel C. Butler; John Huggins; Fred R. "Pete" Irving; and Price Irving*:** On June 29, the Division plans to file a one-count information against the defendants for fixing prices of ready mixed concrete in the Indianapolis metropolitan area from 2000 until 2004. The defendants have agreed to plead guilty and cooperate with the ongoing investigation. Fred "Pete" Irving is the president and CEO of IMI; his son Price Irving is the vice president of operations; Butler is the vice president of sales; and Huggins is a former executive vice president of IMI. IMI has agreed to pay a $29.2 million fine; Fred Irving has agreed to pay a $200,000 fine; Price Irving, Dan Butler, and John Huggins have each agreed to pay a $100,000 fine; and each individual defendant has also agreed to serve a five-month jail sentence and five months of home confinement. At the request of the U.S. Attorney and FBI offices in Indianapolis, the Division will participate in a press conference in Indianapolis on June 29 to announce the filing of the case.

· ***Cincinnati OB-GYNs/Federation of Physicians*:** AAG Pate has authorized filing a complaint against the Federation of Physicians, one of its employees, and three OB-GYN physicians practicing in Cincinnati, Ohio. The Division believes that these parties orchestrated a conspiracy among numerous Cincinnati OB-GYNs to collectively negotiate their rates with insurers, in violation of Sherman Act § 1 and a 2002 consent decree that the Federation and the Division entered into to resolve a similar complaint against the Federation in Delaware. The purpose and effect of their collective pricing has been to increase reimbursements paid by insurers to providers of OB-GYN services in Cincinnati. The Division has negotiated a settlement with the three physicians, but does not expect the Federation or its employee to agree to settle before the complaint is filed.

DOJ_NMG_ 0144276

The Division expects to file the complaint, as well as a proposed final judgment and proposed consent decree concerning the three settling physicians, within the next few weeks.

· ***United States v. Denstply International, Inc.*:** In January 1999, the Division sued Dentsply (a company that produces and sells 75%-80% of the prefabricated artificial teeth used by dental laboratories to make dentures), challenging Dentsply's policy of forbidding independent dealers that sell Dentsply's teeth from also selling the teeth of rival manufacturers. The Division alleged that the exclusionary practice unlawfully maintained Dentsply's monopoly and violated Sherman Act §§ 1 and 2 and Clayton Act § 3. After a bench trial, the district court ruled for Dentsply on all counts. The government appealed the § 2 claim. In February of this year, the U.S. Court of Appeals for the Third Circuit reversed the district court and concluded that Dentsply had monopoly power and that its policy of exclusive dealing violated the Sherman Act by thwarting rivals' attempts to threaten its monopoly. The court of appeals remanded with instructions to enter an injunction against Dentsply. Dentsply then petitioned for rehearing and rehearing en banc, which was denied. Jurisdiction has now returned to the district court to implement a remedy, and the Division is drafting a proposed final judgment.

· ***National Association of Realtors' Virtual Office Website Policy*:** Staff has recommended that the Division bring a civil action under Sherman Act § 1 to enjoin the National Association of Realtors ("NAR") from requiring that its 800 affiliated multiple listing services ("MLSs") adopt its proposed policy regarding "virtual office websites" ("VOWs"), which make real estate listings available to customers through the Internet. Currently, any broker that belongs to an MLS may offer its customers access to the MLS's full complement of real estate listings on-line, via the broker's VOW. NAR had passed but not implemented a rule that would require all NAR-affiliated MLSs to allow any listing broker to prohibit a competing broker from making available on a VOW listings that the listing broker has contributed to the MLS. The Division and NAR have been holding settlement talks, and a decision to settle or litigate will be made by the end of June.

B. This Week

· ***United States v. Patrick J. Crowe III*:** During the week of June 20, the Division intends to file a two-count information in the Northern District of Georgia charging Crowe, a former salesman for a Georgia-based chemical manufacturer, with participating in two conspiracies to defraud his former employer. Crowe has agreed to plead guilty to the charges and cooperate with the ongoing investigation. The Division will recommend at sentencing that the court impose a sentence of 12-18 months imprisonment, up to a $30,000 criminal fine, and order Crowe to pay over $52,000 in restitution.

C. Last Week

· ***United States v. Microsoft Corp.*:** On June 6, the Division, along with the States and Microsoft, appeared in the United States District Court for the District of Columbia

DOJ_NMG_ 0144277

(Kollar-Kotelly, J.) for a status conference on Microsoft's compliance with the Final Judgment. This was the ninth of such conferences, which are part of an ongoing procedure established with the court to monitor and ensure full implementation of the Final Judgment. At the status conference, and in a joint report filed with the court on June 1, the Division reported primarily on three issues. First, the Division updated the court on the status of the Microsoft Communications Protocol Program ("MCPP"), including Microsoft's efforts to address concerns expressed by the Division and the Technical Committee ("TC") regarding the sufficiency of the documentation that the company provides to its MCPP licensees. Plaintiffs also reported on the status of two TC projects agreed to by Plaintiffs and Microsoft to resolve remaining documentation issues. Second, Plaintiffs and the company reported to the court on the progress that they have made to ensure that Microsoft's Windows XP and Service Pack 2 products satisfactorily honor users' middleware and default choices, as required by Sections III.C and III.H of the Final Judgment. Finally, Plaintiffs reported to the court about the discussions that have begun with Microsoft regarding the details of the company's forthcoming operating system ("Longhorn"), which are intended to ensure that the product complies fully with the terms of the Final Judgment.

- ***NASDAQ's Proposed Acquisition of Instinet*:** On June 17, the Division issued Second Requests to the parties in its investigation of the proposed $1.88 billion acquisition of Instinet Group Inc., the institutional brokerage and electronic trading network controlled by the Reuters Group, by the Nasdaq Stock Market, Inc., the nation's second-largest equities market. The Division is investigating whether the combination of these two major equities trading venues is likely to lessen competition substantially, in violation of section 7 of the Clayton Act. The Division is simultaneously investigating the proposed merger of the New York Stock Exchange, the nation's largest equity market, and Archipelago Holdings Inc., which operates the largest all-electronic stock market in the world. The Securities and Exchange Commission will conduct separate investigations of the two transactions as well.

CONTACT PERSON: David Higbee (616-0906)

DOJ_NMG_ 0144278

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, June 14, 2005 12:39 PM
To: Gorsuch, Neil M
Cc: Gunn, Currie (SMO)
Subject: FW: Antitrust Division's Weekly Report for Week of June 13, 2005
Attachments: 05 June 13 -- AG Weekly Report.WPD

FYI. Currie: get Neil on all the weekly distribution lists: AG, CIV, ANT, ENRD, etc. Robt.

-----Original Message-----
From: Jenkins, Gloria
Sent: Tuesday, June 14, 2005 12:24 PM
To: Fowler, Liane (SMO); Nisbet, Lesley; McCallum, Robert (SMO); Davis, Deborah J
Cc: Kessler, Elizabeth A; Higbee, David; O'Connor, Eileen J. (AAG/TAX); Shaw, Aloma A; Swenson, Lily F
Subject: Antitrust Division's Weekly Report for Week of June 13, 2005

Attached is the Weekly Report from the Antitrust Division for the week of June 13, 2005. Thank you.

Gloria Jenkins
Confidential Assistant to R. Hewitt Pate
Antitrust Division
U.S. Department of Justice
gloria.jenkins@usdoj.gov
(202) 514-2401

Washington, DC 20530-0001

WEEKLY REPORT OF THE ANTITRUST DIVISION:

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL
THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: R. Hewitt Pate
Assistant Attorney General
Antitrust Division

DATE: June 13, 2005

A. Long Range Events

· ***Potential Collusion Among Actuarial Consulting Firms*:** The Division has been conducting a civil investigation into information exchanges among actuarial consulting firms that provide professional risk analysis services to public and private pension funds and other employee benefit plans. The investigation is focused on allegations that major actuarial consulting firms have exchanged competitively sensitive information and otherwise cooperated with each other about the use of contractual limitations of liability, which are important terms under which the firms enter into client engagements. The staff is reviewing proposed terms of settlement offered by key subjects of the investigation.

· ***Merger of America West and USAirways*:** America West and USAirways propose to merge in a deal that will bring USAirways out of bankruptcy. In related transactions, Air Canada, Air Wisconsin, PAR Investments, and The Wellington Group will invest in the merged carrier. The main transaction raises few competitive issues, as USAirways operates primarily in the eastern U.S., and America West in the west, and Southwest Airlines is a significant competitor on the few nonstop overlap routes. Staff is currently discussing with the parties concerns about the presence of an Air Canada representative on the board of the merged carrier and the post-merger status of the USAirways/United codesharing alliance. The merger requires a number of additional approvals, including confirmation of the reorganization plan by the bankruptcy court, and do not expect to close until September.

· ***Proposed SBC Communications Inc. Acquisition of AT&T Corp.*:** The Division is investigating the proposed $16 billion merger of SBC Communications Inc. and AT&T Corp. The combined company would be the number one provider of wireless and business telecommunications services in the U.S., the number two provider of residential broadband services, and a leading provider of telephone-based Internet broadband access and residential long-distance services. The Division is reviewing the transaction to determine if it may

DOJ_NMG_ 0144280

substantially lessen competition in violation of Clayton Act § 7 and will work closely with the Federal Communications Commission and other government agencies in evaluating the merger. The Division's review will be completed before the expiration of the FCC's internal deadline in early September 2005. The Division has also been in contact with competition authorities in Mexico, who are investigating the transaction because of the significant interests the parties have in two of Mexico's three major service providers. The parties have stated they expect to close the transaction in the first half of 2006.

- ***Proposed Verizon Communications Acquisition of MCI*:** The Division is investigating the proposed $6.8 billion merger of Verizon Communications, Inc. and MCI, Inc. MCI and Verizon are the third and fourth-largest providers of telephone services for enterprise customers in the country, respectively. If consummated, the transaction will create a new revenue leader in this market, surpassing current leaders AT&T and SBC. The Division is reviewing the transaction to determine if it may substantially lessen competition in violation of Clayton Act § 7 and will work closely with the Federal Communications Commission and other government agencies, including the European Commission, in evaluating the merger. The FCC expects to complete its review in late September 2005.

- ***Mergers in the Wireless Telecommunications Industry*:** The Division is investigating the proposed $36 billion merger of Sprint Corp. and Nextel Communications, Inc., and Alltell Corporation's proposed $6 billion acquisition of Western Wireless Corporation. The Sprint/Nextel merger will create a wireless company with nearly 39 million customers, making it the nation's third-largest wireless carrier after Cingular Wireless and Verizon Wireless. The Alltell/Western transaction will create the nation's fifth largest wireless carrier, with over 10 million customers in 33 states and a further 1.6 million international customers in six other countries. The Division is reviewing the transactions to determine if either may substantially lessen competition in violation of Clayton Act § 7, and is working closely with the Federal Communications Commission, which is conducting its own investigations. The FCC expects to complete its reviews of the Alltell/Western and Sprint/Nextel transactions by the end of June and the middle of August, respectively. The Division is working to complete its investigations according to a similar schedule.

- ***National Association of Realtors' Virtual Office Website Policy*:** Staff has recommended that the Division bring a civil action under Sherman Act § 1 to enjoin the National Association of Realtors ("NAR") from requiring that its 800 affiliated multiple listing services ("MLSs") adopt its proposed policy regarding "virtual office websites" ("VOWs"), which make real estate listings available to customers through the Internet. Currently, any broker that belongs to an MLS may offer its customers access to the MLS's full complement of real estate listings on-line, via the broker's VOW. NAR had passed but not implemented a rule that would require all NAR-affiliated MLSs to allow any listing broker to prohibit a competing broker from making available on a VOW listings that the listing broker has contributed to the MLS. The Division and NAR have been holding settlement talks, and a decision to settle or litigate will be made in the next few weeks.

DOJ_NMG_ 0144281

B. Next Week

· ***United States v. Masaaki Ando a/k/a "Andy Ando"*:** The Division plans to present a indictment on June 22 to a grand jury in the Western District of Kentucky charging Ando with obstruction of justice pursuant to 18 U.S.C. § 1512(c)(1) for document destruction during the Division's grand jury investigation of bid rigging and contract allocation among manufacturers of automotive brakes. Ando, a Japanese citizen, is the former president of brake manufacturer Ambrake Corporation of Elizabethtown, Kentucky, which is a joint venture between Delphi Corporation and Akebono Corporation North America. Ando has been suspended by Ambrake pending an internal investigation and has returned to Japan where he is working for a related company, Akebono Brake Industry Co., Ltd., although he travels to the United States frequently.

C. This Week

No entries.

D. Last Week

· ***United States v. Microsoft Corp.*:** On June 6, the Division, along with the States and Microsoft, appeared in the United States District Court for the District of Columbia (Kollar-Kotelly, J.) for a status conference on Microsoft's compliance with the Final Judgment. This was the ninth of such conferences, which are part of an ongoing procedure established with the court to monitor and ensure full implementation of the Final Judgment. At the status conference, and in a joint report filed with the court on June 1, the Division reported primarily on three issues. First, the Division updated the court on the status of the Microsoft Communications Protocol Program ("MCPP"), including Microsoft's efforts to address concerns expressed by the Division and the Technical Committee ("TC") regarding the sufficiency of the documentation that the company provides to its MCPP licensees. Plaintiffs also reported on the status of two TC projects agreed to by Plaintiffs and Microsoft to resolve remaining documentation issues. Second, Plaintiffs and the company reported to the court on the progress that they have made to ensure that Microsoft's Windows XP and Service Pack 2 products satisfactorily honor users' middleware and default choices, as required by Sections III.C and III.H of the Final Judgment. Finally, Plaintiffs reported to the court about the discussions that have begun with Microsoft regarding the details of the company's forthcoming operating system ("Longhorn"), which are intended to ensure that the product complies fully with the terms of the Final Judgment.

CONTACT PERSON: David Higbee (616-0906)

DOJ_NMG_ 0144282

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, June 14, 2005 12:39 PM
To: Gorsuch, Neil M
Subject: FW: Attached is the ENRD Report to the AG - June 14, 2005
Attachments: #87775-v1-AG_weekly_report_6_14_05_(draft).DOC

FYI

-----Original Message-----
From: Miranda, Gail (ENRD)
Sent: Tuesday, June 14, 2005 11:08 AM
To: Zwick, Ken (CIV); Alexander, Craig (ENRD); Barsky, Seth (ENRD); Baylor, Lewis (ENRD); Bogan, Shanedda L. (ENRD); Brighton, William (ENRD); Brook, Bob (ENRD); Brookshire, James (ENRD); Bruffy, Robert (ENRD); Bryant, Dan (OLP); Burgess, Wells (ENRD); Butler, Virginia (ENRD); Clark, Jeffrey B. (ENRD); Clark, Tom (ENRD); Cruden, John (ENRD); Davis, Deborah J; Davis, John S (ODAG); Disheroon, Fred (ENRD); Dworkin, Karen (ENRD); Edgar, Mary (ENRD); Emrich, Andrew (ENRD); Findlay, Charles (ENRD); Fisherow, Benjamin (ENRD); Fowler, Liane (SMO); Gelber, Bruce (ENRD); Gluck, Ronald (ENRD); Goldman, Greer (ENRD); Grishaw, Letitia (ENRD); Gunn, Currie (SMO); Haugrud, Jack (ENRD); Henderson, Charles V; Hoang, Anthony (ENRD); Johnson, Kelly A. (ENRD); Katz, Maureen (ENRD); Keeney, John; Kessler, Elizabeth A; Kilbourne, Jim (ENRD); Lazarus, William (ENRD); Lesch, Jaclyn; Mahan, Ellen (ENRD); Maher, Robert (ENRD); Mariani, Tom (ENRD); Martella, Roger (ENRD); McCabe, Catherine (ENRD); McCallum, Robert (SMO); Mergen, Andy (ENRD); Milius, Pauline (ENRD); Miller, Charles S; Miranda, Gail (ENRD); Monson, Peter C (ENRD); Neumayr, Mary (ENRD); Newton, Cullen (ENRD); O'Connor, Eileen J. (AAG/TAX); Oppenheimer, Peter (ENRD); Owen, Peter B; Patrick, Teresa (ENRD); Porritt, Ben; Racicot, Tim (ENRD); Randall, Gary (ENRD); Rogers, Cherie (ENRD); Rogers, Steven (ENRD); Rubin, Jim (ENRD); Samuels, Stephen (ENRD); Saxe, Keith (ENRD); Schachter, Scott (ENRD); Schiffer, Stuart (CIV); Shaw, Aloma A; Shockey, Charles (ENRD); Smith, Justin (ENRD); Smith, Marc (ENRD); Sobeck, Eileen (ENRD); Turner, John (ENRD); Uhlmann, David (ENRD); Vaden, Christopher (ENRD); Wardzinski, Karen (ENRD); Webb, John T. (ENRD); Weiss, Patricia; Williams, Jean (ENRD); Young, Russell (ENRD); Owens, Angela (ENRD)
Subject: Attached is the ENRD Report to the AG - June 14, 2005

U.S. Department of Justice

Environment and Natural Resources Division

Assistant Attorney General
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Telephone (202) 514-2701
Facsimile (202) 514-0557

June 14, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Kelly A. Johnson
Acting Assistant Attorney General
Environment and Natural Resources Division

NEXT WEEK

- **Trial on Asbestos Disposal Violations:** Two defendants charged in a 16-count indictment with Clean Air Act and false statement violations related to an asbestos removal project in a low-income Virgin Islands neighborhood are scheduled for trial beginning June 20. Among other infractions, they are accused of falsely labeling asbestos as non-friable before sending it to Florida for disposal.

THIS WEEK

- **Clean Air Act Settlement with Volkswagen:** The Division will lodge a consent decree in connection with Volkswagen's failure to disclose promptly to the Environmental Protection Agency a defective component that increased emissions in 326,000 vehicles from model years 1999 to 2001. Volkswagen will pay a $1.1 million civil penalty and improve its reporting system. The affected vehicles were recalled voluntarily at a cost of over $26 million.

- **Petroleum Refinery Initiative Settlements:** The Division is working to finalize the latest settlements in this initiative. An agreement reached with Valero Refining Company would cover 14 facilities, the largest number in any settlement to date. Upon lodging this and a separate agreement with Sunoco covering 4 other refineries, the Division will have achieved settlements covering 72 refineries and 62% of domestic refining capacity.

LAST WEEK

- **Supreme Court Decision in Submerged Lands Case**: On June 6 the Supreme Court decided an original action in which the State of Alaska sought to quiet title to submerged lands. The Court granted summary judgment to the United States, finding that waters of the Alexander Archipelago do not constitute historic inland waters or juridical bays. The Court also found the United States retained title to submerged lands in Glacier Bay National Park on the date of Alaska statehood.

- **Coal Bed Methane Project Enjoined:** Plaintiffs in two related cases are challenging a Bureau of Land Management (BLM) decision to approve drilling applications and a development plan for the Tongue River Badger Hills coal bed methane project near Decker, Montana. On June 6 the district court granted summary judgment in favor of plaintiffs and enjoined operation of the project. The court held that its adverse decision several weeks ago regarding BLM's programmatic environmental impact statement required that it also find the site-specific assessment for this project invalid.

- **Adverse Ruling in Columbia River Power System Dispute:** On May 26 the District of Oregon entered summary judgment invalidating a National Marine Fisheries Service biological opinion under the Endangered Species Act for 14 federal dams on the Columbia and Snake Rivers. A hearing on plaintiffs' motion for injunctive relief was held June 10. Following the hearing, the court affirmatively enjoined the Corps of Engineers and Bureau of Reclamation to operate several of the dams to provide maximum spill to aid salmon smolt migration. However, the court denied a more sweeping request for enhanced flow. The relief granted would result in an estimated $67 million loss in power generation. The Division has requested Solicitor General authorization of an appeal from this order and an emergency stay request to the Ninth Circuit.

- **Criminal Convictions in Clean Water Act Trial:** A five-week trial in the Northern District of Alabama concluded June 10 with criminal convictions of three present and former McWane Inc. executives in connection with illegal discharges of process wastewater by an iron foundry. The defendants were charged with substantive violations and related conspiracy, false statement and obstruction counts.

DIVISION CONTACT

Kelly A. Johnson
Acting Assistant Attorney General
(202) 514-4760

DOJ_NMG_ 0144285

Jennifer_G._Newstead@omb.eop.gov

From: Jennifer_G._Newstead@omb.eop.gov
Sent: Tuesday, June 14, 2005 12:54 PM
To: Gorsuch, Neil M; Kessler, Elizabeth A
Cc: John_G._Knepper@omb.eop.gov
Subject: RE: Electronic Introduction to Neil Gorsuch

Liz -- thanks for the note. Neil: welcome on board. We've worked closely with your predecessors and look forward to working with you.
Let's get together at some point soon. In the meantime, look forward to speaking with you on Friday. JN

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, June 14, 2005 11:18 AM
To: Elizabeth.A.Kessler@usdoj.gov; Newstead, Jennifer G.
Cc: Knepper, John G.
Subject: RE: Electronic Introduction to Neil Gorsuch

Jennifer -- I look forward to working with you and please do let me know if I can be of assistance to you and your team. Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
e-mail: neil.gorsuch@usdoj.gov

> -----Original Message-----
> From: Kessler, Elizabeth A
> Sent: Tuesday, June 14, 2005 10:49 AM
> To: Jennifer Newstead (E-mail)
> Cc: John Knepper (E-mail); Gorsuch, Neil M
> Subject: Electronic Introduction to Neil Gorsuch
>
> Jennifer: I wanted to let you know that Neil Gorsuch joined DOJ this
> week as our new Principal Deputy Associate Attorney General. I have
> told him about our bi-weekly calls, and he plans to do the one this
> week. If you'd like to sit down in person with him at some point, I'm

> sure we can arrange that too. I'll still be on the calls, primarily
> for ENRD matters. Hope all is well. - Liz
>

>
>
>
>
>
>
>
>
>
>
>
>
>
> Elizabeth A. Kessler
> Deputy Associate Attorney General
> United States Department of Justice
> phone: (202)616-3030
> fax: (202)307-3904
> elizabeth.a.kessler@usdoj.gov
>
>

Corts, Paul R

Subject:	Accepted: OIL meeting w/Lily Swensen and Neil Gorsuch
Location:	Rm 1103
Start:	Tuesday, June 14, 2005 5:30 PM
End:	Tuesday, June 14, 2005 6:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Corts, Paul R

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 14, 2005 1:01 PM
To: Swenson, Lily F
Subject: RE: lunch

Many thanks! Let's do lunch tomorrow.

-----Original Message-----
From: Swenson, Lily F
Sent: Tuesday, June 14, 2005 12:23 PM
To: Gorsuch, Neil M
Subject: Re: lunch

No prob. You've probably seen, I set us up with Dr. Corts at 5:30.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Tue Jun 14 11:19:06 2005
Subject: lunch

Can we push lunch to tomorrow? Kyle and Raul want to see me today. I'm around for talking with Dr Corts, though, anytime.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 14, 2005 1:23 PM
To: Wiggins, Mike
Subject: RE: hearing

Thanks and good luck.

-----Original Message-----
From: Wiggins, Mike
Sent: Tuesday, June 14, 2005 12:03 PM
To: Gorsuch, Neil M
Subject: FW: hearing

fyi

-

http://judiciary.senate.gov/hearing.cfm?id=1542
This message is intended only for the use of the Addressee and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please erase all copies of the message and its attachments and notify us immediately.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, June 14, 2005 1:41 PM
To: Madden, Kevin; Magnuson, Cynthia; Lesch, Jaclyn
Cc: Gorsuch, Neil M; Swenson, Lily F
Subject: New Deputy Associates for Clips

Kevin,
Could you please see to it that Neil Gorsuch, our new Principal Deputy Associate AG, and Lily Swenson, Deputy Associate AG, get added to the distribution list for OPA materials (releases, news clips, etc.)? Thanks a million.

_____
Luis A. Reyes,
Chief of Staff and Deputy Associate Attorney General
Office of the Associate Attorney General
United States Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530
Phone: (202) 514-9500
Fax: (202) 514-0238
Email: Luis.A.Reyes@usdoj.gov
_____

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, June 14, 2005 1:53 PM
To: Letter, Douglas (CIV)
Cc: Gorsuch, Neil M
Subject: New Principal Deputy Associate Attorney General

Doug,
Hope all is well. Wanted to touch base with you and let you know that we have a new Principal Deputy Associate AG, Neil Gorsuch. Neil will be involved in the Monday afternoon meetings and in terrorism-related litigation matters overall for OASG. First thing's first, is there a particular level of clearance required to participate in the Monday afternoon meetings? Neil will have an interim clearance in short order, just wanted to double check with you. Next, where and exactly at what time are the Monday meetings? Maybe you could stop by Neil's office shortly before the next one for a quick introduction? (He is in Brian Boyle's old office). Thanks very much Doug. --Lou

---

Luis A. Reyes,
Chief of Staff and Deputy Associate Attorney General
Office of the Associate Attorney General
United States Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530
Phone: (202) 514-9500
Fax: (202) 514-0238
Email: Luis.A.Reyes@usdoj.gov

Gunn, Currie (SMO)

Subject:	Meeting w/Brad re: SDNY matters
Location:	5710
Start:	Wednesday, June 15, 2005 11:00 AM
End:	Wednesday, June 15, 2005 12:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Schlozman, Brad (CRT); Wiggins, Mike; Gorsuch, Neil M

When: Wednesday, June 15, 2005 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Mike Wiggins-OASG, Brad Schlozman(A) AAG CRTS

POC: Currie Gunn x4-9500

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, June 14, 2005 2:00 PM
To: Gorsuch, Neil M
Subject: Read: Meeting w/Brad re: SDNY matters

Swenson, Lily F

From: Swenson, Lily F
Sent: Tuesday, June 14, 2005 2:05 PM
To: Gorsuch, Neil M
Subject: FW: conflicts list

Neil,
Here's what I did for my conflicts clearance. I sent Gloria Jenkins (Hew Pate's confidential assistant) a list of open matters I had with the Department. I didn't list all big clients because I don't think I'd necessarily be recused from a matter involving a former client if my firm did no work on that matter. For matters involving former clients I figured I could recuse myself on a case-by-case basis depending on the circumstances. I didn't list any private civil litigation matters that don't involve the Department for obvious reasons. (BTW, this is just my take on what my conflict obligations are, you may come down differently).
Lily

-----Original Message-----
From: Swenson, Lily F
Sent: Friday, April 15, 2005 11:21 AM
To: Jenkins, Gloria
Subject: conflicts list

Gloria,

Here's a list of potentially open matters involving the Department that I worked on when I was at my firm. They were all with ATR. I've listed the firm's client next to the matter. Could you forward it to the right person? Thank you.

(1) Bathroom Fixtures investigation (American Standard Companies Inc.)
(2) Southern Powder River Basin Coal Transportation investigation (BNSF Railway Co.)
(3) Publication Papers investigation (Bowater Inc.)
(4) ATPCo investigation (United Air Lines)

--Lily

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 14, 2005 2:09 PM
To: Swenson, Lily F
Subject: RE: conflicts list

Thanks very much - I will be in touch with Gloria. You are no doubt right about the conflict rules, but I've done so much work for these companies that I think it'd be easier and safer for everyone if I just draw some bright lines.

-----Original Message-----
From: Swenson, Lily F
Sent: Tuesday, June 14, 2005 2:05 PM
To: Gorsuch, Neil M
Subject: FW: conflicts list

Neil,
Here's what I did for my conflicts clearance. I sent Gloria Jenkins (Hew Pate's confidential assistant) a list of open matters I had with the Department. I didn't list all big clients because I don't think I'd necessarily be recused from a matter involving a former client if my firm did no work on that matter. For matters involving former clients I figured I could recuse myself on a case-by-case basis depending on the circumstances. I didn't list any private civil litigation matters that don't involve the Department for obvious reasons. (BTW, this is just my take on what my conflict obligations are, you may come down differently).
Lily

-----Original Message-----
From: Swenson, Lily F
Sent: Friday, April 15, 2005 11:21 AM
To: Jenkins, Gloria
Subject: conflicts list

Gloria,

Here's a list of potentially open matters involving the Department that I worked on when I was at my firm. They were all with ATR. I've listed the firm's client next to the matter. Could you forward it to the right person? Thank you.

(1) Bathroom Fixtures investigation (American Standard Companies Inc.)
(2) Southern Powder River Basin Coal Transportation investigation (BNSF Railway Co.)
(3) Publication Papers investigation (Bowater Inc.)
(4) ATPCo investigation (United Air Lines)

--Lily

Reyes, Luis (SMO)

Subject:	Litigation Briefing
Location:	Room 5710
Start:	Tuesday, June 14, 2005 4:30 PM
End:	Tuesday, June 14, 2005 5:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Reyes, Luis (SMO)
Required Attendees:	Gorsuch, Neil M; Katsas, Gregory (CIV); Nichols, Carl (CIV)

Attendees: Neil Gorsuch; Luis Reyes, Greg Katsas, Carl Nichols

Shaw, Aloma A

Subject:	Litigation Briefing
Location:	Room 5710
Start:	Tuesday, June 14, 2005 4:30 PM
End:	Tuesday, June 14, 2005 5:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Katsas, Gregory (CIV); Nichols, Carl (CIV)

When: Tuesday, June 14, 2005 4:30 PM-5:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 5710

~~*~*~*~*~*~*~*~*~*

Attendees: Neil Gorsuch; Luis Reyes, Greg Katsas, Carl Nichols

Gorsuch, Neil M

Subject:	call daly
Start:	Tuesday, June 14, 2005 6:00 PM
End:	Tuesday, June 14, 2005 6:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 14, 2005 4:27 PM
To: 'benjamin_a._powell@who.eop.gov'
Subject: Washington Post

Saw the article yesterday making it "official" -- Congratulations! I'm on my second day here and still trying to find my way around, but how about lunch sometime in the coming weeks? All the best, Neil

Benjamin_A._Powell@who.eop.gov

From: Benjamin_A._Powell@who.eop.gov
Sent: Tuesday, June 14, 2005 4:31 PM
To: Gorsuch, Neil M
Subject: RE: Washington Post

welcome and thanks. understand you in-processed with Tom Monheim, who is a good guy. How about we pick a day like Tuesday, June 21 or Wed, June 22 for lunch?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, June 14, 2005 4:28 PM
To: Powell, Benjamin A.
Subject: Washington Post

Saw the article yesterday making it "official" -- Congratulations! I'm on my second day here and still trying to find my way around, but how about lunch sometime in the coming weeks? All the best, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 14, 2005 4:42 PM
To: 'Benjamin_A._Powell@who.eop.gov'
Subject: RE: Washington Post

The 22d looks good. Let's nail it down. Say 1230 or 1? You name the place.

-----Original Message-----
From: Benjamin_A._Powell@who.eop.gov
[mailto:Benjamin_A._Powell@who.eop.gov]
Sent: Tuesday, June 14, 2005 4:31 PM
To: Gorsuch, Neil M
Subject: RE: Washington Post

welcome and thanks. understand you in-processed with Tom Monheim, who is a good guy. How about we pick a day like Tuesday, June 21 or Wed, June 22 for lunch?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, June 14, 2005 4:28 PM
To: Powell, Benjamin A.
Subject: Washington Post

Saw the article yesterday making it "official" -- Congratulations! I'm on my second day here and still trying to find my way around, but how about lunch sometime in the coming weeks? All the best, Neil

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, June 14, 2005 5:35 PM
To: Gunn, Currie (SMO); McCallum, Robert (SMO); Gorsuch, Neil M; Shaw, Aloma A
Subject: Tentative Meet and Greet with White House Counsel's Office

In light of the fact that Robert is in town until Thurs late afternoon, AND in light of the fact that the AG meeting is cancelled for that day, this is a good time to piggy back on the 8:15 White House Counsel staff meeting on Thursday 6/16 for a meet and greet session. We would arrive at 8:45 and do a meet and greet with Bill Kelly, the associate counsels, and most likely Harriet Miers. Counsel's office is interested in doing this on Thursday if we are, but they are also amenable to other dates as the regularly convene for their staff meetings. I didn't see any conflicts on the RDM calendar. Any objections?

Let's put this as tentative on Robert's and Neil's calendars for Thurs. morning and once I hear from Robert, I will solidify with Counsel's office, or try to set up at a later date.

Gunn, Currie (SMO)

Subject:	White House Counsel Meet & Greet
Location:	TBD
Start:	Thursday, June 16, 2005 8:30 AM
End:	Thursday, June 16, 2005 9:30 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gunn, Currie (SMO)

Swenson, Lily F

From: Swenson, Lily F
Sent: Tuesday, June 14, 2005 6:37 PM
To: Keisler, Peter D. (CIV)
Cc: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: RE: OIL Study

Peter,
JMD hesistated about letting CIV see the OIL study only because MPS did the study very quickly with an eye to pre-decisional use by leadership. They didn't want broader dissemination of the document without clearance. We're, of course, fine with CIV seeing it. Because of the some of the assumptions used in the study, JMD suggested having a meeting with CIV and OASG/ODAG/OAG to review and discuss MPS's conclusions, and to consider whether further study is warranted. We can set that up if you agree.
Lily

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, June 14, 2005 8:48 AM
To: Keisler, Peter D. (CIV)
Cc: Gorsuch, Neil M; Swenson, Lily F
Subject: RE: OIL Study

Peter: I will ask Lily and Neil to look into this and see what the problem is with you seeing the study.
Robt.

-----Original Message-----
From: Keisler, Peter D. (CIV)
Sent: Tuesday, June 14, 2005 8:22 AM
To: McCallum, Robert (SMO)
Subject: Fw: OIL Study

Robert: Is this something we get could approval to see? Peter

-----Original Message-----
From: Zwick, Ken (CIV) <kzwick@CIV.USDOJ.GOV>
To: Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>; Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>
Sent: Tue Jun 14 08:01:26 2005
Subject: Fw: OIL Study

I guess we're not about to find out if we have a problem in OIL.

-----Original Message-----
From: Allen, Michael (JMD) <Michael.Allen@SMOJMD.USDOJ.gov>

To: Zwick, Ken (CIV) <kzwick@CIV.USDOJ.GOV>
Sent: Tue Jun 14 07:43:20 2005
Subject: RE: OIL Study

Ken-

I just realized I hadn't replied to you. Sorry. We prepared that study at the request of leadership and we aren't cleared to release it yet. I'm not sure what else they may want us to look at.

Mike

-----Original Message-----
From: Zwick, Ken (CIV)
Sent: Tuesday, June 07, 2005 12:32 PM
To: Allen, Michael (JMD)
Subject: OIL Study

Mike: Could we get a copy of the study done by the Management and Planning Staff on the Civil Division's Office of Immigration Litigation?

Thanks,
Ken

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, June 14, 2005 6:42 PM
To: Gunn, Currie (SMO); Shaw, Aloma A
Cc: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: Meet and Greet with White House Counsel's Office

Just heard from Counsel's Office. They are good to go for Thursday morning at 8:45 a.m. So it looks like a go.

Currie, our point of contact is: John_M._Persinger@who.eop.gov

Could you please send him over the WAVE information for all 3 of us and set up the car?

Thanks so very much for your assistance as always Currie. --Lou

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, June 14, 2005 6:00 PM
To: Reyes, Luis (SMO)
Subject: RE: Tentative Meet and Greet with White House Counsel's Office

sounds good. Let's see if it works. Robt.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, June 14, 2005 5:35 PM
To: Gunn, Currie (SMO); McCallum, Robert (SMO); Gorsuch, Neil M; Shaw, Aloma A
Subject: Tentative Meet and Greet with White House Counsel's Office

In light of the fact that Robert is in town until Thurs late afternoon, AND in light of the fact that the AG meeting is cancelled for that day, this is a good time to piggy back on the 8:15 White House Counsel staff meeting on Thursday 6/16 for a meet and greet session. We would arrive at 8:45 and do a meet and greet with Bill Kelly, the associate counsels, and most likely Harriet Miers. Counsel's office is interested in doing this on Thursday if we are, but they are also amenable to other dates as the regularly convene for their staff meetings. I didn't see any conflicts on the RDM calendar. Any objections?

Let's put this as tentative on Robert's and Neil's calendars for Thurs. morning and once I hear from Robert, I will solidify with Counsel's office, or try to set up at a later date.

Gorsuch, Neil M

Subject:

Start:	Wednesday, June 15, 2005 8:00 AM
End:	Wednesday, June 15, 2005 8:30 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, June 14, 2005 7:15 PM
To: Gorsuch, Neil M
Subject: Read: WAVE Info

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 14, 2005 7:15 PM
To: Gorsuch, Neil M
Subject: email quagliano

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 14, 2005 7:18 PM
To: Gorsuch, Neil M
Subject: Read: email quagliano

Benjamin_A._Powell@who.eop.gov

From: Benjamin_A._Powell@who.eop.gov
Sent: Tuesday, June 14, 2005 8:25 PM
To: Gorsuch, Neil M
Cc: Benjamin_A._Powell@who.eop.gov
Subject: RE: Washington Post

let's plan on June 22 at 1230. will figure out a place.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, June 14, 2005 4:44 PM
To: Powell, Benjamin A.
Subject: RE: Washington Post

The 22d looks good. Let's nail it down. Say 1230 or 1? You name the place.

-----Original Message-----
From: Benjamin_A._Powell@who.eop.gov
[mailto:Benjamin_A._Powell@who.eop.gov]
Sent: Tuesday, June 14, 2005 4:31 PM
To: Gorsuch, Neil M
Subject: RE: Washington Post

welcome and thanks. understand you in-processed with Tom Monheim, who is a good guy. How about we pick a day like Tuesday, June 21 or Wed, June 22 for lunch?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, June 14, 2005 4:28 PM
To: Powell, Benjamin A.
Subject: Washington Post

Saw the article yesterday making it "official" -- Congratulations! I'm on my second day here and still trying to find my way around, but how about lunch sometime in the coming weeks? All the best, Neil

Keisler, Peter D. (CIV)

From:	Keisler, Peter D. (CIV)
Sent:	Wednesday, June 15, 2005 7:24 AM
To:	Swenson, Lily F
Cc:	McCallum, Robert (SMO); Gorsuch, Neil M; Zwick, Ken (CIV); Cohn, Jonathan (CIV); Meron, Daniel (CIV)
Subject:	Re: OIL Study

Lily: Thanks a lot. A meeting sounds like a good idea. Peter

-----Original Message-----
From: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
To: Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Jun 14 18:37:29 2005
Subject: RE: OIL Study

Peter,
JMD hesistated about letting CIV see the OIL study only because MPS did the study very quickly with an eye to pre-decisional use by leadership. They didn't want broader dissemination of the document without clearance. We're, of course, fine with CIV seeing it. Because of the some of the assumptions used in the study, JMD suggested having a meeting with CIV and OASG/ODAG/OAG to review and discuss MPS's conclusions, and to consider whether further study is warranted. We can set that up if you agree.
Lily

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, June 14, 2005 8:48 AM
To: Keisler, Peter D. (CIV)
Cc: Gorsuch, Neil M; Swenson, Lily F
Subject: RE: OIL Study

Peter: I will ask Lily and Neil to look into this and see what the problem is with you seeing the study.
Robt.

-----Original Message-----
From: Keisler, Peter D. (CIV)
Sent: Tuesday, June 14, 2005 8:22 AM
To: McCallum, Robert (SMO)
Subject: Fw: OIL Study

Robert: Is this something we get could approval to see? Peter

-----Original Message-----
From: Zwick, Ken (CIV) <kzwick@CIV.USDOJ.GOV>
To: Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>; Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>
Sent: Tue Jun 14 08:01:26 2005
Subject: Fw: OIL Study

I guess we're not about to find out if we have a problem in OIL.

-----Original Message-----
From: Allen, Michael (JMD) <Michael.Allen@SMOJMD.USDOJ.gov>
To: Zwick, Ken (CIV) <kzwick@CIV.USDOJ.GOV>
Sent: Tue Jun 14 07:43:20 2005
Subject: RE: OIL Study

Ken-

I just realized I hadn't replied to you. Sorry. We prepared that study at the request of leadership and we aren't cleared to release it yet. I'm not sure what else they may want us to look at.

Mike

-----Original Message-----
From: Zwick, Ken (CIV)
Sent: Tuesday, June 07, 2005 12:32 PM
To: Allen, Michael (JMD)
Subject: OIL Study

Mike: Could we get a copy of the study done by the Management and Planning Staff on the Civil Division's Office of Immigration Litigation?

Thanks,
Ken

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 8:32 AM
To: 'Benjamin_A._Powell@who.eop.gov'
Subject: RE: Washington Post

Great.

-----Original Message-----
From: Benjamin_A._Powell@who.eop.gov
[mailto:Benjamin_A._Powell@who.eop.gov]
Sent: Tuesday, June 14, 2005 8:25 PM
To: Gorsuch, Neil M
Cc: Benjamin_A._Powell@who.eop.gov
Subject: RE: Washington Post

let's plan on June 22 at 1230. will figure out a place.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, June 14, 2005 4:44 PM
To: Powell, Benjamin A.
Subject: RE: Washington Post

The 22d looks good. Let's nail it down. Say 1230 or 1? You name the place.

-----Original Message-----
From: Benjamin_A._Powell@who.eop.gov
[mailto:Benjamin_A._Powell@who.eop.gov]
Sent: Tuesday, June 14, 2005 4:31 PM
To: Gorsuch, Neil M
Subject: RE: Washington Post

welcome and thanks. understand you in-processed with Tom Monheim, who is a good guy. How about we pick a day like Tuesday, June 21 or Wed, June 22 for lunch?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, June 14, 2005 4:28 PM
To: Powell, Benjamin A.
Subject: Washington Post

Saw the article yesterday making it "official". Congratulations! I'm on my second day here and still

Saw the article yesterday making it "official" -- Congratulations! I'm on my second day here and still trying to find my way around, but how about lunch sometime in the coming weeks? All the best, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 8:35 AM
To: Keisler, Peter D. (CIV)
Subject: RE: OIL Study

Peter, Lunch Friday would be great. Shall I stop by your office circa noon? You name the spot. Many thanks, Neil

-----Original Message-----
From: Keisler, Peter D. (CIV)
Sent: Tuesday, June 14, 2005 10:10 AM
To: Gorsuch, Neil M
Subject: Re: OIL Study

Neil: I'm delighted that you're here. Were I not out of town yesterday and today, I'd have given you a proper welcome. Lunch would be great -- are you free Friday? Peter

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>
Sent: Tue Jun 14 08:58:20 2005
Subject: RE: OIL Study

Peter, I just came on board yesterday as Robert's principal deputy and am really looking forward to working with you and your stellar team. Given your experience with this office, I'd really appreciate the chance to get your advice and thoughts over lunch sometime soon. Would that work with your schedule? Warm regards, Neil

-----Original Message-----
From: Keisler, Peter D. (CIV)
Sent: Tuesday, June 14, 2005 8:50 AM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: OIL Study

I will be out of the office until Wednesday, June 15, and will not be able to access and check email regularly. Please feel free to contact Dan Meron, Principal Deputy Assistant Attorney General (202-353-2793), or my Assistant Chris Calvert (202-514-3301), while I am away.

Keisler, Peter D. (CIV)

From: Keisler, Peter D. (CIV)
Sent: Wednesday, June 15, 2005 8:36 AM
To: Gorsuch, Neil M
Subject: Read: OIL Study

Gorsuch, Neil M

Subject:	Lunch with Peter Keisler
Start:	Friday, June 17, 2005 12:00 PM
End:	Friday, June 17, 2005 12:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Keisler, Peter D. (CIV)

From: Keisler, Peter D. (CIV)
Sent: Wednesday, June 15, 2005 8:37 AM
To: Gorsuch, Neil M
Subject: RE: OIL Study

Great. Let's eat at the same place (Gordon Biersch) we met when we first talked about your taking a job in the government, to commemorate the distance traveled since then. Peter

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 8:35 AM
To: Keisler, Peter D. (CIV)
Subject: RE: OIL Study

Peter, Lunch Friday would be great. Shall I stop by your office circa noon? You name the spot. Many thanks, Neil

-----Original Message-----
From: Keisler, Peter D. (CIV)
Sent: Tuesday, June 14, 2005 10:10 AM
To: Gorsuch, Neil M
Subject: Re: OIL Study

Neil: I'm delighted that you're here. Were I not out of town yesterday and today, I'd have given you a proper welcome. Lunch would be great -- are you free Friday? Peter

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>
Sent: Tue Jun 14 08:58:20 2005
Subject: RE: OIL Study

Peter, I just came on board yesterday as Robert's principal deputy and am really looking forward to working with you and your stellar team. Given your experience with this office, I'd really appreciate the chance to get your advice and thoughts over lunch sometime soon. Would that work with your schedule? Warm regards, Neil

-----Original Message-----
From: Keisler, Peter D. (CIV)
Sent: Tuesday, June 14, 2005 8:50 AM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: OIL Study

I will be out of the office until Wednesday, June 15, and will not be able to access and check email regularly. Please feel free to contact Dan Meron, Principal Deputy Assistant Attorney General (202-353-2793), or my Assistant Chris Calvert (202-514-3301), while I am away.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 8:42 AM
To: Keisler, Peter D. (CIV)
Subject: RE: OIL Study

Perfect.

-----Original Message-----
From: Keisler, Peter D. (CIV)
Sent: Wednesday, June 15, 2005 8:37 AM
To: Gorsuch, Neil M
Subject: RE: OIL Study

Great. Let's eat at the same place (Gordon Biersch) we met when we first talked about your taking a job in the government, to commemorate the distance traveled since then. Peter

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 8:35 AM
To: Keisler, Peter D. (CIV)
Subject: RE: OIL Study

Peter, Lunch Friday would be great. Shall I stop by your office circa noon? You name the spot. Many thanks, Neil

-----Original Message-----
From: Keisler, Peter D. (CIV)
Sent: Tuesday, June 14, 2005 10:10 AM
To: Gorsuch, Neil M
Subject: Re: OIL Study

Neil: I'm delighted that you're here. Were I not out of town yesterday and today, I'd have given you a proper welcome. Lunch would be great -- are you free Friday? Peter

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>
Sent: Tue Jun 14 08:58:20 2005
Subject: RE: OIL Study

Peter, I just came on board yesterday as Robert's principal deputy and am really looking forward to working with you and your stellar team. Given your experience with this office, I'd really appreciate the chance to get your advice and thoughts over lunch sometime soon. Would that work with your

chance to get your advice and thoughts over lunch sometime soon. Would that work with your schedule? Warm regards, Neil

-----Original Message-----
From: Keisler, Peter D. (CIV)
Sent: Tuesday, June 14, 2005 8:50 AM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: OIL Study

I will be out of the office until Wednesday, June 15, and will not be able to access and check email regularly. Please feel free to contact Dan Meron, Principal Deputy Assistant Attorney General (202-353-2793), or my Assistant Chris Calvert (202-514-3301), while I am away.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:21 AM
To: Clement, Paul D
Subject: Greetings

Paul, I thought I'd let you know that started Monday as Robert McCallum's principal deputy -- Brian Boyle's old job. Am trying to learn the ropes and thought perhaps you might have some advice and thoughts. Might you have a few minutes sometime this week or next? Warm regards, Neil

Clement, Paul D

From: Clement, Paul D
Sent: Wednesday, June 15, 2005 9:23 AM
To: Gorsuch, Neil M
Subject: RE: Greetings

Welcome aboard! Let's grab lunch some time soon. Let me know when you are available -- my schedule is relatively open over the next week or two.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:21 AM
To: Clement, Paul D
Subject: Greetings

Paul, I thought I'd let you know that started Monday as Robert McCallum's principal deputy -- Brian Boyle's old job. Am trying to learn the ropes and thought perhaps you might have some advice and thoughts. Might you have a few minutes sometime this week or next? Warm regards, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:24 AM
To: Bradbury, Steve
Subject: Advice/thoughts

Steve - It was very good to see a familiar face yesterday among the wave of new folks and tasks. Might you have some time later this week or early next to offer some words of advice? Warm regards, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:27 AM
To: Clement, Paul D
Subject: RE: Greetings

Great. I could use some tips. I'm free for lunch today or most of next week (Mon, Thurs, or Fri.). You name any date, time, and place convenient for you.

-----Original Message-----
From: Clement, Paul D
Sent: Wednesday, June 15, 2005 9:23 AM
To: Gorsuch, Neil M
Subject: RE: Greetings

Welcome aboard! Let's grab lunch some time soon. Let me know when you are available -- my schedule is relatively open over the next week or two.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:21 AM
To: Clement, Paul D
Subject: Greetings

Paul, I thought I'd let you know that started Monday as Robert McCallum's principal deputy -- Brian Boyle's old job. Am trying to learn the ropes and thought perhaps you might have some advice and thoughts. Might you have a few minutes sometime this week or next? Warm regards, Neil

Clement, Paul D

From: Clement, Paul D
Sent: Wednesday, June 15, 2005 9:29 AM
To: Gorsuch, Neil M
Subject: RE: Greetings

How about next Thursday at either Ten Penh or Les Halles -- your choice.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:27 AM
To: Clement, Paul D
Subject: RE: Greetings

Great. I could use some tips. I'm free for lunch today or most of next week (Mon, Thurs, or Fri.). You name any date, time, and place convenient for you.

-----Original Message-----
From: Clement, Paul D
Sent: Wednesday, June 15, 2005 9:23 AM
To: Gorsuch, Neil M
Subject: RE: Greetings

Welcome aboard! Let's grab lunch some time soon. Let me know when you are available -- my schedule is relatively open over the next week or two.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:21 AM
To: Clement, Paul D
Subject: Greetings

Paul, I thought I'd let you know that started Monday as Robert McCallum's principal deputy -- Brian Boyle's old job. Am trying to learn the ropes and thought perhaps you might have some advice and thoughts. Might you have a few minutes sometime this week or next? Warm regards, Neil

Bradbury, Steve

From: Bradbury, Steve
Sent: Wednesday, June 15, 2005 9:32 AM
To: Gorsuch, Neil M
Subject: RE: Advice/thoughts

Happy to do so, anytime. Thx

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:24 AM
To: Bradbury, Steve
Subject: Advice/thoughts

Steve - It was very good to see a familiar face yesterday among the wave of new folks and tasks. Might you have some time later this week or early next to offer some words of advice? Warm regards, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:34 AM
To: Clement, Paul D
Subject: RE: Greetings

Next Thursday it is. If it works with you, I will make a reservation for Ten Penh at 12:30 and stop by your office shortly beforehand.

-----Original Message-----
From: Clement, Paul D
Sent: Wednesday, June 15, 2005 9:29 AM
To: Gorsuch, Neil M
Subject: RE: Greetings

How about next Thursday at either Ten Penh or Les Halles -- your choice.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:27 AM
To: Clement, Paul D
Subject: RE: Greetings

Great. I could use some tips. I'm free for lunch today or most of next week (Mon, Thurs, or Fri.). You name any date, time, and place convenient for you.

-----Original Message-----
From: Clement, Paul D
Sent: Wednesday, June 15, 2005 9:23 AM
To: Gorsuch, Neil M
Subject: RE: Greetings

Welcome aboard! Let's grab lunch some time soon. Let me know when you are available -- my schedule is relatively open over the next week or two.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:21 AM
To: Clement, Paul D
Subject: Greetings

Paul, I thought I'd let you know that started Monday as Robert McCallum's principal deputy -- Brian Boyle's old job. Am trying to learn the ropes and thought perhaps you might have some advice and thoughts. Might you have a few minutes sometime this week or next? Warm regards, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:36 AM
To: Bradbury, Steve
Subject: RE: Advice/thoughts

Thanks so much. If it works with you, I will aim to stop by this afternoon.

-----Original Message-----
From: Bradbury, Steve
Sent: Wednesday, June 15, 2005 9:32 AM
To: Gorsuch, Neil M
Subject: RE: Advice/thoughts

Happy to do so, anytime. Thx

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:24 AM
To: Bradbury, Steve
Subject: Advice/thoughts

Steve - It was very good to see a familiar face yesterday among the wave of new folks and tasks. Might you have some time later this week or early next to offer some words of advice? Warm regards, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:40 AM
To: '[redacted]@judiciary-rep.senate.gov'; '[redacted]@gmu.edu'
Subject: Greetings

Mike - This Monday I joined DOJ as Robert McCallum's principal deputy. In this capacity, and based on what I'm seeing on C-SPAN this morning, I suspect we will be working together. I thought, subject to your availability, perhaps we might get together sometime soon for lunch or otherwise to talk. Warm regards, Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: [redacted]
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:54 AM
To: McCallum, Robert (SMO)
Subject: RE: FW: Friday's RAND Corp briefing on trends in the TRIA

Is this something you would like me to attend?
-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 9:52 AM
To: Keisler, Peter D. (CIV); Nichols, Carl (CIV); Katsas, Gregory (CIV)
Cc: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: FW: FW: Friday's RAND Corp briefing on trends in the TRIA

FYI re TRIA program to the extent it is relevant to any of the CIV cases. Robt.
-----Original Message-----
From: McNally, Edward
Sent: Tuesday, June 14, 2005 7:52 PM
To: McCallum, Robert (SMO)
Subject: FW: Friday's RAND Corp briefing on trends in the TRIA

Bob I don't know if there's anyone on your team who tracks these issues related to terrorism risk insurance, but in any event pass this along, fyi.

On a completely unrelated matter, hopefully you've long since heard about how your decision to lend Logan Sawyer to us over at the White House utterly changed his life, and not only b/c he's now well along in his efforts to become a professor of law. In August he'll be marrying Shelley Reese, an exceptional UVA grad now at DHS, who Logan first met at the Homeland Security Council during the time he served in the GC's office there. I spoke to Logan not long ago and you shld know that your interest in and support for him as a young lawyer is something for which he remains deeply grateful.

-- Ed

Edward E. McNally
Senior Counsel to the Assistant Attorney General
Criminal Division, U.S. Department of Justice

RAND CORPORATION

The RAND Corporation Presents

Trends in Terrorism and the Architecture of TRIA

Presented by Peter Chalk and Robert Reville

Friday, June 17, 2005 from 10:00-11:30 am
2226 Rayburn House Office Building

Following the terrorist attacks on 9/11, Congress passed TRIA in order to stabilize the insurance markets, which were stung by $32 billion in damage claims. TRIA is scheduled to sunset at the end of this year, and Congress must decide whether to extend, modify, or let TRIA expire.

Peter Chalk, PhD, and Robert Reville, PhD and Director, RAND's Institute for Civil Justice, will present *Trends in Terrorism and the Architecture of TRIA*, which takes a unique look at the current relevance of the Terrorism Risk Insurance Act (TRIA) and whether it encourages a robust protection from the economic consequences of terrorism in light of the ever-evolving trends in terrorism, both international and domestic.

Since 9/11 and the passage of TRIA, the terrorism threat has evolved. Is the functionality of TRIA still relevant in light of these new trends?

The new study, conducted by RAND's Center for Terrorism Risk Management Policy, looks closely at the following questions:

- What are the trends in transnational terrorism? More specifically, how has al Qaeda reconfigured itself since 9/11 and the onset of the Global War on Terror?
- How do the changes in al Qaeda affect the risk to private sector property and businesses? What implications do these new trends have for the future of TRIA? Is there still a need for TRIA and if so, how could TRIA potentially be strengthened?
- How has the anti-globalism movement affected the evolving threat from domestic terrorism? Are there specific groups who are or could be more prone to violence?
- Should TRIA or its successor be expanded to included coverage for acts of domestic terrorism?

Light breakfast will be served. Please RSVP to Kristy Anderson at kristy_anderson@rand.org or 703-413-1100 x5196 if you plan on attending the briefing


RAND
CORPORATION

McCallum, Robert (SMO)

Subject:	Updated: Meeting w/Brad re: SDNY matters
Location:	5710
Start:	Wednesday, June 15, 2005 11:30 AM
End:	Wednesday, June 15, 2005 12:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	McCallum, Robert (SMO)
Required Attendees:	Schlozman, Brad (CRT); Wiggins, Mike; Gorsuch, Neil MSchlozman, Brad (CRT); Wiggins, Mike; Gorsuch, Neil M

Note time change.

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Mike Wiggins-OASG, Brad Schlozman(A) AAG CRTS

POC: Currie Gunn x4-9500

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, June 15, 2005 10:39 AM
To: Gorsuch, Neil M
Subject: Cell Phone

Neil:

Per Brian, try password [redacted] This is the one password that we failed to get from Brian during his exit interview.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 11:00 AM
To: Shaw, Aloma A
Subject: RE: Cell Phone

Thanks!

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, June 15, 2005 10:39 AM
To: Gorsuch, Neil M
Subject: Cell Phone

Neil:

Per [redacted], try password [redacted]. This is the one password that we failed to get from [redacted] during his exit interview.

Sours, Raquel

Subject:	Senior Management Meeting
Start:	Friday, July 01, 2005 9:00 AM
End:	Friday, July 01, 2005 9:20 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)

When: Occurs every weekday effective 7/1/05 until 10/31/05 from 9:00 AM to 9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

bruno.vickers@university-college.oxford.ac.uk

From:	bruno.vickers@university-college.oxford.ac.uk
Sent:	Wednesday, June 15, 2005 11:38 AM
To:	development@university-college.oxford.ac.uk
Subject:	June Events - Join Univ at its Triennial College Ball and onboard the Univ Barge at Henley
Attachments:	tmp.htm

Dear Old Members and Friends,

Just a final reminder for those of you who have not yet purchased tickets for the University College St Petersburg White Nights Ball on Saturday 25th June. Why not come and join nearly a hundred other Old Members and their guests for a night of St Petersburg elegance in the picturesque setting of the College, with everything from Ronnie Scott's jazz to ballet dancers to dodgems?! The evening promises plenty of music, food, drink, comedy and numerous other attractions and entertainments to cater for almost every taste, which makes this triennial ball the perfect venue for a reunion. There are still a handful of tickets available which you can buy online at www.univball.com or by contacting the Development Office. <http://www.univ.ox.ac.uk/cgi-bin/safeperl/univinfo/showevent.cgi?id=12>

Also fast approaching is the Henley Regatta during which Old Members are invited to join us onboard the Univ Barge on Wednesday 29th June. Space on the Barge is limited, so for those of you who have not yet let us know you are coming, please do so soon. The owners of the Barge, David and Clare Sherriff, are kindly operating a free river taxi from the regatta enclosure; there will also be a buffet style 'Lunch & Cream Tea' available for £30 per head on the river bank (this must be ordered in advance through the Development Office) or just 'Cream Tea' for £7.50. Alternatively, Old Members are welcome to bring their own picnics and hampers. Racing will be continuing throughout the day from 9am onwards.

Click here for a list of Old Members who have already bought tickets to the College Ball <http://www.univ.ox.ac.uk/cgi-bin/safeperl/univinfo/showevent.cgi?id=12>. Click here for a list of Old Members who will be joining us onboard the Univ Barge <http://www.univ.ox.ac.uk/cgi-bin/safeperl/univinfo/showevent.cgi?id=20>.

If you would like to know any more details about either of these events, please contact the Development Office on 01865 276674 or e-mail development@univ.ox.ac.uk.

With kind regards,

Bruno

--

Bruno Vickers (2000, Modern History)

Alumni Officer
Alumni and Development Office
University College Oxford OX1 4BH

tel: 01865 276 674 fax: 01865 276 670
http://www.univ.ox.ac.uk/oldmembers

Dear Old Members and Friends,

Just a final reminder for those of you who have not yet purchased tickets for the University College St Petersburg White Nights Ball on Saturday 25th June. Why not come and join nearly a hundred other Old Members and their guests for a night of St Petersburg elegance in the picturesque setting of the College, with everything from Ronnie Scott's jazz to ballet dancers to dodgems?! The evening promises plenty of music, food, drink, comedy and numerous other attractions and entertainments to cater for almost every taste, which makes this triennial ball the perfect venue for a reunion. There are still a handful of tickets available which you can buy online at www.univball.com or by contacting the Development Office.

Also fast approaching is the Henley Regatta during which Old Members are invited to join us onboard the Univ Barge on Wednesday 29th June. Space on the Barge is limited, so for those of you who have not yet let us know you are coming, please do so soon. The owners of the Barge, David and Clare Sherriff, are kindly operating a free river taxi from the regatta enclosure; there will also be a buffet style 'Lunch & Cream Tea' available for £30 per head on the river bank (this must be ordered in advance through the Development Office) or just 'Cream Tea' for £7.50. Alternatively, Old Members are welcome to bring their own picnics and hampers. Racing will be continuing throughout the day from 9am onwards.

Click here for a list of Old Members who have already bought tickets to the College Ball.
Click here for a list of Old Members who will be joining us onboard the Univ Barge.

If you would like to know any more details about either of these events, please contact the Development Office on 01865 276674 or e-mail development@univ.ox.ac.uk.

With kind regards,

Bruno<!--[endif]-->

--

Bruno Vickers (2000, Modern History)

Alumni Officer
Alumni and Development Office
University College Oxford OX1 4BH

tel: 01865 276 674 fax: 01865 276 670
http://www.univ.ox.ac.uk/oldmembers

Sours, Raquel

Subject:	Component Coordination Meeting
Start:	Friday, July 01, 2005 9:20 AM
End:	Friday, July 01, 2005 9:40 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)

When: Friday, July 01, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

Sours, Raquel

Subject:	Updated: Component Coordination Meeting
Start:	Friday, July 01, 2005 9:20 AM
End:	Friday, July 01, 2005 9:40 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)

When: Occurs every weekday effective 7/1/05 until 10/31/05 from 9:20 AM to 9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

Johnson, Kelly A. (ENRD)

Subject:	Accepted: Mercury Briefing
Location:	RFK 5710
Start:	Thursday, June 30, 2005 2:00 PM
End:	Thursday, June 30, 2005 3:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Johnson, Kelly A. (ENRD)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 11:57 AM
To: Bradbury, Steve
Subject: RE: Advice/thoughts

How about lunch in the cafeteria today?

-----Original Message-----
From: Bradbury, Steve
Sent: Wednesday, June 15, 2005 9:32 AM
To: Gorsuch, Neil M
Subject: RE: Advice/thoughts

Happy to do so, anytime. Thx

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:24 AM
To: Bradbury, Steve
Subject: Advice/thoughts

Steve - It was very good to see a familiar face yesterday among the wave of new folks and tasks. Might you have some time later this week or early next to offer some words of advice? Warm regards, Neil

Bradbury, Steve

From: Bradbury, Steve
Sent: Wednesday, June 15, 2005 11:59 AM
To: Gorsuch, Neil M
Subject: RE: Advice/thoughts

That'd be fine, perhaps at 1:00 or so. I'd like to catch Bill Barr's testimony on the 2d SJC panel, about to begin. Thx.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 11:57 AM
To: Bradbury, Steve
Subject: RE: Advice/thoughts

How about lunch in the cafeteria today?

-----Original Message-----
From: Bradbury, Steve
Sent: Wednesday, June 15, 2005 9:32 AM
To: Gorsuch, Neil M
Subject: RE: Advice/thoughts

Happy to do so, anytime. Thx

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:24 AM
To: Bradbury, Steve
Subject: Advice/thoughts

Steve - It was very good to see a familiar face yesterday among the wave of new folks and tasks. Might you have some time later this week or early next to offer some words of advice? Warm regards, Neil

dcmeetings@cfr.org

From: dcmeetings@cfr.org
Sent: Wednesday, June 15, 2005 11:59 AM
To: Gorsuch, Neil M
Subject: REMINDER 6/22 CFR-HBO Guest Event Screening "The Girl in the Café"

COUNCIL ON FOREIGN RELATIONS

WASHINGTON OFFICE · 1779 MASSACHUSETTS AVENUE, N.W. · WASHINGTON, D.C. 20036-2109 Email dcmeetings@cfr.org Meetings Response Line Tel 202 518 3479 Fax 202 986 2984

REMINDER

WASHINGTON GUEST EVENT
PREMIERE AND DISCUSSION OF HBO'S

"THE GIRL IN THE CAFÉ"
Post-screening discussion with

FAREED ZAKARIA
Editor, Newsweek International

JEFF GREENFIELD
Senior Analyst and Contributor, CNN
Presiding

From the screenwriter Richard Curtis ("Love Actually," "Four Weddings and a Funeral"), the film faces perhaps the most important issue of 2005: Will this be the year when world powers seriously address the issue of world poverty once and for all?

Wednesday, June 22, 2005

6:00-6:30 PM Cocktail Reception
6:30-8:00 PM Screening
8:00-8:30 PM Dinner
8:30-9:30 PM Discussion

Special Location
La Maison Francaise
Embassy of France
4101 Reservoir Road, N.W.
Washington, D.C. 20007

To attend, please reply directly to this email (dcmeetings@cfr.org), call the DC Meetings Response Line at (202) 518-3479, register online at www.cfr.org/member, or fax your acceptance to (202) 986-2987. This invitation is not transferable. CFR meetings are open to Council members only unless otherwise noted

otherwise noted.

Please update the information below if necessary.
Member Name: Neil M. Gorsuch
Company/Affiliation: U.S. Department of Justice
Telephone: [redacted] Fax: 202-514-0238 E-mail: neil.gorsuch@usdoj.gov
Guest Name:
Guest Company/Affiliation:
I prefer to receive invitations and meeting updates via: email fax (11239)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 12:00 PM
To: Bradbury, Steve
Subject: RE: Advice/thoughts

Perfect, just give a buzz when you're ready -- 51434.

-----Original Message-----
From: Bradbury, Steve
Sent: Wednesday, June 15, 2005 11:59 AM
To: Gorsuch, Neil M
Subject: RE: Advice/thoughts

That'd be fine, perhaps at 1:00 or so. I'd like to catch Bill Barr's testimony on the 2d SJC panel, about to begin. Thx.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 11:57 AM
To: Bradbury, Steve
Subject: RE: Advice/thoughts

How about lunch in the cafeteria today?

-----Original Message-----
From: Bradbury, Steve
Sent: Wednesday, June 15, 2005 9:32 AM
To: Gorsuch, Neil M
Subject: RE: Advice/thoughts

Happy to do so, anytime. Thx

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 9:24 AM
To: Bradbury, Steve
Subject: Advice/thoughts

Steve - It was very good to see a familiar face yesterday among the wave of new folks and tasks. Might you have some time later this week or early next to offer some words of advice? Warm regards, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 12:04 PM
To: McCallum, Robert (SMO)
Subject: CLEARANCE

Just checked. As of yesterday, I have an interim clearence level of Top Secret.

My application for further clearances (Sensitive Compartmentalized Information, SI, TK, G, and HCS) is pending.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 12:07 PM
To: Wiggins, Mike
Subject: Well done!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 12:55 PM
To: Gorsuch, Neil M
Subject: Read: GTMO Filings

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 12:57 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO); Wiggins, Mike; Swenson, Lily F; Senger, Jeffrey M; Kessler, Elizabeth A
Subject: FW: Assistant Attorney General

FYI re new folks. Lou: let's set up a time to go over there to meet them. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Wednesday, June 15, 2005 12:51 PM
To: McCallum, Robert (SMO)
Subject: Re: Assistant Attorney General

Nick Tzitzon is CoS. She doesn't have a PDAAG yet. They did bring on board Cybele Daley (Pasco's wife) as a Deputy. From what I understand her role as deputy will be "outreach and communication" specifically with law enforcement.

On a separate note, Crystal Roberts has asked to meet with me to help her put in place a "policy" for OJP, OVW, and COPS interaction with outside groups and coordination with OIPL.
Tracy

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Wed Jun 15 12:43:44 2005
Subject: RE: Assistant Attorney General

Did Regina bring some folks with her as COS, PDAAG, etc? If so, who are they and what functions and titles. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 09, 2005 9:19 AM
To: 'allstaff@ojp.usdoj.gov'
Subject: Assistant Attorney General

Everyone:
Last night the Senate confirmed Regina Schofield as the new Assistant Attorney General for OJP. I know that Regina is eager to arrive and become part of the OJP team. She will bring great enthusiasm and leadership to the organization. If everything proceeds accordingly, Regina will start on Monday. I know that you will provide her the same welcome and support you did me.

In conjuction with Regina's arrival, I will have one less hat to wear. I will return to my office at Main Justice and continue my role as Deputy Associate Attorney General. As you know, in this role I will continue my interaction with OJP.

Thank you for your support, assistance, and good work during my time back at OJP. I appreciate your efforts, your commitment, and most importantly, your kindness.
Please feel free to stop by and see me down at Main Justice. The office information will be in the system.

Thanks and best wishes.

Tracy

Tracy A. Henke
Deputy Associate Attorney General
U.S. Department of Justice
202-514-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 1:08 PM
To: Reyes, Luis
Cc: McCallum, Robert (SMO)
Subject: RE: Assistant Attorney General

Lou - FYI, per Robert's suggestion earlier this week that I introduce myself to Regina and other AAGs, I spoke with Regina and she offered to set something up a time for me to meet with her, her team, and Tracy in the very near future. When you speak to Regina, you might want to tell her that Robert's request below supersedes any need for a specific meeting with me so she doesn't feel a need to schedule us twice. Many thanks, Neil

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 12:57 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO); Wiggins, Mike; Swenson, Lily F; Senger, Jeffrey M; Kessler, Elizabeth A
Subject: FW: Assistant Attorney General

FYI re new folks. Lou: let's set up a time to go over there to meet them. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Wednesday, June 15, 2005 12:51 PM
To: McCallum, Robert (SMO)
Subject: Re: Assistant Attorney General

Nick Tzitzon is CoS. She doesn't have a PDAAG yet. They did bring on board Cybele Daley (Pasco's wife) as a Deputy. From what I understand her role as deputy will be "outreach and communication" specifically with law enforcement.

On a separate note, Crystal Roberts has asked to meet with me to help her put in place a "policy" for OJP, OVW, and COPS interaction with outside groups and coordination with OIPL.
Tracy

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Wed Jun 15 12:43:44 2005
Subject: RE: Assistant Attorney General

Did Regina bring some folks with her as COS, PDAAG, etc? If so, who are they and what functions and titles. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 09, 2005 9:19 AM
To: 'allstaff@ojp.usdoj.gov'
Subject: Assistant Attorney General

Everyone:
Last night the Senate confirmed Regina Schofield as the new Assistant Attorney General for OJP. I know that Regina is eager to arrive and become part of the OJP team. She will bring great enthusiasm and leadership to the organization. If everything proceeds accordingly, Regina will start on Monday. I know that you will provide her the same welcome and support you did me.

In conjuction with Regina's arrival, I will have one less hat to wear. I will return to my office at Main Justice and continue my role as Deputy Associate Attorney General. As you know, in this role I will continue my interaction with OJP.

Thank you for your support, assistance, and good work during my time back at OJP. I appreciate your efforts, your commitment, and most importantly, your kindness.
Please feel free to stop by and see me down at Main Justice. The office information will be in the system.

Thanks and best wishes.

Tracy

Tracy A. Henke
Deputy Associate Attorney General
U.S. Department of Justice
202-514-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 1:08 PM
To: Reyes, Luis
Subject: RE: Assistant Attorney General

This was misdirected; please ignore.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 1:08 PM
To: Reyes, Luis
Cc: McCallum, Robert (SMO)
Subject: RE: Assistant Attorney General

Lou - FYI, per Robert's suggestion earlier this week that I introduce myself to Regina and other AAGs, I spoke with Regina and she offered to set something up a time for me to meet with her, her team, and Tracy in the very near future. When you speak to Regina, you might want to tell her that Robert's request below supersedes any need for a specific meeting with me so she doesn't feel a need to schedule us twice. Many thanks, Neil

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 12:57 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO); Wiggins, Mike; Swenson, Lily F;
Senger, Jeffrey M; Kessler, Elizabeth A
Subject: FW: Assistant Attorney General

FYI re new folks. Lou: let's set up a time to go over there to meet them. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Wednesday, June 15, 2005 12:51 PM
To: McCallum, Robert (SMO)
Subject: Re: Assistant Attorney General

Nick Tzitzon is CoS. She doesn't have a PDAAG yet. They did bring on board Cybele Daley (Pasco's wife) as a Deputy. From what I understand her role as deputy will be "outreach and communication" specifically with law enforcement.

On a separate note, Crystal Roberts has asked to meet with me to help her put in place a "policy" for OJP, OVW, and COPS interaction with outside groups and coordination with OIPL.
Tracy

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Wed Jun 15 12:43:44 2005
Subject: RE: Assistant Attorney General

Did Regina bring some folks with her as COS, PDAAG, etc? If so, who are they and what functions and titles. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 09, 2005 9:19 AM
To: 'allstaff@ojp.usdoj.gov'
Subject: Assistant Attorney General

Everyone:
Last night the Senate confirmed Regina Schofield as the new Assistant Attorney General for OJP. I know that Regina is eager to arrive and become part of the OJP team. She will bring great enthusiasm and leadership to the organization. If everything proceeds accordingly, Regina will start on Monday. I know that you will provide her the same welcome and support you did me.

In conjuction with Regina's arrival, I will have one less hat to wear. I will return to my office at Main Justice and continue my role as Deputy Associate Attorney General. As you know, in this role I will continue my interaction with OJP.

Thank you for your support, assistance, and good work during my time back at OJP. I appreciate your efforts, your commitment, and most importantly, your kindness.
Please feel free to stop by and see me down at Main Justice. The office information will be in the system.

Thanks and best wishes.

Tracy

Tracy A. Henke
Deputy Associate Attorney General
U.S. Department of Justice
202-514-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 1:09 PM
To: Reyes, Luis (SMO)
Subject: FW: Assistant Attorney General

Lou - FYI, per Robert's suggestion earlier this week that I introduce myself to Regina and other AAGs, I spoke with Regina and she offered to set something up a time for me to meet with her, her team, and Tracy in the very near future. When you speak to Regina, you might want to tell her that Robert's request below supersedes any need for a specific meeting with me so she doesn't feel a need to schedule us twice. Many thanks, Neil

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 12:57 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO); Wiggins, Mike; Swenson, Lily F; Senger, Jeffrey M; Kessler, Elizabeth A
Subject: FW: Assistant Attorney General

FYI re new folks. Lou: let's set up a time to go over there to meet them. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Wednesday, June 15, 2005 12:51 PM
To: McCallum, Robert (SMO)
Subject: Re: Assistant Attorney General

Nick Tzitzon is CoS. She doesn't have a PDAAG yet. They did bring on board Cybele Daley (Pasco's wife) as a Deputy. From what I understand her role as deputy will be "outreach and communication" specifically with law enforcement.

On a separate note, Crystal Roberts has asked to meet with me to help her put in place a "policy" for OJP, OVW, and COPS interaction with outside groups and coordination with OIPL.
Tracy

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Wed Jun 15 12:43:44 2005
Subject: RE: Assistant Attorney General

Did Regina bring some folks with her as COS, PDAAG, etc? If so, who are they and what functions and titles. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 09, 2005 9:19 AM
To: 'allstaff@ojp.usdoj.gov'
Subject: Assistant Attorney General

Everyone:
Last night the Senate confirmed Regina Schofield as the new Assistant Attorney General for OJP. I know that Regina is eager to arrive and become part of the OJP team. She will bring great enthusiasm and leadership to the organization. If everything proceeds accordingly, Regina will start on Monday. I know that you will provide her the same welcome and support you did me.

In conjuction with Regina's arrival, I will have one less hat to wear. I will return to my office at Main Justice and continue my role as Deputy Associate Attorney General. As you know, in this role I will continue my interaction with OJP.

Thank you for your support, assistance, and good work during my time back at OJP. I appreciate your efforts, your commitment, and most importantly, your kindness.
Please feel free to stop by and see me down at Main Justice. The office information will be in the system.

Thanks and best wishes.

Tracy

Tracy A. Henke
Deputy Associate Attorney General
U.S. Department of Justice
202-514-9500

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 1:10 PM
To: Gorsuch, Neil M; Reyes, Luis
Subject: RE: Assistant Attorney General

I was thinking of just joining Neil when he goes over. Robt

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 1:08 PM
To: Reyes, Luis
Cc: McCallum, Robert (SMO)
Subject: RE: Assistant Attorney General

Lou - FYI, per Robert's suggestion earlier this week that I introduce myself to Regina and other AAGs, I spoke with Regina and she offered to set something up a time for me to meet with her, her team, and Tracy in the very near future. When you speak to Regina, you might want to tell her that Robert's request below supersedes any need for a specific meeting with me so she doesn't feel a need to schedule us twice. Many thanks, Neil

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 12:57 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO); Wiggins, Mike; Swenson, Lily F;
Senger, Jeffrey M; Kessler, Elizabeth A
Subject: FW: Assistant Attorney General

FYI re new folks. Lou: let's set up a time to go over there to meet them. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Wednesday, June 15, 2005 12:51 PM
To: McCallum, Robert (SMO)
Subject: Re: Assistant Attorney General

Nick Tzitzon is CoS. She doesn't have a PDAAG yet. They did bring on board Cybele Daley (Pasco's wife) as a Deputy. From what I understand her role as deputy will be "outreach and communication" specifically with law enforcement.

On a separate note, Crystal Roberts has asked to meet with me to help her put in place a "policy" for OJP, OVW, and COPS interaction with outside groups and coordination with OIPL.
Tracy

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Wed Jun 15 12:43:44 2005
Subject: RE: Assistant Attorney General

Did Regina bring some folks with her as COS, PDAAG, etc? If so, who are they and what functions and titles. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 09, 2005 9:19 AM
To: 'allstaff@ojp.usdoj.gov'
Subject: Assistant Attorney General

Everyone:
Last night the Senate confirmed Regina Schofield as the new Assistant Attorney General for OJP. I know that Regina is eager to arrive and become part of the OJP team. She will bring great enthusiasm and leadership to the organization. If everything proceeds accordingly, Regina will start on Monday. I know that you will provide her the same welcome and support you did me.

In conjuction with Regina's arrival, I will have one less hat to wear. I will return to my office at Main Justice and continue my role as Deputy Associate Attorney General. As you know, in this role I will continue my interaction with OJP.

Thank you for your support, assistance, and good work during my time back at OJP. I appreciate your efforts, your commitment, and most importantly, your kindness.
Please feel free to stop by and see me down at Main Justice. The office information will be in the system.

Thanks and best wishes.

Tracy

Tracy A. Henke
Deputy Associate Attorney General
U.S. Department of Justice
202-514-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 1:16 PM
To: Reyes, Luis (SMO)
Subject: FW: Assistant Attorney General

Do you want to tackle scheduling this?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 1:10 PM
To: Gorsuch, Neil M; Reyes, Luis
Subject: RE: Assistant Attorney General

I was thinking of just joining Neil when he goes over. Robt

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 1:08 PM
To: Reyes, Luis
Cc: McCallum, Robert (SMO)
Subject: RE: Assistant Attorney General

Lou - FYI, per Robert's suggestion earlier this week that I introduce myself to Regina and other AAGs, I spoke with Regina and she offered to set something up a time for me to meet with her, her team, and Tracy in the very near future. When you speak to Regina, you might want to tell her that Robert's request below supersedes any need for a specific meeting with me so she doesn't feel a need to schedule us twice. Many thanks, Neil

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 12:57 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO); Wiggins, Mike; Swenson, Lily F; Senger, Jeffrey M; Kessler, Elizabeth A
Subject: FW: Assistant Attorney General

FYI re new folks. Lou: let's set up a time to go over there to meet them. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Wednesday, June 15, 2005 12:51 PM
To: McCallum, Robert (SMO)
Subject: Re: Assistant Attorney General

Nick Tzitzon is CoS. She doesn't have a PDAAG yet. They did bring on board Cybele Daley (Pasco's wife) as a Deputy. From what I understand her role as deputy will be "outreach and communication" specifically with law enforcement.

On a separate note, Crystal Roberts has asked to meet with me to help her put in place a "policy" for OJP, OVW, and COPS interaction with outside groups and coordination with OIPL.
Tracy

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Wed Jun 15 12:43:44 2005
Subject: RE: Assistant Attorney General

Did Regina bring some folks with her as COS, PDAAG, etc? If so, who are they and what functions and titles. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 09, 2005 9:19 AM
To: 'allstaff@ojp.usdoj.gov'
Subject: Assistant Attorney General

Everyone:
Last night the Senate confirmed Regina Schofield as the new Assistant Attorney General for OJP. I know that Regina is eager to arrive and become part of the OJP team. She will bring great enthusiasm and leadership to the organization. If everything proceeds accordingly, Regina will start on Monday. I know that you will provide her the same welcome and support you did me.

In conjuction with Regina's arrival, I will have one less hat to wear. I will return to my office at Main Justice and continue my role as Deputy Associate Attorney General. As you know, in this role I will continue my interaction with OJP.

Thank you for your support, assistance, and good work during my time back at OJP. I appreciate your efforts, your commitment, and most importantly, your kindness.
Please feel free to stop by and see me down at Main Justice. The office information will be in the system.

Thanks and best wishes.

Tracy

Tracy A. Henke
Deputy Associate Attorney General
U.S. Department of Justice
202-514-9500

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Wednesday, June 15, 2005 1:24 PM
To: Gorsuch, Neil M
Subject: RE: Assistant Attorney General

No problem. I take it, they had not gotten back to you yet on a time? I will reach out to her and just have her add Robert and myself to that meeting, and ensure that we get this set up in the immediate future.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 1:16 PM
To: Reyes, Luis (SMO)
Subject: FW: Assistant Attorney General

Do you want to tackle scheduling this?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 1:10 PM
To: Gorsuch, Neil M; Reyes, Luis
Subject: RE: Assistant Attorney General

I was thinking of just joining Neil when he goes over. Robt

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 1:08 PM
To: Reyes, Luis
Cc: McCallum, Robert (SMO)
Subject: RE: Assistant Attorney General

Lou - FYI, per Robert's suggestion earlier this week that I introduce myself to Regina and other AAGs, I spoke with Regina and she offered to set something up a time for me to meet with her, her team, and Tracy in the very near future. When you speak to Regina, you might want to tell her that Robert's request below supersedes any need for a specific meeting with me so she doesn't feel a need to schedule us twice. Many thanks, Neil

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 12:57 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO); Wiggins, Mike; Swenson, Lily F;
Songer, Jeffrey M; Kessler, Elizabeth A

Senger, Jeffrey M; Kessler, Elizabeth A
Subject: FW: Assistant Attorney General

FYI re new folks. Lou: let's set up a time to go over there to meet them. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Wednesday, June 15, 2005 12:51 PM
To: McCallum, Robert (SMO)
Subject: Re: Assistant Attorney General

Nick Tzitzon is CoS. She doesn't have a PDAAG yet. They did bring on board Cybele Daley (Pasco's wife) as a Deputy. From what I understand her role as deputy will be "outreach and communication" specifically with law enforcement.

On a separate note, Crystal Roberts has asked to meet with me to help her put in place a "policy" for OJP, OVW, and COPS interaction with outside groups and coordination with OIPL.
Tracy

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Wed Jun 15 12:43:44 2005
Subject: RE: Assistant Attorney General

Did Regina bring some folks with her as COS, PDAAG, etc? If so, who are they and what functions and titles. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 09, 2005 9:19 AM
To: 'allstaff@ojp.usdoj.gov'
Subject: Assistant Attorney General

Everyone:
Last night the Senate confirmed Regina Schofield as the new Assistant Attorney General for OJP. I know that Regina is eager to arrive and become part of the OJP team. She will bring great enthusiasm and leadership to the organization. If everything proceeds accordingly, Regina will start on Monday. I know that you will provide her the same welcome and support you did me.

In conjuction with Regina's arrival, I will have one less hat to wear. I will return to my office at Main Justice and continue my role as Deputy Associate Attorney General. As you know, in this role I will continue my interaction with OJP.

Thank you for your support, assistance, and good work during my time back at OJP. I appreciate your efforts, your commitment, and most importantly, your kindness.
Please feel free to stop by and see me down at Main Justice. The office information will be in the

system.

Thanks and best wishes.

Tracy

Tracy A. Henke
Deputy Associate Attorney General
U.S. Department of Justice
202-514-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 1:25 PM
To: Reyes, Luis (SMO)
Subject: RE: Assistant Attorney General

I haven't yet heard back from Regina - no doubt she's swamped. Thanks for tackling this. I just don't want her to think we need two meetings rather than one.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 15, 2005 1:24 PM
To: Gorsuch, Neil M
Subject: RE: Assistant Attorney General

No problem. I take it, they had not gotten back to you yet on a time? I will reach out to her and just have her add Robert and myself to that meeting, and ensure that we get this set up in the immediate future.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 1:16 PM
To: Reyes, Luis (SMO)
Subject: FW: Assistant Attorney General

Do you want to tackle scheduling this?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 1:10 PM
To: Gorsuch, Neil M; Reyes, Luis
Subject: RE: Assistant Attorney General

I was thinking of just joining Neil when he goes over. Robt

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 1:08 PM
To: Reyes, Luis
Cc: McCallum, Robert (SMO)
Subject: RE: Assistant Attorney General

Lou - FYI, per Robert's suggestion earlier this week that I introduce myself to Regina and other AAGs, I

Lou - FYI, per Robert's suggestion earlier this week that I introduce myself to Regina and other AAGs, I spoke with Regina and she offered to set something up a time for me to meet with her, her team, and Tracy in the very near future. When you speak to Regina, you might want to tell her that Robert's request below supersedes any need for a specific meeting with me so she doesn't feel a need to schedule us twice. Many thanks, Neil

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 12:57 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO); Wiggins, Mike; Swenson, Lily F; Senger, Jeffrey M; Kessler, Elizabeth A
Subject: FW: Assistant Attorney General

FYI re new folks. Lou: let's set up a time to go over there to meet them. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Wednesday, June 15, 2005 12:51 PM
To: McCallum, Robert (SMO)
Subject: Re: Assistant Attorney General

Nick Tzitzon is CoS. She doesn't have a PDAAG yet. They did bring on board Cybele Daley (Pasco's wife) as a Deputy. From what I understand her role as deputy will be "outreach and communication" specifically with law enforcement.

On a separate note, Crystal Roberts has asked to meet with me to help her put in place a "policy" for OJP, OVW, and COPS interaction with outside groups and coordination with OIPL.
Tracy

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Wed Jun 15 12:43:44 2005
Subject: RE: Assistant Attorney General

Did Regina bring some folks with her as COS, PDAAG, etc? If so, who are they and what functions and titles. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 09, 2005 9:19 AM
To: 'allstaff@ojp.usdoj.gov'
Subject: Assistant Attorney General

Everyone:
Last night the Senate confirmed Regina Schofield as the new Assistant Attorney General for OJP. I know that Regina is eager to arrive and become part of the OJP team. She will bring great enthusiasm

and leadership to the organization. If everything proceeds accordingly, Regina will start on Monday. I know that you will provide her the same welcome and support you did me.

In conjuction with Regina's arrival, I will have one less hat to wear. I will return to my office at Main Justice and continue my role as Deputy Associate Attorney General. As you know, in this role I will continue my interaction with OJP.

Thank you for your support, assistance, and good work during my time back at OJP. I appreciate your efforts, your commitment, and most importantly, your kindness.
Please feel free to stop by and see me down at Main Justice. The office information will be in the system.

Thanks and best wishes.

Tracy

Tracy A. Henke
Deputy Associate Attorney General
U.S. Department of Justice
202-514-9500

Gunn, Currie (SMO)

Subject:	Car en route DOJ
Start:	Thursday, June 16, 2005 9:30 AM
End:	Thursday, June 16, 2005 9:35 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M; Reyes, Luis (SMO)

When: Thursday, June 16, 2005 9:30 AM-9:35 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

McCallum, Robert (SMO)

Subject:	Car en route DOJ
Start:	Thursday, June 16, 2005 9:30 AM
End:	Thursday, June 16, 2005 9:35 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	McCallum, Robert (SMO)
Required Attendees:	Gorsuch, Neil M; Reyes, Luis (SMO)

When: Thursday, June 16, 2005 9:30 AM-9:35 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Wednesday, June 15, 2005 2:00 PM
To: Gorsuch, Neil M

baltimore

Gunn, Currie (SMO)

Subject:	Updated: Car en route to WH - 10th Street gate
Location:	17th & Penn
Start:	Thursday, June 16, 2005 8:30 AM
End:	Thursday, June 16, 2005 8:35 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M; Reyes, Luis (SMO)

When: Thursday, June 16, 2005 8:30 AM-8:35 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 17th & Penn

~~*~*~*~*~*~*~*~*~*

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Wednesday, June 15, 2005 2:16 PM
To: Reyes, Luis (SMO); Schofield, Regina; Tzitzon, Nicholas
Cc: Gunn, Currie (SMO); Shaw, Aloma A; Gorsuch, Neil M
Subject: RE: Meeting with Neil Gorsuch and RObert McCallum

Regina:
Robert and I talked. He was thinking that a Tuesday Leadership meeting would be a good opportunity to come over and see all of the PASs and support office heads. Tangent can coordinate with Currie on a Tuesday that will work. Thanks.
Tracy

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 15, 2005 1:35 PM
To: Schofield, Regina; Henke, Tracy (SMO); Tzitzon, Nicholas
Cc: Gunn, Currie (SMO); Shaw, Aloma A; Gorsuch, Neil M
Subject: Meeting with Neil Gorsuch and RObert McCallum

Regina,
Neil has advised me that you all were setting up a meet and greet. Robert McCallum is interested in attending this meeting as well. Could you please have your staff coordinate with Currie Gunn, Robert's administrative assistant, so that we can get this scheduled in the near future? Thanks so very much and welcome to the Department! --Lou

Luis A. Reyes,
Chief of Staff and Deputy Associate Attorney General
Office of the Associate Attorney General
United States Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530
Phone: (202) 514-9500
Fax: (202) 514-0238
Email: Luis.A.Reyes@usdoj.gov

Bester, Matthew

From: Bester, Matthew
Sent: Wednesday, June 15, 2005 2:29 PM
To: Gorsuch, Neil M
Subject: Hello

Hey Neil,

Don't know if you've made it over to Justice or simply that they've set up an email account for you. But welcome!

This is not my permanent email address, but just a temporary one for me at USAO in Alexandria. My permanent email lacks the 2 at the end of my name.

Hope you're doing well, and I'm sure you're excited to be over here. I've had a really great experience so far.

One of my cases made the front page of the Post Monday -- the one on how we use immigration laws to prosecute all sorts of people (terrorists and non-terrorists alike).

http://www.washingtonpost.com/wp-dyn/content/article/2005/06/12/AR2005061201441.html

Take care and talk to you soon.

Matt

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 2:39 PM
To: Reyes, Luis (SMO)
Subject: RE: Assistant Attorney General

Come on over whenever you're free.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 15, 2005 1:30 PM
To: Gorsuch, Neil M
Subject: RE: Assistant Attorney General

No problem at all. When do we want to call Devine? My afternoon is fairly open between now and 4. Just let me know what works for you.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 1:25 PM
To: Reyes, Luis (SMO)
Subject: RE: Assistant Attorney General

I haven't yet heard back from Regina - no doubt she's swamped. Thanks for tackling this. I just don't want her to think we need two meetings rather than one.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 15, 2005 1:24 PM
To: Gorsuch, Neil M
Subject: RE: Assistant Attorney General

No problem. I take it, they had not gotten back to you yet on a time? I will reach out to her and just have her add Robert and myself to that meeting, and ensure that we get this set up in the immediate future.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 1:16 PM
To: Reyes, Luis (SMO)
Subject: FW: Assistant Attorney General

Do you want to tackle scheduling this?

Do you want to tackle scheduling this?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 1:10 PM
To: Gorsuch, Neil M; Reyes, Luis
Subject: RE: Assistant Attorney General

I was thinking of just joining Neil when he goes over. Robt

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 1:08 PM
To: Reyes, Luis
Cc: McCallum, Robert (SMO)
Subject: RE: Assistant Attorney General

Lou - FYI, per Robert's suggestion earlier this week that I introduce myself to Regina and other AAGs, I spoke with Regina and she offered to set something up a time for me to meet with her, her team, and Tracy in the very near future. When you speak to Regina, you might want to tell her that Robert's request below supersedes any need for a specific meeting with me so she doesn't feel a need to schedule us twice. Many thanks, Neil

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 12:57 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO); Wiggins, Mike; Swenson, Lily F;
Senger, Jeffrey M; Kessler, Elizabeth A
Subject: FW: Assistant Attorney General

FYI re new folks. Lou: let's set up a time to go over there to meet them. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Wednesday, June 15, 2005 12:51 PM
To: McCallum, Robert (SMO)
Subject: Re: Assistant Attorney General

Nick Tzitzon is CoS. She doesn't have a PDAAG yet. They did bring on board Cybele Daley (Pasco's wife) as a Deputy. From what I understand her role as deputy will be "outreach and communication" specifically with law enforcement.

On a separate note, Crystal Roberts has asked to meet with me to help her put in place a "policy" for OJP, OVW, and COPS interaction with outside groups and coordination with OIPL.
Tracy

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Wed Jun 15 12:43:44 2005
Subject: RE: Assistant Attorney General

Did Regina bring some folks with her as COS, PDAAG, etc? If so, who are they and what functions and titles. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 09, 2005 9:19 AM
To: 'allstaff@ojp.usdoj.gov'
Subject: Assistant Attorney General

Everyone:
Last night the Senate confirmed Regina Schofield as the new Assistant Attorney General for OJP. I know that Regina is eager to arrive and become part of the OJP team. She will bring great enthusiasm and leadership to the organization. If everything proceeds accordingly, Regina will start on Monday. I know that you will provide her the same welcome and support you did me.

In conjuction with Regina's arrival, I will have one less hat to wear. I will return to my office at Main Justice and continue my role as Deputy Associate Attorney General. As you know, in this role I will continue my interaction with OJP.

Thank you for your support, assistance, and good work during my time back at OJP. I appreciate your efforts, your commitment, and most importantly, your kindness.
Please feel free to stop by and see me down at Main Justice. The office information will be in the system.

Thanks and best wishes.

Tracy

Tracy A. Henke
Deputy Associate Attorney General
U.S. Department of Justice
202-514-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 2:49 PM
To: Bester, Matthew
Subject: RE: Hello

Wonderful! Next time you're at main justice, please do stop by. I'm in room 5706. All the best, Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: Bester, Matthew
Sent: Wednesday, June 15, 2005 2:29 PM
To: Gorsuch, Neil M
Subject: Hello

Hey Neil,

Don't know if you've made it over to Justice or simply that they've set up an email account for you. But welcome!

This is not my permanent email address, but just a temporary one for me at USAO in Alexandria. My permanent email lacks the 2 at the end of my name.

Hope you're doing well, and I'm sure you're excited to be over here. I've had a really great experience so far.

One of my cases made the front page of the Post Monday -- the one on how we use immigration laws to prosecute all sorts of people (terrorists and non-terrorists alike).

http://www.washingtonpost.com/wp-dyn/content/article/2005/06/12/AR2005061201441.html

Take care and talk to you soon.

Matt

McAtamney, James A

From: McAtamney, James A
Sent: Wednesday, June 15, 2005 2:50 PM
To: Gorsuch, Neil M
Subject: Read: FIRST MEETING OF THE COMMITTEE ON THE MARINE TRANSPORTATION SYSTEM (CMTS)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 3:21 PM
To: McCallum, Robert (SMO)
Subject: Marine Transport Committee

Principal plus one is fine. Meeting date is yet to be finalized, but it's likely to be July 11 or 12.

There is a staff planning group meeting scheduled for next week. Mac would like to have someone represent DOJ. He'd be happy to have a designee from Civil, ENRD or this office. What's your preference?

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 3:26 PM
To: Gorsuch, Neil M
Subject: RE: Marine Transport Committee

What level is the meeting? "Staff" is an ambiguous term. Maybe Liz, maybe Senger from OASG. Get Mac's advice about what is going to occur there and then you give me your thoughts. Kelly Johnson might have someone to send from ENRD who works in ocean pollution issues. That might be the best location to put it. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 3:21 PM
To: McCallum, Robert (SMO)
Subject: Marine Transport Committee

Principal plus one is fine. Meeting date is yet to be finalized, but it's likely to be July 11 or 12.

There is a staff planning group meeting scheduled for next week. Mac would like to have someone represent DOJ. He'd be happy to have a designee from Civil, ENRD or this office. What's your preference?

Shaw, Aloma A

Subject: Meeting w/ [redacted]
Location: Room 5710

Start: Thursday, June 16, 2005 10:00 AM
End: Thursday, June 16, 2005 11:00 AM

Recurrence: (none)

Meeting Status: No response required

Organizer: Shaw, Aloma A

Attendees:

[redacted]

Gorsuch, Neil M

Subject:	Tax Meeting with Lou
Start:	Monday, June 20, 2005 10:00 AM
End:	Monday, June 20, 2005 10:30 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Shaw, Aloma A

Subject:	OIL Study Mtg
Location:	Main, Room 1103
Start:	Monday, June 20, 2005 1:30 PM
End:	Monday, June 20, 2005 2:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Corts, Paul R; Allen, Michael (JMD); Swenson, Lily F; Gorsuch, Neil M; Keisler, Peter D. (CIV); Meron, Daniel (CIV); Cohn, Jonathan (CIV); Zwick, Ken (CIV); Burton, Dawn (ODAG); Sampson, Kyle

When: Monday, June 20, 2005 1:30 PM-2:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main, Room 1103

~~*~*~*~*~*~*~*~*~*

Attendees: Kyle Sampson (OAG); Dawn Burton (ODAG); Dr. Paul Corts (JMD); Mike Allen (JMD); Lily Fu Swenson (OASG); Neil Gorsuch (OASG); Peter Keisler (CIV); Dan Meron (CIV); John Cohn (CIV); & Ken Zwick (CIV);

Swenson, Lily F

Subject:	OIL Study Mtg
Location:	Main, Room 1103
Start:	Monday, June 20, 2005 1:30 PM
End:	Monday, June 20, 2005 2:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Swenson, Lily F
Required Attendees:	Corts, Paul R; Allen, Michael (JMD); Swenson, Lily F; Gorsuch, Neil M; Keisler, Peter D. (CIV); Meron, Daniel (CIV); Cohn, Jonathan (CIV); Zwick, Ken (CIV); Burton, Dawn (ODAG); Sampson, Kyle

When: Monday, June 20, 2005 1:30 PM-2:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main, Room 1103

~~*~*~*~*~*~*~*~*~*~*

Attendees: Kyle Sampson (OAG); Dawn Burton (ODAG); Dr. Paul Corts (JMD); Mike Allen (JMD); Lily Fu Swenson (OASG); Neil Gorsuch (OASG); Peter Keisler (CIV); Dan Meron (CIV); John Cohn (CIV); & Ken Zwick (CIV);

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 4:03 PM
To: McCallum, Robert (SMO)
Subject: RE: Marine Transport Committee

I spoke with Mac who confirms that both litigation risk and environmental questions will likely be involved in the planning session, but the latter sort of questions seem to predominate. Someone from ENRD, thus, may be our best representative unless you'd prefer the direct involvement of Liz or Jeff. Mac specifically suggested a fellow named Jim Rubin in ENRD who has been involved in other international and national security issues. Should he and I call Kelly to ask for her approval to employ Rubin for this task?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 3:26 PM
To: Gorsuch, Neil M
Subject: RE: Marine Transport Committee

What level is the meeting? "Staff" is an ambiguous term. Maybe Liz, maybe Senger from OASG. Get Mac's advice about what is going to occur there and then you give me your thoughts. Kelly Johnson might have someone to send from ENRD who works in ocean pollution issues. That might be the best location to put it. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 3:21 PM
To: McCallum, Robert (SMO)
Subject: Marine Transport Committee

Principal plus one is fine. Meeting date is yet to be finalized, but it's likely to be July 11 or 12.

There is a staff planning group meeting scheduled for next week. Mac would like to have someone represent DOJ. He'd be happy to have a designee from Civil, ENRD or this office. What's your preference?

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Wednesday, June 15, 2005 4:15 PM
To: Gorsuch, Neil M
Subject: Read: OIL Study Mtg

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, June 15, 2005 5:00 PM
To: Gorsuch, Neil M
Subject: FW: Password Re-set TO#[redacted]

Neil:

If the password I gave you earlier doesn't work, try this one.

-----Original Message-----
From: Slyke, Carla M
Sent: Wednesday, June 15, 2005 4:46 PM
To: Shaw, Aloma A; Gunn, Currie (SMO)
Subject: FW: Password Re-set TO#[redacted]

Aloma -- this is per your request this morning.

-----Original Message-----
From: DOJ Wireless Services
Sent: Wednesday, June 15, 2005 4:13 PM
To: Slyke, Carla M
Subject: Password Re-set TO#[redacted]

The password has been re-set on [redacted] The temporary password is [redacted]

DOJ Wireless Team
Customer Services and Ordering
Operations Services Staff
U.S. Department of Justice
Tel. (202) 616-4444
Fax.(202)305-0852

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 5:02 PM
To: Gorsuch, Neil M
Subject: RE: Marine Transport Committee

yes. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 4:03 PM
To: McCallum, Robert (SMO)
Subject: RE: Marine Transport Committee

I spoke with Mac who confirms that both litigation risk and environmental questions will likely be involved in the planning session, but the latter sort of questions seem to predominate. Someone from ENRD, thus, may be our best representative unless you'd prefer the direct involvement of Liz or Jeff. Mac specifically suggested a fellow named Jim Rubin in ENRD who has been involved in other international and national security issues. Should he and I call Kelly to ask for her approval to employ Rubin for this task?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 3:26 PM
To: Gorsuch, Neil M
Subject: RE: Marine Transport Committee

What level is the meeting? "Staff" is an ambiguous term. Maybe Liz, maybe Senger from OASG. Get Mac's advice about what is going to occur there and then you give me your thoughts. Kelly Johnson might have someone to send from ENRD who works in ocean pollution issues. That might be the best location to put it. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 3:21 PM
To: McCallum, Robert (SMO)
Subject: Marine Transport Committee

Principal plus one is fine. Meeting date is yet to be finalized, but it's likely to be July 11 or 12.

There is a staff planning group meeting scheduled for next week. Mac would like to have someone represent DOJ. He'd be happy to have a designee from Civil, ENRD or this office. What's your preference?

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Wednesday, June 15, 2005 5:03 PM
To: Gorsuch, Neil M
Cc: McCallum, Robert (SMO)
Subject: Press Release for Release Tomorrow

Neil, Robert:

Let me know if you are comfortable with sending this to Public Affairs, or if you have any further edits. Lily and I have reviewed and are okay with this.

FOR IMMEDIATE RELEASE THURSDAY, JUNE 16, 2005 WWW.USDOJ.GOV

OASG (202) 514 - 2007 TDD (202) 514 - 1888

ASSOCIATE ATTORNEY GENERAL ROBERT D. MCCALLUM, JR. ANNOUNCES APPOINTMENT OF NEW DEPUTY ASSOCIATE ATTORNEYS GENERAL

WASHINGTON, D.C. - Associate Attorney General Robert D. McCallum, Jr. announced today the appointment of three new Deputy Associate Attorneys General in the Office of the Associate Attorney General (OASG).

In announcing the new appointments to his office, Associate Attorney General Robert D. McCallum, Jr. said, "Our new Deputy Associate Attorneys General bring considerable practical experience and legal skills of the highest caliber to the Associate Attorney General's Office. We are excited to have them aboard."

Neil M. Gorsuch has been appointed Principal Deputy Associate Attorney General. Mr. Gorsuch has been a partner at the Washington firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, since 1998 and served as an associate in that firm from 1995 to 1997. Mr. Gorsuch's practice has focused on complex trials and appellate litigation, including antitrust and securities matters. He served as a law clerk to the Honorable Byron R. White and the Honorable Anthony M. Kennedy of the U.S. Supreme Court, as well as to the Honorable David B. Sentelle of the U.S. Court of Appeals for the D.C. Circuit. Mr. Gorsuch holds a doctorate in legal philosophy from Oxford, where he was a Marshall scholar; a J.D. from the Harvard Law School, where he studied as a Truman scholar; and a B.A. from Columbia University. Among other items in his new portfolio, Mr. Gorsuch will oversee terrorism-related litigation matters and advise the Associate Attorney General on all issues that reach the office for consideration.

Luis A. Reyes has been appointed Chief of Staff and Deputy Associate Attorney General. From 2003 to 2005, Mr. Reyes served as Counselor to the Assistant Attorney General for the Department's Civil Rights Division. As the Assistant Attorney General's senior legal counsel he was involved in a wide range of litigation, legislative, and policy-related matters. Mr. Reyes was heavily involved in the Department's efforts to combat human trafficking, appearing before state legislative bodies and civil rights groups to speak on the topic. Prior to joining the Civil

Rights Division, Mr. Reyes served as Counsel to the Assistant Attorney General for the Civil Division where he advised on administrative and litigation related matters. Mr. Reyes joined the Department of Justice in 2001, after serving as an Assistant Attorney General for the State of Texas for three years under then state Attorney General John Cornyn. Mr. Reyes is a graduate of the University of Texas at Austin, and the University of Texas School of Law. In his new role, Mr. Reyes will work with the Department's Tax Division, the Community Relations Service, and will be involved in internal and organizational issues as assigned by the Associate Attorney General.

Lily Fu Swenson has been appointed Deputy Associate Attorney General. Ms. Swenson joins the OASG from the Washington office of Mayer, Brown, Rowe and Maw LLP where she served as hiring partner and a member of the firm's antitrust and litigation practice groups. Ms. Swenson's practice focused on primarily on class action and appellate litigation, including antitrust, securities and professional liability matters. Ms. Swenson graduated from the University of Minnesota School of Law in 1993 and the University of Wisconsin at Madison in 1990. Prior to joining Mayer, Brown, Rowe & Maw, she clerked for the Honorable Michael S. Kanne of the United States Court of Appeals for the Seventh Circuit. In her new post, Ms. Swenson will oversee antitrust as well as commercial, health care fraud and immigration litigation matters.

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Wednesday, June 15, 2005 5:16 PM
To: Gorsuch, Neil M
Subject: Read: Salmon Update

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 5:20 PM
To: McCallum, Robert (SMO)
Subject: RE: Marine Transport Committee

Will do.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 5:02 PM
To: Gorsuch, Neil M
Subject: RE: Marine Transport Committee

yes. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 4:03 PM
To: McCallum, Robert (SMO)
Subject: RE: Marine Transport Committee

I spoke with Mac who confirms that both litigation risk and environmental questions will likely be involved in the planning session, but the latter sort of questions seem to predominate. Someone from ENRD, thus, may be our best representative unless you'd prefer the direct involvement of Liz or Jeff. Mac specifically suggested a fellow named Jim Rubin in ENRD who has been involved in other international and national security issues. Should he and I call Kelly to ask for her approval to employ Rubin for this task?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 3:26 PM
To: Gorsuch, Neil M
Subject: RE: Marine Transport Committee

What level is the meeting? "Staff" is an ambiguous term. Maybe Liz, maybe Senger from OASG. Get Mac's advice about what is going to occur there and then you give me your thoughts. Kelly Johnson might have someone to send from ENRD who works in ocean pollution issues. That might be the best location to put it. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 3:21 PM
To: McCallum, Robert (SMO)
Subject: Marine Transport Committee

Principal plus one is fine. Meeting date is yet to be finalized, but it's likely to be July 11 or 12.

There is a staff planning group meeting scheduled for next week. Mac would like to have someone represent DOJ. He'd be happy to have a designee from Civil, ENRD or this office. What's your preference?

Gunn, Currie (SMO)

Subject:	Updated: Car en route to WH - 10th Street gate
Location:	17th & Penn
Start:	Thursday, June 16, 2005 8:15 AM
End:	Thursday, June 16, 2005 8:20 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M; Reyes, Luis (SMO)

When: Thursday, June 16, 2005 8:15 AM-8:20 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 17th & Penn

~~*~*~*~*~*~*~*~*~*

McCallum, Robert (SMO)

Subject:	Updated: Car en route to WH - 10th Street gate
Location:	17th & Penn
Start:	Thursday, June 16, 2005 8:15 AM
End:	Thursday, June 16, 2005 8:20 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	McCallum, Robert (SMO)
Required Attendees:	Gorsuch, Neil M; Reyes, Luis (SMO)Gorsuch, Neil M; Reyes, Luis (SMO)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 5:48 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: RE: Press Release for Release Tomorrow

I would simplify my entry just slightly, as follows below.

Neil M. Gorsuch has been appointed Principal Deputy Associate Attorney General. Prior to his appointment, Mr. Gorsuch was a partner at the Washington firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, where his practice focused on complex trial and appellate litigation, including antitrust and securities matters. Mr. Gorsuch served as a law clerk to the Honorable Byron R. White and the Honorable Anthony M. Kennedy of the U.S. Supreme Court, as well as to the Honorable David B. Sentelle of the U.S. Court of Appeals for the D.C. Circuit. Mr. Gorsuch holds a doctorate in legal philosophy from Oxford, where he was a Marshall scholar; a J.D. from the Harvard Law School, where he studied as a Truman scholar; and a B.A. from Columbia University. Among other items in his new portfolio, Mr. Gorsuch will oversee terrorism-related litigation matters and advise the Associate Attorney General on all issues that reach the office for consideration.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 15, 2005 5:03 PM
To: Gorsuch, Neil M
Cc: McCallum, Robert (SMO)
Subject: Press Release for Release Tomorrow

Neil, Robert:

Let me know if you are comfortable with sending this to Public Affairs, or if you have any further edits. Lily and I have reviewed and are okay with this.

FOR IMMEDIATE RELEASE THURSDAY, JUNE 16, 2005 WWW.USDOJ.GOV

OASG (202) 514 - 2007 TDD (202) 514 - 1888

ASSOCIATE ATTORNEY GENERAL ROBERT D. MCCALLUM, JR. ANNOUNCES APPOINTMENT OF NEW DEPUTY ASSOCIATE ATTORNEYS GENERAL

WASHINGTON, D.C. - Associate Attorney General Robert D. McCallum, Jr. announced today the appointment of three new Deputy Associate Attorneys General in the Office of the Associate Attorney General (OASG).

In announcing the new appointments to his office, Associate Attorney General Robert D. McCallum, Jr. said, "Our new Deputy Associate Attorneys General bring considerable practical experience and legal skills of the highest caliber to the Associate Attorney General's Office. We are excited to have them aboard."

Neil M. Gorsuch has been appointed Principal Deputy Associate Attorney General. Mr. Gorsuch has been a partner at the Washington firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, since 1998 and served as an associate in that firm from 1995 to 1997. Mr. Gorsuch's practice has focused on complex trials and appellate litigation, including antitrust and securities matters. He served as a law clerk to the Honorable Byron R. White and the Honorable Anthony M. Kennedy of the U.S. Supreme Court, as well as to the Honorable David B. Sentelle of the U.S. Court of Appeals for the D.C. Circuit. Mr. Gorsuch holds a doctorate in legal philosophy from Oxford, where he was a Marshall scholar; a J.D. from the Harvard Law School, where he studied as a Truman scholar; and a B.A. from Columbia University. Among other items in his new portfolio, Mr. Gorsuch will oversee terrorism-related litigation matters and advise the Associate Attorney General on all issues that reach the office for consideration.

Luis A. Reyes has been appointed Chief of Staff and Deputy Associate Attorney General. From 2003 to 2005, Mr. Reyes served as Counselor to the Assistant Attorney General for the Department's Civil Rights Division. As the Assistant Attorney General's senior legal counsel he was involved in a wide range of litigation, legislative, and policy-related matters. Mr. Reyes was heavily involved in the Department's efforts to combat human trafficking, appearing before state legislative bodies and civil rights groups to speak on the topic. Prior to joining the Civil Rights Division, Mr. Reyes served as Counsel to the Assistant Attorney General for the Civil Division where he advised on administrative and litigation related matters. Mr. Reyes joined the Department of Justice in 2001, after serving as an Assistant Attorney General for the State of Texas for three years under then state Attorney General John Cornyn. Mr. Reyes is a graduate of the University of Texas at Austin, and the University of Texas School of Law. In his new role, Mr. Reyes will work with the Department's Tax Division, the Community Relations Service, and will be involved in internal and organizational issues as assigned by the Associate Attorney General.

Lily Fu Swenson has been appointed Deputy Associate Attorney General. Ms. Swenson joins the OASG from the Washington office of Mayer, Brown, Rowe and Maw LLP where she served as hiring partner and a member of the firm's antitrust and litigation practice groups. Ms. Swenson's practice focused on primarily on class action and appellate litigation, including antitrust, securities and professional liability matters. Ms. Swenson graduated from the University of Minnesota School of Law in 1993 and the University of Wisconsin at Madison in 1990. Prior to joining Mayer, Brown, Rowe & Maw, she clerked for the Honorable Michael S. Kanne of the United States Court of Appeals for the Seventh Circuit. In her new post, Ms. Swenson will oversee antitrust as well as commercial, health care fraud and immigration litigation matters.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 15, 2005 6:04 PM
To: [redacted]@dhs.gov'
Subject: Alice Fisher

[redacted]I've just left Kellogg Huber to join Robert McCallum as his principal deputy and my good friend, Alice Fisher, suggested I write to introduce myself and to seek your advice, as someone so familiar with this office and its operations. That seemed to me to be remarkably sage advice. Is there any chance I might talk you into a lunch or short meeting in the coming weeks at your convenience? Very many thanks and warm regards, Neil Gorsuch

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
e-mail: neil.gorsuch@usdoj.gov

Gunn, Currie (SMO)

Subject:	Updated: Bi-Weekly UST Meetings
Location:	5710
Start:	Thursday, June 23, 2005 2:00 PM
End:	Thursday, June 23, 2005 2:30 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Monday from 2:00 PM to 2:30 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Friedman, Lawrence A; Coleman, Tim (ODAG); Reyes, Luis (SMO); Swenson, Lily F; Gorsuch, Neil M
Optional Attendees:	Jackson, Elaine

When: Thursday, June 23, 2005 2:00 PM-2:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Note meeting time change for this meeting only.

Attendees: ASG Robert McCallum, Lily Fu Swenson, Tim Coleman-ODAG, Lawrence Friedman, Luis Reyes, Neil Gorsuch

POC: Currie Gunn x49500

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Wednesday, June 15, 2005 6:13 PM
To: Gorsuch, Neil M
Subject: Read: Press Release for Release Tomorrow

[redacted]@dhs.gov

From: [redacted]@dhs.gov
Sent: Wednesday, June 15, 2005 7:42 PM
To: Gorsuch, Neil M
Subject: RE: Alice Fisher

Sure. I'll have my schedule folks work with your office to set up a time.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, June 15, 2005 6:05 PM
To: [redacted]@dhs.gov
Subject: Alice Fisher

[redacted]'ve just left Kellogg Huber to join Robert McCallum as his principal deputy and my good friend, Alice Fisher, suggested I write to introduce myself and to seek your advice, as someone so familiar with this office and its operations. That seemed to me to be remarkably sage advice. Is there any chance I might talk you into a lunch or short meeting in the coming weeks at your convenience? Very many thanks and warm regards, Neil Gorsuch

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
e-mail: neil.gorsuch@usdoj.gov

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, June 15, 2005 8:49 PM
To: Reyes, Luis (SMO); Wiggins, Mike; Swenson, Lily F; Gorsuch, Neil M; Meron, Daniel (CIV); Nichols, Carl (CIV); Katsas, Gregory (CIV); Cohn, Jonathan (CIV); Seidel, Rebecca; Roberts, Crystal; Schlozman, Brad (CRT); Sheldon T. Bradshaw (E-mail); Jerry Masoudi (E-mail); Johnson, Kelly A. (ENRD); Boudreaux, Chad (DHS); Marc L. Kesselman (E-mail)
Subject: happy hour Friday

All: Anyone interested in a drink on Fri. after work -- say 630pm at the Elephant and Castle, the new place at 12th and Penn?

Jeff

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 7:03 AM
To: Bucholtz, Jeffrey (CIV)
Subject: RE: happy hour Friday

I'm game. Thanks for setting this up.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, June 15, 2005 8:49 PM
To: Reyes, Luis (SMO); Wiggins, Mike; Swenson, Lily F; Gorsuch, Neil M; Meron, Daniel (CIV); Nichols, Carl (CIV); Katsas, Gregory (CIV); Cohn, Jonathan (CIV); Seidel, Rebecca; Roberts, Crystal; Schlozman, Brad (CRT); Sheldon T. Bradshaw (E-mail); Jerry Masoudi (E-mail); Johnson, Kelly A. (ENRD); Boudreaux, Chad (DHS); Marc L. Kesselman (E-mail)
Subject: happy hour Friday

All: Anyone interested in a drink on Fri. after work -- say 630pm at the Elephant and Castle, the new place at 12th and Penn?

Jeff

Gorsuch, Neil M

Subject:	630 Jeff Bucholtz, et al.
Start:	Friday, June 17, 2005 6:00 PM
End:	Friday, June 17, 2005 6:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

McAtamney, James A

From: McAtamney, James A
Sent: Thursday, June 16, 2005 7:35 AM
To: Gorsuch, Neil M
Subject: Read: FIRST MEETING OF THE COMMITTEE ON THE MARINE TRANSPORTATION SYSTEM (CMTS)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 7:37 AM
To: [redacted]@dhs.gov'
Subject: RE: Alice Fisher

Thanks very much. I look forward to meeting you.

-----Original Message-----
From: [redacted]@dhs.gov [mailto:[redacted]@dhs.gov]
Sent: Wednesday, June 15, 2005 7:42 PM
To: Gorsuch, Neil M
Subject: RE: Alice Fisher

Sure. I'll have my schedule folks work with your office to set up a time.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, June 15, 2005 6:05 PM
To: [redacted]@dhs.gov
Subject: Alice Fisher

[redacted] I've just left Kellogg Huber to join Robert McCallum as his principal deputy and my good friend, Alice Fisher, suggested I write to introduce myself and to seek your advice, as someone so familiar with this office and its operations. That seemed to me to be remarkably sage advice. Is there any chance I might talk you into a lunch or short meeting in the coming weeks at your convenience? Very many thanks and warm regards, Neil Gorsuch

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
e-mail: neil.gorsuch@usdoj.gov

Phil.Perry@dhs.gov

From: [redacted]@dhs.gov
Sent: Thursday, June 16, 2005 7:43 AM
To: Gorsuch, Neil M
Subject: RE: Alice Fisher

Same.
-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, June 16, 2005 7:38 AM
To: [redacted]@dhs.gov
Subject: RE: Alice Fisher

Thanks very much. I look forward to meeting you.

-----Original Message-----
From: [redacted]@dhs.gov]
Sent: Wednesday, June 15, 2005 7:42 PM
To: Gorsuch, Neil M
Subject: RE: Alice Fisher

Sure. I'll have my schedule folks work with your office to set up a time.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, June 15, 2005 6:05 PM
To: [redacted]@dhs.gov
Subject: Alice Fisher

[redacted] I've just left Kellogg Huber to join Robert McCallum as his principal deputy and my good friend, Alice Fisher, suggested I write to introduce myself and to seek your advice, as someone so familiar with this office and its operations. That seemed to me to be remarkably sage advice. Is there any chance I might talk you into a lunch or short meeting in the coming weeks at your convenience? Very many thanks and warm regards, Neil Gorsuch

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 7:53 AM
To: McCallum, Robert (SMO)
Subject: Marine Transport

FYI - This one squared away for the moment. We're listed for the meeting (date tbd). Jim Rubin will serve as DOJ's rep. to the planning session next week.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 8:09 AM
To: Reyes, Luis (SMO)
Subject: RE: We have canceled this morning's meeting with White House

ok

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, June 16, 2005 8:08 AM
To: Gorsuch, Neil M
Subject: We have canceled this morning's meeting with White House

Will come down and talk

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 8:30 AM
To: Mercer, Bill (ODAG)
Subject: Greetings

Bill, This week I just joined Robert McCallum as his principal deputy and thought I'd introduce myself. I'm looking forward to working together and wonder whether there's some convenient time when we might get together for a cup of coffee or lunch? Best regards, Neil Gorsuch

Mercer, Bill (ODAG)

From: Mercer, Bill (ODAG)
Sent: Thursday, June 16, 2005 8:41 AM
To: Gorsuch, Neil M
Cc: Henderson, Charles V
Subject: Re: Greetings

I'd be pleased to do so. We'll have to aim for next week.

Charles, can you let Neil know of a couple of available time slots on W-Th of next week?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
Sent: Thu Jun 16 08:29:38 2005
Subject: Greetings

Bill, This week I just joined Robert McCallum as his principal deputy and thought I'd introduce myself. I'm looking forward to working together and wonder whether there's some convenient time when we might get together for a cup of coffee or lunch? Best regards, Neil Gorsuch

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 8:51 AM
To: Mercer, Bill (ODAG)
Cc: Henderson, Charles V
Subject: RE: Greetings

Great. I will look forward to meeting you.

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Thursday, June 16, 2005 8:41 AM
To: Gorsuch, Neil M
Cc: Henderson, Charles V
Subject: Re: Greetings

I'd be pleased to do so. We'll have to aim for next week.

Charles, can you let Neil know of a couple of available time slots on W-Th of next week?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
Sent: Thu Jun 16 08:29:38 2005
Subject: Greetings

Bill, This week I just joined Robert McCallum as his principal deputy and thought I'd introduce myself. I'm looking forward to working together and wonder whether there's some convenient time when we might get together for a cup of coffee or lunch? Best regards, Neil Gorsuch

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 8:56 AM
To: Henderson, Charles V
Subject: RE: Greetings

Charles, I'm afraid I'm booked on Weds am. Would sometime in the afternoon work? Thanks for your help on this. Neil

-----Original Message-----
From: Henderson, Charles V
Sent: Thursday, June 16, 2005 8:54 AM
To: Gorsuch, Neil M
Subject: RE: Greetings

Neil:
Would 10:00 next Wednesday, June 22, be okay with you? You could just stop by the office (4208) first and then go for coffee. Please let me know.
Thanks,
-Charles

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 8:51 AM
To: Mercer, Bill (ODAG)
Cc: Henderson, Charles V
Subject: RE: Greetings

Great. I will look forward to meeting you.

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Thursday, June 16, 2005 8:41 AM
To: Gorsuch, Neil M
Cc: Henderson, Charles V
Subject: Re: Greetings

I'd be pleased to do so. We'll have to aim for next week.

Charles, can you let Neil know of a couple of available time slots on W-Th of next week?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
Sent: Thu Jun 16 08:29:38 2005
Subject: Greetings

Bill, This week I just joined Robert McCallum as his principal deputy and thought I'd introduce myself. I'm looking forward to working together and wonder whether there's some convenient time when we might get together for a cup of coffee or lunch? Best regards, Neil Gorsuch

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Thursday, June 16, 2005 8:57 AM
To: Gorsuch, Neil M
Subject: FW: Hungary contacts

more gold train. Robt

-----Original Message-----
From: Meron, Daniel (CIV)
Sent: Tuesday, June 07, 2005 6:26 PM
To: Wiggins, Mike
Cc: McCallum, Robert (SMO)
Subject: FW: Hungary contacts

mike,

Here is the information state L wanted about the individuals at state who have been involved in the hungarian archives issue

Dan

-----Original Message-----
From [redacted]@ushmm.org [mailto[redacted]@ushmm.org]
Sent: Tuesday, June 07, 2005 6:25 PM
To: Meron, Daniel (CIV)
Cc: [redacted]@ushmm.org
Subject: Fw: Hungary contacts

Dan, here is the information you requested. Again, we are very grateful for your help in this matter. Sara

----- Forwarded by [redacted]/USHMM on 06/07/2005 06:19 PM -----

[redacted]
USHMM

06/07/2005 06:14 PM

To [redacted]/USHMM@US_HMM

cc

Subject
Hungary contacts

At State, this has been handled thru [redacted] office. Specifically, [redacted] helped with the State to State agreement. [redacted] Office is in European Affairs.

The archival issue has not gone up thru the ranks of that office or elsewhere at State to our knowledge, except in the context of getting the state-to-state agreement done a year ago. [redacted] says we have been in direct touch with the Desk Officer only occasionally, since [redacted] office is the designated contact for our issues.

Most of our dealings have been directly thru the Embassy in Budapest. We briefed [redacted] before he went to post last year, and he accompanied us to our meeting with the Prime Minister's Political Counselor in April. We also briefed Ambassador Walker in April.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, June 16, 2005 9:01 AM
To: Gorsuch, Neil M
Subject: FW: Password Re-set TO# [redacted]

Neil:
Because they reset the password on your cell phone, you'll have to use their password [redacted] to retrieve your messages. Afterwards, you can change it.

-----Original Message-----
From: Slyke, Carla M
Sent: Thursday, June 16, 2005 8:24 AM
To: Shaw, Aloma A
Subject: RE: Password Re-set TO# [redacted]

yep!

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, June 15, 2005 5:15 PM
To: Slyke, Carla M
Subject: RE: Password Re-set TO# [redacted]

We received the password from the last owner. Does this mean that password has been wiped out?
-----Original Message-----
From: Slyke, Carla M
Sent: Wednesday, June 15, 2005 4:46 PM
To: Shaw, Aloma A; Gunn, Currie (SMO)
Subject: FW: Password Re-set TO# [redacted]

Aloma -- this is per your request this morning.

-----Original Message-----
From: DOJ Wireless Services
Sent: Wednesday, June 15, 2005 4:13 PM
To: Slyke, Carla M
Subject: Password Re-set TO# [redacted]

The password has been re-set on [redacted] The temporary password is [redacted]

DOJ Wireless Team
Customer Services and Ordering
Operations Services Staff
U.S. Department of Justice
Tel. (202) 616-4444
Fax.(202)305-0852

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 10:05 AM
To: Shaw, Aloma A
Subject: RE: Password Re-set TO#[redacted]

Sorry for making work on this, but Brian's [redacted] was much easier to remember -- is there anyway to reset the password back to that without causing you or the help desk any inconvenience? Also, can you teach me how to re-do my voice mail message? I'd like to add a reference to my cell phone no so folks can reach me there.

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, June 16, 2005 9:01 AM
To: Gorsuch, Neil M
Subject: FW: Password Re-set TO#[redacted]

Neil:

Because they reset the password on your cell phone, you'll have to use their password [redacted] to retrieve your messages. Afterwards, you can change it.

-----Original Message-----
From: Slyke, Carla M
Sent: Thursday, June 16, 2005 8:24 AM
To: Shaw, Aloma A
Subject: RE: Password Re-set TO#[redacted]

yep!

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, June 15, 2005 5:15 PM
To: Slyke, Carla M
Subject: RE: Password Re-set TO#[redacted]

We received the password from the last owner. Does this mean that password has been wiped out?

-----Original Message-----
From: Slyke, Carla M
Sent: Wednesday, June 15, 2005 4:46 PM
To: Shaw, Aloma A; Gunn, Currie (SMO)
Subject: FW: Password Re-set TO#[redacted]

Aloma -- this is per your request this morning.

-----Original Message-----
From: DOJ Wireless Services
Sent: Wednesday, June 15, 2005 4:13 PM
To: Slyke, Carla M
Subject: Password Re-set TO# 926-05

The password has been re-set on [redacted] The temporary password is [redacted]

DOJ Wireless Team
Customer Services and Ordering
Operations Services Staff
U.S. Department of Justice
Tel. (202) 616-4444
Fax.(202)305-0852

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Thursday, June 16, 2005 10:26 AM
To: Gorsuch, Neil M
Subject: RE: Hungary contacts

Since Wiggins was involved, please make sure he knows that I have asked you to pursue and involve him as you think appropriate. Robt.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Thursday, June 16, 2005 8:57 AM
To: Gorsuch, Neil M
Subject: FW: Hungary contacts

more gold train. Robt

-----Original Message-----
From: Meron, Daniel (CIV)
Sent: Tuesday, June 07, 2005 6:26 PM
To: Wiggins, Mike
Cc: McCallum, Robert (SMO)
Subject: FW: Hungary contacts

mike,

Here is the information state L wanted about the individuals at state who have been involved in the hungarian archives issue

Dan

-----Original Message-----
From [redacted]@ushmm.org [mailto[redacted]@ushmm.org]
Sent: Tuesday, June 07, 2005 6:25 PM
To: Meron, Daniel (CIV)
Cc: [redacted]@ushmm.org
Subject: Fw: Hungary contacts

Dan, here is the information you requested. Again, we are very grateful for your help in this matter. [redacted]

----- Forwarded by [redacted]/USHMM on 06/07/2005 06:19 PM -----

[redacted]USHMM

[redacted] USHMM

To

06/07/2005 06:14 [redacted] /USHMM@US_HMM

PM cc

Subject

Hungary contacts

At State, this has been handled thru [redacted] office. Specifically, [redacted] helped with the State to State agreement. [redacted] Office is in European Affairs.

The archival issue has not gone up thru the ranks of that office or elsewhere at State to our knowledge, except in the context of getting the state-to-state agreement done a year ago. [redacted] says we have been in direct touch with the Desk Officer only occasionally, since [redacted] office is the designated contact for our issues.

Most of our dealings have been directly thru the Embassy in Budapest. We briefed [redacted] before he went to post last year, and he accompanied us to our meeting with the Prime Minister's Political Counselor in April. We also briefed Ambassador Walker in April.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, June 16, 2005 11:39 AM
To: Gorsuch, Neil M
Subject: RE: Password Re-set TO#[redacted]

Neil:
I think we can change your password back to [redacted] We'll take care of your voice mail after your meeting.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 10:05 AM
To: Shaw, Aloma A
Subject: RE: Password Re-set TO#[redacted]

Sorry for making work on this, but Brian's [redacted] was much easier to remember -- is there anyway to reset the password back to that without causing you or the help desk any inconvenience? Also, can you teach me how to re-do my voice mail message? I'd like to add a reference to my cell phone no so folks can reach me there.
-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, June 16, 2005 9:01 AM
To: Gorsuch, Neil M
Subject: FW: Password Re-set TO#[redacted]

Neil:
Because they reset the password on your cell phone, you'll have to use their password [redacted] to retrieve your messages. Afterwards, you can change it.

-----Original Message-----
From: Slyke, Carla M
Sent: Thursday, June 16, 2005 8:24 AM
To: Shaw, Aloma A
Subject: RE: Password Re-set TO#[redacted]

yep!

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, June 15, 2005 5:15 PM
To: Slyke, Carla M
Subject: RE: Password Re-set TO#[redacted]

We received the password from the last owner. Does this mean that password has been wiped out?
-----Original Message-----
From: Slyke, Carla M
Sent: Wednesday, June 15, 2005 4:46 PM
To: Shaw, Aloma A; Gunn, Currie (SMO)
Subject: FW: Password Re-set TO#[redacted]

Aloma -- this is per your request this morning.

-----Original Message-----
From: DOJ Wireless Services
Sent: Wednesday, June 15, 2005 4:13 PM
To: Slyke, Carla M
Subject: Password Re-set TO# [redacted]

The password has been re-set on [redacted] The temporary password is [redacted]

DOJ Wireless Team

Customer Services and Ordering
Operations Services Staff
U.S. Department of Justice
Tel. (202) 616-4444
Fax.(202)305-0852

Henderson, Charles V

From: Henderson, Charles V
Sent: Thursday, June 16, 2005 12:03 PM
To: Gorsuch, Neil M
Subject: RE: Greetings

Neil:
I think I will go ahead and schedule the meeting at 2:30 next Wednesday, June 22. Please let me know if that will not work for you.
Thanks,
-Charles

-----Original Message-----
From: Henderson, Charles V
Sent: Thursday, June 16, 2005 8:58 AM
To: Gorsuch, Neil M
Subject: RE: Greetings

Yes. Absolutely. I'll ask you to pick a time convenient for you. It's open.
Thanks,
-Charles

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 8:56 AM
To: Henderson, Charles V
Subject: RE: Greetings

Charles, I'm afraid I'm booked on Weds am. Would sometime in the afternoon work? Thanks for your help on this. Neil

-----Original Message-----
From: Henderson, Charles V
Sent: Thursday, June 16, 2005 8:54 AM
To: Gorsuch, Neil M
Subject: RE: Greetings

Neil:
Would 10:00 next Wednesday, June 22, be okay with you? You could just stop by the office (4208) first and then go for coffee. Please let me know.
Thanks,
-Charles

-----Original Message-----

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 8:51 AM
To: Mercer, Bill (ODAG)
Cc: Henderson, Charles V
Subject: RE: Greetings

Great. I will look forward to meeting you.

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Thursday, June 16, 2005 8:41 AM
To: Gorsuch, Neil M
Cc: Henderson, Charles V
Subject: Re: Greetings

I'd be pleased to do so. We'll have to aim for next week.

Charles, can you let Neil know of a couple of available time slots on W-Th of next week?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
Sent: Thu Jun 16 08:29:38 2005
Subject: Greetings

Bill, This week I just joined Robert McCallum as his principal deputy and thought I'd introduce myself. I'm looking forward to working together and wonder whether there's some convenient time when we might get together for a cup of coffee or lunch? Best regards, Neil Gorsuch

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 12:24 PM
To: McCallum, Robert (SMO)
Subject: RE: Hungary contacts

Will do.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Thursday, June 16, 2005 10:26 AM
To: Gorsuch, Neil M
Subject: RE: Hungary contacts

Since Wiggins was involved, please make sure he knows that I have asked you to pursue and involve him as you think appropriate. Robt.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Thursday, June 16, 2005 8:57 AM
To: Gorsuch, Neil M
Subject: FW: Hungary contacts

more gold train. Robt

-----Original Message-----
From: Meron, Daniel (CIV)
Sent: Tuesday, June 07, 2005 6:26 PM
To: Wiggins, Mike
Cc: McCallum, Robert (SMO)
Subject: FW: Hungary contacts

mike,

Here is the information state L wanted about the individuals at state who have been involved in the hungarian archives issue

Dan

-----Original Message-----
From: [redacted]@ushmm.org [mailto[redacted]@ushmm.org]
Sent: Tuesday, June 07, 2005 6:25 PM
To: Meron, Daniel (CIV)
Cc: [redacted]@ushmm.org

Cc: [redacted]@ushmm.org
Subject: Fw: Hungary contacts

Dan, here is the information you requested. Again, we are very grateful for your help in this matter. [redacted]

----- Forwarded by [redacted] USHMM on 06/07/2005 06:19 PM -----

[redacted] USHMM
06/07/2005 06:14 PM

To [redacted]/USHMM@US_HMM
cc

Subject
Hungary contacts

At State, this has been handled thru [redacted] office. Specifically, [redacted] helped with the State to State agreement. [redacted] Office is in European Affairs.

The archival issue has not gone up thru the ranks of that office or elsewhere at State to our knowledge, except in the context of getting the state-to-state agreement done a year ago. [redacted] says we have been in direct touch with the Desk Officer only occasionally, since [redacted] office is the designated contact for our issues.

Most of our dealings have been directly thru the Embassy in Budapest. We briefed DCM [redacted] before he went to post last year, and he accompanied us to our meeting with the Prime Minister's Political Counselor in April. We also briefed Ambassador Walker in April.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 12:25 PM
To: Henderson, Charles V
Subject: RE: Greetings

works great; thank you

-----Original Message-----
From: Henderson, Charles V
Sent: Thursday, June 16, 2005 12:03 PM
To: Gorsuch, Neil M
Subject: RE: Greetings

Neil:
I think I will go ahead and schedule the meeting at 2:30 next Wednesday, June 22. Please let me know if that will not work for you.
Thanks,
-Charles

-----Original Message-----
From: Henderson, Charles V
Sent: Thursday, June 16, 2005 8:58 AM
To: Gorsuch, Neil M
Subject: RE: Greetings

Yes. Absolutely. I'll ask you to pick a time convenient for you. It's open.
Thanks,
-Charles

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 8:56 AM
To: Henderson, Charles V
Subject: RE: Greetings

Charles, I'm afraid I'm booked on Weds am. Would sometime in the afternoon work? Thanks for your help on this. Neil

-----Original Message-----
From: Henderson, Charles V
Sent: Thursday, June 16, 2005 8:54 AM
To: Gorsuch, Neil M
Subject: RE: Greetings

Subject: RE: Greetings

Neil:
Would 10:00 next Wednesday, June 22, be okay with you? You could just stop by the office (4208) first and then go for coffee. Please let me know.
Thanks,
-Charles

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 8:51 AM
To: Mercer, Bill (ODAG)
Cc: Henderson, Charles V
Subject: RE: Greetings

Great. I will look forward to meeting you.

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Thursday, June 16, 2005 8:41 AM
To: Gorsuch, Neil M
Cc: Henderson, Charles V
Subject: Re: Greetings

I'd be pleased to do so. We'll have to aim for next week.

Charles, can you let Neil know of a couple of available time slots on W-Th of next week?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
Sent: Thu Jun 16 08:29:38 2005
Subject: Greetings

Bill, This week I just joined Robert McCallum as his principal deputy and thought I'd introduce myself. I'm looking forward to working together and wonder whether there's some convenient time when we might get together for a cup of coffee or lunch? Best regards, Neil Gorsuch

Mercer, Bill (ODAG)

Subject:	Accepted: Meeting: Mercer and Gorsuch
Location:	Room 4208 RFK
Start:	Wednesday, June 22, 2005 2:30 PM
End:	Wednesday, June 22, 2005 3:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Mercer, Bill (ODAG)

Gorsuch, Neil M

Subject:	430 Everson
Start:	Thursday, June 16, 2005 4:00 PM
End:	Thursday, June 16, 2005 4:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 2:40 PM
To: McCallum, Robert (SMO)
Subject: Tax Issue

Mark Everson can see me at 430. I should be back in time for the OASG mtg at 5, but may run a few minutes late. Hope that's ok.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 2:52 PM
To: Shaw, Aloma A
Subject: RE: Password Re-set TO# [redacted]

Can you help me track down the e-mail address for John Bellinger at the State Dept? He's the new legal advisor there.

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, June 16, 2005 11:39 AM
To: Gorsuch, Neil M
Subject: RE: Password Re-set TO# [redacted]

Neil:
I think we can change your password back to [redacted] We'll take care of your voice mail after your meeting.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 10:05 AM
To: Shaw, Aloma A
Subject: RE: Password Re-set TO# [redacted]

Sorry for making work on this, but Brian's [redacted] was much easier to remember -- is there anyway to reset the password back to that without causing you or the help desk any inconvenience? Also, can you teach me how to re-do my voice mail message? I'd like to add a reference to my cell phone no so folks can reach me there.

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, June 16, 2005 9:01 AM
To: Gorsuch, Neil M
Subject: FW: Password Re-set TO# [redacted]

Neil:
Because they reset the password on your cell phone, you'll have to use their password [redacted] to retrieve your messages. Afterwards, you can change it.

-----Original Message-----
From: Slyke, Carla M
Sent: Thursday, June 16, 2005 8:24 AM
To: Shaw, Aloma A
Subject: RE: Password Re-set TO# [redacted]

yep!

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, June 15, 2005 5:15 PM
To: Slyke, Carla M
Subject: RE: Password Re-set TO# [redacted]

We received the password from the last owner. Does this mean that password has been wiped out?

-----Original Message-----
From: Slyke, Carla M
Sent: Wednesday, June 15, 2005 4:46 PM
To: Shaw, Aloma A; Gunn, Currie (SMO)
Subject: FW: Password Re-set TO# [redacted]

Aloma -- this is per your request this morning.

-----Original Message-----
From: DOJ Wireless Services
Sent: Wednesday, June 15, 2005 4:13 PM
To: Slyke, Carla M
Subject: Password Re-set TO# [redacted]

The password has been re-set on [redacted] The temporary password is [redacted]

DOJ Wireless Team

Customer Services and Ordering
Operations Services Staff
U.S. Department of Justice
Tel. (202) 616-4444
Fax.(202)305-0852

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, June 16, 2005 2:54 PM
To: Gorsuch, Neil M
Subject: Tracy . . .

would like to see you when you have a moment. Let me know when it's convenient to change your voice mail message.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, June 16, 2005 3:05 PM
To: Gorsuch, Neil M
Subject: FW: [redacted]
Attachments: [redacted].msg

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, June 16, 2005 3:04 PM
Subject: [redacted]

Yanes, Raul

From: Yanes, Raul
Sent: Thursday, June 16, 2005 3:36 PM
To: Gorsuch, Neil M
Cc: McCallum, Robert (SMO); Nichols, Grant W
Subject: Sentencing
Attachments: Sentencing Guidelines - Draft 4.doc

Neil,

This is the latest draft of a speech on the sentencing guidelines the AG will be delivering Tuesday. We'd be interested in getting your and Robert's comments. Please also circulate to the appropriate person in each of your litigating divisions in order to get their perspective. All comments should be sent to Grant Nichols and me. Unfortunately, we are operating under a tight deadline and need comments back by mid-day tomorrow. Thanks.

Prepared Remarks of Attorney General Alberto Gonzales
Sentencing Guidelines Speech
Washington, D.C.
June 21, 2005 – 12:00 PM

Event:	**National Center for Victims of Crime First National Conference**
Venue:	**Omni Shoreham – Washington, DC**
Audience:	**850 conference participants, including victim advocates, counselors, program managers, attorneys, law enforcement personnel, and community leaders**
Length Requested:	**Any**
Length as Prepared:	**21 minutes**
Press:	**Open**

Prepared by: Jessica Gavora
(202) 514-2007

Prepared Remarks of Attorney General Alberto Gonzales
Sentencing Guidelines Speech
Washington, D.C.
June 21, 2005 – 12:00 PM

Thank you …

It's an honor to be here.

This is the second occasion in my short time as Attorney General of the United States that I have had the opportunity to address victims of crime. Being among you, and hearing your stories, always reminds me that your movement is mis-named.

My wife, Rebecca, and I have a long-standing concern for the issues facing victims of crime. Becky spent three-and-a-half years in the Texas Attorney General's Office supporting sexual assault programs across the state. Together we have met with hundreds of crime victims, heard their stories and worked to protect their rights.

We know from experience that there is nothing in the word "victim" that captures this movement.

True victimization requires the disinterest of leaders, the silence of good people, and, finally, the hopelessness of the victims themselves.

But there is a wonderful metamorphosis at the heart of the victims' rights movement. From the ranks of the powerless has emerged a movement of the empowered.

For decades, victims of crime in America lived in fear, and

DOJ_NMG_ 0144444

suffered in silence. So-called experts told us that high levels of crime were inevitable, especially among the poor. The message to victims of crime – who were disproportionately poor as well– was inescapable: learn to live with it.

But thanks to the pioneering work of victims' groups and other concerned Americans, the status of victims of crime in America began to change. Victims, and their friends and loved ones, began to demand more from our system of justice. One of their central demands has been that those convicted of crimes serve tough and fair sentences. And for the past twenty years we have constructed a sentencing system that met this demand – and has helped to achieve the lowest crime rates in a generation. But today that system is threatened.

The threat that hangs over our system of justice is best illustrated by the story of two defendants, both convicted of similar charges involving possession of child pornography, one in Manhattan, the other across the Hudson River in New Jersey.

The New Jersey defendant faced a sentencing range of 30 to 37 months but was given a sentence of 41 months in prison.

The other defendant, in Manhattan, was also convicted of possession of child pornography. In addition, he had been arrested in Pennsylvania, where he had traveled in an attempt to have sexual relations with a "child" he had met over the internet. The "child" turned out to be an undercover [TBD] officer.

The Manhattan defendant faced a sentencing range of 27 to 33 months in prison, but received only probation.

What made the difference? Two different judges, and a Supreme

DOJ_NMG_ 0144445

Court ruling that said they were not bound by guidelines that have governed federal sentencing for almost twenty years.

In January, the Supreme Court ruled that federal sentencing guidelines mandated by bipartisan congressional majorities in 1984 are no longer mandatory for federal judges.

In *U.S. v. Booker*, the Court ruled that federal sentencing guidelines violated a defendant's Sixth Amendment right to trial by jury because they require that judges, not juries, make factual findings which increase a defendant's maximum prison sentence. The result is that, today, judges are no longer bound by the law to impose a sentence within the range prescribed by the guidelines.

So in the New Jersey child pornography case, the judge deemed it necessary to protect the public from the defendant and imposed a sentence that exceeded the guideline range. But in the Manhattan case, the judge reasoned that the defendant would benefit from continued psychological treatment and ordered probation only.

The story of these two defendants is just one case among many that illustrates a developing and troubling trend in the aftermath of the *Booker* decision. No longer bound by sentencing guidelines, judges are exercising their discretion to impose sentences that depart from the carefully considered ranges developed by the U.S. Sentencing Commission. In the process, two critical elements of our criminal justice system are being lost: the protection of the public from criminal offenders, and the protection of defendants from unfair sentences.

The federal sentencing guidelines were the result of

DOJ_NMG_ 0144446

Republicans and Democrats coming together in response to the high crime rates of the 1960s and 1970s to propose, create and sustain an invaluable tool of justice.

As the rates of serious violent felonies more than tripled in the 1960s and 1970s, a consensus emerged that society needed to be protected from the early release of offenders.

Also undermining Americans' faith in the system was the fact that significant disparities existed in the sentences received by individuals guilty of equally serious, similar offenses.

A widespread and bipartisan consensus took hold that our system of sentencing was broken.

So in 1984, lawmakers from across the ideological spectrum passed the Sentencing Reform Act with two broad goals in mind.

The first was to increase the safety of law-abiding Americans by restoring in sentencing an emphasis on punishment, incapacitation and deterrence.

The second was to ensure fairness in sentencing. The statute's guiding principle was consistency – defendants who had committed equally serious crimes and had similar criminal backgrounds should receive similar sentences, irrespective of their race, location or economic background.

In the seventeen-plus years that they have been in existence, federal sentencing guidelines have achieved the ambitious goals of public safety and fairness set out by Congress.

DOJ_NMG_ 0144447

In contrast to thirty years ago, the United States today is experiencing crime rates that are the lowest in a generation. Thirty-four million violent crimes were not committed in the last decade that would have been had violent crime rates remained the same. In 2003 alone, over six million Americans were not murdered, robbed, or assaulted.

No single piece of legislation or policy change is by itself responsible for today's historically low levels of violent crime. But multiple, independent studies of our criminal justice system confirm what our common sense tells us: increased incarceration means reduced crime, and federal and state sentencing reform has helped incarcerate the most violent, repeat offenders.

For federal prisoners, the average time spent behind bars has increased a full 68 percent since 1990. For state prisoners, the average time served is up 30 percent.

Studies have shown that each 10 percent increase in the prison population produces a 1-3 percent decrease in the number of serious crimes.

Federal sentencing guidelines, along with improved state sentencing systems based on the same model, have helped drive down the crime rate because they have helped us put in prison – and keep in prison – those who are most likely to commit future crimes.

Using the most recent data we have, the Bureau of Justice Statistics found that 89 percent of the people in state and federal prison are violent offenders, repeat offenders, or both. Another study from 2002 found that almost two-thirds of the increase in

DOJ_NMG_ 0144448

the state prison population between 1995 and 2001 was due to the increase in violent offenders incarcerated. As we have kept these dangerous offenders in prison instead of releasing them, not surprisingly, our communities have become safer.

Federal sentencing guidelines have helped keep Americans safe while also delivering on their promise to reduce unwarranted disparities in sentences. When the U.S. Sentencing Commission took stock of fifteen years of federal sentencing guidelines in 2004, it noted that careful studies by both the Commission itself and others have determined that the guidelines, quote, "have succeeded at the job they were principally designed to do: reduce unwarranted disparity arising from differences among judges."

In seventeen years, mandatory sentencing guidelines withstood multiple constitutional challenges. They have worked in coordination with state truth-in-sentencing laws and mandatory minimum sentences to drive down crime. Sentencing guidelines have not been static but have evolved over time to adapt to changing circumstances and better understanding. Judges, legislators, policy makers, prosecutors, defense lawyers and others have worked hard for two decades to develop, preserve, and strengthen a system of sentencing guidelines that has protected Americans and improved American justice. All of this effort – and all of this achievement – is now threatened.

In the five months since the *Booker* decision, the Department of Justice has viewed federal sentencing decisions with measured concern. We have been careful not to draw premature conclusions. The evidence, however, points toward two problematic trends: an increasing disparity in sentences, and a

DOJ_NMG_ 0144449

drift toward lesser sentences.

Our U.S. Attorneys consistently report that a critical law enforcement tool has been taken from them. Since the government is no longer the gatekeeper for granting leniency in return for cooperation under the guidelines system, major witnesses are increasingly less inclined to cooperate with prosecutors. We are witnessing a return to thirty years ago, when criminals and potential criminals were encouraged to "play the odds" in our criminal justice system, betting that the luck of the draw – the judge randomly assigned to their case – will result in a lighter sentence.

In addition, experience is already pointing toward an emerging judicial lottery, in which dramatically varying sentences are being determined on the basis of inappropriate factors – factors that could not be considered before *Booker*.

In one recent case a South Carolina man pled guilty to federal weapons and drug trafficking charges. After his arrest on these charges, this defendant was released on bond, failed a drug test and attempted to flee from South Carolina. Federal marshals caught up with him and, after a six-hour standoff, law enforcement authorities tear gassed him out the house where he was holed-up. When he was re-arrested, police discovered that he had a fully automatic machine gun in his possession. Under the federal sentencing guidelines, this armed, career criminal, who had a long history of state charges related to assault, drug trafficking, and weapons, faced between 22 and 27 years in prison. However, the judge sentenced him to only ten, offering no explanation. The Department is appealing this unreasonably low sentence.

DOJ_NMG_ 0144450

In a case involving white collar crime, a Kansas rancher got $1.5 million in cattle loans, falsely claiming that he was using the money to buy live cattle. He was audacious enough to take bank officials to livestock pens falsely claiming that the cows he was showing them were purchased with loan proceeds, when, in fact he lost all the money betting on cattle futures. He pled guilty to defrauding the bank and faced a sentencing range of 3 to 4 years under the guidelines. But the judge gave him probation only, reasoning that the defendant had suffered enough when the bank foreclosed on his house.

We have also seen how the *Booker* decision led directly to a radically reduced sentence for a multi-millionaire convicted of evading federal taxes.

This New York defendant was convicted in 2003 for evading the payment of six million dollars in taxes by such means as moving out of the country valuable assets – namely, a fleet of Rolls Royces and a suit of armor made for King Henri the Second of France. Under the then-mandatory sentencing guidelines, the defendant was sentenced to 41 to 51 months in prison. The judge said he would have liked to impose a considerably lesser sentence, but felt constrained by the guidelines.

A year and half later, after the *Booker* decision, the defendant petitioned the court for re-sentencing and the judge reduced his sentence to seven months. The judge noted that the defendant's age and the need to take care of his wife – not normally relevant sentencing factors pre-*Booker* – now justified his lesser sentence.

These are not isolated examples. Initial statistics compiled by the U.S. Sentencing Commission seem to indicate that in the five

DOJ_NMG_ 0144451

months since the *Booker* decision, compliance with the sentencing guidelines is decreasing. According to the Sentencing Commission, sentencing within the guidelines by federal judges has fallen from almost 70 percent in 2003 to under 63 percent today.

As Attorney General, I have a responsibility both to protect the American people and to defend the protections afforded to them by our Constitution. After reviewing the data, consulting with our prosecutors in the field, and reaching out to other interested parties, I have come to the conclusion that the interests of justice – the safety of the American people and the fairness of our judicial system – are not served by a system of advisory sentencing guidelines.

The status quo is dangerous and untenable – not because our judges aren't trying to do that right thing. They are acting in good faith. But the goals of public safety and fairness sought by Congress in the Sentencing Reform Act are the expressed will of the American people. Our sentencing system works best when judges have some sentencing discretion, but discretion bound by sentencing guidelines created through the legislative process. The time has come for policy makers, jurists, attorneys, legislators and concerned Americans like you to work together to restore a system of mandatory sentencing guidelines. The alternative is, I fear, inevitable. Criminals will receive shorter sentences, and unwarranted disparities will again plague our justice system.

In the *Booker* decision, the Supreme Court invited Congress to consider legislation to construct a sentencing system that meets the requirements of the Sixth Amendment. As a matter of fact, the High Court put it quite bluntly: "The ball now lies in

Congress's court." It is imperative that Congress accept this invitation. Justice demands that we work together to put public safety and fairness once again at the forefront of our federal sentencing.

Two options present themselves.

Congress could enact a series of mandatory minimum sentence statutes. For example, Congress could pass new mandatory minimums for crimes including fraud offenses, gun trafficking and gun possession in the commission of certain crimes, and for leaders of white collar offenses and for career criminals. And because these types of offenses account for nearly 66 percent of all federal cases, these statutory changes would mean that two-thirds of federal cases would carry mandatory minimum sentences consistent with the federal sentencing guidelines.

A system of statutory mandatory minimums would be simple and constitutional, provided that the factors that trigger the mandatory minimum sentences are based on facts proven to a jury beyond a reasonable doubt.

A second approach that would preserve the protections and principles of the Sentencing Reform Act would be the construction of a minimum guideline system.

This would involve a relatively simple legislative change. First, the sentencing court would be bound by the guidelines minimum, just as it was before the *Booker* decision. Second, the guidelines <u>maximum</u> would remain advisory, and the court would be bound to consider it, but not bound to adhere to it, just as it is today under *Booker*.

DOJ_NMG_ 0144453

Under this proposal, advisory maximum sentences would continue to give the courts the benefit of the Sentencing Commission's collective wisdom and statistical analysis. These guidelines would provide for sentences that would fall well below the statutory maximum in most cases.

The advantages of a minimum guideline system are many. It would preserve the traditional division of responsibility between judges and juries in criminal cases, and retain the important function of the U.S. Sentencing Commission. And most importantly, a minimum guideline system would be fully consistent with the Sixth Amendment, as interpreted by the Supreme Court in both *Booker* and *Blakely v. Washington*. These decisions only affect cases in which post-conviction judicial findings of fact mandate or authorize an increase in the maximum of the otherwise applicable sentencing range. In *Harris v. the United States*, the Court held that factors which increase the minimum sentence do not have to be submitted to a jury. In short, so long as facts found by judges applying the sentencing guidelines increase only the minimum sentence to be served, the defendant's Sixth Amendment rights would be fully protected.

I understand and recognize that defendants who are dissatisfied with their sentences will ask the Supreme Court to reconsider *Harris*, and challenge legislation providing for a minimum guidelines system. That possibility, however, does not call for inaction. Rather, it should be understood as an invitation for all concerned parties to work together to ensure a system that preserves the protections and principles of the federal sentencing guidelines.

DOJ_NMG_ 0144454

Federal and state judges administer justice in the Nation's courtrooms every day. Deciding the fate of a defendant is a serious and difficult task, and our judges discharge this obligation conscientiously and with integrity. But it is inevitable that, with so many different individual judges involved, in so many different jurisdictions, shorter sentences and disparities among sentences will occur under a system of advisory guidelines.

The time has come for us to act. And as we go forward, we are guided by a fundamental fact: sentencing reform has been a success in both reducing crime and reducing unwarranted disparities. It has made Americans safer and our system of justice fairer. For the past two decades there has been an ongoing, healthy debate over the specifics of the sentencing guidelines. But there has also been a bipartisan consensus in support of the principles of sentencing reform. Today I pledge the resources of the Department of Justice toward the re-creation of such a system. The Department will work with Congress, the judiciary and other organizations – like this one – to design a sentencing system that responds to the needs and concerns of all those who share our commitment to providing protection to the American people and equal justice to defendants.

Our system of justice is predicated on the belief that every human being has dignity – and it is sustained by individuals such as you working in defense of this belief.

Your work, your commitment and your sacrifice have given the victims of crime a voice in our system of justice, and have helped drive violent crime to its lowest rate in three decades.

With your support and inspiration, victims of crime have come forward with the hope of building a better future. They have

DOJ_NMG_ 0144455

come forward in the belief that one person's injustice can inspire greater justice for all.

And so it falls to us to act. Not out of guilt, and not out of retribution, but in the firm belief that progress is possible. The system of sentencing we have built over the past twenty years teeters on the edge. May history record that we used this time to reach out and steady it; that we worked together to secure a system of tougher, fairer, and greater justice for all.

Thank you very much.

###

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 4:14 PM
To: Keisler, Peter D. (CIV); Schlozman, Brad (CRT); Schofield, Regina; Pate, R. Hewitt; Johnson, Kelly A. (ENRD); O'Connor, Eileen J. (AAG/TAX); Henke, Tracy (SMO); Wiggins, Mike
Cc: McCallum, Robert (SMO); Yanes, Raul
Subject: FW: Sentencing
Attachments: Sentencing Guidelines - Draft 4.doc

Per e-mail below, please let us know if you have any comments. Many thanks, Neil

-----Original Message-----
From: Yanes, Raul
Sent: Thursday, June 16, 2005 3:36 PM
To: Gorsuch, Neil M
Cc: McCallum, Robert (SMO); Nichols, Grant W
Subject: Sentencing

Neil,

This is the latest draft of a speech on the sentencing guidelines the AG will be delivering Tuesday. We'd be interested in getting your and Robert's comments. Please also circulate to the appropriate person in each of your litigating divisions in order to get their perspective. All comments should be sent to Grant Nichols and me. Unfortunately, we are operating under a tight deadline and need comments back by mid-day tomorrow. Thanks.

Prepared Remarks of Attorney General Alberto Gonzales
Sentencing Guidelines Speech
Washington, D.C.
June 21, 2005 – 12:00 PM

Event:	**National Center for Victims of Crime First National Conference**
Venue:	**Omni Shoreham – Washington, DC**
Audience:	**850 conference participants, including victim advocates, counselors, program managers, attorneys, law enforcement personnel, and community leaders**
Length Requested:	**Any**
Length as Prepared:	**21 minutes**
Press:	**Open**

Prepared by: Jessica Gavora
(202) 514-2007

Prepared Remarks of Attorney General Alberto Gonzales
Sentencing Guidelines Speech
Washington, D.C.
June 21, 2005 – 12:00 PM

Thank you …

It's an honor to be here.

This is the second occasion in my short time as Attorney General of the United States that I have had the opportunity to address victims of crime. Being among you, and hearing your stories, always reminds me that your movement is mis-named.

My wife, Rebecca, and I have a long-standing concern for the issues facing victims of crime. Becky spent three-and-a-half years in the Texas Attorney General's Office supporting sexual assault programs across the state. Together we have met with hundreds of crime victims, heard their stories and worked to protect their rights.

We know from experience that there is nothing in the word "victim" that captures this movement.

True victimization requires the disinterest of leaders, the silence of good people, and, finally, the hopelessness of the victims themselves.

But there is a wonderful metamorphosis at the heart of the victims' rights movement. From the ranks of the powerless has emerged a movement of the empowered.

For decades, victims of crime in America lived in fear, and

DOJ_NMG_ 0144459

suffered in silence. So-called experts told us that high levels of crime were inevitable, especially among the poor. The message to victims of crime – who were disproportionately poor as well– was inescapable: learn to live with it.

But thanks to the pioneering work of victims' groups and other concerned Americans, the status of victims of crime in America began to change. Victims, and their friends and loved ones, began to demand more from our system of justice. One of their central demands has been that those convicted of crimes serve tough and fair sentences. And for the past twenty years we have constructed a sentencing system that met this demand – and has helped to achieve the lowest crime rates in a generation. But today that system is threatened.

The threat that hangs over our system of justice is best illustrated by the story of two defendants, both convicted of similar charges involving possession of child pornography, one in Manhattan, the other across the Hudson River in New Jersey.

The New Jersey defendant faced a sentencing range of 30 to 37 months but was given a sentence of 41 months in prison.

The other defendant, in Manhattan, was also convicted of possession of child pornography. In addition, he had been arrested in Pennsylvania, where he had traveled in an attempt to have sexual relations with a "child" he had met over the internet. The "child" turned out to be an undercover [TBD] officer.

The Manhattan defendant faced a sentencing range of 27 to 33 months in prison, but received only probation.

What made the difference? Two different judges, and a Supreme

DOJ_NMG_ 0144460

Court ruling that said they were not bound by guidelines that have governed federal sentencing for almost twenty years.

In January, the Supreme Court ruled that federal sentencing guidelines mandated by bipartisan congressional majorities in 1984 are no longer mandatory for federal judges.

In *U.S. v. Booker*, the Court ruled that federal sentencing guidelines violated a defendant's Sixth Amendment right to trial by jury because they require that judges, not juries, make factual findings which increase a defendant's maximum prison sentence. The result is that, today, judges are no longer bound by the law to impose a sentence within the range prescribed by the guidelines.

So in the New Jersey child pornography case, the judge deemed it necessary to protect the public from the defendant and imposed a sentence that exceeded the guideline range. But in the Manhattan case, the judge reasoned that the defendant would benefit from continued psychological treatment and ordered probation only.

The story of these two defendants is just one case among many that illustrates a developing and troubling trend in the aftermath of the *Booker* decision. No longer bound by sentencing guidelines, judges are exercising their discretion to impose sentences that depart from the carefully considered ranges developed by the U.S. Sentencing Commission. In the process, two critical elements of our criminal justice system are being lost: the protection of the public from criminal offenders, and the protection of defendants from unfair sentences.

The federal sentencing guidelines were the result of

DOJ_NMG_ 0144461

Republicans and Democrats coming together in response to the high crime rates of the 1960s and 1970s to propose, create and sustain an invaluable tool of justice.

As the rates of serious violent felonies more than tripled in the 1960s and 1970s, a consensus emerged that society needed to be protected from the early release of offenders.

Also undermining Americans' faith in the system was the fact that significant disparities existed in the sentences received by individuals guilty of equally serious, similar offenses.

A widespread and bipartisan consensus took hold that our system of sentencing was broken.

So in 1984, lawmakers from across the ideological spectrum passed the Sentencing Reform Act with two broad goals in mind.

The first was to increase the safety of law-abiding Americans by restoring in sentencing an emphasis on punishment, incapacitation and deterrence.

The second was to ensure fairness in sentencing. The statute's guiding principle was consistency – defendants who had committed equally serious crimes and had similar criminal backgrounds should receive similar sentences, irrespective of their race, location or economic background.

In the seventeen-plus years that they have been in existence, federal sentencing guidelines have achieved the ambitious goals of public safety and fairness set out by Congress.

DOJ_NMG_ 0144462

In contrast to thirty years ago, the United States today is experiencing crime rates that are the lowest in a generation. Thirty-four million violent crimes were not committed in the last decade that would have been had violent crime rates remained the same. In 2003 alone, over six million Americans were not murdered, robbed, or assaulted.

No single piece of legislation or policy change is by itself responsible for today's historically low levels of violent crime. But multiple, independent studies of our criminal justice system confirm what our common sense tells us: increased incarceration means reduced crime, and federal and state sentencing reform has helped incarcerate the most violent, repeat offenders.

For federal prisoners, the average time spent behind bars has increased a full 68 percent since 1990. For state prisoners, the average time served is up 30 percent.

Studies have shown that each 10 percent increase in the prison population produces a 1-3 percent decrease in the number of serious crimes.

Federal sentencing guidelines, along with improved state sentencing systems based on the same model, have helped drive down the crime rate because they have helped us put in prison – and keep in prison – those who are most likely to commit future crimes.

Using the most recent data we have, the Bureau of Justice Statistics found that 89 percent of the people in state and federal prison are violent offenders, repeat offenders, or both. Another study from 2002 found that almost two-thirds of the increase in

DOJ_NMG_ 0144463

the state prison population between 1995 and 2001 was due to the increase in violent offenders incarcerated. As we have kept these dangerous offenders in prison instead of releasing them, not surprisingly, our communities have become safer.

Federal sentencing guidelines have helped keep Americans safe while also delivering on their promise to reduce unwarranted disparities in sentences. When the U.S. Sentencing Commission took stock of fifteen years of federal sentencing guidelines in 2004, it noted that careful studies by both the Commission itself and others have determined that the guidelines, quote, "have succeeded at the job they were principally designed to do: reduce unwarranted disparity arising from differences among judges."

In seventeen years, mandatory sentencing guidelines withstood multiple constitutional challenges. They have worked in coordination with state truth-in-sentencing laws and mandatory minimum sentences to drive down crime. Sentencing guidelines have not been static but have evolved over time to adapt to changing circumstances and better understanding. Judges, legislators, policy makers, prosecutors, defense lawyers and others have worked hard for two decades to develop, preserve, and strengthen a system of sentencing guidelines that has protected Americans and improved American justice. All of this effort – and all of this achievement – is now threatened.

In the five months since the *Booker* decision, the Department of Justice has viewed federal sentencing decisions with measured concern. We have been careful not to draw premature conclusions. The evidence, however, points toward two problematic trends: an increasing disparity in sentences, and a

DOJ_NMG_ 0144464

drift toward lesser sentences.

Our U.S. Attorneys consistently report that a critical law enforcement tool has been taken from them. Since the government is no longer the gatekeeper for granting leniency in return for cooperation under the guidelines system, major witnesses are increasingly less inclined to cooperate with prosecutors. We are witnessing a return to thirty years ago, when criminals and potential criminals were encouraged to "play the odds" in our criminal justice system, betting that the luck of the draw – the judge randomly assigned to their case – will result in a lighter sentence.

In addition, experience is already pointing toward an emerging judicial lottery, in which dramatically varying sentences are being determined on the basis of inappropriate factors – factors that could not be considered before *Booker*.

In one recent case a South Carolina man pled guilty to federal weapons and drug trafficking charges. After his arrest on these charges, this defendant was released on bond, failed a drug test and attempted to flee from South Carolina. Federal marshals caught up with him and, after a six-hour standoff, law enforcement authorities tear gassed him out the house where he was holed-up. When he was re-arrested, police discovered that he had a fully automatic machine gun in his possession. Under the federal sentencing guidelines, this armed, career criminal, who had a long history of state charges related to assault, drug trafficking, and weapons, faced between 22 and 27 years in prison. However, the judge sentenced him to only ten, offering no explanation. The Department is appealing this unreasonably low sentence.

DOJ_NMG_ 0144465

In a case involving white collar crime, a Kansas rancher got $1.5 million in cattle loans, falsely claiming that he was using the money to buy live cattle. He was audacious enough to take bank officials to livestock pens falsely claiming that the cows he was showing them were purchased with loan proceeds, when, in fact he lost all the money betting on cattle futures. He pled guilty to defrauding the bank and faced a sentencing range of 3 to 4 years under the guidelines. But the judge gave him probation only, reasoning that the defendant had suffered enough when the bank foreclosed on his house.

We have also seen how the *Booker* decision led directly to a radically reduced sentence for a multi-millionaire convicted of evading federal taxes.

This New York defendant was convicted in 2003 for evading the payment of six million dollars in taxes by such means as moving out of the country valuable assets – namely, a fleet of Rolls Royces and a suit of armor made for King Henri the Second of France. Under the then-mandatory sentencing guidelines, the defendant was sentenced to 41 to 51 months in prison. The judge said he would have liked to impose a considerably lesser sentence, but felt constrained by the guidelines.

A year and half later, after the *Booker* decision, the defendant petitioned the court for re-sentencing and the judge reduced his sentence to seven months. The judge noted that the defendant's age and the need to take care of his wife – not normally relevant sentencing factors pre-*Booker* – now justified his lesser sentence.

These are not isolated examples. Initial statistics compiled by the U.S. Sentencing Commission seem to indicate that in the five

DOJ_NMG_ 0144466

months since the *Booker* decision, compliance with the sentencing guidelines is decreasing. According to the Sentencing Commission, sentencing within the guidelines by federal judges has fallen from almost 70 percent in 2003 to under 63 percent today.

As Attorney General, I have a responsibility both to protect the American people and to defend the protections afforded to them by our Constitution. After reviewing the data, consulting with our prosecutors in the field, and reaching out to other interested parties, I have come to the conclusion that the interests of justice – the safety of the American people and the fairness of our judicial system – are not served by a system of advisory sentencing guidelines.

The status quo is dangerous and untenable – not because our judges aren't trying to do that right thing. They are acting in good faith. But the goals of public safety and fairness sought by Congress in the Sentencing Reform Act are the expressed will of the American people. Our sentencing system works best when judges have some sentencing discretion, but discretion bound by sentencing guidelines created through the legislative process. The time has come for policy makers, jurists, attorneys, legislators and concerned Americans like you to work together to restore a system of mandatory sentencing guidelines. The alternative is, I fear, inevitable. Criminals will receive shorter sentences, and unwarranted disparities will again plague our justice system.

In the *Booker* decision, the Supreme Court invited Congress to consider legislation to construct a sentencing system that meets the requirements of the Sixth Amendment. As a matter of fact, the High Court put it quite bluntly: "The ball now lies in

Congress's court." It is imperative that Congress accept this invitation. Justice demands that we work together to put public safety and fairness once again at the forefront of our federal sentencing.

Two options present themselves.

Congress could enact a series of mandatory minimum sentence statutes. For example, Congress could pass new mandatory minimums for crimes including fraud offenses, gun trafficking and gun possession in the commission of certain crimes, and for leaders of white collar offenses and for career criminals. And because these types of offenses account for nearly 66 percent of all federal cases, these statutory changes would mean that two-thirds of federal cases would carry mandatory minimum sentences consistent with the federal sentencing guidelines.

A system of statutory mandatory minimums would be simple and constitutional, provided that the factors that trigger the mandatory minimum sentences are based on facts proven to a jury beyond a reasonable doubt.

A second approach that would preserve the protections and principles of the Sentencing Reform Act would be the construction of a minimum guideline system.

This would involve a relatively simple legislative change. First, the sentencing court would be bound by the guidelines minimum, just as it was before the *Booker* decision. Second, the guidelines <u>maximum</u> would remain advisory, and the court would be bound to consider it, but not bound to adhere to it, just as it is today under *Booker*.

DOJ_NMG_ 0144468

Under this proposal, advisory maximum sentences would continue to give the courts the benefit of the Sentencing Commission's collective wisdom and statistical analysis. These guidelines would provide for sentences that would fall well below the statutory maximum in most cases.

The advantages of a minimum guideline system are many. It would preserve the traditional division of responsibility between judges and juries in criminal cases, and retain the important function of the U.S. Sentencing Commission. And most importantly, a minimum guideline system would be fully consistent with the Sixth Amendment, as interpreted by the Supreme Court in both *Booker* and *Blakely v. Washington*. These decisions only affect cases in which post-conviction judicial findings of fact mandate or authorize an increase in the maximum of the otherwise applicable sentencing range. In *Harris v. the United States*, the Court held that factors which increase the minimum sentence do not have to be submitted to a jury. In short, so long as facts found by judges applying the sentencing guidelines increase only the minimum sentence to be served, the defendant's Sixth Amendment rights would be fully protected.

I understand and recognize that defendants who are dissatisfied with their sentences will ask the Supreme Court to reconsider *Harris*, and challenge legislation providing for a minimum guidelines system. That possibility, however, does not call for inaction. Rather, it should be understood as an invitation for all concerned parties to work together to ensure a system that preserves the protections and principles of the federal sentencing guidelines.

DOJ_NMG_ 0144469

Federal and state judges administer justice in the Nation's courtrooms every day. Deciding the fate of a defendant is a serious and difficult task, and our judges discharge this obligation conscientiously and with integrity. But it is inevitable that, with so many different individual judges involved, in so many different jurisdictions, shorter sentences and disparities among sentences will occur under a system of advisory guidelines.

The time has come for us to act. And as we go forward, we are guided by a fundamental fact: sentencing reform has been a success in both reducing crime and reducing unwarranted disparities. It has made Americans safer and our system of justice fairer. For the past two decades there has been an ongoing, healthy debate over the specifics of the sentencing guidelines. But there has also been a bipartisan consensus in support of the principles of sentencing reform. Today I pledge the resources of the Department of Justice toward the re-creation of such a system. The Department will work with Congress, the judiciary and other organizations – like this one – to design a sentencing system that responds to the needs and concerns of all those who share our commitment to providing protection to the American people and equal justice to defendants.

Our system of justice is predicated on the belief that every human being has dignity – and it is sustained by individuals such as you working in defense of this belief.

Your work, your commitment and your sacrifice have given the victims of crime a voice in our system of justice, and have helped drive violent crime to its lowest rate in three decades.

With your support and inspiration, victims of crime have come forward with the hope of building a better future. They have

DOJ_NMG_ 0144470

come forward in the belief that one person's injustice can inspire greater justice for all.

And so it falls to us to act. Not out of guilt, and not out of retribution, but in the firm belief that progress is possible. The system of sentencing we have built over the past twenty years teeters on the edge. May history record that we used this time to reach out and steady it; that we worked together to secure a system of tougher, fairer, and greater justice for all.

Thank you very much.

###

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 4:26 PM
To: McCallum, Robert (SMO)
Subject: Re: Sentencing

Will do

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Jun 16 16:22:43 2005
Subject: Re: Sentencing

As I am traveling and must rely on the berry, I will not be in a position to open the attachment and make comments. Make sure Rich Hertling in OLP has a chance to comment. As I remember, he worked on my comments at last years ABA house of delegates comments that I made. Robt.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>; Schlozman, Brad (CRT) <Brad.Schlozman@crt.usdoj.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Pate, R. Hewitt <Hew.Pate@ATR.USDOJ.gov>; Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>; O'Connor, Eileen J. (AAG/TAX) <Eileen.J.O'Connor@tax.USDOJ.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Wiggins, Mike <Mike.Wiggins@SMOJMD.USDOJ.gov>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Thu Jun 16 16:13:31 2005
Subject: FW: Sentencing

Per e-mail below, please let us know if you have any comments. Many thanks, Neil

-----Original Message-----
From: Yanes, Raul
Sent: Thursday, June 16, 2005 3:36 PM
To: Gorsuch, Neil M
Cc: McCallum, Robert (SMO); Nichols, Grant W
Subject: Sentencing

Neil,

This is the latest draft of a speech on the sentencing guidelines the AG will be delivering Tuesday

This is the latest draft of a speech on the sentencing guidelines the AG will be delivering Tuesday. We'd be interested in getting your and Robert's comments. Please also circulate to the appropriate person in each of your litigating divisions in order to get their perspective. All comments should be sent to Grant Nichols and me. Unfortunately, we are operating under a tight deadline and need comments back by mid-day tomorrow. Thanks.

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Thursday, June 16, 2005 4:29 PM
To: Gorsuch, Neil M
Subject: Call from Robert

Mr. McCallum called as you were leaving for the [redacted]. He would like you to call him on his cell and leave a contact number for tonight so he can speak with you re: [redacted]. His cell is [redacted].

Thanks

Currie

Roberts, Crystal

From: Roberts, Crystal
Sent: Thursday, June 16, 2005 5:00 PM
To: Bucholtz, Jeffrey (CIV); Reyes, Luis (SMO); Wiggins, Mike; Swenson, Lily F; Gorsuch, Neil M; Meron, Daniel (CIV); Nichols, Carl (CIV); Katsas, Gregory (CIV); Cohn, Jonathan (CIV); Seidel, Rebecca; Schlozman, Brad (CRT); Sheldon T. Bradshaw (E-mail); Jerry Masoudi (E-mail); Johnson, Kelly A. (ENRD); Boudreaux, Chad (DHS); Marc L. Kesselman (E-mail)
Subject: RE: happy hour Friday

Sounds fun. I may be able to make right at 6:30 for about 45 mins or so.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, June 15, 2005 8:49 PM
To: Reyes, Luis (SMO); Wiggins, Mike; Swenson, Lily F; Gorsuch, Neil M; Meron, Daniel (CIV); Nichols, Carl (CIV); Katsas, Gregory (CIV); Cohn, Jonathan (CIV); Seidel, Rebecca; Roberts, Crystal; Schlozman, Brad (CRT); Sheldon T. Bradshaw (E-mail); Jerry Masoudi (E-mail); Johnson, Kelly A. (ENRD); Boudreaux, Chad (DHS); Marc L. Kesselman (E-mail)
Subject: happy hour Friday

All: Anyone interested in a drink on Fri. after work -- say 630pm at the Elephant and Castle, the new place at 12th and Penn?

Jeff

Gorsuch, Neil M

Subject:	Hew Pate Leaving
Start:	Monday, June 20, 2005 3:00 PM
End:	Monday, June 20, 2005 3:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Thursday, June 16, 2005 6:48 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Fw: Sentencing
Attachments: Sentencing Guidelines - Draft 4.doc

Neil, I've read the speech and have no comments. Thanks,

Jeff

-----Original Message-----
From: Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>
To: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
Sent: Thu Jun 16 16:35:13 2005
Subject: FW: Sentencing

Jeff: Would you please handle? Thanks. Peter

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 4:14 PM
To: Keisler, Peter D. (CIV); Schlozman, Brad (CRT); Schofield, Regina; Pate, R. Hewitt; Johnson, Kelly A. (ENRD); O'Connor, Eileen J. (AAG/TAX); Henke, Tracy (SMO); Wiggins, Mike
Cc: McCallum, Robert (SMO); Yanes, Raul
Subject: FW: Sentencing

Per e-mail below, please let us know if you have any comments. Many thanks, Neil

-----Original Message-----
From: Yanes, Raul
Sent: Thursday, June 16, 2005 3:36 PM
To: Gorsuch, Neil M
Cc: McCallum, Robert (SMO); Nichols, Grant W
Subject: Sentencing

Neil,

This is the latest draft of a speech on the sentencing guidelines the AG will be delivering Tuesday. We'd be interested in getting your and Robert's comments. Please also circulate to the appropriate person in each of your litigating divisions in order to get their perspective. All comments should be sent to Grant Nichols and me. Unfortunately, we are operating under a tight deadline and need comments back by mid-day tomorrow. Thanks.

Prepared Remarks of Attorney General Alberto Gonzales
Sentencing Guidelines Speech
Washington, D.C.
June 21, 2005 – 12:00 PM

Event:	**National Center for Victims of Crime First National Conference**
Venue:	**Omni Shoreham – Washington, DC**
Audience:	**850 conference participants, including victim advocates, counselors, program managers, attorneys, law enforcement personnel, and community leaders**
Length Requested:	**Any**
Length as Prepared:	**21 minutes**
Press:	**Open**

Prepared by: Jessica Gavora
(202) 514-2007

Prepared Remarks of Attorney General Alberto Gonzales
Sentencing Guidelines Speech
Washington, D.C.
June 21, 2005 – 12:00 PM

Thank you …

It's an honor to be here.

This is the second occasion in my short time as Attorney General of the United States that I have had the opportunity to address victims of crime. Being among you, and hearing your stories, always reminds me that your movement is mis-named.

My wife, Rebecca, and I have a long-standing concern for the issues facing victims of crime. Becky spent three-and-a-half years in the Texas Attorney General's Office supporting sexual assault programs across the state. Together we have met with hundreds of crime victims, heard their stories and worked to protect their rights.

We know from experience that there is nothing in the word "victim" that captures this movement.

True victimization requires the disinterest of leaders, the silence of good people, and, finally, the hopelessness of the victims themselves.

But there is a wonderful metamorphosis at the heart of the victims' rights movement. From the ranks of the powerless has emerged a movement of the empowered.

For decades, victims of crime in America lived in fear, and

DOJ_NMG_ 0144480

suffered in silence. So-called experts told us that high levels of crime were inevitable, especially among the poor. The message to victims of crime – who were disproportionately poor as well– was inescapable: learn to live with it.

But thanks to the pioneering work of victims' groups and other concerned Americans, the status of victims of crime in America began to change. Victims, and their friends and loved ones, began to demand more from our system of justice. One of their central demands has been that those convicted of crimes serve tough and fair sentences. And for the past twenty years we have constructed a sentencing system that met this demand – and has helped to achieve the lowest crime rates in a generation. But today that system is threatened.

The threat that hangs over our system of justice is best illustrated by the story of two defendants, both convicted of similar charges involving possession of child pornography, one in Manhattan, the other across the Hudson River in New Jersey.

The New Jersey defendant faced a sentencing range of 30 to 37 months but was given a sentence of 41 months in prison.

The other defendant, in Manhattan, was also convicted of possession of child pornography. In addition, he had been arrested in Pennsylvania, where he had traveled in an attempt to have sexual relations with a "child" he had met over the internet. The "child" turned out to be an undercover [TBD] officer.

The Manhattan defendant faced a sentencing range of 27 to 33 months in prison, but received only probation.

What made the difference? Two different judges, and a Supreme

DOJ_NMG_ 0144481

Court ruling that said they were not bound by guidelines that have governed federal sentencing for almost twenty years.

In January, the Supreme Court ruled that federal sentencing guidelines mandated by bipartisan congressional majorities in 1984 are no longer mandatory for federal judges.

In *U.S. v. Booker*, the Court ruled that federal sentencing guidelines violated a defendant's Sixth Amendment right to trial by jury because they require that judges, not juries, make factual findings which increase a defendant's maximum prison sentence. The result is that, today, judges are no longer bound by the law to impose a sentence within the range prescribed by the guidelines.

So in the New Jersey child pornography case, the judge deemed it necessary to protect the public from the defendant and imposed a sentence that exceeded the guideline range. But in the Manhattan case, the judge reasoned that the defendant would benefit from continued psychological treatment and ordered probation only.

The story of these two defendants is just one case among many that illustrates a developing and troubling trend in the aftermath of the *Booker* decision. No longer bound by sentencing guidelines, judges are exercising their discretion to impose sentences that depart from the carefully considered ranges developed by the U.S. Sentencing Commission. In the process, two critical elements of our criminal justice system are being lost: the protection of the public from criminal offenders, and the protection of defendants from unfair sentences.

The federal sentencing guidelines were the result of

DOJ_NMG_ 0144482

Republicans and Democrats coming together in response to the high crime rates of the 1960s and 1970s to propose, create and sustain an invaluable tool of justice.

As the rates of serious violent felonies more than tripled in the 1960s and 1970s, a consensus emerged that society needed to be protected from the early release of offenders.

Also undermining Americans' faith in the system was the fact that significant disparities existed in the sentences received by individuals guilty of equally serious, similar offenses.

A widespread and bipartisan consensus took hold that our system of sentencing was broken.

So in 1984, lawmakers from across the ideological spectrum passed the Sentencing Reform Act with two broad goals in mind.

The first was to increase the safety of law-abiding Americans by restoring in sentencing an emphasis on punishment, incapacitation and deterrence.

The second was to ensure fairness in sentencing. The statute's guiding principle was consistency – defendants who had committed equally serious crimes and had similar criminal backgrounds should receive similar sentences, irrespective of their race, location or economic background.

In the seventeen-plus years that they have been in existence, federal sentencing guidelines have achieved the ambitious goals of public safety and fairness set out by Congress.

DOJ_NMG_ 0144483

In contrast to thirty years ago, the United States today is experiencing crime rates that are the lowest in a generation. Thirty-four million violent crimes were not committed in the last decade that would have been had violent crime rates remained the same. In 2003 alone, over six million Americans were not murdered, robbed, or assaulted.

No single piece of legislation or policy change is by itself responsible for today's historically low levels of violent crime. But multiple, independent studies of our criminal justice system confirm what our common sense tells us: increased incarceration means reduced crime, and federal and state sentencing reform has helped incarcerate the most violent, repeat offenders.

For federal prisoners, the average time spent behind bars has increased a full 68 percent since 1990. For state prisoners, the average time served is up 30 percent.

Studies have shown that each 10 percent increase in the prison population produces a 1-3 percent decrease in the number of serious crimes.

Federal sentencing guidelines, along with improved state sentencing systems based on the same model, have helped drive down the crime rate because they have helped us put in prison – and keep in prison – those who are most likely to commit future crimes.

Using the most recent data we have, the Bureau of Justice Statistics found that 89 percent of the people in state and federal prison are violent offenders, repeat offenders, or both. Another study from 2002 found that almost two-thirds of the increase in

DOJ_NMG_ 0144484

the state prison population between 1995 and 2001 was due to the increase in violent offenders incarcerated. As we have kept these dangerous offenders in prison instead of releasing them, not surprisingly, our communities have become safer.

Federal sentencing guidelines have helped keep Americans safe while also delivering on their promise to reduce unwarranted disparities in sentences. When the U.S. Sentencing Commission took stock of fifteen years of federal sentencing guidelines in 2004, it noted that careful studies by both the Commission itself and others have determined that the guidelines, quote, "have succeeded at the job they were principally designed to do: reduce unwarranted disparity arising from differences among judges."

In seventeen years, mandatory sentencing guidelines withstood multiple constitutional challenges. They have worked in coordination with state truth-in-sentencing laws and mandatory minimum sentences to drive down crime. Sentencing guidelines have not been static but have evolved over time to adapt to changing circumstances and better understanding. Judges, legislators, policy makers, prosecutors, defense lawyers and others have worked hard for two decades to develop, preserve, and strengthen a system of sentencing guidelines that has protected Americans and improved American justice. All of this effort – and all of this achievement – is now threatened.

In the five months since the *Booker* decision, the Department of Justice has viewed federal sentencing decisions with measured concern. We have been careful not to draw premature conclusions. The evidence, however, points toward two problematic trends: an increasing disparity in sentences, and a

DOJ_NMG_ 0144485

drift toward lesser sentences.

Our U.S. Attorneys consistently report that a critical law enforcement tool has been taken from them. Since the government is no longer the gatekeeper for granting leniency in return for cooperation under the guidelines system, major witnesses are increasingly less inclined to cooperate with prosecutors. We are witnessing a return to thirty years ago, when criminals and potential criminals were encouraged to "play the odds" in our criminal justice system, betting that the luck of the draw – the judge randomly assigned to their case – will result in a lighter sentence.

In addition, experience is already pointing toward an emerging judicial lottery, in which dramatically varying sentences are being determined on the basis of inappropriate factors – factors that could not be considered before *Booker*.

In one recent case a South Carolina man pled guilty to federal weapons and drug trafficking charges. After his arrest on these charges, this defendant was released on bond, failed a drug test and attempted to flee from South Carolina. Federal marshals caught up with him and, after a six-hour standoff, law enforcement authorities tear gassed him out the house where he was holed-up. When he was re-arrested, police discovered that he had a fully automatic machine gun in his possession. Under the federal sentencing guidelines, this armed, career criminal, who had a long history of state charges related to assault, drug trafficking, and weapons, faced between 22 and 27 years in prison. However, the judge sentenced him to only ten, offering no explanation. The Department is appealing this unreasonably low sentence.

DOJ_NMG_ 0144486

In a case involving white collar crime, a Kansas rancher got $1.5 million in cattle loans, falsely claiming that he was using the money to buy live cattle. He was audacious enough to take bank officials to livestock pens falsely claiming that the cows he was showing them were purchased with loan proceeds, when, in fact he lost all the money betting on cattle futures. He pled guilty to defrauding the bank and faced a sentencing range of 3 to 4 years under the guidelines. But the judge gave him probation only, reasoning that the defendant had suffered enough when the bank foreclosed on his house.

We have also seen how the *Booker* decision led directly to a radically reduced sentence for a multi-millionaire convicted of evading federal taxes.

This New York defendant was convicted in 2003 for evading the payment of six million dollars in taxes by such means as moving out of the country valuable assets – namely, a fleet of Rolls Royces and a suit of armor made for King Henri the Second of France. Under the then-mandatory sentencing guidelines, the defendant was sentenced to 41 to 51 months in prison. The judge said he would have liked to impose a considerably lesser sentence, but felt constrained by the guidelines.

A year and half later, after the *Booker* decision, the defendant petitioned the court for re-sentencing and the judge reduced his sentence to seven months. The judge noted that the defendant's age and the need to take care of his wife – not normally relevant sentencing factors pre-*Booker* – now justified his lesser sentence.

These are not isolated examples. Initial statistics compiled by the U.S. Sentencing Commission seem to indicate that in the five

DOJ_NMG_ 0144487

months since the *Booker* decision, compliance with the sentencing guidelines is decreasing. According to the Sentencing Commission, sentencing within the guidelines by federal judges has fallen from almost 70 percent in 2003 to under 63 percent today.

As Attorney General, I have a responsibility both to protect the American people and to defend the protections afforded to them by our Constitution. After reviewing the data, consulting with our prosecutors in the field, and reaching out to other interested parties, I have come to the conclusion that the interests of justice – the safety of the American people and the fairness of our judicial system – are not served by a system of advisory sentencing guidelines.

The status quo is dangerous and untenable – not because our judges aren't trying to do that right thing. They are acting in good faith. But the goals of public safety and fairness sought by Congress in the Sentencing Reform Act are the expressed will of the American people. Our sentencing system works best when judges have some sentencing discretion, but discretion bound by sentencing guidelines created through the legislative process. The time has come for policy makers, jurists, attorneys, legislators and concerned Americans like you to work together to restore a system of mandatory sentencing guidelines. The alternative is, I fear, inevitable. Criminals will receive shorter sentences, and unwarranted disparities will again plague our justice system.

In the *Booker* decision, the Supreme Court invited Congress to consider legislation to construct a sentencing system that meets the requirements of the Sixth Amendment. As a matter of fact, the High Court put it quite bluntly: "The ball now lies in

Congress's court." It is imperative that Congress accept this invitation. Justice demands that we work together to put public safety and fairness once again at the forefront of our federal sentencing.

Two options present themselves.

Congress could enact a series of mandatory minimum sentence statutes. For example, Congress could pass new mandatory minimums for crimes including fraud offenses, gun trafficking and gun possession in the commission of certain crimes, and for leaders of white collar offenses and for career criminals. And because these types of offenses account for nearly 66 percent of all federal cases, these statutory changes would mean that two-thirds of federal cases would carry mandatory minimum sentences consistent with the federal sentencing guidelines.

A system of statutory mandatory minimums would be simple and constitutional, provided that the factors that trigger the mandatory minimum sentences are based on facts proven to a jury beyond a reasonable doubt.

A second approach that would preserve the protections and principles of the Sentencing Reform Act would be the construction of a minimum guideline system.

This would involve a relatively simple legislative change. First, the sentencing court would be bound by the guidelines minimum, just as it was before the *Booker* decision. Second, the guidelines <u>maximum</u> would remain advisory, and the court would be bound to consider it, but not bound to adhere to it, just as it is today under *Booker*.

DOJ_NMG_ 0144489

Under this proposal, advisory maximum sentences would continue to give the courts the benefit of the Sentencing Commission's collective wisdom and statistical analysis. These guidelines would provide for sentences that would fall well below the statutory maximum in most cases.

The advantages of a minimum guideline system are many. It would preserve the traditional division of responsibility between judges and juries in criminal cases, and retain the important function of the U.S. Sentencing Commission. And most importantly, a minimum guideline system would be fully consistent with the Sixth Amendment, as interpreted by the Supreme Court in both *Booker* and *Blakely v. Washington*. These decisions only affect cases in which post-conviction judicial findings of fact mandate or authorize an increase in the maximum of the otherwise applicable sentencing range. In *Harris v. the United States*, the Court held that factors which increase the minimum sentence do not have to be submitted to a jury. In short, so long as facts found by judges applying the sentencing guidelines increase only the minimum sentence to be served, the defendant's Sixth Amendment rights would be fully protected.

I understand and recognize that defendants who are dissatisfied with their sentences will ask the Supreme Court to reconsider *Harris*, and challenge legislation providing for a minimum guidelines system. That possibility, however, does not call for inaction. Rather, it should be understood as an invitation for all concerned parties to work together to ensure a system that preserves the protections and principles of the federal sentencing guidelines.

DOJ_NMG_ 0144490

Federal and state judges administer justice in the Nation's courtrooms every day. Deciding the fate of a defendant is a serious and difficult task, and our judges discharge this obligation conscientiously and with integrity. But it is inevitable that, with so many different individual judges involved, in so many different jurisdictions, shorter sentences and disparities among sentences will occur under a system of advisory guidelines.

The time has come for us to act. And as we go forward, we are guided by a fundamental fact: sentencing reform has been a success in both reducing crime and reducing unwarranted disparities. It has made Americans safer and our system of justice fairer. For the past two decades there has been an ongoing, healthy debate over the specifics of the sentencing guidelines. But there has also been a bipartisan consensus in support of the principles of sentencing reform. Today I pledge the resources of the Department of Justice toward the re-creation of such a system. The Department will work with Congress, the judiciary and other organizations – like this one – to design a sentencing system that responds to the needs and concerns of all those who share our commitment to providing protection to the American people and equal justice to defendants.

Our system of justice is predicated on the belief that every human being has dignity – and it is sustained by individuals such as you working in defense of this belief.

Your work, your commitment and your sacrifice have given the victims of crime a voice in our system of justice, and have helped drive violent crime to its lowest rate in three decades.

With your support and inspiration, victims of crime have come forward with the hope of building a better future. They have

DOJ_NMG_ 0144491

come forward in the belief that one person's injustice can inspire greater justice for all.

And so it falls to us to act. Not out of guilt, and not out of retribution, but in the firm belief that progress is possible. The system of sentencing we have built over the past twenty years teeters on the edge. May history record that we used this time to reach out and steady it; that we worked together to secure a system of tougher, fairer, and greater justice for all.

Thank you very much.

###

Higbee, David

From: Higbee, David
Sent: Thursday, June 16, 2005 6:54 PM
To: Yanes, Raul; Nichols, Grant W
Cc: Gorsuch, Neil M
Subject: FW: Sentencing
Attachments: Sentencing Guidelines - Draft 4.doc

Raul,

The leadership of our criminal sections here in the Antitrust Division have reviewed the speech and we have no comments. Let us know if you need anything else.

David

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>; Schlozman, Brad (CRT) <Brad.Schlozman@crt.usdoj.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Pate, R. Hewitt <Hew.Pate@ATR.USDOJ.gov>; Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>; O'Connor, Eileen J. (AAG/TAX) <Eileen.J.O'Connor@tax.USDOJ.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Wiggins, Mike <Mike.Wiggins@SMOJMD.USDOJ.gov>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Thu Jun 16 16:13:31 2005
Subject: FW: Sentencing

Per e-mail below, please let us know if you have any comments. Many thanks, Neil

-----Original Message-----
From: Yanes, Raul
Sent: Thursday, June 16, 2005 3:36 PM
To: Gorsuch, Neil M
Cc: McCallum, Robert (SMO); Nichols, Grant W
Subject: Sentencing

Neil,

This is the latest draft of a speech on the sentencing guidelines the AG will be delivering Tuesday. We'd be interested in getting your and Robert's comments. Please also circulate to the appropriate person in each of your litigating divisions in order to get their perspective. All comments should be sent to Grant Nichols and me. Unfortunately, we are operating under a tight deadline and need comments back by mid-day tomorrow. Thanks.

Prepared Remarks of Attorney General Alberto Gonzales
Sentencing Guidelines Speech
Washington, D.C.
June 21, 2005 – 12:00 PM

Event:	**National Center for Victims of Crime First National Conference**
Venue:	**Omni Shoreham – Washington, DC**
Audience:	**850 conference participants, including victim advocates, counselors, program managers, attorneys, law enforcement personnel, and community leaders**
Length Requested:	**Any**
Length as Prepared:	**21 minutes**
Press:	**Open**

Prepared by: Jessica Gavora
(202) 514-2007

Prepared Remarks of Attorney General Alberto Gonzales
Sentencing Guidelines Speech
Washington, D.C.
June 21, 2005 – 12:00 PM

Thank you …

It's an honor to be here.

This is the second occasion in my short time as Attorney General of the United States that I have had the opportunity to address victims of crime. Being among you, and hearing your stories, always reminds me that your movement is mis-named.

My wife, Rebecca, and I have a long-standing concern for the issues facing victims of crime. Becky spent three-and-a-half years in the Texas Attorney General's Office supporting sexual assault programs across the state. Together we have met with hundreds of crime victims, heard their stories and worked to protect their rights.

We know from experience that there is nothing in the word "victim" that captures this movement.

True victimization requires the disinterest of leaders, the silence of good people, and, finally, the hopelessness of the victims themselves.

But there is a wonderful metamorphosis at the heart of the victims' rights movement. From the ranks of the powerless has emerged a movement of the empowered.

For decades, victims of crime in America lived in fear, and

DOJ_NMG_ 0144496

suffered in silence. So-called experts told us that high levels of crime were inevitable, especially among the poor. The message to victims of crime – who were disproportionately poor as well– was inescapable: learn to live with it.

But thanks to the pioneering work of victims' groups and other concerned Americans, the status of victims of crime in America began to change. Victims, and their friends and loved ones, began to demand more from our system of justice. One of their central demands has been that those convicted of crimes serve tough and fair sentences. And for the past twenty years we have constructed a sentencing system that met this demand – and has helped to achieve the lowest crime rates in a generation. But today that system is threatened.

The threat that hangs over our system of justice is best illustrated by the story of two defendants, both convicted of similar charges involving possession of child pornography, one in Manhattan, the other across the Hudson River in New Jersey.

The New Jersey defendant faced a sentencing range of 30 to 37 months but was given a sentence of 41 months in prison.

The other defendant, in Manhattan, was also convicted of possession of child pornography. In addition, he had been arrested in Pennsylvania, where he had traveled in an attempt to have sexual relations with a "child" he had met over the internet. The "child" turned out to be an undercover [TBD] officer.

The Manhattan defendant faced a sentencing range of 27 to 33 months in prison, but received only probation.

What made the difference? Two different judges, and a Supreme

DOJ_NMG_ 0144497

Court ruling that said they were not bound by guidelines that have governed federal sentencing for almost twenty years.

In January, the Supreme Court ruled that federal sentencing guidelines mandated by bipartisan congressional majorities in 1984 are no longer mandatory for federal judges.

In *U.S. v. Booker*, the Court ruled that federal sentencing guidelines violated a defendant's Sixth Amendment right to trial by jury because they require that judges, not juries, make factual findings which increase a defendant's maximum prison sentence. The result is that, today, judges are no longer bound by the law to impose a sentence within the range prescribed by the guidelines.

So in the New Jersey child pornography case, the judge deemed it necessary to protect the public from the defendant and imposed a sentence that exceeded the guideline range. But in the Manhattan case, the judge reasoned that the defendant would benefit from continued psychological treatment and ordered probation only.

The story of these two defendants is just one case among many that illustrates a developing and troubling trend in the aftermath of the *Booker* decision. No longer bound by sentencing guidelines, judges are exercising their discretion to impose sentences that depart from the carefully considered ranges developed by the U.S. Sentencing Commission. In the process, two critical elements of our criminal justice system are being lost: the protection of the public from criminal offenders, and the protection of defendants from unfair sentences.

The federal sentencing guidelines were the result of

DOJ_NMG_ 0144498

Republicans and Democrats coming together in response to the high crime rates of the 1960s and 1970s to propose, create and sustain an invaluable tool of justice.

As the rates of serious violent felonies more than tripled in the 1960s and 1970s, a consensus emerged that society needed to be protected from the early release of offenders.

Also undermining Americans' faith in the system was the fact that significant disparities existed in the sentences received by individuals guilty of equally serious, similar offenses.

A widespread and bipartisan consensus took hold that our system of sentencing was broken.

So in 1984, lawmakers from across the ideological spectrum passed the Sentencing Reform Act with two broad goals in mind.

The first was to increase the safety of law-abiding Americans by restoring in sentencing an emphasis on punishment, incapacitation and deterrence.

The second was to ensure fairness in sentencing. The statute's guiding principle was consistency – defendants who had committed equally serious crimes and had similar criminal backgrounds should receive similar sentences, irrespective of their race, location or economic background.

In the seventeen-plus years that they have been in existence, federal sentencing guidelines have achieved the ambitious goals of public safety and fairness set out by Congress.

DOJ_NMG_ 0144499

In contrast to thirty years ago, the United States today is experiencing crime rates that are the lowest in a generation. Thirty-four million violent crimes were not committed in the last decade that would have been had violent crime rates remained the same. In 2003 alone, over six million Americans were not murdered, robbed, or assaulted.

No single piece of legislation or policy change is by itself responsible for today's historically low levels of violent crime. But multiple, independent studies of our criminal justice system confirm what our common sense tells us: increased incarceration means reduced crime, and federal and state sentencing reform has helped incarcerate the most violent, repeat offenders.

For federal prisoners, the average time spent behind bars has increased a full 68 percent since 1990. For state prisoners, the average time served is up 30 percent.

Studies have shown that each 10 percent increase in the prison population produces a 1-3 percent decrease in the number of serious crimes.

Federal sentencing guidelines, along with improved state sentencing systems based on the same model, have helped drive down the crime rate because they have helped us put in prison – and keep in prison – those who are most likely to commit future crimes.

Using the most recent data we have, the Bureau of Justice Statistics found that 89 percent of the people in state and federal prison are violent offenders, repeat offenders, or both. Another study from 2002 found that almost two-thirds of the increase in

DOJ_NMG_ 0144500

the state prison population between 1995 and 2001 was due to the increase in violent offenders incarcerated. As we have kept these dangerous offenders in prison instead of releasing them, not surprisingly, our communities have become safer.

Federal sentencing guidelines have helped keep Americans safe while also delivering on their promise to reduce unwarranted disparities in sentences. When the U.S. Sentencing Commission took stock of fifteen years of federal sentencing guidelines in 2004, it noted that careful studies by both the Commission itself and others have determined that the guidelines, quote, "have succeeded at the job they were principally designed to do: reduce unwarranted disparity arising from differences among judges."

In seventeen years, mandatory sentencing guidelines withstood multiple constitutional challenges. They have worked in coordination with state truth-in-sentencing laws and mandatory minimum sentences to drive down crime. Sentencing guidelines have not been static but have evolved over time to adapt to changing circumstances and better understanding. Judges, legislators, policy makers, prosecutors, defense lawyers and others have worked hard for two decades to develop, preserve, and strengthen a system of sentencing guidelines that has protected Americans and improved American justice. All of this effort – and all of this achievement – is now threatened.

In the five months since the *Booker* decision, the Department of Justice has viewed federal sentencing decisions with measured concern. We have been careful not to draw premature conclusions. The evidence, however, points toward two problematic trends: an increasing disparity in sentences, and a

DOJ_NMG_ 0144501

drift toward lesser sentences.

Our U.S. Attorneys consistently report that a critical law enforcement tool has been taken from them. Since the government is no longer the gatekeeper for granting leniency in return for cooperation under the guidelines system, major witnesses are increasingly less inclined to cooperate with prosecutors. We are witnessing a return to thirty years ago, when criminals and potential criminals were encouraged to "play the odds" in our criminal justice system, betting that the luck of the draw – the judge randomly assigned to their case – will result in a lighter sentence.

In addition, experience is already pointing toward an emerging judicial lottery, in which dramatically varying sentences are being determined on the basis of inappropriate factors – factors that could not be considered before *Booker*.

In one recent case a South Carolina man pled guilty to federal weapons and drug trafficking charges. After his arrest on these charges, this defendant was released on bond, failed a drug test and attempted to flee from South Carolina. Federal marshals caught up with him and, after a six-hour standoff, law enforcement authorities tear gassed him out the house where he was holed-up. When he was re-arrested, police discovered that he had a fully automatic machine gun in his possession. Under the federal sentencing guidelines, this armed, career criminal, who had a long history of state charges related to assault, drug trafficking, and weapons, faced between 22 and 27 years in prison. However, the judge sentenced him to only ten, offering no explanation. The Department is appealing this unreasonably low sentence.

DOJ_NMG_ 0144502

In a case involving white collar crime, a Kansas rancher got $1.5 million in cattle loans, falsely claiming that he was using the money to buy live cattle. He was audacious enough to take bank officials to livestock pens falsely claiming that the cows he was showing them were purchased with loan proceeds, when, in fact he lost all the money betting on cattle futures. He pled guilty to defrauding the bank and faced a sentencing range of 3 to 4 years under the guidelines. But the judge gave him probation only, reasoning that the defendant had suffered enough when the bank foreclosed on his house.

We have also seen how the *Booker* decision led directly to a radically reduced sentence for a multi-millionaire convicted of evading federal taxes.

This New York defendant was convicted in 2003 for evading the payment of six million dollars in taxes by such means as moving out of the country valuable assets – namely, a fleet of Rolls Royces and a suit of armor made for King Henri the Second of France. Under the then-mandatory sentencing guidelines, the defendant was sentenced to 41 to 51 months in prison. The judge said he would have liked to impose a considerably lesser sentence, but felt constrained by the guidelines.

A year and half later, after the *Booker* decision, the defendant petitioned the court for re-sentencing and the judge reduced his sentence to seven months. The judge noted that the defendant's age and the need to take care of his wife – not normally relevant sentencing factors pre-*Booker* – now justified his lesser sentence.

These are not isolated examples. Initial statistics compiled by the U.S. Sentencing Commission seem to indicate that in the five

DOJ_NMG_ 0144503

months since the *Booker* decision, compliance with the sentencing guidelines is decreasing. According to the Sentencing Commission, sentencing within the guidelines by federal judges has fallen from almost 70 percent in 2003 to under 63 percent today.

As Attorney General, I have a responsibility both to protect the American people and to defend the protections afforded to them by our Constitution. After reviewing the data, consulting with our prosecutors in the field, and reaching out to other interested parties, I have come to the conclusion that the interests of justice – the safety of the American people and the fairness of our judicial system – are not served by a system of advisory sentencing guidelines.

The status quo is dangerous and untenable – not because our judges aren't trying to do that right thing. They are acting in good faith. But the goals of public safety and fairness sought by Congress in the Sentencing Reform Act are the expressed will of the American people. Our sentencing system works best when judges have some sentencing discretion, but discretion bound by sentencing guidelines created through the legislative process. The time has come for policy makers, jurists, attorneys, legislators and concerned Americans like you to work together to restore a system of mandatory sentencing guidelines. The alternative is, I fear, inevitable. Criminals will receive shorter sentences, and unwarranted disparities will again plague our justice system.

In the *Booker* decision, the Supreme Court invited Congress to consider legislation to construct a sentencing system that meets the requirements of the Sixth Amendment. As a matter of fact, the High Court put it quite bluntly: "The ball now lies in

Congress's court." It is imperative that Congress accept this invitation. Justice demands that we work together to put public safety and fairness once again at the forefront of our federal sentencing.

Two options present themselves.

Congress could enact a series of mandatory minimum sentence statutes. For example, Congress could pass new mandatory minimums for crimes including fraud offenses, gun trafficking and gun possession in the commission of certain crimes, and for leaders of white collar offenses and for career criminals. And because these types of offenses account for nearly 66 percent of all federal cases, these statutory changes would mean that two-thirds of federal cases would carry mandatory minimum sentences consistent with the federal sentencing guidelines.

A system of statutory mandatory minimums would be simple and constitutional, provided that the factors that trigger the mandatory minimum sentences are based on facts proven to a jury beyond a reasonable doubt.

A second approach that would preserve the protections and principles of the Sentencing Reform Act would be the construction of a minimum guideline system.

This would involve a relatively simple legislative change. First, the sentencing court would be bound by the guidelines minimum, just as it was before the *Booker* decision. Second, the guidelines <u>maximum</u> would remain advisory, and the court would be bound to consider it, but not bound to adhere to it, just as it is today under *Booker*.

DOJ_NMG_ 0144505

Under this proposal, advisory maximum sentences would continue to give the courts the benefit of the Sentencing Commission's collective wisdom and statistical analysis. These guidelines would provide for sentences that would fall well below the statutory maximum in most cases.

The advantages of a minimum guideline system are many. It would preserve the traditional division of responsibility between judges and juries in criminal cases, and retain the important function of the U.S. Sentencing Commission. And most importantly, a minimum guideline system would be fully consistent with the Sixth Amendment, as interpreted by the Supreme Court in both *Booker* and *Blakely v. Washington*. These decisions only affect cases in which post-conviction judicial findings of fact mandate or authorize an increase in the maximum of the otherwise applicable sentencing range. In *Harris v. the United States*, the Court held that factors which increase the minimum sentence do not have to be submitted to a jury. In short, so long as facts found by judges applying the sentencing guidelines increase only the minimum sentence to be served, the defendant's Sixth Amendment rights would be fully protected.

I understand and recognize that defendants who are dissatisfied with their sentences will ask the Supreme Court to reconsider *Harris*, and challenge legislation providing for a minimum guidelines system. That possibility, however, does not call for inaction. Rather, it should be understood as an invitation for all concerned parties to work together to ensure a system that preserves the protections and principles of the federal sentencing guidelines.

DOJ_NMG_ 0144506

Federal and state judges administer justice in the Nation's courtrooms every day. Deciding the fate of a defendant is a serious and difficult task, and our judges discharge this obligation conscientiously and with integrity. But it is inevitable that, with so many different individual judges involved, in so many different jurisdictions, shorter sentences and disparities among sentences will occur under a system of advisory guidelines.

The time has come for us to act. And as we go forward, we are guided by a fundamental fact: sentencing reform has been a success in both reducing crime and reducing unwarranted disparities. It has made Americans safer and our system of justice fairer. For the past two decades there has been an ongoing, healthy debate over the specifics of the sentencing guidelines. But there has also been a bipartisan consensus in support of the principles of sentencing reform. Today I pledge the resources of the Department of Justice toward the re-creation of such a system. The Department will work with Congress, the judiciary and other organizations – like this one – to design a sentencing system that responds to the needs and concerns of all those who share our commitment to providing protection to the American people and equal justice to defendants.

Our system of justice is predicated on the belief that every human being has dignity – and it is sustained by individuals such as you working in defense of this belief.

Your work, your commitment and your sacrifice have given the victims of crime a voice in our system of justice, and have helped drive violent crime to its lowest rate in three decades.

With your support and inspiration, victims of crime have come forward with the hope of building a better future. They have

DOJ_NMG_ 0144507

come forward in the belief that one person's injustice can inspire greater justice for all.

And so it falls to us to act. Not out of guilt, and not out of retribution, but in the firm belief that progress is possible. The system of sentencing we have built over the past twenty years teeters on the edge. May history record that we used this time to reach out and steady it; that we worked together to secure a system of tougher, fairer, and greater justice for all.

Thank you very much.

###

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 7:56 PM
To: Yanes, Raul
Subject: Fw: Sentencing
Attachments: Sentencing Guidelines - Draft 4.doc

Civil also has no comments. It's an excellent piece. NMG

-----Original Message-----
From: Higbee, David <David.Higbee@ATR.USDOJ.gov>
To: Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>; Nichols, Grant W <Grant.W.Nichols@SMOJMD.USDOJ.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Jun 16 18:53:31 2005
Subject: FW: Sentencing

Raul,

The leadership of our criminal sections here in the Antitrust Division have reviewed the speech and we have no comments. Let us know if you need anything else.

David

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>; Schlozman, Brad (CRT) <Brad.Schlozman@crt.usdoj.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Pate, R. Hewitt <Hew.Pate@ATR.USDOJ.gov>; Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>; O'Connor, Eileen J. (AAG/TAX) <Eileen.J.O'Connor@tax.USDOJ.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Wiggins, Mike <Mike.Wiggins@SMOJMD.USDOJ.gov>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Thu Jun 16 16:13:31 2005
Subject: FW: Sentencing

Per e-mail below, please let us know if you have any comments. Many thanks, Neil

-----Original Message-----
From: Yanes, Raul
Sent: Thursday, June 16, 2005 3:36 PM
To: Gorsuch, Neil M
Cc: McCallum, Robert (SMO); Nichols, Grant W

Subject: Sentencing

Neil,

This is the latest draft of a speech on the sentencing guidelines the AG will be delivering Tuesday. We'd be interested in getting your and Robert's comments. Please also circulate to the appropriate person in each of your litigating divisions in order to get their perspective. All comments should be sent to Grant Nichols and me. Unfortunately, we are operating under a tight deadline and need comments back by mid-day tomorrow. Thanks.

Prepared Remarks of Attorney General Alberto Gonzales
Sentencing Guidelines Speech
Washington, D.C.
June 21, 2005 – 12:00 PM

Event:	**National Center for Victims of Crime First National Conference**
Venue:	**Omni Shoreham – Washington, DC**
Audience:	**850 conference participants, including victim advocates, counselors, program managers, attorneys, law enforcement personnel, and community leaders**
Length Requested:	**Any**
Length as Prepared:	**21 minutes**
Press:	**Open**

Prepared by: Jessica Gavora
(202) 514-2007

Prepared Remarks of Attorney General Alberto Gonzales
Sentencing Guidelines Speech
Washington, D.C.
June 21, 2005 – 12:00 PM

Thank you …

It's an honor to be here.

This is the second occasion in my short time as Attorney General of the United States that I have had the opportunity to address victims of crime. Being among you, and hearing your stories, always reminds me that your movement is mis-named.

My wife, Rebecca, and I have a long-standing concern for the issues facing victims of crime. Becky spent three-and-a-half years in the Texas Attorney General's Office supporting sexual assault programs across the state. Together we have met with hundreds of crime victims, heard their stories and worked to protect their rights.

We know from experience that there is nothing in the word "victim" that captures this movement.

True victimization requires the disinterest of leaders, the silence of good people, and, finally, the hopelessness of the victims themselves.

But there is a wonderful metamorphosis at the heart of the victims' rights movement. From the ranks of the powerless has emerged a movement of the empowered.

For decades, victims of crime in America lived in fear, and

DOJ_NMG_ 0144512

suffered in silence. So-called experts told us that high levels of crime were inevitable, especially among the poor. The message to victims of crime – who were disproportionately poor as well– was inescapable: learn to live with it.

But thanks to the pioneering work of victims' groups and other concerned Americans, the status of victims of crime in America began to change. Victims, and their friends and loved ones, began to demand more from our system of justice. One of their central demands has been that those convicted of crimes serve tough and fair sentences. And for the past twenty years we have constructed a sentencing system that met this demand – and has helped to achieve the lowest crime rates in a generation. But today that system is threatened.

The threat that hangs over our system of justice is best illustrated by the story of two defendants, both convicted of similar charges involving possession of child pornography, one in Manhattan, the other across the Hudson River in New Jersey.

The New Jersey defendant faced a sentencing range of 30 to 37 months but was given a sentence of 41 months in prison.

The other defendant, in Manhattan, was also convicted of possession of child pornography. In addition, he had been arrested in Pennsylvania, where he had traveled in an attempt to have sexual relations with a "child" he had met over the internet. The "child" turned out to be an undercover [TBD] officer.

The Manhattan defendant faced a sentencing range of 27 to 33 months in prison, but received only probation.

What made the difference? Two different judges, and a Supreme

DOJ_NMG_ 0144513

Court ruling that said they were not bound by guidelines that have governed federal sentencing for almost twenty years.

In January, the Supreme Court ruled that federal sentencing guidelines mandated by bipartisan congressional majorities in 1984 are no longer mandatory for federal judges.

In *U.S. v. Booker*, the Court ruled that federal sentencing guidelines violated a defendant's Sixth Amendment right to trial by jury because they require that judges, not juries, make factual findings which increase a defendant's maximum prison sentence. The result is that, today, judges are no longer bound by the law to impose a sentence within the range prescribed by the guidelines.

So in the New Jersey child pornography case, the judge deemed it necessary to protect the public from the defendant and imposed a sentence that exceeded the guideline range. But in the Manhattan case, the judge reasoned that the defendant would benefit from continued psychological treatment and ordered probation only.

The story of these two defendants is just one case among many that illustrates a developing and troubling trend in the aftermath of the *Booker* decision. No longer bound by sentencing guidelines, judges are exercising their discretion to impose sentences that depart from the carefully considered ranges developed by the U.S. Sentencing Commission. In the process, two critical elements of our criminal justice system are being lost: the protection of the public from criminal offenders, and the protection of defendants from unfair sentences.

The federal sentencing guidelines were the result of

DOJ_NMG_ 0144514

Republicans and Democrats coming together in response to the high crime rates of the 1960s and 1970s to propose, create and sustain an invaluable tool of justice.

As the rates of serious violent felonies more than tripled in the 1960s and 1970s, a consensus emerged that society needed to be protected from the early release of offenders.

Also undermining Americans' faith in the system was the fact that significant disparities existed in the sentences received by individuals guilty of equally serious, similar offenses.

A widespread and bipartisan consensus took hold that our system of sentencing was broken.

So in 1984, lawmakers from across the ideological spectrum passed the Sentencing Reform Act with two broad goals in mind.

The first was to increase the safety of law-abiding Americans by restoring in sentencing an emphasis on punishment, incapacitation and deterrence.

The second was to ensure fairness in sentencing. The statute's guiding principle was consistency – defendants who had committed equally serious crimes and had similar criminal backgrounds should receive similar sentences, irrespective of their race, location or economic background.

In the seventeen-plus years that they have been in existence, federal sentencing guidelines have achieved the ambitious goals of public safety and fairness set out by Congress.

DOJ_NMG_ 0144515

In contrast to thirty years ago, the United States today is experiencing crime rates that are the lowest in a generation. Thirty-four million violent crimes were not committed in the last decade that would have been had violent crime rates remained the same. In 2003 alone, over six million Americans were not murdered, robbed, or assaulted.

No single piece of legislation or policy change is by itself responsible for today's historically low levels of violent crime. But multiple, independent studies of our criminal justice system confirm what our common sense tells us: increased incarceration means reduced crime, and federal and state sentencing reform has helped incarcerate the most violent, repeat offenders.

For federal prisoners, the average time spent behind bars has increased a full 68 percent since 1990. For state prisoners, the average time served is up 30 percent.

Studies have shown that each 10 percent increase in the prison population produces a 1-3 percent decrease in the number of serious crimes.

Federal sentencing guidelines, along with improved state sentencing systems based on the same model, have helped drive down the crime rate because they have helped us put in prison – and keep in prison – those who are most likely to commit future crimes.

Using the most recent data we have, the Bureau of Justice Statistics found that 89 percent of the people in state and federal prison are violent offenders, repeat offenders, or both. Another study from 2002 found that almost two-thirds of the increase in

DOJ_NMG_ 0144516

the state prison population between 1995 and 2001 was due to the increase in violent offenders incarcerated. As we have kept these dangerous offenders in prison instead of releasing them, not surprisingly, our communities have become safer.

Federal sentencing guidelines have helped keep Americans safe while also delivering on their promise to reduce unwarranted disparities in sentences. When the U.S. Sentencing Commission took stock of fifteen years of federal sentencing guidelines in 2004, it noted that careful studies by both the Commission itself and others have determined that the guidelines, quote, "have succeeded at the job they were principally designed to do: reduce unwarranted disparity arising from differences among judges."

In seventeen years, mandatory sentencing guidelines withstood multiple constitutional challenges. They have worked in coordination with state truth-in-sentencing laws and mandatory minimum sentences to drive down crime. Sentencing guidelines have not been static but have evolved over time to adapt to changing circumstances and better understanding. Judges, legislators, policy makers, prosecutors, defense lawyers and others have worked hard for two decades to develop, preserve, and strengthen a system of sentencing guidelines that has protected Americans and improved American justice. All of this effort – and all of this achievement – is now threatened.

In the five months since the *Booker* decision, the Department of Justice has viewed federal sentencing decisions with measured concern. We have been careful not to draw premature conclusions. The evidence, however, points toward two problematic trends: an increasing disparity in sentences, and a

DOJ_NMG_ 0144517

drift toward lesser sentences.

Our U.S. Attorneys consistently report that a critical law enforcement tool has been taken from them. Since the government is no longer the gatekeeper for granting leniency in return for cooperation under the guidelines system, major witnesses are increasingly less inclined to cooperate with prosecutors. We are witnessing a return to thirty years ago, when criminals and potential criminals were encouraged to "play the odds" in our criminal justice system, betting that the luck of the draw – the judge randomly assigned to their case – will result in a lighter sentence.

In addition, experience is already pointing toward an emerging judicial lottery, in which dramatically varying sentences are being determined on the basis of inappropriate factors – factors that could not be considered before *Booker*.

In one recent case a South Carolina man pled guilty to federal weapons and drug trafficking charges. After his arrest on these charges, this defendant was released on bond, failed a drug test and attempted to flee from South Carolina. Federal marshals caught up with him and, after a six-hour standoff, law enforcement authorities tear gassed him out the house where he was holed-up. When he was re-arrested, police discovered that he had a fully automatic machine gun in his possession. Under the federal sentencing guidelines, this armed, career criminal, who had a long history of state charges related to assault, drug trafficking, and weapons, faced between 22 and 27 years in prison. However, the judge sentenced him to only ten, offering no explanation. The Department is appealing this unreasonably low sentence.

DOJ_NMG_ 0144518

In a case involving white collar crime, a Kansas rancher got $1.5 million in cattle loans, falsely claiming that he was using the money to buy live cattle. He was audacious enough to take bank officials to livestock pens falsely claiming that the cows he was showing them were purchased with loan proceeds, when, in fact he lost all the money betting on cattle futures. He pled guilty to defrauding the bank and faced a sentencing range of 3 to 4 years under the guidelines. But the judge gave him probation only, reasoning that the defendant had suffered enough when the bank foreclosed on his house.

We have also seen how the *Booker* decision led directly to a radically reduced sentence for a multi-millionaire convicted of evading federal taxes.

This New York defendant was convicted in 2003 for evading the payment of six million dollars in taxes by such means as moving out of the country valuable assets – namely, a fleet of Rolls Royces and a suit of armor made for King Henri the Second of France. Under the then-mandatory sentencing guidelines, the defendant was sentenced to 41 to 51 months in prison. The judge said he would have liked to impose a considerably lesser sentence, but felt constrained by the guidelines.

A year and half later, after the *Booker* decision, the defendant petitioned the court for re-sentencing and the judge reduced his sentence to seven months. The judge noted that the defendant's age and the need to take care of his wife – not normally relevant sentencing factors pre-*Booker* – now justified his lesser sentence.

These are not isolated examples. Initial statistics compiled by the U.S. Sentencing Commission seem to indicate that in the five

DOJ_NMG_ 0144519

months since the *Booker* decision, compliance with the sentencing guidelines is decreasing. According to the Sentencing Commission, sentencing within the guidelines by federal judges has fallen from almost 70 percent in 2003 to under 63 percent today.

As Attorney General, I have a responsibility both to protect the American people and to defend the protections afforded to them by our Constitution. After reviewing the data, consulting with our prosecutors in the field, and reaching out to other interested parties, I have come to the conclusion that the interests of justice – the safety of the American people and the fairness of our judicial system – are not served by a system of advisory sentencing guidelines.

The status quo is dangerous and untenable – not because our judges aren't trying to do that right thing. They are acting in good faith. But the goals of public safety and fairness sought by Congress in the Sentencing Reform Act are the expressed will of the American people. Our sentencing system works best when judges have some sentencing discretion, but discretion bound by sentencing guidelines created through the legislative process. The time has come for policy makers, jurists, attorneys, legislators and concerned Americans like you to work together to restore a system of mandatory sentencing guidelines. The alternative is, I fear, inevitable. Criminals will receive shorter sentences, and unwarranted disparities will again plague our justice system.

In the *Booker* decision, the Supreme Court invited Congress to consider legislation to construct a sentencing system that meets the requirements of the Sixth Amendment. As a matter of fact, the High Court put it quite bluntly: "The ball now lies in

Congress's court." It is imperative that Congress accept this invitation. Justice demands that we work together to put public safety and fairness once again at the forefront of our federal sentencing.

Two options present themselves.

Congress could enact a series of mandatory minimum sentence statutes. For example, Congress could pass new mandatory minimums for crimes including fraud offenses, gun trafficking and gun possession in the commission of certain crimes, and for leaders of white collar offenses and for career criminals. And because these types of offenses account for nearly 66 percent of all federal cases, these statutory changes would mean that two-thirds of federal cases would carry mandatory minimum sentences consistent with the federal sentencing guidelines.

A system of statutory mandatory minimums would be simple and constitutional, provided that the factors that trigger the mandatory minimum sentences are based on facts proven to a jury beyond a reasonable doubt.

A second approach that would preserve the protections and principles of the Sentencing Reform Act would be the construction of a minimum guideline system.

This would involve a relatively simple legislative change. First, the sentencing court would be bound by the guidelines minimum, just as it was before the *Booker* decision. Second, the guidelines <u>maximum</u> would remain advisory, and the court would be bound to consider it, but not bound to adhere to it, just as it is today under *Booker*.

DOJ_NMG_ 0144521

Under this proposal, advisory maximum sentences would continue to give the courts the benefit of the Sentencing Commission's collective wisdom and statistical analysis. These guidelines would provide for sentences that would fall well below the statutory maximum in most cases.

The advantages of a minimum guideline system are many. It would preserve the traditional division of responsibility between judges and juries in criminal cases, and retain the important function of the U.S. Sentencing Commission. And most importantly, a minimum guideline system would be fully consistent with the Sixth Amendment, as interpreted by the Supreme Court in both *Booker* and *Blakely v. Washington*. These decisions only affect cases in which post-conviction judicial findings of fact mandate or authorize an increase in the maximum of the otherwise applicable sentencing range. In *Harris v. the United States*, the Court held that factors which increase the minimum sentence do not have to be submitted to a jury. In short, so long as facts found by judges applying the sentencing guidelines increase only the minimum sentence to be served, the defendant's Sixth Amendment rights would be fully protected.

I understand and recognize that defendants who are dissatisfied with their sentences will ask the Supreme Court to reconsider *Harris*, and challenge legislation providing for a minimum guidelines system. That possibility, however, does not call for inaction. Rather, it should be understood as an invitation for all concerned parties to work together to ensure a system that preserves the protections and principles of the federal sentencing guidelines.

DOJ_NMG_ 0144522

Federal and state judges administer justice in the Nation's courtrooms every day. Deciding the fate of a defendant is a serious and difficult task, and our judges discharge this obligation conscientiously and with integrity. But it is inevitable that, with so many different individual judges involved, in so many different jurisdictions, shorter sentences and disparities among sentences will occur under a system of advisory guidelines.

The time has come for us to act. And as we go forward, we are guided by a fundamental fact: sentencing reform has been a success in both reducing crime and reducing unwarranted disparities. It has made Americans safer and our system of justice fairer. For the past two decades there has been an ongoing, healthy debate over the specifics of the sentencing guidelines. But there has also been a bipartisan consensus in support of the principles of sentencing reform. Today I pledge the resources of the Department of Justice toward the re-creation of such a system. The Department will work with Congress, the judiciary and other organizations – like this one – to design a sentencing system that responds to the needs and concerns of all those who share our commitment to providing protection to the American people and equal justice to defendants.

Our system of justice is predicated on the belief that every human being has dignity – and it is sustained by individuals such as you working in defense of this belief.

Your work, your commitment and your sacrifice have given the victims of crime a voice in our system of justice, and have helped drive violent crime to its lowest rate in three decades.

With your support and inspiration, victims of crime have come forward with the hope of building a better future. They have

DOJ_NMG_ 0144523

come forward in the belief that one person's injustice can inspire greater justice for all.

And so it falls to us to act. Not out of guilt, and not out of retribution, but in the firm belief that progress is possible. The system of sentencing we have built over the past twenty years teeters on the edge. May history record that we used this time to reach out and steady it; that we worked together to secure a system of tougher, fairer, and greater justice for all.

Thank you very much.

###

Johnson, Kelly A. (ENRD)

From: Johnson, Kelly A. (ENRD)
Sent: Friday, June 17, 2005 10:20 AM
To: Gorsuch, Neil M
Subject: RE: Sentencing

Neil - ENRD has no comments.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 4:14 PM
To: Keisler, Peter D. (CIV); Schlozman, Brad (CRT); Schofield, Regina; Pate, R. Hewitt; Johnson, Kelly A. (ENRD); O'Connor, Eileen J. (AAG/TAX); Henke, Tracy (SMO); Wiggins, Mike
Cc: McCallum, Robert (SMO); Yanes, Raul
Subject: FW: Sentencing

Per e-mail below, please let us know if you have any comments. Many thanks, Neil

-----Original Message-----
From: Yanes, Raul
Sent: Thursday, June 16, 2005 3:36 PM
To: Gorsuch, Neil M
Cc: McCallum, Robert (SMO); Nichols, Grant W
Subject: Sentencing

Neil,

This is the latest draft of a speech on the sentencing guidelines the AG will be delivering Tuesday. We'd be interested in getting your and Robert's comments. Please also circulate to the appropriate person in each of your litigating divisions in order to get their perspective. All comments should be sent to Grant Nichols and me. Unfortunately, we are operating under a tight deadline and need comments back by mid-day tomorrow. Thanks.

<< File: Sentencing Guidelines - Draft 4.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 17, 2005 10:22 AM
To: Yanes, Raul
Cc: Johnson, Kelly A. (ENRD)
Subject: FW: Sentencing

FYI.

-----Original Message-----
From: Johnson, Kelly A. (ENRD)
Sent: Friday, June 17, 2005 10:20 AM
To: Gorsuch, Neil M
Subject: RE: Sentencing

Neil - ENRD has no comments.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 4:14 PM
To: Keisler, Peter D. (CIV); Schlozman, Brad (CRT); Schofield, Regina; Pate, R. Hewitt; Johnson, Kelly A. (ENRD); O'Connor, Eileen J. (AAG/TAX); Henke, Tracy (SMO); Wiggins, Mike
Cc: McCallum, Robert (SMO); Yanes, Raul
Subject: FW: Sentencing

Per e-mail below, please let us know if you have any comments. Many thanks, Neil

-----Original Message-----
From: Yanes, Raul
Sent: Thursday, June 16, 2005 3:36 PM
To: Gorsuch, Neil M
Cc: McCallum, Robert (SMO); Nichols, Grant W
Subject: Sentencing

Neil,

This is the latest draft of a speech on the sentencing guidelines the AG will be delivering Tuesday. We'd be interested in getting your and Robert's comments. Please also circulate to the appropriate person in each of your litigating divisions in order to get their perspective. All comments should be sent to Grant Nichols and me. Unfortunately, we are operating under a tight deadline and need comments back by mid-day tomorrow. Thanks.

<< File: Sentencing Guidelines - Draft 4.doc >>

Cruden, John (ENRD)

From: Cruden, John (ENRD)
Sent: Friday, June 17, 2005 10:35 AM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: Dc Bar Installation

I am out of the office and on travel. If you need assistance, please contact my administrative assistant, Shanedda Bogan, at 202-514-2718.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 17, 2005 11:05 AM
To: Yanes, Raul
Subject: AG's Sentencing Guidelines Speech

Robert thought you might want to peruse the remarks he made on sentencing guidelines last year before the ABA. I've left a copy on your chair. Some of the same points appear in the AG's draft speech, but there may be a couple that aren't in the AG's speech that may or may not be something you wish to consider including. Robert made the point, for example, that, far from locking up relatively benign petty offenders, under the guidelines regime 92% of those incarcerated were either violent offenders, repeat offenders, or both.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 17, 2005 11:06 AM
To: McCallum, Robert (SMO)
Subject: FW: AG's Sentencing Guidelines Speech

FYI - Speech located and given to Raul.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 17, 2005 11:05 AM
To: Yanes, Raul
Subject: AG's Sentencing Guidelines Speech

Robert thought you might want to peruse the remarks he made on sentencing guidelines last year before the ABA. I've left a copy on your chair. Some of the same points appear in the AG's draft speech, but there may be a couple that aren't in the AG's speech that may or may not be something you wish to consider including. Robert made the point, for example, that, far from locking up relatively benign petty offenders, under the guidelines regime 92% of those incarcerated were either violent offenders, repeat offenders, or both.

Yanes, Raul

From: Yanes, Raul
Sent: Friday, June 17, 2005 11:07 AM
To: Gorsuch, Neil M
Subject: RE: AG's Sentencing Guidelines Speech

Got it. Thanks Neil.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 17, 2005 11:05 AM
To: Yanes, Raul
Subject: AG's Sentencing Guidelines Speech

Robert thought you might want to peruse the remarks he made on sentencing guidelines last year before the ABA. I've left a copy on your chair. Some of the same points appear in the AG's draft speech, but there may be a couple that aren't in the AG's speech that may or may not be something you wish to consider including. Robert made the point, for example, that, far from locking up relatively benign petty offenders, under the guidelines regime 92% of those incarcerated were either violent offenders, repeat offenders, or both.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 17, 2005 3:42 PM
To: Yanes, Raul
Cc: Rosenstein, Rod J. (TAX)
Subject: FW: Tax Division Comments on Draft of AG's Sentencing Guidelines Speech

Some additional comments.

-----Original Message-----
From: Rosenstein, Rod J. (TAX)
Sent: Friday, June 17, 2005 2:38 PM
To: Gorsuch, Neil M
Subject: Tax Division Comments on Draft of AG's Sentencing Guidelines Speech

1. At page 7, in the first full paragraph, the phrase "return to thirty years ago" probably should be "return to twenty years ago," shortly before the Sentencing Guidelines went into effect.

2. At page 10, change the third paragraph to eliminate the implication that it is unconstitutional for judges to make factual findings in support of minimum sentences: "A system of mandatory minimum sentences would be simple and constitutional."

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 17, 2005 3:46 PM
To: Elwood, Courtney
Subject: Greetings

Courtney - I just came on board this week and learned that you're out [redacted] When you do return, I'd enjoy grabing a bite to eat together to catch up. Warm regards, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 17, 2005 4:28 PM
To: Swenson, Lily F
Subject: Trustees

Stopped by but missed you. I have a quick inquiry; when you have a minute could you give me a ring?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 17, 2005 4:34 PM
To: 'Benjamin_A._Powell@who.eop.gov'
Subject: RE: can do

thanks much

-----Original Message-----
From: Benjamin_A._Powell@who.eop.gov
[mailto:Benjamin_A._Powell@who.eop.gov]
Sent: Friday, June 17, 2005 11:55 AM
To: Gorsuch, Neil M
Subject: can do

yes, will introduce you to everyone. important to do.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 17, 2005 9:20 PM
To: Keisler, Peter D. (CIV)
Subject: Lunch

Peter, Thank you for your insights over lunch. They were extremely helpful and it was kind of you to take the time and trouble. I'm really looking forward to working with you and your team. Neil

[redacted]@gmu.edu

From: [redacted]@gmu.edu
Sent: Friday, June 17, 2005 10:23 PM
To: Gorsuch, Neil M
Subject: Re: Greetings
Attachments: [redacted]vcf

absolutely! It may have to wait until we're in recess, though, because things have been crazy.

[redacted]
Tel: [redacted]
Fax: [redacted]
E-mail: [redacted]@gmu.edu

----- Original Message -----
From: "Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov>
Date: Wednesday, June 15, 2005 9:41 am
Subject: Greetings

> [redacted] This Monday I joined DOJ as Robert McCallum's principal
> deputy. In this capacity, and based on what I'm seeing on C-SPAN
> this morning, I suspect we will be working together. I thought,
> subject to your availability, perhaps we might get together
> sometime soon for lunch or otherwise to talk. Warm regards, Neil
>
>
> Neil M. Gorsuch
> Principal Deputy Associate Attorney General > U.S. Department of Justice > 950 Pennsylvania Avenue, N.W.
> Room 5706
> Washington, D.C. 20530
> direct dial: [redacted]
> cell: [redacted]
> e-mail: neil.gorsuch@usdoj.gov
>
>
>

[redacted]

[redacted]

USA

[redacted] **(Fax)**
[redacted] **(Work)**

[redacted]**@gmu.edu (Internet)**

http://mason.gmu.edu/~[redacted]/

Name

Family: [redacted]
First:
Middle:
Prefix:
Suffix:

Formatted Name

[redacted]

Telephone Number (Fax)

[redacted]

Telephone Number (Work)

[redacted]

Uniform Resource Locator

http://mason.gmu.edu/~[redacted]/

Organization

[redacted]

Address

P.O. Address:
Extended Address:
Street: [redacted]
Locality: [redacted]
Region: [redacted]
Postal Code: [redacted]
Country: USA

Version

2.1

Electronic Mail Address (Internet)
[redacted]@gmu.edu

Title [redacted]

cod_attyreg@cod.uscourts.gov

From:	cod_attyreg@cod.uscourts.gov
Sent:	Saturday, June 18, 2005 2:42 PM
To:	Gorsuch, Neil M; [redacted]@hotmail.com
Subject:	Registration to File Electronically
Attachments:	tmp.htm

PLEASE DO NOT RESPOND TO THIS E-MAIL
AS IT IS AN UN-MONITORED ACCOUNT

Congratulations! You are now registered to file electronically in the U.S. District Court for the District of Colorado effective June 20, 2005.

LOGIN AND PASSWORDS:
Your login is: [redacted]

Your password is as requested in your registration.

If at any point you forget your password or you feel your password has been compromised, you will need to contact the Electronic Filing Help Desk in the Clerk?s Office at 303-335-2050 or toll free at 866-365-6381 to have your password reset. You will be asked to provide your mother?s maiden name. Requests to reset your password will not be accepted from your staff members. Once your password is reset, you will be instructed to change it immediately. If you merely need to change your password, follow the instructions in the ECF User Manual, available on our website.

TRANSITION:

Prior to the effective date for electronic case filing in both civil and criminal cases, you may begin receiving Notices of Electronic Filing (NEFs) when the clerk?s office dockets certain orders, pleadings and papers in cases in which you are counsel. You will also continue to receive from the court, paper copies of all orders pursuant to the Federal Rules until the effective date for ECF. You may also find that certain pleadings and papers are available for your review on PACER. Until the effective date the paper files remain as the official record.

NOTICES OF FILING:

As of June 20, 2005 all notices from the court and from opposing counsel and pro se individuals who are also registered to file electronically will be received via the Court?s electronic filing system (NEF). Please be advised that you will only receive NEF?s in cases in which you are counsel of record or in which you have requested to receive notices under Maintain Your Account, Email Information. If you would like to verify that you are counsel of record, you may view the docket sheet in

PACER or contact the clerk?s office.

You are currently set to receive a notice of each filing, rather than a Daily Summary Report, and the notices will be in html format for Netscape or ISP e-mail service. If you wish to alter these setting, you may do so. Please refer to the ECF User Manual for instructions.

Please also note that electronic mail filter software may interfere with receipt of the NEF. Verify that any such software installed on your computer or network will not filter out messages sent from: username@cod.uscourts.gov.

E-MAIL ADDRESSES:

Once we are live in ECF, you may add additional e-mail addresses at which you may receive notices. See the ECF User Manual for further instructions.

TRAINING:

Please check our website at www.cod.uscourts.gov under ELECTRONIC CASE FILING for information regarding the different types of training options available

ELECTRONIC CASE FILING PROCEDURES:

Please check our website at www.cod.uscourts.gov for the most current Electronic Case Filing Procedures (Civil Cases) and the ECF User Manual.

PLEASE DO NOT RESPOND TO THIS E-MAIL
AS IT IS AN UN-MONITORED ACCOUNT

PLEASE DO NOT RESPOND TO THIS E-MAIL
AS IT IS AN UN-MONITORED ACCOUNT

Congratulations! You are now registered to file electronically in the U.S. District Court for the District of Colorado effective June 20, 2005.

LOGIN AND PASSWORDS:
Your login is: [redacted]

Your password is as requested in your registration.

If at any point you forget your password or you feel your password has been compromised, you will need to contact the Electronic Filing Help Desk in the Clerk's Office at 303-335-2050 or toll free at 866-365-6381 to have your password reset. You will be asked to provide your mother's maiden name. Requests to reset your password will not be accepted from your staff members. Once your password is reset, you will be instructed to change it immediately. If you merely need to change your password, follow the instructions in the ECF User Manual, available on our website.

TRANSITION:
Prior to the effective date for electronic case filing in both civil and criminal cases, you may begin receiving Notices of Electronic Filing (NEFs) when the clerk's office dockets certain orders, pleadings and papers in cases in which you are counsel. You will also continue to receive from the court, paper copies of all orders pursuant to the Federal Rules until the effective date for ECF. You may also find that certain pleadings and papers are available for your review on PACER. Until the effective date the paper files remain as the official record.

NOTICES OF FILING:
As of June 20, 2005 all notices from the court and from opposing counsel and pro se individuals who are also registered to file electronically will be received via the Court's electronic filing system (NEF). Please be advised that you will only receive NEF's in cases in which you are counsel of record or in which you have requested to receive notices under Maintain Your Account, Email Information. If you would like to verify that you are counsel of record, you may view the docket sheet in PACER or contact the clerk's office.

You are currently set to receive a notice of each filing, rather than a Daily Summary Report, and the notices will be in html format for Netscape or ISP e-mail service. If you wish to alter these setting, you may do so. Please refer to the ECF User Manual for instructions.

Please also note that electronic mail filter software may interfere with receipt of the NEF. Verify that any such software installed on your computer or network will not filter out messages sent from: username@cod.uscourts.gov.

E-MAIL ADDRESSES:
Once we are live in ECF, you may add additional e-mail addresses at which you may receive notices. See the ECF User Manual for further instructions.

TRAINING:
Please check our website at www.cod.uscourts.gov under ELECTRONIC CASE FILING for information regarding the different types of training options available

regarding the different types of filing options available

ELECTRONIC CASE FILING PROCEDURES:

Please check our website at www.cod.uscourts.gov for the most current Electronic Case Filing Procedures (Civil Cases) and the ECF User Manual.

PLEASE DO NOT RESPOND TO THIS E-MAIL
AS IT IS AN UN-MONITORED ACCOUNT

Otus2005, Ag

Subject:	Declined: Updated: Senior Management Meeting
Start:	Monday, June 20, 2005 9:40 AM
End:	Monday, June 20, 2005 10:00 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag
Optional Attendees:	Gorsuch, Neil M

May be required to be in court on tobacco case. Neil Gorsuch will be attending regardless. Robt.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Sunday, June 19, 2005 7:11 PM
To: Cruden, John (ENRD)
Cc: Gorsuch, Neil M
Subject: RE:

Let's talk when you are back tomorrow but I think you would be better served with Neil doing it. Thanks for the vote of confidence and the support. ccing Neil. Robt.

-----Original Message-----
From: Cruden, John (ENRD)
Sent: Friday, June 17, 2005 3:33 PM
To: McCallum, Robert (SMO)
Subject: Re:

I am in charlottesville today as I will soon be speaking at uva law school to a group of professors.

I would still prefer to have you introduce me. Our relationship goes back to the beginning of this administration. And, one of the most memorable experience of my life was our train trip together to New York City after 9-11 to meet with city officials and visit the disaster site. I saw both your strength and compassion.

John

Sent from John Cruden's BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Cruden, John (ENRD) <John.Cruden@usdoj.gov>
Sent: Thu Jun 16 12:39:24 2005
Subject: RE:

I still have reservations and, with your permission, might try to see whether an appropriate person can sub in for me. Robt.

-----Original Message-----
From: Cruden, John (ENRD)
Sent: Thursday, June 16, 2005 12:19 PM
To: McCallum, Robert (SMO)
Subject: RE:

I will be honored to have you introduce me. I view all of the media issues through my personal knowledge of you as a man of integrity. I will go ahead and prepare the talking points for you and a draft letter for the AG as well. And, I hope you can bring your wife as this is a nice event. Thanks again. John

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Thursday, June 16, 2005 12:15 PM
To: Cruden, John (ENRD)
Subject: RE:

John: Given my current prominence in the media, you might want to reconsider my giving the intro remarks. Let me know what you think. I do think that a draft of a letter for the AG would increase the possibility of his doing it. Robt.

-----Original Message-----
From: Cruden, John (ENRD)
Sent: Tuesday, June 14, 2005 5:41 PM
To: McCallum, Robert (SMO)
Subject:

Robert

If you receive a letter from the DC bar inviting you to either buy a table or pay for the June 23d event, please disregard. You and your wife (if she can attend) will be guests of the bar. There is a reception beforehand to promote pro bono activities, but the real Dinner starts at 7:00. You are being put on the program now as the individual introducting me (which will occur about 8:30 pm).

As I promised, I will give you draft talking points. If you believe the AG is willing to have you read a letter from him at the event, I am also willing to draft something for him.

Thanks again for agreeing to do this. We expect about 400 people including the Chief Judges of the DC Courts.

John

Here is the letter being sent out by the current Bar President:

Please join me for the installation of John C. Cruden as the 34th President of the D.C. Bar at the 2005 Annual Business Meeting and Awards Dinner on Thursday, June 23, at the Capital Hilton, 16th & K Streets, NW, Washington, D.C. I will be honored to pass the ceremonial gavel to John at this time-honored D.C. Bar event, which will begin with a reception at 7:00 p.m., followed by dinner at 7:30 p.m.

This year we also will present the prestigious Justice William J. Brennan Jr. Award for Public Service to [redacted] for [redacted] contributions and expertise in the areas of poverty, welfare, juvenile justice, and constitutional law. We will also acknowledge the extraordinary work of individual Sections, committees, pro bono lawyers

and law firms, and others whose service to the Bar and the community deserves our special recognition.

We look forward to having you and your colleagues join us on this very special evening to salute outstanding members of our Bar. Tables of 10 can be purchased, at cost, for $900. To make your dinner reservation, please visit us online at www.dcbar.org/annual_meeting or use the enclosed flyer and return it with your check payable to the D.C. Bar by Thursday, June 16.

Sincerely,

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, June 19, 2005 8:05 PM
To: Kim, Wan (CRT)
Subject: Re: nomination.

Delighted to see it is official!!

-----Original Message-----
From: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Wiggins, Mike <Mike.Wiggins@SMOJMD.USDOJ.gov>
Sent: Sun Jun 19 19:45:26 2005
Subject: Re: nomination.

Many thanks, Robert. Very much look forward to continuing to work with you, the good Senate willing!

Best, Wan

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Wiggins, Mike <Mike.Wiggins@SMOJMD.USDOJ.gov>
Sent: Sun Jun 19 19:42:57 2005
Subject: FW: nomination.

Congrats!!!!! You will do a great job. Let me know if I can do anything to help in the confirmation process. Neil, Lou, Mike, and I look forward to working with you in this new role. Robt.

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Friday, June 17, 2005 4:25 PM
To: McCallum, Robert (SMO)
Subject: FW: nomination.

see below.

-----Original Message-----
From: Best, David T
Sent: Friday, June 17, 2005 4:10 PM
To: Long, Linda E; Gunn, Currie (SMO); Byrnes, Kathleen T; Ganter, Jonathan; Mahoney, Sherry A; Nichols, Grant W; Raymos, Joanne; Rodgers, Janice; Sampson, Kyle; Scott-Finan, Nancy

Nichols, Grant W; Raymos, Jeanne; Rodgers, Janice; Sampson, Kyle; Scott-Finan, Nancy
Cc: Macklin, Kristi R; Brand, Rachel
Subject: nomination.

Please be advised that yesterday, April 16, 2005, the President nominated Wan J. Kim, of Maryland, to be an Assistant Attorney General, vice Rene Acosta, resigned.

David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 20, 2005 7:30 AM
To: Yanes, Raul
Subject: RE:

I will find out where CIV is on this.

-----Original Message-----
From: Yanes, Raul
Sent: Monday, June 20, 2005 7:28 AM
To: Gorsuch, Neil M
Subject:

AG wants to get briefed on the ACLU lawsuit appellate issue. How soon can we arrange that, and who should attend? Thanks.

McCallum, Robert (SMO)

From:	McCallum, Robert (SMO)
Sent:	Monday, June 20, 2005 8:22 AM
To:	Gunn, Currie (SMO)
Cc:	Gorsuch, Neil M; Reyes, Luis (SMO)
Subject:	FW: Lawsuits & Liberty Conference - Draft Agenda and Logistical Information
Attachments:	tmp.htm; Logistics Memorandum to Participants.pdf

Currie: Here is the schedule for that Common Good conference. Luis: Please find out how many folks will be attending. Neil: This is another matter that I may need for you to take off my plate, but we shall see. I will likely go. Robt.

-----Original Message-----
From [redacted]@cgood.org [mailto[redacted]@cgood.org]
Sent: Thursday, June 16, 2005 4:22 PM
To: [redacted]@cgood.org
Cc: [redacted]@cov.com; [redacted]@cgood.org; [redacted]@cgood.org; [redacted]@cgood.org
Subject: Lawsuits & Liberty Conference - Draft Agenda and Logistical Information

Hello,

Thank you again for agreeing to participate in the "Lawsuits and Liberty" conference at the National Constitution Center on June 27th and 28th. We hope to have an interesting and productive discussion.

Please find the attached draft agenda and lineup, as well as logistical information for the conference. If you have any questions, comments, or need further information, please feel free to contact[redacted] at [redacted] or [redacted]@cgood.org, or me at [redacted] or [redacted]@cgood.org.

We look forward to seeing you in Philadelphia.

Best regards,

[redacted]

[redacted] Development Assistant | Common Good

v: [redacted] | f: [redacted]

[redacted]@cgood.org <mailto[redacted]@cgood.org>

COMMON GOOD™
RESTORING COMMON SENSE TO AMERICAN LAW
WWW.CGOOD.ORG

DATE: Thursday, June 16, 2005

TO: "Lawsuits and Liberty" Participants

FROM: [redacted]

RE: Conference Schedule and Logistics

Thank you again for agreeing to participate in the "Lawsuits and Liberty" conference at the National Constitution Center on June 27th and 28th. We hope to have an interesting and productive discussion.

As you can see from the draft agenda below, each panel will have one or more formal presentations. The panelists and moderators are not expected to make formal statements. Instead, we hope to have spontaneous give-and-take discussions.

The lineup presented below is tentative. Please let us know if you have different thoughts on the lineup, or if you would appreciate a warm-up discussion beforehand. We plan to distribute the conference papers before next weekend. Logistical information is included in this memorandum as well.

PRELIMINARY AGENDA

Monday, June 27

6:00 Cocktail reception at the National Constitution Center.

7:00 Welcome by [redacted] National Constitution Center.

7:05 Overview of Conference by [redacted] Common Good.

7:15 Introduction of [redacted] by Dolores K. Sloviter, Judge, U.S. Court of Appeals for the Third Circuit.

7:20 *The Social Cost of Tort Liability*, Keynote Address by [redacted]

8:00 Dinner at the National Constitution Center.

Tuesday, June 28

8:00 – 8:45 Informal breakfast at the National Constitution Center.

8:45 – 10:15 **Panel 1: The Historical Role of the Civil Justice System in American Society**

Moderator: John M. Walker, Jr., Chief Judge, U.S. Court of Appeals for the Second Circuit

Presentations: *The Modern Transformation of Civil Law* [redacted]

477 MADISON AVENUE 7TH FLOOR NEW YORK, NY 10022
T: 212.681.8199 F: 212.681.8221 E: HQ@CGOOD.ORG W: WWW.CGOOD.ORG

What the American Civil Justice System Once Was: What It Might Be Again

[redacted]

Panelists: [redacted]

TBA

10:30 – 12:00 **Panel 2: Has Distrust of the Civil Justice System Affected Daily Choices in Modern Society?**

Moderator: [redacted]

Presentations: *How Adversarial Legalism Affects Behavior*

[redacted]

Effects of Law on Healthcare

[redacted]

The Public's Perceptions: Presentation of Harris Poll Results and Other Polling Results

[redacted]

Panelists: Robert D. McCallum, Jr., Associate U.S. Attorney General

[redacted]

12:00 – 1:00 Lunch – Informal Discussion

1:00 – 2:30 **Panel 3: Law and Fact: The Role of Policy in Civil Justice**

Moderator: [redacted]

Presentation: *The Administrative Advantage in Civil Procedure: Tort Reform through Consistent and Intelligent Policies Applied by Administrative Tribunals*

[redacted]

DOJ_NMG_ 0144553

Panelists: [redacted]

2:45 – 4:15 **Panel 4: The Responsibility of Judges Versus Juries**

Moderator: Edith H. Jones, Judge, U.S. Court of Appeals for the Fifth Circuit

Presentation: *The Forgotten Goal of Civil Justice: A Foundation for Common Sense in Daily Life* [redacted]

Panelists: [redacted]

Dolores K. Sloviter, Judge, U.S. Court of Appeals for the Third Circuit [redacted]

LOGISTICAL INFORMATION

Event Information

All conference events will be at the National Constitution Center. The first event is a cocktail reception beginning at 6:00 PM on Monday evening and will take place on the second floor of the Constitution Center. Common Good staff will be on hand to direct you to all events. Also, for your convenience, you will have access to a green room adjacent to the auditorium on Tuesday to store your belongings or to take a break from the proceedings. The address for the National Constitution Center, and information regarding parking is as follows:

Address and Telephone

National Constitution Center
525 Arch Street, Independence Mall, Philadelphia, PA 19106
Toll Free: 866.917.1787

DOJ_NMG_ 0144554

Parking

Convenient parking for cars is available at the underground lots below the National Constitution Center (enter from Race Street) and at the Independence Visitor Center (enter from 5th or 6th Streets, between Arch and Market Streets).

Map of the National Constitution Center Area



Hotel Information

For those coming in from out of town, we have arranged for a hotel room in your name for the night of Monday, June 27th at The Omni Hotel at Independence Park. Check-in time is 4:00 PM, but rooms are guaranteed for later arrivals. The Omni is just three blocks south of the National Constitution Center. The address for The Omni and information regarding arrival by taxi is as follows:

Address and Telephone

The Omni Hotel at Independence Park, 401 Chestnut Street, Philadelphia, PA 19106
215.925.0000

Taxi Information

It is a flat fee of $25.00 for cab fare from the Philadelphia International Airport. Cab fare from 30th Street Station (Philadelphia's train station) is roughly $10.00.

DOJ_NMG_ 0144555

Map of The Omni Hotel Area



Reimbursement of Expenses

Upon the conference's completion, we will send you reimbursement forms for expenses you incur in attending the conference, as well as forms for your respective honorariums.

Common Good Staff Contact Information

If you have any questions or concerns at any time, please do not hesitate to bring them to our attention – particularly to Andrew Park, Sara Berg, or Eric Hauser, whose contact information is as follows:

[redacted]
Office Phone: [redacted]
Cell Phone: [redacted]
E-Mail: [redacted]@cgood.org

[redacted]
Office Phone: [redacted]
Cell Phone: [redacted]
E-Mail: [redacted]@cgood.org

[redacted]
Office Phone: [redacted]
Cell Phone: [redacted]
E-Mail: [redacted]@cgood.org

Hello,

Thank you again for agreeing to participate in the "Lawsuits and Liberty" conference at the National Constitution Center on June 27th and 28th. We hope to have an interesting and productive discussion.

Please find the attached draft agenda and lineup, as well as logistical information for the conference. If you have any questions, comments, or need further information, please feel free to contact [redacted] at [redacted] or [redacted]@cgood.org, or me at [redacted] or [redacted]@cgood.org.

We look forward to seeing you in Philadelphia.

Best regards,

[redacted]

[redacted] Development Assistant | Common Good
v: [redacted] | f [redacted]
[redacted]@cgood.org

Letter, Douglas (CIV)

From: Letter, Douglas (CIV)
Sent: Monday, June 20, 2005 8:24 AM
To: Reyes, Luis (SMO)
Cc: Gorsuch, Neil M
Subject: RE: New Principal Deputy Associate Attorney General

Luis and Neil:

I am sorry, but I completely messed up in not responding to this message. We were swamped last week with [redacted] and this just slipped my mind. Many apologies. Neil, welcome.

For the Monday meetings (which are at 4:00 pm), we do discuss classified material sometimes, but normally only at the Secret level. We obviously can avoid donig that if there is any problem before Neil gains a full clearance. The meetings are in a conference room in the 5200 corridor, on the 10th St side of the building -- I cannot recall the exact number, but I think it is around 5224. I will check. And, I will stop by Neil's office today to introduce myself -- is there a good time for me to drop in? Again, I apologize for failing to follow up sooner.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, June 14, 2005 1:53 PM
To: Letter, Douglas (CIV)
Cc: Gorsuch, Neil M
Subject: New Principal Deputy Associate Attorney General

Doug,
Hope all is well. Wanted to touch base with you and let you know that we have a new Principal Deputy Associate AG, Neil Gorsuch. Neil will be involved in the Monday afternoon meetings and in terrorism-related litigation matters overall for OASG. First thing's first, is there a particular level of clearance required to participate in the Monday afternoon meetings? Neil will have an interim clearance in short order, just wanted to double check with you. Next, where and exactly at what time are the Monday meetings? Maybe you could stop by Neil's office shortly before the next one for a quick introduction? (He is in Brian Boyle's old office). Thanks very much Doug. --Lou

Luis A. Reyes,
Chief of Staff and Deputy Associate Attorney General
Office of the Associate Attorney General
United States Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530
Phone: (202) 514-9500
Fax: (202) 514-0238
Email: Luis.A.Reyes@usdoj.gov

Gorsuch, Neil M

Subject:	5224 Terrorism Mtg Doug Letter
Start:	Monday, June 20, 2005 4:00 PM
End:	Monday, June 20, 2005 4:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 20, 2005 8:47 AM
To: Letter, Douglas (CIV); Reyes, Luis (SMO)
Subject: RE: New Principal Deputy Associate Attorney General

Doug, I look forward to meeting you and please feel free to drop by anytime convenient for you. Neil

-----Original Message-----
From: Letter, Douglas (CIV)
Sent: Monday, June 20, 2005 8:24 AM
To: Reyes, Luis (SMO)
Cc: Gorsuch, Neil M
Subject: RE: New Principal Deputy Associate Attorney General

Luis and Neil:

I am sorry, but I completely messed up in not responding to this message. We were swamped last week with [redacted], and this just slipped my mind. Many apologies. Neil, welcome.

For the Monday meetings (which are at 4:00 pm), we do discuss classified material sometimes, but normally only at the Secret level. We obviously can avoid donig that if there is any problem before Neil gains a full clearance. The meetings are in a conference room in the 5200 corridor, on the 10th St side of the building -- I cannot recall the exact number, but I think it is around 5224. I will check. And, I will stop by Neil's office today to introduce myself -- is there a good time for me to drop in? Again, I apologize for failing to follow up sooner.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, June 14, 2005 1:53 PM
To: Letter, Douglas (CIV)
Cc: Gorsuch, Neil M
Subject: New Principal Deputy Associate Attorney General

Doug,
Hope all is well. Wanted to touch base with you and let you know that we have a new Principal Deputy Associate AG, Neil Gorsuch. Neil will be involved in the Monday afternoon meetings and in terrorism-related litigation matters overall for OASG. First thing's first, is there a particular level of clearance required to participate in the Monday afternoon meetings? Neil will have an interim clearance in short order, just wanted to double check with you. Next, where and exactly at what time are the Monday meetings? Maybe you could stop by Neil's office shortly before the next one for a quick introduction? (He is in Brian Boyle's old office). Thanks very much Doug. --Lou

Luis A. Reyes,
Chief of Staff and Deputy Associate Attorney General
Office of the Associate Attorney General
United States Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530
Phone: (202) 514-9500
Fax: (202) 514-0238
Email: Luis.A.Reyes@usdoj.gov

_____

Sours, Raquel

Subject:	Updated: Senior Management Meeting
Start:	Tuesday, June 21, 2005 8:40 AM
End:	Tuesday, June 21, 2005 9:00 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Rosenberg, Chuck; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)
Optional Attendees:	Rosenberg, Chuck (TXS)

When: Tuesday, June 21, 2005 8:40 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Chuck Rosenberg, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Sours, Raquel

Subject:	Updated: Component Coordination Meeting
Start:	Tuesday, June 21, 2005 9:00 AM
End:	Tuesday, June 21, 2005 9:20 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)
Optional Attendees:	Rosenberg, Chuck (TXS)

When: Tuesday, June 21, 2005 9:00 AM-9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Chuck Rosenberg, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 20, 2005 10:59 AM
To: McCallum, Robert (SMO)
Cc: Wiggins, Mike; Reyes, Luis (SMO)
Subject: RE: Civ meeting at 11

Will do

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, June 20, 2005 10:58 AM
To: Gorsuch, Neil M
Cc: Wiggins, Mike; Reyes, Luis (SMO)
Subject: Civ meeting at 11

Please chair the CIV meeting as we are stuck in our meeting out of the office. Robt.

Otus2005, Ag

Subject:	Updated: PREP: Off-Site Exercise
Start:	Monday, June 20, 2005 4:50 PM
End:	Monday, June 20, 2005 5:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Taylor, Jeffrey (OAG); Ullyot, Theodore; Ferber, Alan L; Kendrall, Joan B; Dunlap, James L; Vasaio, Tony; JCC; Mercer, Bill (ODAG); Comey, James (ODAG); Gorsuch, Neil M; McCallum, Robert (SMO); McAtamney, James A; Wiggins, Mike

Command Center Conference Room
DOJ: Jeff Taylor, Ted Ullyot, Alan Ferber, James Dunlap, Tony Vasaio, Bill Mercer, James McAtamney, Robert McCallum, Neil Gorsuch, Mike Wiggins
AO: Jeff Taylor

[redacted]@blm.gov

From: [redacted]@blm.gov
Sent: Monday, June 20, 2005 4:00 PM
Subject: Invitation to McInnis Canyons NCA Dedication Event
Attachments: pic10893.jpg

Dear Friends,

You are invited to help celebrate the Dedication of McInnis Canyons National Conservation Area (MCNCA) on Thursday, June 23. Secretary of the Interior Gale Norton and former Congressman Scott McInnis will be keynote speakers at the Dedication. Scott will also introduce the newly formed â?? Friends of McInnis Canyons National Conservation Area,â?? the non-profit corporation established to assist the Bureau of Land Management in strengthening community stewardship.

Establishment of a Friends group has been a longtime goal for the NCA, and I am very pleased that the Dedication will also be their public debut. The mission statement of the Friends is an excellent fit with the goals that BLM and the community established for the NCA: â??The Friends of McInnis Canyons NCA is committed to enhancing personal and community stewardship of natural, recreational, cultural and heritage resources on public lands encompassing the McInnis Canyons National Conservation Area.â??

The Dedication will take place at the Devils Canyon Trailhead, beginning promptly at 9 a.m., and BLM Rangers will be on hand to assist visitors with parking. The Dedication will take place at the Devils Canyon Kiosk, a short Â¼-mile hike from the trailhead, and should last no more than 30 minutes.

To summarize:

What: Dedication of McInnis Canyons National Conservation Area
Where: Devils Canyon Trailhead Kiosk (just west of Kings View Estates)
When: 9 a.m., Thursday, June 23 (please arrive early to allow for parking and a brief walk to the Dedication site)

No RSVP is required. I look forward to seeing you there.

Sincerely,

(Embedded image moved to file: pic10893.jpg)

[redacted]

[redacted]
MCNCA Manager

[redacted] Public Affairs Specialist
[redacted] Grand Junction, CO 81506
T [redacted]
F 970.244.3152

[redacted]

Tyler, Joyce Y (CRT)

From:	Tyler, Joyce Y (CRT)
Sent:	Monday, June 20, 2005 4:00 PM
To:	Davis, Deborah J; Fowler, Liane (SMO); Gorsuch, Neil M; Henderson, George; Martinez, Jorge (OPA); Scott-Finan, Nancy; Shaw, Aloma A; Torchinsky, Jason (CRT)
Subject:	Civil Rights Weekly Report for Week Ending 6/17/2005
Attachments:	week621.doc

June 21, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Bradley J. Schlozman
Acting Assistant Attorney General

SUBJECT: Weekly Report[1] for the Week ending June 17, 2005

NEXT WEEK

- No entries this period.

THIS WEEK

- **Sentencing Scheduled in California Human Trafficking Case:** On June 20th, in *United States v. Valle-Maldonado, et al.* (C.D. Cal.), defendant Javier Sandoval-Garcia is scheduled to be sentenced for his guilty plea to violating 18 U.S.C. § 371 (conspiracy), two counts of 8 U.S.C. § 1328 (importation into the U.S. for purposes of prostitution) and 8 U.S.C. § 1324 (transporting an illegal alien). Between August 2003 and March 2004, the defendant and his confederates arranged for women, including two minors, to be smuggled into the United States from Mexico to work as prostitutes at the defendants' homes and at massage parlors throughout the Los Angeles area. Valle-Maldonado threatened some of the women that if they stopped working for her, Valle-Maldonado's sister in Mexico would harm the women's relatives in Mexico.

- **Sentencing Scheduled in Hawaii Involuntary Servitude Case:** On June 22nd, sentencing is scheduled to occur in *United States v. Lee* (D. Haw.). On February 21, 2003, defendant Kil Soo Lee, the Korean owner of a sweatshop in the Territory of American Samoa, was convicted of conspiracy to violate the civil rights of the workers (18 U.S.C. § 241), eleven counts of involuntary servitude (18 U.S.C. § 1584), one count of extortion (18 U.S.C. § 1951) and one count of money

[1]This report is an internal document that is not intended for distribution outside of the Department of Justice.

laundering (18 U.S.C. § 1956). The defendant and co-defendants held Vietnamese factory workers who were brought to American Samoa, to work as sewing machine operators in the Daewoosa Samoa garment factory in involuntary servitude. The workers were deprived of food, beaten and physically restrained in order to force them to work.

- **Sentencing Scheduled in Texas Bias Motivated Crimes Case:** On June 22nd, sentencing is scheduled to occur in *United States v. Nunez-Flores* (W.D. Tex.). On March 22, defendant Antonio Nunez-Flores entered a guilty plea to violating 18 U.S.C. § 247 (damage to religious property), and 18 U.S.C. § 844(h) (malicious damage and use of an explosive in the commission of a felony). Defendant Nunez-Flores admitted that he threw a Molotov cocktail at the Islamic Center of El Paso and placed a second, similar device near a gas meter on the Center's property.

LAST WEEK

- **Indictment Returned in Colorado Involuntary Servitude Case:** On June 10th, a federal grand jury returned a four count indictment in *United States v. Al-Turki and Khonaizan* (D. Colo.), charging defendants Homaidan Al-Turki and Sarah Khonaizan with violations of 18 U.S.C. § 1589 and § 1594 (forced labor and attempted forced labor), 18 U.S.C. § 1592 (document servitude), 8 U.S.C. § 1324 (harboring an alien). The defendants allegedly brought the victim, an Indonesian woman, to the United States to continue working for them as a domestic servant. During the next four years while in the United States, the victim was forced to work excessive hours for little or no pay, was not allowed to leave the house, and was subjected to repeated sexual assaults by defendant Al-Turki. Additionally, the victim's passport was seized and her visa was allowed to lapse, after which the defendants threatened her with deportation.

- **Sentencing in Oregon Bias Motivated Crime Case:** On June 13th, in *United States v. Sigley and Smith* (D. Ore.), defendant Steven Hale Smith was sentenced to 6 months home detention, 40 hours community service, and 3 years probation for his guilty plea to violating 18 U.S.C. § 247 (damage to religious property). On May 2nd, co-defendant Sean Andrew Sigley was sentenced to 12 months in prison for his guilty plea to violating one count of 18 U.S.C. § 241 (conspiracy). On May 24, 2003, the defendants spray painted swastikas and hate messages on pillars and other parts of the Congregation Shaarie Torah Cemetery.

- **Division Contacts Georgia to Resolve School Desegregation Cases:** On June 13th, the Division sent a letter to the Attorney General and Superintendent of Education of the State of Georgia requesting to meet with them to discuss ways of working together to resolve the current school desegregation cases in the State.

This is the Division's second letter to the State and it was prompted in part by the U.S. District Court for the Middle District of Georgia asking the Division to move the cases in the judicial district toward closure.

- **Complaint Filed in New York Fair Housing Act and RLUIPA Case:** On June 10th, the United States Attorney's Office for the Southern District of New York filed a complaint in *United States v. Village of Airmont, et al.* (S.D.N.Y.) alleging that the Village of Airmont, New York, unlawfully discriminates on the basis of religion, in violation of the Religious Land Use and Institutionalized Persons Act ("RLUIPA") and the Fair Housing Act ("FHA") by maintaining a zoning code that prevents religious boarding schools from operating anywhere in the Village. The Complaint follows the Airmont's Planning Board denial of Congregation Mischknois Lavier Yakov's application to build a religious school, citing the zoning code's blanket prohibition against any residential student housing. The Complaint alleges that Airmont's ban on boarding schools and the treatment of Congregation Mischknois Lavier Yakov's application to build a religious boarding school amount to intentional discrimination in violation of both the FHA and RLUIPA Section 2(b)(2).

LONG RANGE EVENTS

- No entries this period.

Division Contact: Jason Torchinsky -- 202/305-1873

Sours, Raquel

Subject:	Updated: Component Coordination Meeting
Start:	Thursday, June 30, 2005 9:05 AM
End:	Thursday, June 30, 2005 9:25 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)

When: Thursday, June 30, 2005 9:05 AM-9:25 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Chuck Rosenberg, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Monday, June 20, 2005 4:36 PM
To: Hart, Sarah V.
Cc: Schofield, Regina; Herraiz, Domingo S.
Subject: body armor

Sarah:
Wanted to check the current status of the most recent round of body armor testing and the anticipated timing of the report being available for review. Please let me know as soon as possible. Also, I hope that you and Domingo have continued to discuss or given thought to what the Department should say in response to the findings. Finally, please let me know your proposed plan for dissemination of the information. OPA and OIPL will want to know and have opportunity to review and comment.

Thanks in advance.
Tracy

Beach, Andrew

Subject:	Updated: DOD Briefing
Start:	Tuesday, June 21, 2005 3:10 PM
End:	Tuesday, June 21, 2005 3:40 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Gorsuch, Neil M

When: Tuesday, June 21, 2005 3:10 PM-3:40 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Office
DOJ: Raul Yanes, Neil Gorsuch, Mike Wiggins, [redacted] (DOD)

Sampson, Kyle

From: Sampson, Kyle
Sent: Monday, June 20, 2005 5:20 PM
To: Gorsuch, Neil M
Subject: POTUS/Ehrlich meeting

9:30am on Wednesday.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 20, 2005 5:25 PM
To: Sampson, Kyle
Subject: RE: POTUS/Ehrlich meeting

thks

-----Original Message-----
From: Sampson, Kyle
Sent: Monday, June 20, 2005 5:20 PM
To: Gorsuch, Neil M
Subject: POTUS/Ehrlich meeting

9:30am on Wednesday.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, June 20, 2005 5:25 PM
To: Gorsuch, Neil M
Cc: Wiggins, Mike; Reyes, Luis (SMO)
Subject: FW: Got your voicemail
Attachments: tmp.htm

Keep Neil in this loop. Robt.

-----Original Message-----
From: Wiggins, Mike
Sent: Monday, June 20, 2005 10:01 AM
To: McCallum, Robert (SMO)
Cc: Reyes, Luis (SMO)
Subject: FW: Got your voicemail

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, June 17, 2005 5:32 PM
To: Wiggins, Mike
Subject: Got your voicemail

We will have our appeal recommendation to you next week. Have a great weekend.

We will have our appeal recommendation to you next week. Have a great weekend.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 20, 2005 5:49 PM
To: Shaw, Aloma A
Subject: RE: Leave

[redacted]

-----Original Message-----
From: Shaw, Aloma A
Sent: Monday, June 20, 2005 11:33 AM
To: Cinciotta, Linda A; Wiggins, Mike; Kant, Deborah (SMO); Gorsuch, Neil M
Subject: Leave

All:

I will be out of the office tomorrow [redacted]. Also, I am out of the office [redacted] starting June 27 thru July 8.

Aloma

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 20, 2005 6:10 PM
To: Sampson, Kyle
Subject: RE: POTUS/Ehrlich meeting

please could you call me? Robert has a thought on this I'd like to share. 51434

-----Original Message-----
From: Sampson, Kyle
Sent: Monday, June 20, 2005 5:20 PM
To: Gorsuch, Neil M
Subject: POTUS/Ehrlich meeting

9:30am on Wednesday.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 20, 2005 6:25 PM
To: Katsas, Gregory (CIV)
Subject: RE: tomorrow

How about grabbing a late lunch circa 1pm?

-----Original Message-----
From: Katsas, Gregory (CIV)
Sent: Monday, June 20, 2005 6:19 PM
To: Gorsuch, Neil M
Subject: tomorrow

I'm free any time except from 9:45 to 10:30.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 20, 2005 6:27 PM
To: [redacted]@blm.gov'
Subject: RE: Invitation to McInnis Canyons NCA Dedication Event

I'd much rather be in glorious Colorado than here in DC! Please send the Congressman my congratulations! And good for BLM to recognize his outstanding contributions to this country.

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W. Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: [redacted]@blm.gov [mailto:[redacted]@blm.gov]
Sent: Monday, June 20, 2005 4:00 PM
Subject: Invitation to McInnis Canyons NCA Dedication Event

Dear Friends,

You are invited to help celebrate the Dedication of McInnis Canyons National Conservation Area (MCNCA) on Thursday, June 23. Secretary of the Interior Gale Norton and former Congressman Scott McInnis will be keynote speakers at the Dedication. Scott will also introduce the newly formed â?? Friends of McInnis Canyons National Conservation Area,â?? the non-profit corporation established to assist the Bureau of Land Management in strengthening community stewardship.

Establishment of a Friends group has been a longtime goal for the NCA, and I am very pleased that the Dedication will also be their public debut. The mission statement of the Friends is an excellent fit with the goals that BLM and the community established for the NCA: â??The Friends of McInnis Canyons NCA is committed to enhancing personal and community stewardship of natural, recreational, cultural and heritage resources on public lands encompassing the McInnis Canyons National Conservation Area.â??

The Dedication will take place at the Devils Canyon Trailhead, beginning promptly at 9 a.m., and BLM Rangers will be on hand to assist visitors with parking. The Dedication will take place at the Devils Canyon Kiosk, a short Â¼-mile hike from the trailhead, and should last no more than 30 minutes.

To summarize:

What: Dedication of McInnis Canyons National Conservation Area
Where: Devils Canyon Trailhead Kiosk (just west of Kings View Estates)
When: 9 a.m., Thursday, June 23 (please arrive early to allow for parking and a brief walk to the Dedication site)

No RSVP is required. I look forward to seeing you there.

Sincerely,

(Embedded image moved to file: pic10893.jpg)

[redacted]

[redacted] Public Affairs Specialist
2815 H Rd., Grand Junction, CO 81506
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 20, 2005 6:58 PM
To: McCallum, Robert (SMO)
Subject: RE: Lawsuits & Liberty Conference - Draft Agenda and Logistical Information

I hope you do go -- it looks like a very interesting panel on a timely issue I know you and I both care about a lot. Still, if you need me to go, I'd obviously be delighted. It's kind of you even to consider me.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, June 20, 2005 8:22 AM
To: Gunn, Currie (SMO)
Cc: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: FW: Lawsuits & Liberty Conference - Draft Agenda and Logistical Information

Currie: Here is the schedule for that Common Good conference. Luis: Please find out how many folks will be attending. Neil: This is another matter that I may need for you to take off my plate, but we shall see. I will likely go. Robt.

-----Original Message-----
From: [redacted]@cgood.org [mailto:[redacted]@cgood.org]
Sent: Thursday, June 16, 2005 4:22 PM
To: [redacted]@cgood.org
Cc: [redacted]@cov.com; [redacted]@cgood.org; [redacted]@cgood.org; [redacted]@cgood.org
Subject: Lawsuits & Liberty Conference - Draft Agenda and Logistical Information

Hello,

Thank you again for agreeing to participate in the "Lawsuits and Liberty" conference at the National Constitution Center on June 27th and 28th. We hope to have an interesting and productive discussion.

Please find the attached draft agenda and lineup, as well as logistical information for the conference. If you have any questions, comments, or need further information, please feel free to contact [redacted] at [redacted] or [redacted]@cgood.org, or me at [redacted] or [redacted]@cgood.org.

We look forward to seeing you in Philadelphia.

Best regards,

[redacted]

[redacted] | Common Good

v: [redacted] | f: [redacted]

[redacted]@cgood.org <mailto:[redacted]@cgood.org>

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Monday, June 20, 2005 6:59 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M; Gunn, Currie (SMO); Shaw, Aloma A
Subject: fyi: Neil will be doing the Common Good event in Philly

Can cancel this from RDM calendar.

Will get Neil logistics and prep.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, June 20, 2005 8:19 PM
To: Gorsuch, Neil M
Subject: Fw: Draft AG Letter
Attachments: #35869-v1-wash_lawyer_june_2005_interview.DOC

Letjs talk about this tomorrow am. Robt.

-----Original Message-----
From: Cruden, John (ENRD) <John.Cruden@usdoj.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Mon Jun 20 19:59:56 2005
Subject: Draft AG Letter

Robert - thankyou again for trying to get this in front of the AG. If he would sign, then it could be read Thursday night. I addressed it to the Chief Judge as she will give me the oath of office, but it could have been addressed to anyone. I have also attached at the end of this e mail the interview of me that the Washington Lawyer just published. The one amusing thing in that interview that everyone has pointed out is that I took my LSAT in Saigon.

[redacted] Good luck on all of the tobacco litigation issues. Best. John

The Honorable Annice M. Wagner
Chief Judge
District of Columbia Court of Appeals
500 Indiana Avenue, N.W.
Washington, D.C. 20001

Dear Chief Judge Wagner:

I understand that you will soon be swearing in John C Cruden to be President of the D.C. Bar. Although I was unable to come today and introduce John, I want you to know how proud all of the Department of Justice is to have John be the first government attorney to b serve as President of the D.C. Bar.

Those of you who know John are aware of his extraordinary accomplishments. A West Point Graduate, he first served in airborne, ranger, and Special Forces units in Germany and Vietnam before attending law school. After graduating summa cum laude from law school and clerking on the California Supreme Court, John attending the Army's Judge Advocate General's Graduate Course where he was selected outstanding graduate and simultaneously received his Masters in Government and Foreign Relations from the University of Virginia. His subsequent military assignments including being Chief of the Litigation Branch in Europe; General Counsel of the Defense Nuclear Agency; and the senior military attorney for a large jurisdiction in Germany. His last assignment in the military was as Chief Legislative Counsel of the Army, where he was awarded the Legion of Merit.

In the Department of Justice, John was named the Chief, Environmental Enforcement Section in 1991 where he led one of the largest litigating groups in the Department, supervising over 150 attorneys with nation-wide responsibilities to enforce the nation's environmental laws. Following a number of highly successful years, including his own accomplishments in the court room, John was selected as the career Deputy Assistant Attorney General for the Division. In that capacity he is responsible for all environmental litigation brought for or against the United States in federal district courts across the nation. For his work, John has been recognized a number of times as being one of the leading environmental litigators in the nations. You only need to search his name in the Westlaw index to find the large number of published cases in which he has played a key role.

At the beginning of this administration, John served as the Acting Assistant Attorney General from 2001 to 2002. Since that time, he has twice led the Environment and Natural Resources Division to the best years in their history in bringing successful enforcement cases, resulting in exceptional environmental results. For his great accomplishments during that time period, John was given the prestigious Presidential Rank Award and designated as a Distinguished Executive by President Bush. He is one of the few career attorneys to have received that award twice, by two successive Presidents.

Many of you also know that John has also promoted attorney professionalism and service. He is a frequent pro bono volunteer and has long encouraged others to provide legal service to the poor and disadvantaged. He has supported DC schools, and just last year lectured and participated in unique programs in Anacostia High School and Howard Law School. And, he is a swim coach in a Special Olympics program that has been quite successful. I would also be remiss if I did not point out that he [redacted]

I believe John will be an outstanding President and will well serve the over 80,000 members of the District of Columbia bar. We are proud of him and impressed that your Bar was wise enough to elect him as your leader.

Chief Justice Wagner, it gives me a great deal of personal pleasure to commend John Cruden to you and I highly recommend that you give him the oath of office.

Sincerely,

AG Signature block

Washington Lawyer > [redacted]ne 2005

Feature
Meet the President: [redacted] C. Cruden
Interview by Kathryn Alfisi
Photographs by Patrice Gilbert

[redacted] C. Cruden will begin [redacted] term as [redacted] D.C. Bar on [redacted]ne 23. Cruden is a senior official at the Department of [redacted]stice, serving as the career deputy assistant attorney general of the Environment and Natural Resources Division. [redacted] will be the first government attorney to serve as Bar president.

Prior to joining the Department of [redacted]stice in 1991, Cruden had a distinguished career in the military, serving as a criminal prosecutor, head of civil litigation in Europe, an agency general counsel, a staff judge advocate, and ultimately chief legislative counsel of the Army.

[redacted] is a West Point graduate. [redacted] received [redacted] law degree from the University of Santa Clara School of Law and master's degrees in government and foreign relations from the Woodrow Wilson School at the University of Virginia.

Where did you grow up?
I grew up in a small town in Michigan, which was then known as Taylor Township. It was one of the suburban communities around Detroit that sprung up before World War II when the auto industry dramatically increased and workers from across the United States were attracted to the promise of a job paying five dollars a day. [redacted]. It was a very nice childhood in a small town where people knew and depended upon each other.

What were your parents like?
I never knew my birth parents, as I was adopted when I was quite young. I was born in Kansas, and the family lore is that the birth mother was an unwed teenager. After my birth I apparently stayed in a Florence Crittenton home in Topeka until, as my aunt tells it, [redacted] received a call one day from a judge [redacted] knew who was aware that my parents wanted to adopt a child. After [redacted] agreed, I was immediately delivered to [redacted] by several court employees. My adopted parents then drove from Michigan to Kansas to pick me up, but it was months until they had an accurate birth certificate. My father was a Scottish immigrant and my mother's family was from Slovenia. They were wonderfully loving and supportive parents.

Growing up, did you have ambitions to become a lawyer?

DOJ_NMG_ 0144590

Not immediately. I had illusions of grandeur about becoming a professional basketball player, but despite endless hours of practice and playing on a few teams, I found I clearly lacked both height and talent. I didn't really develop an interest in the law until my time at West Point. While there I had several law classes that really sparked an interest. Later on, in my first assignment after West Point, I took additional law classes in the evening and became committed to becoming an attorney.

Why did you attend West Point?
Although my family was quite supportive, because I was the first person in my family to go to college, [redacted] had very little money. I received an academic and track scholarship from the University of Michigan, but it wasn't going to pay all of my expenses, so my track coach suggested that I consider a military academy. I then went through the process of applying to West Point, which included academic and physical requirements, but also required a congressional nomination. I was probably fortunate in that regard because I had been a speaker at an Eagle Awards banquet where I met the Michigan governor and [redacted] chief of staff and they supported me to obtain the necessary nomination.

Did you enjoy West Point?
It was an enormously challenging and exhilarating experience. Here I was, from a small town with absolutely no military experience, suddenly thrust into an intense military environment with a thousand other young people from across the United States and a number of foreign countries. It was very demanding physically and mentally, but I'm a better person for the experience.

My classmates from that time are still quite important to me. On my office wall right now is an original print by Paul R. Martin III depicting central West Point with a part of the Vietnam Veterans Memorial wall that includes the names of my 23 friends and classmates who died during that unfortunate war, including my roommate and debate partner, whose image is superimposed on the scene. It is entitled "Bond of Brothers."

How did you become interested in law at West Point?
West Point had a mandatory engineering curriculum then, but you could take a small number of electives each semester. The lead instructor in national security matters at that time was a very talented major named [redacted]. [redacted] had been a Rhodes scholar and a Heisman Trophy winner, and [redacted] all adored [redacted]. [redacted] was an absolutely excellent professor who taught us during the day and invited us into [redacted] home in the evening to talk about world events. [redacted] not only inspired me about the courses [redacted] taught, but also encouraged me in my interest in the law. I always thought [redacted] was a great example of what teachers can do to motivate and encourage young people.

What did you do after graduating from West Point?
The first, and best, thing that I did was to [redacted]

DOJ_NMG_ 0144591

[redacted]. After that I attended a bevy of military schools, including airborne, ranger, and jumpmaster training at Fort Benning, Georgia. From there I went to my first assignment, to a unique airborne unit located at Mainz, Germany.

When did you go to Vietnam?
I went directly from Germany to Vietnam, arriving there in early 1970. My first assignment was as the senior U.S. officer in a Vietnamese ranger battalion, and then later I transferred to the Special Forces. I'm still in contact with the Vietnamese officer I worked with, [redacted]. For my service in Vietnam, I received a number of awards, including the Bronze Star and the Vietnamese Cross of Gallantry with Silver Star.

You took your LSAT in Saigon.
Yes. While still in Vietnam I decided I wanted to go to law school and learned, for the first time, that you had to take the LSAT in order to do that. I then learned there was going to be one offered in the spring of 1971 in Saigon.

What was it like taking the LSAT in Saigon?
The process was quite amusing. They required that everyone check their guns at the door and then passed out pencils for the test. A helicopter was waiting to transport individuals back to their unit when they finished. By the time I received the LSAT results, almost all of the law schools had stopped accepting applications. In fact, there were only two that were still accepting applications: Georgetown and Santa Clara. I applied to both and they accepted me. I went to Santa Clara because they have a wonderful clinic program, but to this day I'm enormously grateful to Georgetown and Santa Clara for accepting me, because if not for them I would have had to go to another military assignment.

How was the adjustment of going from Vietnam to law school?
As you can imagine, going from Saigon immediately to the Bay Area of California was quite a switch. There's a certain decompression period that you go through, but I had a month or two before law school started. As I was on a leave of absence without pay from the Army, [redacted] also needed some income. [redacted] I found this big apartment complex that [redacted] agreed to manage in exchange for free rent. We did that for three years, during which time [redacted].

Did you enjoy law school?
Yes, absolutely. It was everything I had hoped it would be. Again, it was because of excellent professors, people like [redacted], a great constitutional scholar; Professor Jerry Kasner, who recently died; and [redacted], whom I served as a teaching assistant. They gave you a sense of the higher calling of the legal profession. They instilled in us responsibility

DOJ_NMG_ 0144592

to the disadvantaged and the poor, to do more for others than our daily practice, and to make sure that the rule of law was advanced in every aspect of our professional life. Law school made me really proud of the profession and gave me a heightened sense of responsibility to public and private service.

Did you like Santa Clara Law?
It was a great school with a very diverse and talented student body united in a commitment to community improvement, equal protection, and the advancement of the rights of minorities. During that time I also worked as a public defender, supervised in a joint clinic between Stanford and Santa Clara. Interestingly enough, my supervising attorney in the program was [redacted], but who later became [redacted] became a friend and mentor. I was also fortunate enough to have a managing position in our law review and made excellent friends.

Then I clerked for Justice Stanley Mosk of the California Supreme Court, a wonderful professional who befriended me, taught me, and encouraged me in my career the rest of his life. He had me write in many of the speeches I drafted for him that "the California Supreme Court is to state supreme courts as UCLA is to basketball." Basketball aficionados will recognize this time as the [redacted] Wooden era at UCLA, so that phrase had a lot of significance. It was a truly superb state supreme court, led by legal giants.

What did you do after graduating from law school?
I knew I was going to go back in the military because my leave of absence also required more time in the military. What I didn't know is that the military had their own graduate law program at Charlottesville, Virginia. I went there, and it was a good family experience because [redacted] I pursued a dual master's at both the Army's school and the Woodrow Wilson School of Government Affairs. After [redacted] both graduated, I went to Germany as a prosecutor, which gave me an extraordinary amount of trial practice, much of it with juries. Later I became the chief of civil litigation for Germany and moved to Heidelberg, where I also became the equivalent of a general counsel for the intelligence community, traveling frequently to Bonn, Berlin, and Munich.

You returned to the University of Virginia later in your career.
Yes. First, to obtain my master's in government and foreign relations and later to teach civil litigation, national security law, and some environmental law. The master's degree was important because I was pretty confident that my career would include a significant amount of international law and foreign relations.
Ultimately, I lived overseas for seven years of my life in several different places. Just last week I was in Morocco leading the Department of Justice's delegation at an international environmental conference, and last year I was invited to attend the judicial conference of all environmental

judges in Central and South America and give a series of lectures about litigating complex environmental matters. Each of these experiences, by the way, has made me even more proud of our independent judiciary that other countries are still trying to emulate.

You finished your military legal career as the chief legislative counsel of the Army. What did you do between your time in Germany as prosecutor and when you assumed that position as chief legislative counsel?
After Germany I returned to the United States and became a civil litigator in the Pentagon. I then went on a special assignment as the trial lawyer for the general counsel of the Department of Defense, and then became the general counsel of the Defense Nuclear Agency.

After my general counsel position, I taught at the Army's graduate school in Charlottesville, leading their largest division. From Charlottesville [redacted] moved to Frankfurt, Germany, where I became the lead attorney and staff judge advocate for all national and international legal matters for a large geographic jurisdiction that extended to the Holland border and included a main office in Frankfurt and four satellite offices.

What did you do as chief legislative counsel of the Army?
My office was responsible for all interaction with Congress, particularly the Armed Services committees, including hearings, legislation, and constituent requests. I also ran all the confirmations of political appointees for the Army, which gave me some interesting insights into the political process. It was an active, time-consuming, detail-oriented position where personal reputation and integrity meant a lot.

One interesting case was an unusual representation I did of a military officer where the tribunal convened in El Salvador under very difficult circumstances. You may recall there was a horrible murder of six Jesuit priests in El Salvador that received quite a bit of press attention in the early 1990s. While there was great suspicion that some members of the local government or military were involved, there was no proof. We then learned that a U.S. Special Forces major had information from a very senior Salvadoran official, whom [redacted] was advising, about the identity of the ringleader. After interviewing the major, and advising senior officials in both the Congress and the Pentagon, I represented the major in a grand jury investigation in El Salvador. Because of the danger, a Special Forces team met us at the airport and accompanied us to the ambassador's house, where the grand jury took place. It was, however, quite different from our practice, since it was really a mini-trial with attorneys representing both the Salvadoran government and identified officials. Subsequently, the commander of the military school in El Salvador was tried and jailed for the murders.

Why did you leave the military to work for the Department of Justice?
I left the Army because the DOJ gave me an offer I could not refuse. I had previously worked at the DOJ for one year as a special counsel to the assistant attorney general in the civil division, litigating drug enforcement and national security matters. The leadership of the environment

DOJ_NMG_ 0144594

division knew me and selected me to be the chief of the environmental enforcement section, a truly wonderful position. The section has 260 people including 160 lawyers, with nationwide responsibility for enforcing federal environmental laws. After four years in that position, I was chosen to be career deputy assistant attorney general for the division, and currently supervise the environmental enforcement and environmental defense sections. In that capacity I oversee all federal environmental civil litigation in federal courts that involve the United States.

When did you become involved in environmental law?
Much of environmental law as we know it today started in 1970 with the explosion of pollution abatement statutes, the original Earth Day, and the creation of the Environmental Protection Agency. My own involvement started in the seventies as I became involved in the implementation and litigation of the National Environmental Policy Act. One of the original environmental cases I litigated involved a very important military project in then West Berlin, which received a lot of press attention because I deposed the governing mayor of West Berlin and a key senator. The case ended up in a special tribunal, located in West Berlin, which was then considering an airplane hijacking case. The government attorneys from that litigation, all admitted to the Berlin court, formed the Berlin Bar, and we still meet annually.

Later, when I was general counsel of the Defense Nuclear Agency, I had significant environmental responsibilities for the environmental cleanup of the Enewetak Atoll in the Marshall Islands. Unlike other such cleanups, that has been a complete success, and I participated in the negotiations that led to the return of the Enewetak natives to newly constructed housing. Later, as chief legislative counsel of the Army, I established the very first environmental counsel position in that office. Also, when I was at the University of Virginia, I wrote part of a book about environmental law. Now I'm completely involved in litigating environmental matters, and supervising environmental attorneys. I remain completely committed to advancing and improving the environment of the United States and it remains my legal passion.

What are some of the well-publicized environmental cases you have been involved with?
I was involved in the Exxon and Love Canal cases, which understandably had a great deal of publicity and attention, but some of the other cases have actually been more environmentally significant. The settlements we did with some of the auto manufacturers—General Motors, Toyota, and Honda—were quite important. In addition, I was involved in a series of cases against all of the diesel truck manufacturers in the United States, which resulted in significant environmental improvement. More recently, I have been involved in significant actions involving the Clean Air Act and have led negotiating teams on a variety of important cases. I also now believe there are over a hundred reported cases in which I either have personally litigated or was part of the litigating team.

Which cases have been the most interesting?

DOJ_NMG_ 0144595

That's not an easy question to answer because I have had quite a few, so I will answer with two cases that feature environmental justice issues.

Last year at the Bar's awards dinner another man I admire, [redacted], received an award for [redacted] law school's groundbreaking work in [redacted]. I talked to [redacted] afterwards because in [redacted] speech [redacted] spoke eloquently about one of the new civil rights areas of environmental justice. I asked [redacted] if [redacted] would be interested in hosting an environmental law course at Howard. [redacted] agreed and [redacted] have, over the course of last year, developed a pro bono environmental justice course taught by four members of the D.C. Bar.

When I went to the [redacted] as a guest lecturer, I spoke about one particular case in which the department sued the city of New Orleans for violations of the Clean Water Act. In the process of negotiating a multi-million-dollar cleanup project to correct the historic sewer problems, we also agreed to a specific project to help the local citizens. As part of the judicially approved consent decree, the parties agreed to restore Lincoln Beach, a historically segregated beach that had been closed years before because of pollution resulting from the city's sewer problems. The city has reopened the beach and it is now available to all the citizens of New Orleans.

The second case is quite recent and involves the District of Columbia. The department brought a lawsuit to correct historic sewer overflow problems. We were concerned that in heavy rainfall the existing infrastructure could not handle all of the wastewater, allowing untreated wastewater to flow into the Potomac River, Rock Creek, and Anacostia River. I led the negotiations and worked with the District's leadership to reach an agreement that will ultimately result in cleaner water in the District and a safer environment for the residents, particularly those around the Anacostia River. I'm proud of everyone involved in these negotiations, including several local citizen groups, as the result will advance human health and the environment for everyone in the District.

Do you enjoy being a lawyer?
I love being a lawyer. It's the fulfillment of a dream for somebody who grew up in a small town in Michigan to become a lawyer and join the profession. I always hearken back to all that we learned in law school about the responsibility of public service and of safeguarding the legal rights of disadvantaged or unrepresented people. Such activities make me proud of our profession, proud of the D.C. Bar, and cause me to promote and advance our pro bono program, following in the footsteps of past bar leaders, including heroes of mine like [redacted], [redacted], [redacted], and [redacted], who worked so diligently to make our pro bono program what it is today.

How did you start to become involved in the Bar other than as a member?
My involvement started with the Environment, Energy and Natural Resources Section, so I'm

DOJ_NMG_ 0144596

clearly a product of our active sections. Then [redacted], who was the [redacted] Association, encouraged me to run for the Board of Governors. I did so and have served on the board for four years, serving as chair of the Screening Committee and, when I became president-elect, as chair of the Budget Committee. So my route to becoming involved in the Bar was getting caught up by the section activities, having a mentor, getting elected to a key position, and finding that I really liked the people and respected the Bar. Ultimately I was asked to run for president by two people I value a lot: former bar presidents [redacted] and [redacted]. I agreed to run and was fortunate enough to be elected.

What do you think are the Bar's strengths?
I have described why I like the Bar in terms of [redacted], and what a quilter does is bring different and diverse pieces of fabric together in an intricate but cohesive patterns to make a beautiful and valuable product. Like a quilt, I believe, our strength is our diversity. We have a very strong federal presence, an active local attorney general's office, an enormous solo and small practitioner group, a whole array of corporate and nonprofit attorneys, and our own midsize and large talented law firms. We represent all races, faiths, sizes, shapes, and sexuality. That diversity is absolutely exciting. It provides a lot of energy and it makes us rather unique.

What do you see as the immediate priorities of the Bar during your year as president?
While the Bar has many important issues, let me single out three I consider quite important and the reason every member of the Bar should pay attention to these developments.

At a recent American Bar Association meeting in Salt Lake City, bar presidents were briefed on an ABA survey of the profession. One of the findings was that over 80 percent of the ABA members surveyed thought the practice of law was more like a business than a profession. I, on the other hand, strongly believe we are a profession; that is what attracted us to the practice and what motivates us to continue and improve. Being a profession gives us both rights and responsibilities that we must constantly address and protect. In particular, we have the right of self-regulation and self-discipline—the incredibly important benefit of being a unique and stellar profession. We have the shared responsibility of making certain that our own disciplinary system is exemplary and our rules of professional conduct are clear, understood, and followed. Those professional responsibilities lead to two of the three major priorities for the Bar. First, we have a blue-ribbon committee of experts, led by former Bar president [redacted] and Magistrate Joan Goldfrank, examining the disciplinary system. As a member of that committee, I can attest to their diligence and integrity, and look forward to a final recommendation that will promote both efficiency and justice in our disciplinary system.

Second, the Board of Governors is nearly finished examining and recommending changes to the Rules of Professional Conduct, based on the recommendations of an exceptional committee of experts chaired by [redacted] that have been examining the D.C. rules based on changes to the ABA Model Rules of Professional Conduct in 2002 and 2003.

DOJ_NMG_ 0144597

And third, I'm pleased that I was able to be involved in both drafting and recommending the Access to Justice Commission, which has recently been announced by the D.C. Court of Appeals. I believe that its [redacted], and the members chosen to serve on the commission truly represent the District's best and brightest. This is an exciting opportunity to address in a more comprehensive and systematic way the needs of the underrepresented in the District.

What are your goals for the year?
I have chosen as the theme for my term "Lawyers Render Service." I believe that theme flows from what I was just saying about our responsibilities as a profession.

When I say lawyers render service, I want everybody to think of a three-legged stool. One leg is our responsibility and our advocacy on behalf of numerous and diverse clients. Every time a lawyer effectively represents a client, we are giving service, and I want the Bar to enhance and facilitate that role by our robust continuing legal education program and by encouraging and educating mentors for all new attorneys.

The second leg of my program is our responsibility to the poor, disadvantaged, and unrepresented of the District of Columbia. In that regard, advancing the D.C. Bar Pro Bono Program is my highest priority, to include attracting and motivating government attorneys to volunteer their services. We will also need to provide time, talent, and financial assistance to legal service providers and vigorously support the Access to Justice Commission.

The third part is community service. Serving the community through nonprofit associations, Special Olympic programs, and other volunteer work is critical. In addition, I invite a dialogue with the Bar and the District to develop new and additional ways lawyers can be involved in supporting and enhancing schools and education in the District.

So my theme is "Lawyers Render Service" and that applies to our clients, to the disadvantaged, and to the community.

Do you see the coming term as an exciting time to be Bar president?
This is a wonderful time for the Bar. We have the best bar executive and staff in the country, the finest pro bono program, and an exemplary and supportive judiciary. We have active sections, truly dedicated and involved voluntary bars, and a superb consortium of legal service providers. We are big enough to have an impact and still continue to grow. I think this is absolutely one of the best times to be Bar president because lawyers render service, and we have an opportunity every day to make a difference in the lives of others.

DOJ_NMG_ 0144598

The District of Columbia Bar | 1250 H Street NW, sixth floor | Washington DC 20005-5937 | 202-737-4700 | Directions/Parking
©COPYRIGHT 2005 DISTRICT OF COLUMBIA BAR. ALL RIGHTS RESERVED. Privacy Policy | Disclaimer

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 21, 2005 7:36 AM
To: Katsas, Gregory (CIV)
Subject: RE: tomorrow

I'll stop by your digs then.

-----Original Message-----
From: Katsas, Gregory (CIV)
Sent: Monday, June 20, 2005 7:23 PM
To: Gorsuch, Neil M
Subject: RE: tomorrow

Sounds good.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 20, 2005 6:25 PM
To: Katsas, Gregory (CIV)
Subject: RE: tomorrow

How about grabbing a late lunch circa 1pm?

-----Original Message-----
From: Katsas, Gregory (CIV)
Sent: Monday, June 20, 2005 6:19 PM
To: Gorsuch, Neil M
Subject: tomorrow

I'm free any time except from 9:45 to 10:30.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, June 21, 2005 9:31 AM
To: Ullyot, Theodore
Cc: Gorsuch, Neil M
Subject: FW: Draft AG Letter

Here is the revised draft which I have edited here and there from the print copy that I gave you. This one is the latest version. Let me know if the AG can sign it on AG stationery for Neil to read on Thurs night. Robt.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, June 21, 2005 9:28 AM
To: Cruden, John (ENRD)
Subject: RE: Draft AG Letter

John: I have revised the letter slightly. See below. Let me know if you have any comments. I will present the revised draft to the AG's staff for review and approval. Robt.

The Honorable Annice M. Wagner
Chief Judge
District of Columbia Court of Appeals
500 Indiana Avenue, N.W.
Washington, D.C. 20001

Dear Chief Judge Wagner:

I understand that you will be swearing in John C. Cruden to be President of the District of Columbia Bar Association. Although I am unable to attend the ceremony and introduce John, I want you and the DC Bar to know how proud all members of the Department of Justice family are to have John be the first government attorney to serve as President of the D.C. Bar.

Those of you who know John are aware of his extraordinary accomplishments. A West Point Graduate, he first served in airborne, ranger, and Special Forces units in Germany and Vietnam before attending law school. After graduating summa cum laude from law school and clerking on the California Supreme Court, John attending the Army's Judge Advocate General's Graduate Course where he was selected as the outstanding graduate and simultaneously received his Masters in Government and Foreign Relations from the University of Virginia. His subsequent military assignments include service as Chief of the Litigation Branch in Europe, General Counsel of the Defense Nuclear Agency, and the senior military attorney for a large jurisdiction in Germany. His last assignment in the military was as Chief Legislative Counsel of

the Army, for which he was awarded the Legion of Merit.

In the Department of Justice, John was named the Chief of the Environmental Enforcement Section of the Environment and Natural Resources Division in 1991 where he led one of the largest litigating groups in the Department, supervising over 150 attorneys with nation-wide responsibilities to enforce the nation's environmental laws. John was then selected as the career Deputy Assistant Attorney General for that Division. In that capacity, he is responsible for all environmental litigation brought for or against the United States in federal district courts across the nation. John is recognized as one of the leading environmental litigators in the nation. You only need to search his name in the Westlaw index to find the large number of published cases in which he has played a key role.

At the beginning of this administration, John served as the Acting Assistant Attorney General for the Environment and Natural Resources Division from 2001 to 2002. Since that time, he has been a major factor in the Division's remarkable accomplishments over the past two years in bringing successful enforcement cases with exceptional environmental benefits for us all. For his outstanding work, John received the prestigious Presidential Rank Award and was designated as a Distinguished Executive by President Bush. He is one of the few career attorneys to have received that award twice, by two successive Presidents.

Many of you know that John has also promoted attorney professionalism and community service. He is a frequent pro bono volunteer and has long encouraged others to provide legal services to the poor and disadvantaged. He has supported DC schools and just last year lectured and participated in unique programs in Anacostia High School and Howard Law School. In addition, he is a swim coach in a Special Olympics program. I would also be remiss if I did not point out that he [redacted].

I know that John will be an outstanding Bar President and will well serve the over 80,000 members of the District of Columbia Bar. We at the Department of Justice are very proud of him and applaud the Bar's selection of John as your leader for the next year.

Chief Justice Wagner, it gives me a great deal of personal pleasure and institutional pride to recognize and support John Cruden's service to our profession and to the DC Bar as you administer the oath of office.

Sincerely,

AG Signature block

-----Original Message-----
From: Cruden, John (ENRD)
Sent: Monday, June 20, 2005 8:00 PM
To: McCallum, Robert (SMO)
Subject: Draft AG Letter

Robert - thankyou again for trying to get this in front of the AG. If he would sign, then it could be read Thursday night. I addressed it to the Chief Judge as she will give me the oath of office, but it could have been addressed to anyone. I have also attached at the end of this e mail the interview of me that the Washington Lawyer just published. The one amusing thing in that interview that everyone has pointed out is that I took my LSAT in Saigon.

If I was writing this for you I would have been more personal drawing, in particular, on our trip to New York City and the sober experience of walking the world trade center site, punctuated by that incredible rainbow. Good luck on all of the tobacco litigation issues. Best. John

The Honorable Annice M. Wagner
Chief Judge
District of Columbia Court of Appeals
500 Indiana Avenue, N.W.
Washington, D.C. 20001

Dear Chief Judge Wagner:

I understand that you will soon be swearing in John C Cruden to be President of the D.C. Bar. Although I was unable to come today and introduce John, I want you to know how proud all of the Department of Justice is to have John be the first government attorney to b serve as President of the D.C. Bar.

Those of you who know John are aware of his extraordinary accomplishments. A West Point Graduate, he first served in airborne, ranger, and Special Forces units in Germany and Vietnam before attending law school. After graduating summa cum laude from law school and clerking on the California Supreme Court, John attending the Army's Judge Advocate General's Graduate Course where he was selected outstanding graduate and simultaneously received his Masters in Government and Foreign Relations from the University of Virginia. His subsequent military assignments including being Chief of the Litigation Branch in Europe; General Counsel of the Defense Nuclear Agency; and the senior military attorney for a large jurisdiction in Germany. His last assignment in the military was as Chief Legislative Counsel of the Army, where he was awarded the Legion of Merit.

In the Department of Justice, John was named the Chief, Environmental Enforcement Section in 1991 where he led one of the largest litigating groups in the Department, supervising over 150 attorneys with nation-wide responsibilities to enforce the nation's environmental laws. Following a number of highly successful years, including his own accomplishments in the court room, John was selected as the career Deputy Assistant Attorney General for the Division. In that capacity he is responsible for all environmental litigation brought for or against the United States in federal district courts across the nation. For his work, John has been recognized a

number of times as being one of the leading environmental litigators in the nations. You only need to search his name in the Westlaw index to find the large number of published cases in which he has played a key role.

At the beginning of this administration, John served as the Acting Assistant Attorney General from 2001 to 2002. Since that time, he has twice led the Environment and Natural Resources Division to the best years in their history in bringing successful enforcement cases, resulting in exceptional environmental results. For his great accomplishments during that time period, John was given the prestigious Presidential Rank Award and designated as a Distinguished Executive by President Bush. He is one of the few career attorneys to have received that award twice, by two successive Presidents.

Many of you also know that John has also promoted attorney professionalism and service. He is a frequent pro bono volunteer and has long encouraged others to provide legal service to the poor and disadvantaged. He has supported DC schools, and just last year lectured and participated in unique programs in Anacostia High School and Howard Law School. And, he is a swim coach in a Special Olympics program that has been quite successful. I would also be remiss if I did not point out that he [redacted].

I believe John will be an outstanding President and will well serve the over 80,000 members of the District of Columbia bar. We are proud of him and impressed that your Bar was wise enough to elect him as your leader.

Chief Justice Wagner, it gives me a great deal of personal pleasure to commend John Cruden to you and I highly recommend that you give him the oath of office.

Sincerely,

AG Signature block

<< File: #35869-v1-wash_lawyer_june_2005_interview.DOC >>

Mansour, Linda

From: Mansour, Linda
Sent: Tuesday, June 21, 2005 10:29 AM
To: Davis, Deborah J
Cc: Akers, Matthew; McFarland, Steven T (ODAG); Gorsuch, Neil M; Henke, Tracy (SMO); Overstreet, Wanda S; Roberts, Crystal; Shaw, Aloma A; Stuart, Diane; Schofield, Regina; Daley, Cybele; Nolan, Cheri; Tzitzon, Nicholas; McGarry, Beth; White, Jana; Segerdahl-Ayers, Nancy; Pinkelman, James; Kendrick, Glenda; Pierce, Pete; Herraiz, Domingo S.; Greenfeld, Larry; Flores, Robert; Hart, Sarah V.; Gillis, John; Hernandez, Nelson; Costigan, Michael; Alston, Michael; Silver, Gary; Schwimer, Cynthia J.; Madan, Rafael A.; Meldon, Jill; Fralick, Gerald
Subject: OJP Submission for the AG Weekly Report for June 19 - 25
Attachments: 619A.05.wpd

Hi Deborah,

Attached is OJP's submission for the Attorney General's Weekly Report for June 19 - 25, 2005. Please let me know if you have any questions.

Thank you.
Linda

Linda Mansour
Office of Communications
Office of Justice Programs
U.S. Department of Justice
email: linda.mansour@usdoj.gov
phone: 202/616-3534

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Regina B. Schofield
Assistant Attorney General

SUBJECT: Weekly Report for the Week of June 19 - June 25, 2005

NEXT WEEK

· ***Gang Statistics:** During the week of June 27, the Bureau of Justice Statistics is scheduled to release *Violence by Gang Members, 1993-2003*, which presents data based on the National Crime Victimization Survey and provides estimates of the number and rate of violent crimes committed by offenders who victims perceived to be members of gangs. It also presents information on demographic characteristics of the victims of violence by gang members such as race, age, and gender, and characteristics of the incident such as police notification and number of offenders. Trends in violence by gang members also are examined.

· ***Law Enforcement:** On June 25-29 in Louisville, KY, Deputy Associate Attorney General Henke, Bureau of Justice Assistance (BJA) Director Herraiz, and OJP staff will participate in the National Sheriffs' Association annual conference. On June 25, Ms. Henke will speak to the Legislative Affairs Committee. On June 28, she will give the keynote address at the National Sheriffs' Institute Graduates Luncheon. On June 27, BJA Director Herraiz will address the Major Counties Sheriffs' Association. BJA Deputy Director Burch and staff will present and conduct workshops on how BJA is addressing law enforcement needs and issues, information sharing, and identity theft and will participate in discussions related to many of BJA's ongoing efforts with NSA, including Neighborhood Watch programs and a court security publication.

· **DNA:** On June 30 in Sacramento, CA at the California District Attorneys' Association conference, National Institute of Justice (NIJ) Director Hart will give remarks on DNA

DOJ_NMG_ 0144606

identification for law enforcement. She will discuss the President's DNA Initiative and highlight the NIJ resources available to prosecutors.

On June 27 in Washington, DC, National Institute of Justice (NIJ) Director Hart will give opening remarks at the NIJ-hosted annual DNA Grantees Workshop for agencies and organizations receiving funding support for DNA lab improvement, backlog analysis, research or technology development, and other areas in which DNA technology is used in the criminal justice community.

- **Faith-Based:** On June 29 in Miami, FL, Deputy Associate Attorney General Henke will give opening remarks at the closing session of the Office of Juvenile Justice and Delinquency Prevention's Faith-Based Conference.

- **Mental Health:** On June 28 in Washington, DC at a forum on Research in Mental Health/Criminal Justice, Bureau of Justice Assistance and National Institute of Justice staff will meet with representatives of the National Institute of Mental Health and other research organizations to identify the current state of research in mental health/criminal justice and to determine additional research needed to benefit the field.

- **Juvenile Justice:** On June 27 in Miami, FL at the conference "Navigating the Federal Funding Process: Federal Grants Application Training," Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give opening remarks encouraging faculty members from small, independent, and faith-based colleges and universities to participate in the federal grants process.

- **Weed and Seed:** The Community Capacity Development Office will invite the 21 new Officially Recognized Weed and Seed sites to apply for funding to launch Volunteer Income Tax Assistance (VITA) Centers in their sites. The application deadline will be August 1. Ten slots are available.

THIS WEEK

- ***Victim Notification:** During the week of June 20, the Bureau of Justice Assistance (BJA) is scheduled to release a solicitation for the "Developing and Enhancing Statewide Automated Victim Information and Notification (SAVIN) Programs." In FY 2005, Congress appropriated $8 million for state victim notification systems, and BJA was selected to support this appropriation and to create a new grant program. SAVIN programs help to protect crime victims from further victimization and to ensure that victims' legal rights are honored. SAVIN programs also improve criminal justice decisions by ensuring that victims are given the timely and accurate information they need to fully participate in the judicial process (i.e., arrest, incarceration, prosecution, conviction, and/or placement in community supervision). Eligible grant recipients include any state government agency that has been authorized to manage the planning and implementation of a SAVIN program and state sheriff and state prosecutor associations. Indian tribes are eligible to receive funding for the creation of new automated victim

DOJ_NMG_ 0144607

notification programs in their territories.

- **Gangs:** On June 23 in Milwaukee, WI at a meeting of the Milwaukee Gang Reduction Program's Executive Committee, Office of Juvenile Justice and Delinquency Prevention (OJJDP) Administrator Flores will provide opening remarks emphasizing OJJDP's commitment to helping bring federal, state, and local services to each of the four Gang Reduction Program sites across the country.

  On June 20 in Baltimore, MD at the MAGLOCLEN (Mid-Atlantic Great Lakes Organized Crime Law Enforcement Network) Gang Symposium, Bureau of Justice Assistance (BJA) Deputy Director Burch participated in the opening ceremonies to share with law enforcement representatives priority issues and challenges in addressing gangs, including witness intimidation and intelligence sharing. MAGLOCLEN is a BJA-supported Regional Information Sharing System Center, and the gangs symposium was funded by BJA.

- **Mental Health Courts:** On June 21-22 in Los Angeles, CA at the BJA-sponsored Mental Health Courts and Beyond Conference, BJA Director Herraiz will give the keynote address on essential elements of a mental health court. BJA staff also will attend the conference, which will provide both BJA-funded and nonfunded courts with technical assistance. Specifically, the conference will enable court personnel to improve the design and operation of their drug courts, learn about methods to improve outcomes for offenders with mental illness, become familiar with available resources, and exchange ideas and resources, including court forms and manuals.

- **Information Sharing:** On June 20-21 in Miami, FL, Bureau of Justice Assistance (BJA) staff will attend the National Governors Association's Criminal Justice Information Services Policy Forum, which will provide training to several state teams on how to use the Department's Global Justice Extensible Markup Language Data Model (JXDM). This activity will further BJA and OJP efforts to achieve interoperability among states.

  On June 20 in Washington, DC, National Institute of Justice senior staff briefed Hans Ostberg, an intelligence database analyst with the Stockholm County Police, on DOJ's Global Justice Information Sharing Initiative.

- **Statistics:** On June 20-21 in Albany, NY at the State University of New York at Albany, Bureau of Justice Statistics senior staff will be a guest lecturer on the National Crime Victimization Survey.

- **Victims:** On June 20 in Washington, DC, Office for Victims of Crime (OVC) Director Gillis gave welcoming remarks at the National Center for Victims of Crime's first national conference. OVC staff demonstrated OVC's Web Forum, online Directory of Crime Victim Services, Strategic Planning Toolkit, and the OVC Training Calendar for Victim Service Providers.

DOJ_NMG_ 0144608

· **Corrections:** On June 20 in Alexandria, VA at the National Institute of Corrections Advisory Board meeting, Deputy Assistant Attorney General Nolan gave the OJP quarterly report.

LAST WEEK

· ***Statistics:** On June 14 in Washington, DC, Bureau of Justice Statistics (BJS) Director Greenfeld and staff attended the National Prison Rape Elimination Commission Public Hearing, which focused on the impact prison sexual assaults have on survivors, their families, and the community. Federal, state, and local correctional administrators, professional correctional organization representatives, and prisoners' rights advocates attended.

On June 13, BJS released *Traffic Stop Data Collection Policies for State Police, 2004*, which presents findings from the 2004 Survey of State Police Agencies, which obtained data on their policies and procedures for collecting race and ethnicity data regarding motorists involved in traffic stops. The circumstances under which demographic data are collected for traffic-related contacts and violations are presented. The survey asked if the data collected were stored in an electronically accessible format. Findings are compared to those found during previous surveys conducted in 1999 and 2001. The study found that in 2004, 22 state police agencies required their officers to collect race or ethnicity data for all traffic stops, an increase of 6 agencies since 2001 and 13 agencies since 1999. An additional 7 agencies collected race or ethnicity data under more limited circumstances. Twenty-two of the twenty-nine state police agencies that collected race or ethnicity data under at least some traffic stop circumstances, made their data available to the public.

On June 13, BJS released *Reporting by Prosecutors' Offices to Repositories of Criminal History Records*, which examines the reporting of case dispositions by state court prosecutors to state criminal history repositories, based on a study conducted by the American Prosecutors Research Institute (APRI). The report looks at the type of final disposition information reported, the method used to transmit, and the length of time required to provide a final disposition. It describes the impediments that many prosecutors encounter that inhibit providing case declinations and other final disposition information to the repository. Of the 308 prosecutors surveyed in the APRI study, 141 (46 percent) responded. Forty-seven percent of those responding reported that they regularly submit final disposition information to agencies maintaining criminal history records. Eighty-six percent of responding prosecutors stated that the reason why they did not provide final disposition information to repositories was because of another agency being responsible for the task. The type of case disposition reported most frequently to the repository was a felony conviction (81 percent of respondents), followed by a declination to prosecute (80 percent), the dismissal of charges (76 percent), a felony acquittal (74 percent), and a guilty plea (72 percent).

On June 12, BJS released *Family Violence Statistics*, which compares family and

DOJ_NMG_ 0144609

nonfamily violence statistics from victimization through the different stages of the justice system. Family violence is defined as all types of violent crime committed by an offender who is related to the victim and includes spouse abuse, parental violence against a child, and violence among other family members. Nonfamily relationships used for comparison include boyfriends and girlfriends, friends and acquaintances, and strangers. Data are drawn from victimization surveys, official police statistics, state and federal court statistics, and surveys of inmates in state prisons and local jails. The study found that the number of victims of violence committed by family members declined from an estimated 1.1 million in 1993 to 500,000 in 2002. Throughout the period, family violence accounted for about 1 in 10 violent victimizations. Family violence accounted for 11 percent of all reported and unreported violence between 1998 and 2002. Of these roughly 3.5 million violent crimes committed against family members, 49 percent were crimes against spouses, 11 percent were sons or daughters victimized by a parent, and 41 percent were crimes against other family members. About 22 percent of murders in 2002 were family murders. Nearly 9 percent were murders of a spouse, 6 percent were murders of sons or daughters by a parent, and 7 percent were murders by other family members. Of the nearly 500,000 men and women in state prisons for a violent crime in 1997, 15 percent were there for a violent crime against a family member. Convicted family violence offenders made up about 22 percent of the nearly 86,500 convicted violent offenders in local jails in 2002.

- **Victims:** On June 17 in Portland, OR, Office for Victims of Crime Director Gillis gave welcoming remarks at the National Crime Victim Law Institute's Crime Victim Law and Litigation Conference.

  On June 14 in Chicago, IL, Office for Victims of Crime (OVC) Director Gillis and Kathryn Turman, former OVC Director and Director, FBI Victim Services, met with Judge Joan Lefkow regarding crime victim issues.

- **Research:** On June 16 and 17 in Newark, DE, National Institute of Justice (NIJ) staff attended the second meeting of the International Association of Chiefs of Police Performance Specifications Advisory Panel for Digital Video In-Car Camera Systems. The first meeting in March 2005 set a blueprint for the working groups to move forward in defining minimum specifications, while ensuring officer safety, measurable operational parameters, quality, and data security.
  On June 16 in Albany, NY, NIJ Director Hart toured the Northeast Regional Forensics Institute's DNA Academy facilities and participated in a panel discussion on forensics technologies.

  On June 13-14 in Washington, DC at the NIJ-sponsored Situational Crime Prevention Research Planning Meeting, NIJ staff gave a presentation on technologies that may be applicable to the prevention of situational crime.

- **Juvenile Justice:** On June 14-16 in Las Vegas, NV at the Boys and Girls Clubs of America State Alliance Summit, Bureau of Justice Assistance (BJA) Director Herraiz and

DOJ_NMG_ 0144610

Deputy Director Burch each presented on OJP's and BJA's mission and BJA's initiatives. BJA's goal is to provide resources to states to help them develop crime prevention strategies involving local Boys and Girls Clubs. The summit was designed to provide state alliance leaders from across the country the opportunity to discuss best practices.

In June, the Office of Juvenile Justice and Delinquency Prevention issued a program announcement for support of four regional children's advocacy centers to facilitate the creation of local children's advocacy centers and strengthen existing child advocacy programs. The application deadline is July 6.

- **Tribal/Juvenile Justice:** On June 13-16 in Phoenix, AZ, Office of Juvenile Justice and Delinquency Prevention (OJJDP) staff met with representatives of the International Association of Chiefs of Police, an OJJDP grantee, to design a culturally-sensitive training program for law enforcement professionals of tribal jurisdictions that is responsive to the juvenile justice problems of Native American youth.

- **Information Sharing/Drugs:** On June 12-15 in Nashville, TN at the Regional Organized Crime Information Center (ROCIC) Training Conference, Bureau of Justice Assistance (BJA) Director Herraiz gave a presentation to ROCIC's Board of Directors regarding OJP's and BJA's mission and BJA's initiatives. ROCIC is a BJA-supported Regional Information Sharing System Center. BJA staff also attended the conference, which focused on drug crimes, particularly those involving methamphetamine.

- **Reentry:** On June 14 in Washington, DC, Deputy Assistant Attorney General Nolan and National Institute of Justice (NIJ) Director Hart met with Jeremy Travis, former NIJ Director and President, John Jay College of Criminal Justice, to discuss the school's new Prisoner Reentry Institute, as well as violence reduction strategies.

- **AMBER Alert:** On June 13-14 in Jackson Hole, WY, Deputy Associate Attorney General General Henke participated in AMBER Alert training for the Western region states: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.
- **Rural:** On June 13 in Menomonie, WI at the Bringing Excellence to Rural America Conference, Bureau of Justice Assistance (BJA) staff served on a panel and gave a presentation on creative and innovative approaches in drug courts and their applicability for rural communities. They also reviewed BJA's Mental Health Courts and Community-Based Problem-Solving Programs and their potential for implementation in rural courts and communities. Staff also received, on behalf of BJA, the Harold E. Hughes Award of Excellence, for significant contributions to the alcohol and drug abuse prevention and treatment field.

- **Identity Theft/Victims:** On June 13 in Washington, DC, Office for Victims of Crime staff participated in a meeting of the Interagency Identity Theft Working Group. Other federal working group partners include the Social Security Administration, the FTC, the

DOJ_NMG_ 0144611

Treasury Department, DHS, and the IRS. The group continued defining its charter and discussing challenges regarding agency use of social security numbers, systems integrity issues, standards, agency activities to assist identity theft victims, and education and outreach.

- On June 6, the Community Capacity Development Office announced 40 of the 50 Weed and Seed sites designated to receive computer labs to launch the Volunteer Income Tax Assistance (VITA) Centers by 2006. This is not a grant but is a provision of technical support and technology to serve low-income families in Weed and Seed sites where 60 percent of individuals qualify for free, tax preparation services.

LONG-RANGE EVENTS

- On July 11 in Washington, DC at the National Campaign to Stop Violence: Do the Write Thing Challenge Ceremony, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give opening remarks emphasizing the importance of involving the nation's youth in helping to stop violence in their communities through partnerships with faith- and community-based organizations.

- On July 18-20, the National Institute of Justice (NIJ) will sponsor its annual National Research and Evaluation Conference. NIJ Director Hart will give opening remarks and staff will moderate panels on methamphetamine use, prescription drug acquisition, use, and abuse, and prisoner reentry.

- On July 20 in New Orleans, LA, Office for Victims of Crime Director Gillis will speak at the Gulf States' U.S. Attorney's Offices' Crime Victims Conference.

- On July 20 in Washington, DC at the Executive Federal Prisoner-Reentry Partners meeting, National Institute of Justice staff will moderate a presentation on prisoner reentry. This workshop will present an overview of the implementation, impact, and cost benefit evaluation of the Serious and Violent Offenders Reentry Initiative (SVORI), which has provided funds to states and territories for prisoner reentry programs in an effort to reduce the number of prisoners who are rearrested. The presentation will include a discussion of innovations being implemented by SVORI sites and the barriers and challenges they face.

- On July 25 in Washington, DC, Bureau of Justice Statistics Director Greenfeld will give remarks at the National Consortium for Justice Information and Statistics (SEARCH) annual membership group meeting. The group is comprised of representatives of all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. Members are primarily state-level justice officials responsible for operational decisions and policymaking concerning the management of criminal justice data, particularly criminal history record information.

- On August 1 in San Francisco, CA, Office for Victims of Crime Director Gillis will speak

DOJ_NMG_ 0144612

at the International Homicide Investigators Association Conference.

- On August 7 in Philadelphia, PA, National Institute of Justice (NIJ) Director Hart will give opening remarks at the International Society of Criminology's 14th World Congress of Criminology. She will highlight NIJ research that has impacted law enforcement agencies worldwide. She also will meet the Swedish Minister of Justice and be available for remarks to the press.

- On August 8 in Baltimore, MD, National Institute of Justice (NIJ) staff will attend the American Correctional Association's national summer conference and disseminate relevant NIJ findings to corrections practitioners and others.

- On August 8 in Atlanta, GA, Office for Victims of Crime Director Gillis will speak at the National Organization for Victim Assistance Conference.

- On August 12 in Washington, DC, Office for Victims of Crime Director Gillis will speak at the Hand in Hand with Children: Guiding and Protecting conference, sponsored by the National Center for Missing and Exploited Children.

- On August 16 in Brisbane, Australia, Community Capacity Development Office Director Hernandez will address the International Conference on Engaging Communities. He will participate on a panel on "Engaging People: Building Safer Communities."

- On August 22-25 in Los Angeles, CA, the Community Capacity Development Office will hold its first national conference.

- In August 2005, the Bureau of Justice Statistics will announce funding to the States, DC, and territories of nearly $24 million for cooperative agreements to provide support for improvements in criminal history records nationwide. This grant program, begun in 1995 following passage of the Brady Act, is designed to assist states in building the infrastructure to support nationwide background checks for firearms purchases and for other purposes, such as employment or volunteering with children, where a background check is required.

- In August 2005, the Bureau of Justice Statistics will release the first report in a series on deaths in prisons and jails, as required by the Deaths in Custody Act. The report will focus on trends in suicides and homicides in prisons and jails. For the first time, detailed information on the circumstances surrounding such deaths will be made available. Analysis will include data on the time of day, location within the facilities, characteristics of the deceased inmates, length of stay prior to death, and criminal status.

- In August 2005, the Bureau of Justice Statistics (BJS) will announce the estimates for criminal victimization in the U.S. during 2004. These annual estimates, which BJS has been producing since 1973, provide the national measure of the public's exposure to crime and its consequences for them.

DOJ_NMG_ 0144613

- During the summer of 2005, the Bureau of Justice Statistics (BJS), in collaboration with DHS, will initiate the Computer Security Survey of U.S. businesses, a survey of 36,000 businesses nationwide on the impact of computer crime, theft, and fraud. BJS also will examine e-mail stalking and harassment in the workplace.

- On September 8-12 in Phoenix, AZ at the National Foundation for Women Legislators annual conference, National Institute of Justice (NIJ) Director Hart will give remarks on NIJ's involvement with the President's DNA Initiative, specifically efforts to solve cold cases and to identify missing persons.

- On September 11-14 in St. Petersburg, FL, National Institute of Justice Director Hart will give opening remarks at the National Conference on Science, Technology, and the Law.

- On September 13 in Charleston, WV, Office for Victims of Crime Director Gillis will speak at the Victim Assistance Symposium.

- On September 20 in Greensboro, NC, Office for Victims of Crime Director Gillis will speak at the U.S. Attorneys' Conference.

- On September 30 in Miami, FL, Bureau of Justice Assistance Director Herraiz will give keynote remarks at the Citizens' Crime Watch of Miami-Dade 30th Annual Awards Ceremony.

- October 8-11 in Washington, DC, the Bureau of Justice Assistance, the National Crime Prevention Council, and the Crime Prevention Coalition of America will sponsor the National Conference on Preventing Crime. The conference will celebrate 25 years of nationwide crime prevention successes, identify current crime issues and ways to address them, and renew commitments to prevention as a priority in reducing crime in the future.

- On October 25-27 in Phoenix, AZ at the American Society of Crime Laboratory Directors annual symposium, National Institute of Justice (NIJ) Director Hart will give remarks on a variety of NIJ forensic science initiatives, including establishment of the Forensic Science Commission.

- In October 2005, the Bureau of Justice Statistics, together with the National Center for Education Statistics in DoEd, will release the annual Indicators of School Crime and Safety, which provides the national estimates of student and teacher victimization at school.

- During the fall of 2005, the Bureau of Justice Statistics will conduct for the first time the Census of Medical Examiners and Coroners Offices, which will focus on the medico-legal investigation of deaths and obtain information on agency personnel, expenditures, functions, workload, and needs. This census also will collect data on the number of unidentified remains held by medical examiner/coroner offices and their related policies

DOJ_NMG_ 0144614

and procedures for handling such remains.

- The Bureau of Justice Assistance (BJA) will begin hosting this fall its annual regional conferences entitled, "Demonstrating the Value of America's Justice Initiatives." BJA Director Herraiz and staff will attend these conferences to meet with representatives of State Administering Agencies and criminal justice practitioners throughout the country. The goal will be to share information about BJA initiatives and promising practices. The conferences will be held September 12-14 in New Orleans, LA (BJA South Region), October 31-November 2 in Charlotte, NC (BJA Southeast Region), November 7-9 in Minneapolis, MN (BJA Midwest Region), November 28-30 in Santa Monica, CA (BJA West Region), and December 12-14 in Newport, RI (BJS Northeast Region).

- By year-end 2005, the Bureau of Justice Statistics (BJS) will conduct a study of recidivism of domestic violence defendants charged in state courts in 2002. This recidivism study will track defendants following their arrest for a domestic violence offense in 2002, to evaluate how many were rearrested, convicted, and sentenced to incarceration during the follow-up period. With the cooperation of participating local prosecutor offices, the study will assess the percentage of defendants rearrested for repeated domestic violence against the same victim. The study also will examine the impact of alternative sentencing programs, such as anger management and batterer's intervention on subsequent offending.

OJP GRANT ACTIVITY
SUMMARY INFORMATION THROUGH JUNE 25, 2005

Nothing to Report.

DIVISION/COMPONENT CONTACT

Nancy Segerdahl Ayers
Director, Office of Communications
307-0703

DOJ_NMG_ 0144615

Owens, Angela (ENRD)

From:	Owens, Angela (ENRD)
Sent:	Tuesday, June 21, 2005 11:23 AM
To:	Zwick, Ken (CIV); Alexander, Craig (ENRD); Barsky, Seth (ENRD); Baylor, Lewis (ENRD); Bogan, Shanedda L. (ENRD); Brighton, William (ENRD); Brook, Bob (ENRD); Brookshire, James (ENRD); Bruffy, Robert (ENRD); Bryant, Dan (OLP); Burgess, Wells (ENRD); Butler, Virginia (ENRD); Clark, Jeffrey B. (ENRD); Clark, Tom (ENRD); Cruden, John (ENRD); Davis, Deborah J; Davis, John S (ODAG); Disheroon, Fred (ENRD); Dworkin, Karen (ENRD); Edgar, Mary (ENRD); Emrich, Andrew (ENRD); Findlay, Charles (ENRD); Fisherow, Benjamin (ENRD); Fowler, Liane (SMO); Gelber, Bruce (ENRD); Gluck, Ronald (ENRD); Goldman, Greer (ENRD); Gorsuch, Neil M; Grishaw, Letitia (ENRD); Gunn, Currie (SMO); Haugrud, Jack (ENRD); Henderson, Charles V; Hoang, Anthony (ENRD); Johnson, Kelly A. (ENRD); Katz, Maureen (ENRD); Keeney, John; Kessler, Elizabeth A; Kilbourne, Jim (ENRD); Lazarus, William (ENRD); Lesch, Jaclyn; Mahan, Ellen (ENRD); Maher, Robert (ENRD); Mariani, Tom (ENRD); Martella, Roger (ENRD); McCabe, Catherine (ENRD); McCallum, Robert (SMO); Mergen, Andy (ENRD); Milius, Pauline (ENRD); Miller, Charles S; Miranda, Gail (ENRD); Monson, Peter C (ENRD); Neumayr, Mary (ENRD); Newton, Cullen (ENRD); O'Connor, Eileen J. (AAG/TAX); Oppenheimer, Peter (ENRD); Owen, Peter B; Patrick, Teresa (ENRD); Porritt, Ben; Racicot, Tim (ENRD); Randall, Gary (ENRD); Rogers, Cherie (ENRD); Rogers, Steven (ENRD); Rubin, Jim (ENRD); Samuels, Stephen (ENRD); Saxe, Keith (ENRD); Schachter, Scott (ENRD); Schiffer, Stuart (CIV); Shaw, Aloma A; Shockey, Charles (ENRD); Smith, Justin (ENRD); Smith, Marc (ENRD); Sobeck, Eileen (ENRD); Turner, John (ENRD); Uhlmann, David (ENRD); Vaden, Christopher (ENRD); Wardzinski, Karen (ENRD); Webb, John T. (ENRD); Weiss, Patricia; Williams, Jean (ENRD); Young, Russell (ENRD)
Cc:	Miranda, Gail (ENRD); Newton, Cullen (ENRD)
Subject:	Attached is ENRD's Weekly Report to the AG....
Attachments:	#87862-v1-AG_weekly_report_6_21_05_(draft).DOC

U.S. Department of Justice

Environment and Natural Resources Division

Assistant Attorney General
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Telephone (202) 514-2701
Facsimile (202) 514-0557

June 21, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Kelly A. Johnson
Acting Assistant Attorney General
Environment and Natural Resources Division

NEXT WEEK

- **Trial to Begin in Ozone-Depleting Chemicals Case:** Dov Shellef, doing business as Poly Systems, Inc. and Polytuff, USA, Inc., William Rubenstein, operating as Dunbar Sales, Inc. and Steven Industries, Inc., are scheduled to begin trial in the Eastern District of New York on June 27. The defendants are variously charged with conspiracy to defeat excise taxes on ozone-depleting chemicals, money laundering, wire fraud and tax violations in connection with domestic sales of trichlorotrifluoroethane, an ozone-depleting chemical commonly referred to as CFC-113. This is the first criminal case involving CFC-113.

THIS WEEK

- **Emergency Stay Motion Pending in Columbia River Power System Dispute:** On May 26 the District of Oregon entered summary judgment invalidating a National Marine Fisheries Service biological opinion under the Endangered Species Act for 14 federal dams on the Columbia and Snake Rivers. A hearing on plaintiffs' motion for injunctive relief was held June 10. Following the hearing, the court granted the plaintiffs' request for a summer spill program at five projects. The spills would begin on June 20. The Division filed an emergency stay motion in the Ninth Circuit on June 15 asserting the spill plan could harm salmon and result in significant costs to the action agencies. Plaintiffs/appellees' opposition was filed June 17; the Division's reply is due June 20.

- **Argument Set in United States v. American Electric Power Company:** Trial on liability in this Clean Air Act/power plants case is set to begin July 6 in Columbus, Ohio. However, the court has scheduled oral argument on June 22 to address how the case may be affected by the Fourth Circuit's ruling last week in the Duke Energy appeal. (Outcome reported below.)

LAST WEEK

- **Adverse Decision in Power Plant Enforcement Action:** On June 15 the Fourth Circuit affirmed a district court judgment for the power plant defendant in a Clean Air Act (CAA) enforcement action against Duke Energy Corp. The appeals court determined that two sets of CAA regulations, the New Source Performance Standards (NSPS) and the New Source Review/Prevention of Significant Deterioration (PSD) regulations, must be the same with respect to "modifications" of existing sources because Congress used the same definition of "modification" in both underlying statutes. The court noted that it was not invalidating the PSD regulations, but offered no clear guidance on how to reconcile the many differing provisions of the NSPS and PSD regulations.

- **Favorable Decision in Challenge to Stormwater Regulations:** In deciding petitions for review of the Environmental Protection Agency's (EPA) general National Pollutant Discharge Elimination System permit for storm water discharges related to construction activities in Regions 1, 2, 3, 5, 6, 7, 8, 9, and 10 affecting more than one acre, the Seventh Circuit ruled on June 13 that EPA permissibly interprets the Clean Water Act not to require publication of either notices of intent to operate under general permit or storm water pollution prevention plans.

DIVISION CONTACT

Kelly A. Johnson
Acting Assistant Attorney General
(202) 514-4760

DOJ_NMG_ 0144618

Jenkins, Gloria

From: Jenkins, Gloria
Sent: Tuesday, June 28, 2005 10:59 AM
To: Fowler, Liane (SMO); Nisbet, Lesley; McCallum, Robert (SMO); Davis, Deborah J
Cc: Kessler, Elizabeth A; Higbee, David; O'Connor, Eileen J. (AAG/TAX); Shaw, Aloma A; Swenson, Lily F; Gorsuch, Neil M
Subject: Antitrust Division's Weekly Report for Week of June 27, 2005
Attachments: 05 June 27 -- AG Weekly Report.WPD

Attached is the Weekly Report from the Antitrust Division for the week of June 27, 2005. Thank you.

Gloria Jenkins
Confidential Assistant to Thomas O. Barnett
Antitrust Division
U.S. Department of Justice
gloria.jenkins@usdoj.gov
(202) 514-2401

Washington, DC 20530-0001

WEEKLY REPORT OF THE ANTITRUST DIVISION:

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL
THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Thomas O. Barnett
Acting Assistant Attorney General
Antitrust Division

DATE: June 27, 2005

A. Next Week

· ***Stolt-Nielsen S.A. & Stolt-Nielsen Transportation Group, Ltd., v. United States of America and Richard B. Wingfield v. United States of America*:** The Division's reply brief is due July 7 in the Third Circuit. In January, the U.S. District Court for the Eastern District of Pennsylvania granted Stolt-Nielsen's and Richard Wingfield's motions for preliminary injunctions to enjoin the Division from indicting them, and the Division has appealed the decision to the Third Circuit. In their injunction motions, Stolt and Wingfield, Stolt's former Managing Director of Tanker Trading, claimed that the Division's unilateral revocation of their conditional amnesty in March 2004 violated due process. The Division revoked the conditional amnesty due to Stolt's violation of two conditions of the amnesty policy. Stolt failed promptly and effectively to terminate its participation in the parcel tanker shipping allocation conspiracy upon discovery and failed to provide full, continuing and complete cooperation in the Division's investigation by falsely representing the true duration of the conspiracy and failing to disclose fully the roles of some of its senior executives. Wingfield was charged by criminal complaint with the conspiracy in June 2003 due to a flight risk. Subsequent plea negotiations with Wingfield failed.

B. This Week

· ***New York Stock Exchange's Proposed Merger with Archipelago Holdings*:** On June 27, the Division issued Second Requests to the parties in its investigation of the proposed merger of the New York Stock Exchange (NYSE) with Archipelago Holdings,

DOJ_NMG_ 0144620

Inc. The NYSE is the world's leading equities market and the largest stock exchange in the country. Archipelago operates the largest all-electronic stock market in the world: Archipelago Exchange (ArcaEx). The Division is investigating whether the combination of these two major equities trading venues is likely to lessen competition substantially, in violation of section 7 of the Clayton Act. The Division is simultaneously investigating the proposed $1.88 billion acquisition of Instinet Group Inc., the institutional brokerage and electronic trading network controlled by the Reuters Group, by the Nasdaq Stock Market, Inc., the nation's second-largest equities market. The Securities and Exchange Commission will conduct separate investigations of the two transactions as well.

· ***United States v. Irving Materials, Inc. ("IMI"), Daniel C. Butler, John Huggins, Fred R. "Pete" Irving, and Price Irving*:** On June 29, the Division plans to file a one-count information against the defendants for fixing prices of ready mixed concrete in the Indianapolis metropolitan area from 2000 until 2004. The defendants have agreed to plead guilty and cooperate with the ongoing investigation. Fred "Pete" Irving is the president and CEO of IMI; his son Price Irving is the vice president of operations; Butler is the vice president of sales; and Huggins is a former executive vice president of IMI. IMI has agreed to pay a $29.2 million fine; Fred Irving has agreed to pay a $200,000 fine; Price Irving, Dan Butler, and John Huggins have each agreed to pay a $100,000 fine; and each individual defendant has also agreed to serve a five-month jail sentence and five months of home confinement. The corporate sentencing is scheduled for June 29. At the request of the U.S. Attorney and FBI offices in Indianapolis, the Division will participate in a press conference in Indianapolis on June 29 to announce the filing of the case.

· ***United States v. Denstply International, Inc.*:** In January 1999, the Division sued Dentsply (a company that produces and sells 75%-80% of the prefabricated artificial teeth used by dental laboratories to make dentures), challenging Dentsply's policy of forbidding independent dealers that sell Dentsply's teeth from also selling the teeth of rival manufacturers. The Division alleged that the exclusionary practice unlawfully maintained Dentsply's monopoly and violated Sherman Act §§ 1 and 2 and Clayton Act § 3. After a bench trial, the district court ruled for Dentsply on all counts. The government appealed the § 2 claim. In February of this year, the U.S. Court of Appeals for the Third Circuit reversed the district court and concluded that Dentsply had monopoly power and that its policy of exclusive dealing violated the Sherman Act by thwarting rivals' attempts to threaten its monopoly. The court of appeals remanded with instructions to enter an injunction against Dentsply. Dentsply then petitioned for rehearing and rehearing en banc, which was denied. Jurisdiction has now returned to the district court to implement a remedy, and the Division is drafting a proposed final judgment.

C. Last Week

· ***United States v. Gosselin World Wide Moving N.V. and The Pasha Group*:** On June 14, the Fourth Circuit reversed the district court's holding that a bid rigging agreement among U.S. freight forwarders and others that fixed the minimum "through rate" to be bid to the Department of Defense for the movement of military household goods from Germany to

DOJ_NMG_ 0144621

the U.S. was immune from the antitrust laws under several provisions of the Shipping Act, 46 U.S.C. app. 1701 et seq. The Fourth Circuit held that defendants' agreement was not immune from antitrust liability under any provision of the Shipping Act. The Fourth Circuit affirmed the defendant's conviction on the fraud count and remanded for resentencing on the antitrust count as well as the fraud count.

- ***National Association of Realtors' Virtual Office Website Policy*:** Staff has recommended that the Division bring a civil action under Sherman Act § 1 to enjoin the National Association of Realtors ("NAR") from requiring that its 800 affiliated multiple listing services ("MLSs") adopt its proposed policy regarding "virtual office websites" ("VOWs"), which make real estate listings available to customers through the Internet. Currently, any broker that belongs to an MLS may offer its customers access to the MLS's full complement of real estate listings on-line, via the broker's VOW. NAR had passed but not implemented a rule that would require all NAR-affiliated MLSs to allow any listing broker to prohibit a competing broker from making available on a VOW listings that the listing broker has contributed to the MLS. The Division and NAR have been holding settlement talks, and a decision to settle or litigate will be made in the next few weeks.

- ***United States v. Patrick J. Crowe III*:** On June 23, the Division filed a two-count information in the Northern District of Georgia charging Crowe, a former salesman for a Georgia-based chemical manufacturer, with participating in two conspiracies to defraud his former employer. Crowe has agreed to plead guilty to the charges and cooperate with the ongoing investigation. The Division will recommend at sentencing that the court impose a sentence of 12-18 months imprisonment, up to a $30,000 criminal fine, and order Crowe to pay over $52,000 in restitution.

- ***Merger of America West and USAirways*:** On June 23, the Division closed its investigation into the proposed merger of America West and USAirways and related transactions by which Air Canada, Air Wisconsin, PAR Investments, and The Wellington Group will invest in the merged carrier. The Division concluded that the main transaction raises no competitive concerns requiring further investigation, as USAirways operates primarily in the eastern U.S., and America West in the west, and Southwest Airlines is a significant competitor on the few nonstop overlap routes. The Division also explored whether the presence of an Air Canada representative on the board of the merged carrier raised competitive issues, but concluded that any such concerns were speculative and did not require further investigation. The merger requires a number of additional approvals, including confirmation of the reorganization plan by the bankruptcy court, and the parties do not expect to close until September.

- ***United States v. Federation of Physicians and Dentists, et al.*:** On June 24, the Division filed a complaint against the Federation of Physicians, one of its employees, and three OB-GYN physicians practicing in Cincinnati, Ohio. The Division believes that these parties orchestrated a conspiracy among numerous Cincinnati OB-GYNs to collectively negotiate their rates with insurers, in violation of Sherman Act § 1 and a 2002 consent decree that the Federation and the Division entered into to resolve a similar complaint

DOJ_NMG_ 0144622

against the Federation in Delaware. The purpose and effect of their collective pricing has been to increase reimbursements paid by insurers to providers of OB-GYN services in Cincinnati. The Division negotiated a settlement with the three physicians, and simultaneously filed a proposed final judgment and proposed consent decree concerning those defendants. The Federation and its employee have not agreed to settle at this time.

- ***United States v. Professional Consultants Insurance Co., Inc.*:** On June 24, the Division filed a complaint, proposed final judgment and proposed consent decree that will resolve its civil investigation into information exchanges among actuarial consulting firms that provide professional risk analysis services to public and private pension funds and other employee benefit plans. The investigation focused on allegations that major actuarial consulting firms have exchanged competitively sensitive information and otherwise cooperated with each other about the use of contractual limitations of liability, which are important terms under which the firms enter into client engagements.

CONTACT PERSON: David Higbee (616-0906)

DOJ_NMG_ 0144623

Jenkins, Jacqueline D. (TAX)

From:	Jenkins, Jacqueline D. (TAX)
Sent:	Tuesday, June 21, 2005 12:07 PM
To:	Alan Hechtkopf; Aloma Shaw; Ann Carroll Reid; Salad, Bruce M. (TAX); Carletta Praylow; Claire Fallon; Clara Moore; D. Patrick Mullarkey; David Hubbert; David Pincus; Deborah Davis; Gilbert Rothenberg; John Dicicco; Jonathan Cohen; Joseph Young; Fowler, Liane; Louise Hytken; Mark Friend; Michael Kearns; Mildred Seidman; Gorsuch, Neil M; Richard Ward; Robert Watkins; Ronald Cimino; Rosemary Paguni; Seth Heald; Thomas Cole; Yvonne Watkins
Subject:	Tax Division's Wkly Rpt to AG, 062105
Attachments:	062105 wkly rpt.doc

June 21, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Eileen J. O'Connor
Assistant Attorney General

SUBJECT: Weekly Report

A. NEXT WEEK

- Nothing to report.

B. THIS WEEK

- Nothing to report.

C. LAST WEEK

- **Supreme Court Says Attack on IRS Deed Confers Federal-Question Jurisdiction:** On June 13, the Supreme Court held that a purchaser of property the IRS sold at a federal tax sale could remove to federal court a quiet-title lawsuit attacking the deed's validity. The Court found that the deed's validity constituted a substantial and disputed question of federal law, the disposition of which belonged in federal court, because the construction of the relevant Internal Revenue Code provisions would affect the IRS's ability to collect taxes. [*Grable & Sons Metal Products v. Darue Engineering* (6th Cir. - Sup. Ct.)]

- **Twentieth Telephone Excise Tax Case Filed:** NCR Corp. seeks a $1.2 million excise-tax refund, contending that communications excise taxes do not apply to long-distance telephone calls. The Eleventh Circuit recently held that communications excise taxes do not apply to long-distance telephone calls. Other appeals are or shortly will be pending before the Second, Third, Sixth, Federal, and District of Columbia circuits. The Internal Revenue Code provision at issue in this and 19 other pending cases accounts for

approximately $3 billion annually in federal excise taxes on long-distance phone services. [*NCR Corporation v. United States* (S.D. Ohio)]

- **Appeals Court Reverses Damages Award to Taxpayers:** On June 13, the Fifth Circuit Court of Appeals reversed a district court's order awarding a taxpayer $100,000 in damages for improper IRS collection activities, and vacated a litigation costs award of $317,000. The appeals court held that the district court misconstrued the appeals-court mandate from a prior appeal made in the case. [*Dennis C. Gandy, et al. v. United States* (E.D. Tex. - 5th Cir.)]

DIVISION CONTACT

Thomas P. Cole, Counsel to the Assistant Attorney General, Tax Division (202) 514-9611.

McKenzie, Peggy (CIV)

From:	McKenzie, Peggy (CIV)
Sent:	Tuesday, June 21, 2005 12:12 PM
To:	Allen, Gary (CIV); Bahr, Dorothy (CIV); Baxter, Felix (CIV); Bordeaux, JoAnn (CIV); Bucholtz, Jeffrey (CIV); Calvert, Chris (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davis, Deborah J; Eubanks, Sharon (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Fishback, David (CIV); Fisher, Barbara (CIV); Flentje, August (CIV); Fowler, Liane (SMO); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Goldberg, Arthur (CIV); Gorsuch, Neil M; Gray, Towanda (CIV); Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jennings, Geraldine (CIV); Katsas, Gregory (CIV); Keener, Donald (CIV); Kent, Alexander (CIV); Kohl, Christine (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Liner, Linda (CIV); Lloyd, Shirley (CIV); Lucas, Regina (CIV); Lynch, Carol (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Shaw, Aloma A; Thirolf, Eugene; Williams, Angela (CIV); Williams, Toni (CIV); Willis, Kerry (CIV); Zwick, Ken (CIV)
Subject:	6/21 CIV Weekly Report to the AG
Attachments:	CivDivWkly0621.wpd

U.S. Department of Justice

Civil Division

Assistant Attorney General *Washington, D.C. 20530*

June 21, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Peter D. Keisler
Assistant Attorney General
Civil Division

SUBJECT: Civil Division Weekly Report to the Attorney General

A. NEXT WEEK

· No items to report.

B. THIS WEEK

· ***En Banc* Ninth Circuit To Hear Oral Argument In Two Immigration Cases:** *Membreno v. Gonzales*; *Abebe v. Gonzales* [9th Cir.]. On June 21, the *en banc* Ninth Circuit will hear oral argument in two immigration cases. *Membreno v. Gonzales* addresses the circumstances under which an alien's conviction under a California "wobbler" statute is a felony or a misdemeanor for immigration purposes. In *Abebe v. Gonzales*, the Court will consider whether alien parents may be eligible for asylum based on their fear that, if they are removed, their United States citizen daughter would be threatened with female genital mutilation in their home country.

C. LAST WEEK

· **Fourth Circuit Concludes That "Due Care Exception" Bars False Imprisonment Claim Based On Alien's Mandatory Detention Pending Removal Proceedings:**

Welch v. United States [4th Cir.]. On May 31, the Fourth Circuit affirmed the district court's dismissal of the alien's claim under the Federal Tort Claims Act for lack of subject-matter jurisdiction. The alien contended that the indefinite detention mandated by statute, previously determined to be unconstitutional as applied to him, also constituted the tort of false imprisonment under state law and that the Federal Tort Claims Act waived sovereign immunity. The Court held that the "due care" exception to the waiver of the government's sovereign immunity applied to prevent the alien from recovering on his false imprisonment theory.

- **Special Master Denies Attorney's Fees And Costs In Vaccine Act Case:** *Blair v. Sec'y, HHS* [Fed. Cl.] (Special Master Abell). On May 31, the Special Master found that the petitioners failed to provide any objective evidence from which the court could conclude that a Vaccine Act petition was filed in a timely manner with a reasonable basis. Thus, while fees are typically awarded even when the petition is dismissed, the Special Master took the unusual step here of denying the application for attorney's fees and costs.

- ***En Banc* Ninth Circuit Holds That A Nuclear Family Is A "Particular Social Group" Within The Meaning Of The Asylum Statute:** *Thomas v. Gonzales* [9th Cir.]. On
June 3, the *en banc* Ninth Circuit held that a family consisting of a mother, father, and two children is a "particular social group" within the meaning of the asylum statute. The Thomas family, who are white South Africans, alleged that they qualified for asylum as members of a "particular social group" because they were targeted for abuse by black workers in retaliation for the racism of Mr. Thomas's father. The Ninth Circuit agreed, and remanded the case for the Board to determine whether the alleged abuse rose to the level of persecution, and whether there was sufficient involvement by the government of South Africa to support an allegation of persecution.

- **Fifth Circuit Holds That Habeas Corpus Relief Is Not Available To An Immigrant Who Has Other Procedural Devices:** *Lee v. Gonzales* [5th Cir.]. On June 3, the Fifth Circuit affirmed the district court's dismissal of the alien's writ of habeas corpus. The alien pled guilty to a single count of trafficking in counterfeit goods or services. The Immigration Judge sustained the charge of deportation based upon the alien's conviction of a crime involving moral turpitude. The alien did not attempt to file a petition for review of the Board's decision, which affirmed the Immigration Judge's determination. The Court held that an alien must exhaust available avenues of relief and turn to habeas only when no other means of judicial review exists.

- **District Court Refuses To Attach Consular Property To Satisfy Judgment Against Brazilian Consulate General:** *Copelco Capital, Inc. v. Brazilian Consulate General,* No. 98-1357 (N.D. Cal.). On June 8, Chief Judge Vaughn R. Walker denied leave to plaintiff Copelco Capital, Inc., to attach a Brazilian Consulate account in satisfaction of the judgment. Although the Court expressed dissatisfaction with Brazil's continuing unwillingness to pay the more than $38,000 judgment, stemming from a contract dispute over a copy machine, the Court denied plaintiffs' motion out of deference to the United States "on an issue of diplomacy." The United States had filed a Statement of Interest in the litigation arguing that the Consulate's bank account could not be attached without violating the United States's obligations under the Vienna Conventions on the Consular Relations.

- **Ninth Circuit Holds That Fraud On Visa Application Was Not An Allowable Basis For Negative Credibility Determination In Asylum Case:** *Marcos v. Gonzales* [9th Cir.]. On June 9, the Ninth Circuit ruled that the Immigration Judge's adverse credibility determination was not supported by substantial evidence. The alien was determined not to be credible because he had filled out a visa application listing a current address in Virginia for the brother-
in-law who had filed a visa petition for him, without disclosing that the brother-in-law had died years before. The Court held that the fraud was not on an issue that was central to the asylum claim and could not therefore be considered as evidence of a lack of credibility. Judge Graber dissented, stating that the fraud was properly considered by the Immigration Judge as a factor bearing on the alien's general propensity to tell the truth.

- **Airplane Manufacturer Recovers Nothing After Trial**: *Short Brothers, PLC v. United States*, 98-894C (Miller, C.) [Fed. Cl]. Short Brothers, PLC, a division of Bombardier ("Short"), modified 28 airplanes for the Army National Guard for approximately $150 million. Short sued to recover approximately $77 million in cost overruns, plus interest. Short alleged that the United States failed to disclose superior knowledge about the difficulty of the work, that the parties made a mutual mistake about the difficulty of the work, and that the contract was commercially impracticable. On June 10, 2005 in a 172-page opinion, Judge Miller ruled that the United States was not liable, concluding that Short should have known that its proposal was inadequate, and that Short assumed the risk that it had underbid the job.

- **Federal Circuit Holds EPACT Tax Levied Improperly:** *PSI Energy, Inc. v. United States*, No. O4-5079 [Fed. Cir. June 10, 2005] (Mayer and Newman, with Clevenger dissenting). To help defray the costs of decontamination and decommissioning DOE's uranium enrichment facilities, the Energy Policy Act of 1992 taxed utilities that used DOE's uranium enrichment services. The tax was allocated according to how many SWU a utility purchased from DOE. A SWU is a measure of the effort used to enrich uranium. Where the utility resold a SWU, the repurchaser was taxed instead. The court held that where a utility sold all its enriched uranium, but not all the associated SWU, it could not be taxed on the SWU it did not resell. The dissent followed the wording of the statute and language in prior cases and would have upheld imposition of the tax for any SWU that were not resold.

- **Court Of International Trade Sustains, In Part, The Imposition Of Antidumping Duties Upon Imported Honey:** *Wuhan Bee Healthy Co. v. United States* (Eaton, J.). On June 10, the Court of International Trade sustained, in part, and remanded in part, the final determination of the Department of Commerce in an antidumping duty administrative review of honey imported from China. The court concluded that Commerce's valuation of raw honey was supported by substantial evidence (i.e., a March 2000 newspaper article) and in accordance with law. Lastly, the court remanded Commerce's decision to use Indian import values to price coal used in the production of honey rather than domestic values because Commerce did not demonstrate that it used the best available information upon the record.

- **Ninth Circuit Permits *Bivens* Claim Against An Immigration Official And Affirms**

The Denial Of Qualified Immunity: *Sissoko v. Rocha* [9th Cir.; C.D. CA]**.** On June 13, the Ninth Circuit (Skopil, Noonan, Berzon, JJ.) held that the district court had jurisdiction over a *Bivens* claim arising from the decision to place an alien in expedited removal proceedings. The Court recognized that the review of a decision to commence removal proceedings was barred by statute, but held that a plaintiff could, nonetheless, challenge the fact he was placed in detention after the commencement of proceedings, even though detention was mandated by regulation.

· **Tenth Circuit Affirms Denial, On Personal Privacy Grounds, Of Freedom Of Information Act Request For Electronic Mapping Files That Identify The Locations Of Structures Insured Under The National Flood Insurance Program:** *Forest Guardians v. FEMA* [10th Cir.; D. NM]. On June 14, the Tenth Circuit (Kelly, *Baldock*; Hartz concurring), upheld FEMA's refusal under the FOIA privacy exemption, 5 U.S.C. 552(b)(6), to release digital mapping files of communities in the Albuquerque, New Mexico area containing electronic data pertaining to the locations of flood plains, special flood hazard areas, and structures that are insured under the National Flood Insurance Program, which FEMA administers. FEMA had already provided the plaintiffs hard copy maps showing all of this information, but the hard copy maps only showed the general location of each structure relative to the flood plain, and not its exact geographic point location, because that information could be used to identify individuals' names and home addresses coupled with personal financial information The Tenth Circuit agreed with the government that disclosure of this type of information could lead to unwanted disturbances of individuals in their homes, and that the public interest in the electronic data was "nonexistent" because the information already given to plaintiffs provided an "ample basis" for evaluating agency action.

· **Court Of International Trade Sustains Commerce's Recision Of Its New Shipper Review Of A Chinese Exporter Of Glycine:** *Hebei New Donghua Amino Acid Co. v. United States* (Restani, C.J.). On June 15, the Court of International Trade sustained the final determination of the Department of Commerce to rescind a new shipper review of a Chinese exporter of glycine. The court upheld Commerce's statutory authority to conduct a totality of the circumstances "bona fide" sales test in the course of a new shipper review. Further, the court held that substantial record evidence supported Commerce's determination that plaintiff's sale was not bona fide.

· **Summary Judgment Recognizes Federal Entitlement To $12 Million In Proceeds From Shipyard Sale**: *O. Ahlborg & Sons, Inc. v. United States* [D. Mass.] (Gorton, J.). On June 16, 2005, the court granted the government's summary judgment motion in a challenge to the Maritime Administration's retention of the proceeds (approximately $12 million) from a foreclosure sale of the real and personal property of a Massachusetts shipyard. The court rejected an asserted construction lien, holding that the Administration had a prior interest based on a private lender's placing the proceeds of an Administration guaranteed loan into escrow.

· **Ninth Circuit Remands Case Challenging Beef Marketing Program In Light Of Recent Supreme Court Decision:** *Charter* v. *Johanns* [9th Cir.; D. MT]. On June 16, the Ninth Circuit (Canby, Wardlaw, Gould, per curiam), issued an order vacating a district court decision upholding the Beef Promotion and Research Act and remanding to

the district court to permit the plaintiffs to maintain an as-applied First Amendment challenge to the Act as violating their associational rights. The district court had upheld that Act as government speech, and recently the Supreme Court adopted a similar analysis in *Johanns* v. *Livestock Marketing Association*. Because *Livestock Marketing* left open the possibility of an as-applied challenge based upon the assertion that individual beef advertisements were attributed to the plaintiffs in violation of their associational rights, the court of appeals vacated the district court's decision and remanded for further proceedings.

· **Tenth Circuit Denies Injunction Pending Appeal To Prevent Execution Of Court-Martial's Arrest Warrant:** *Bier v. Zahren* [10th Cir.; D. CO]. On June 16, the Tenth Circuit denied an injunction pending appeal to a therapist seeking to prevent execution of a warrant of attachment (a form of arrest warrant) issued by a court-martial seeking the mental health records of the therapist's patient (the complaining witness in a rape case before the court) for *in camera* review. Adopting the position of the United States (in a submission prepared by the Criminal Division with assistance from the Appellate Staff of the Civil Division), the Tenth Circuit concluded that the military court followed appropriate procedures and that the therapist's concerns could be adequately addressed by the military

· **California Man Sentenced For Selling Hazardous Toys:** *United States v. Lotze* [S.D. CA] (Houston). On June 17, Matthew Lotze was sentenced to 21 months in prison for fraudulently re-selling hazardous toys that he had been hired to destroy. Chevron Texaco Corporation had recalled the approximately 600,000 toys after the U.S. Consumer Product Safety Commission (CPSC) determined that they were banned hazardous substances because the toys contained small parts that could break off and pose a choking hazard to children under age three. Lotze was convicted of mail fraud, wire fraud, and making a false statement. The false statement was lying about what had happened to the cars when questioned by CPSC investigators.

· **Ninth Circuit Rejects Challenge To Bankruptcy Petition Preparer Statute:** *Scott v. United States Trustee (In re Doser)* [9th Cir.; D. ID]. On June 17, the 9th Circuit (Alarcon, W. Fletcher, Rawlinson), rejected constitutional challenges to 11 U.S.C. § 110, the provision of the Bankruptcy Code that regulates non-attorney bankruptcy petition preparers, and held that the petition preparer had violated the statute by charging excessive fees and by engaging in fraudulent, deceptive, and unfair practices. This is one of many cases involving franchisees of a nation-wide company (We The People) that offers bankruptcy petition preparation services, and was the first to reach a court of appeals.

· **Supreme Court Adopts Government's Position As *Amicus* That Michigan Fee On Intrastate Commercial Hauling Does Not Violate Dormant Commerce Clause:** *American Trucking Ass'ns, Inc. v. Michigan Pub. Serv. Comm'n* [S. Ct.; Mich. Ct. App.; Mich. Ct. Claims]. On June 20, the Supreme Court upheld the decision of the Michigan Court of Appeals that a flat $100 annual fee on trucks engaged in intrastate commercial hauling in Michigan did not violate the dormant Commerce Clause by discriminating against interstate carriers. Writing for the Court, Justice Breyer noted that the fee is

applied evenhandedly to all carriers making domestic journeys and does not reflect an effort to tax activity taking place outside of Michigan. The Court analogized the fee to other flat fees that States impose on local business and service providers such as auctioneers. The Court noted that the record did not show that the fee unfairly discriminates against interstate trucking, nor did it provide any reason to infer that the fee on local activity erects an impermissibly discriminatory roadblock. Justice Scalia and Justice Thomas separately concurred in the judgment; Justice Scalia stated that he reached the same result under a separate test not employed by the majority, and Justice Thomas stated that he would affirm the state court decision because the dormant Commerce Clause has proven unworkable and cannot serve as the basis for striking down a state statute.

- **Supreme Court Rejects Government's Position As *Amicus* And Holds That Michigan Fee On Michigan License -Plated Trucks Operating Entirely In Interstate Commerce Is Not Preempted By Federal Law:** *Mid-Con Freight Sys., Inc. v. Michigan Pub. Serv. Comm'n* [S. Ct.; Mich. Ct. App.; Mich. Ct. Claims]. On June 20, the Supreme Court upheld the decision of the Michigan Court of Appeals that a $100 annual fee on each Michigan license -plated truck operating entirely in interstate commerce is not preempted by 49 U.S.C. § 14504. Section 14504 establishes the Single State Registration System, under which a trucking company can fill out one set of forms in one base State and thereby register its federal permit in every participating State through which its trucks travel. Writing for the Court, Justice Breyer narrowly construed § 14504, which prohibits a State from imposing any additional "State Registration requirement," as referring only to additional State requirements concerning those subjects expressly addressed by the SSRS (proof of federal permit, proof of insurance, name of an agent to receive service of process, and fee equal to sum of individual state fees). Because the State fee's requirements do not concern the SSRS's subject matter, Justice Breyer reasoned, the fee is not the type of "State Registration Requirement" to which federal law refers. Justice Breyer noted that Michigan adopted its fee before the SSRS existed, and that the fee did not represent an effort to circumvent the limitations imposed in connection with federal laws governing the State Registration of Federal Permits. Justice Kennedy, joined by the Chief Justice and Justice O'Connor, dissented, indicating they would have adopted the government's textual argument that § 14504, by its terms, saves from preemption only one class of state registration requirements imposed on interstate motor carriers: those completed under the standards of the Secretary under the SSRS.

- **Supreme Court Holds That Retaliation Claims Under The False Claims Act Are Governed By State-Law Statutes Of Limitations:** *Graham County Soil & Water Conservation Dist. v. United States ex rel. Wilson* [S. Ct.; 4th Cir.; D. NC]. On June 20, the Supreme Court held that retaliation claims under the False Claims Act, 31 U.S.C. § 3730(h), are not subject to the FCA's general six-year statute of limitations, but are instead governed by the most analogous state-law limitations period. Disagreeing with the government's arguments as amicus, the Court (per Thomas, J.) held that the statutory language was ambiguous and that, in the face of such ambiguity, the default rule in favor of borrowing state law should apply.

- **Timber Company Agrees To Pay $8.35 Million To Settle Breach Of Contract Claims:** *Mt. Adams Veneer Co. v. United States* [Fed. Cl.] (Bruggink, J.). Mt. Adams

Veneer Company agreed to pay the United States $8.35 million to settle three cases and five claims arising out if its failure to perform Forest Service timber sale contracts. We concluded the settlement after a recent trial. The Mt. Adams cases are part of a consolidated group that included 41 government claims against 11 companies for damages totaling approximately $31 million. The settlement with Mt. Adams brings our total recovery to over $20 million.

Contact: August Flentje, Acting Counsel, 514-3309.

Swenson, Lily F

From: Swenson, Lily F
Sent: Tuesday, June 21, 2005 1:05 PM
To: Davis, Deborah J; Gorsuch, Neil M
Subject: FW: Mr. McCallum will not be attending on THURSDAY evening but Currie is doing ethics memo so that Neil can attend.

The AG is going to sign a letter that we put together congratulating [redacted] I don't know who's going to read it, but maybe Neil.
Lily

-----Original Message-----
From: Davis, Deborah J
Sent: Tuesday, June 21, 2005 12:23 PM
To: Swenson, Lily F
Subject: Mr. McCallum will not be attending on THURSDAY evening but Currie is doing ethics memo so that Neil can attend.

Deborah J. Davis
Staff Assistant
Phone (202) 514-1773 / Fax (202) 514-0238

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 21, 2005 1:08 PM
To: Katsas, Gregory (CIV)
Subject: lunch

sorry - was derailed in an overlong meeting. free now, so just give a ring whenever you're ready.

Letter, Douglas (CIV)

From: Letter, Douglas (CIV)
Sent: Tuesday, June 21, 2005 1:35 PM
To: Bucholtz, Jeffrey (CIV); Nichols, Carl (CIV); Katsas, Gregory (CIV); Nielson, Howard; Yanes, Raul; Wiggins, Mike; Gorsuch, Neil M; Meron, Daniel (CIV); Rowan, Patrick
Subject: FW: Report on Oral Arguments in [redacted]

-----Original Message-----
From: Vargas, Jeannette
Sent: Tuesday, June 21, 2005 12:55 PM
To: GresserJA@state.gov; Letter, Douglas (CIV)
Subject: Report on Oral Arguments in [redacted]

Judge Casey heard oral argument last week on the following defendants' motions to dismiss:

[redacted]

Only the first three defendants ([redacted]) raised immunity defenses. The other defendants moved to dismiss for lack of personal jurisdiction and/or failure to state a claim.

The argument itself was completely uneventful. Other than ruling on an evidentiary issue, the Court asked no questions and gave no indication of its leanings. The arguments largely rehashed what was already in the papers. [redacted] and [redacted]s counsel focused on the paucity of allegations sufficient to demonstrate knowledge by [redacted] that any of the charities they oversaw directed funds to Al Qaeda. The [redacted] convincingly argued that it was an organ or instrumentality of [redacted].

I have the transcript of the immunity arguments, and can scan them into pdf if you are interested in reviewing them.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 21, 2005 4:35 PM
To: Rodgers, Janice
Subject: RE: Welcome --

Thanks, Janice. I've started a draft and will run it by you before filing.

-----Original Message-----
From: Rodgers, Janice
Sent: Tuesday, June 21, 2005 4:20 PM
To: Gorsuch, Neil M
Subject: Welcome --

Hi Neil,

I hope you are settling in. You arrived with so little going on in OASG...ahem. This is your official notification that you are required to file a public financial disclosure report within 30 days of entering your position. I mailed you a form before you came on board, and if you have it, great. But if you need another one let me know. Another option is to file using the form that is on the National Finance Center website (which contains our payroll and other benefit information). If you want to use this let me know and I will send you instructions. If you find that you will not be able to file by July 13, please get in touch with me before that date to request an extension. If your reports more than 30 days late, there is $200 late filing fee.

I'll be in touch to schedule an ethics briefing, but if anything comes up before then please call.

Thanks,
Janice

Janice Rodgers
Deputy Director
Departmental Ethics Office
(202) 514-8196
fax 514-3117

Full Name:	William Kelley
Last Name:	Kelley
First Name:	William
Company:	White House
Business:	[redacted]
E-mail:	William_K._Kelley@who.eop.gov
E-mail Display As:	William_K._Kelley@who.eop.gov
E-mail 2:	wkelley@who.eop.gov
E-mail2 Display As:	wkelley@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 21, 2005 4:37 PM
To: 'William_K._Kelley@who.eop.gov'
Subject: Good Terrorism Op. as discussed

http://www.ca9.uscourts.gov/ca9/newopinions.nsf/A188A7C015356BED88257022007EE80F/$file/0250355.pdf?openelement

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 21, 2005 5:08 PM
To: Sampson, Kyle
Subject: could you give me a call? a development re: MD

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 21, 2005 5:36 PM
To: Swenson, Lily F
Subject: FW: Draft AG Letter

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, June 21, 2005 9:31 AM
To: Ullyot, Theodore
Cc: Gorsuch, Neil M
Subject: FW: Draft AG Letter

Here is the revised draft which I have edited here and there from the print copy that I gave you. This one is the latest version. Let me know if the AG can sign it on AG stationery for Neil to read on Thurs night. Robt.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, June 21, 2005 9:28 AM
To: Cruden, [redacted] (ENRD)
Subject: RE: Draft AG Letter

[redacted]: I have revised the letter slightly. See below. Let me know if you have any comments. I will present the revised draft to the AG's staff for review and approval. Robt.

The Honorable Annice M. Wagner
Chief Judge
District of Columbia Court of Appeals
500 Indiana Avenue, N.W.
Washington, D.C. 20001

Dear Chief Judge Wagner:

I understand that you will be swearing in John C. Cruden to be President of the District of Columbia Bar Association. Although I am unable to attend the ceremony and introduce John, I want you and the DC Bar to know how proud all members of the Department of Justice family are to have John be the first government attorney to serve as President of the D.C. Bar.

Those of you who know John are aware of his extraordinary accomplishments. A West Point Graduate, he first served in airborne, ranger, and Special Forces units in Germany and Vietnam before attending law school. After graduating summa cum laude from law school and clerking on the California Supreme Court, John attending the Army's Judge Advocate General's

Graduate Course where he was selected as the outstanding graduate and simultaneously received his Masters in Government and Foreign Relations from the University of Virginia. His subsequent military assignments include service as Chief of the Litigation Branch in Europe, General Counsel of the Defense Nuclear Agency, and the senior military attorney for a large jurisdiction in Germany. His last assignment in the military was as Chief Legislative Counsel of the Army, for which he was awarded the Legion of Merit.

In the Department of Justice, John was named the Chief of the Environmental Enforcement Section of the Environment and Natural Resources Division in 1991 where he led one of the largest litigating groups in the Department, supervising over 150 attorneys with nation-wide responsibilities to enforce the nation's environmental laws. John was then selected as the career Deputy Assistant Attorney General for that Division. In that capacity, he is responsible for all environmental litigation brought for or against the United States in federal district courts across the nation. John is recognized as one of the leading environmental litigators in the nation. You only need to search his name in the Westlaw index to find the large number of published cases in which he has played a key role.

At the beginning of this administration, John served as the Acting Assistant Attorney General for the Environment and Natural Resources Division from 2001 to 2002. Since that time, he has been a major factor in the Division's remarkable accomplishments over the past two years in bringing successful enforcement cases with exceptional environmental benefits for us all. For his outstanding work, John received the prestigious Presidential Rank Award and was designated as a Distinguished Executive by President Bush. He is one of the few career attorneys to have received that award twice, by two successive Presidents.

Many of you know that John has also promoted attorney professionalism and community service. He is a frequent pro bono volunteer and has long encouraged others to provide legal services to the poor and disadvantaged. He has supported DC schools and just last year lectured and participated in unique programs in Anacostia High School and Howard Law School. In addition, he is a swim coach in a Special Olympics program. I would also be remiss if I did not point out that he has [redacted].

I know that John will be an outstanding Bar President and will well serve the over 80,000 members of the District of Columbia Bar. We at the Department of Justice are very proud of him and applaud the Bar's selection of John as your leader for the next year.

Chief Justice Wagner, it gives me a great deal of personal pleasure and institutional pride to recognize and support John Cruden's service to our profession and to the DC Bar as you administer the oath of office.

Sincerely,

AG Signature block

-----Original Message-----
From: Cruden, John (ENRD)
Sent: Monday, June 20, 2005 8:00 PM
To: McCallum, Robert (SMO)
Subject: Draft AG Letter

Robert - thankyou again for trying to get this in front of the AG. If he would sign, then it could be read Thursday night. I addressed it to the Chief Judge as she will give me the oath of office, but it could have been addressed to anyone. I have also attached at the end of this e mail the interview of me that the Washington Lawyer just published. The one amusing thing in that interview that everyone has pointed out is that I took my LSAT in Saigon.

[redacted] Good luck on all of the tobacco litigation issues. Best. John

The Honorable Annice M. Wagner
Chief Judge
District of Columbia Court of Appeals
500 Indiana Avenue, N.W.
Washington, D.C. 20001

Dear Chief Judge Wagner:

I understand that you will soon be swearing in John C Cruden to be President of the D.C. Bar. Although I was unable to come today and introduce John, I want you to know how proud all of the Department of Justice is to have John be the first government attorney to b serve as President of the D.C. Bar.

Those of you who know John are aware of his extraordinary accomplishments. A West Point Graduate, he first served in airborne, ranger, and Special Forces units in Germany and Vietnam before attending law school. After graduating summa cum laude from law school and clerking on the California Supreme Court, John attending the Army's Judge Advocate General's Graduate Course where he was selected outstanding graduate and simultaneously received his Masters in Government and Foreign Relations from the University of Virginia. His subsequent military assignments including being Chief of the Litigation Branch in Europe; General Counsel of the Defense Nuclear Agency; and the senior military attorney for a large jurisdiction in Germany. His last assignment in the military was as Chief Legislative Counsel of the Army, where he was awarded the Legion of Merit.

In the Department of Justice, John was named the Chief, Environmental Enforcement Section in 1991 where he led one of the largest litigating groups in the Department, supervising

over 150 attorneys with nation-wide responsibilities to enforce the nation's environmental laws. Following a number of highly successful years, including his own accomplishments in the court room, John was selected as the career Deputy Assistant Attorney General for the Division. In that capacity he is responsible for all environmental litigation brought for or against the United States in federal district courts across the nation. For his work, John has been recognized a number of times as being one of the leading environmental litigators in the nations. You only need to search his name in the Westlaw index to find the large number of published cases in which he has played a key role.

At the beginning of this administration, John served as the Acting Assistant Attorney General from 2001 to 2002. Since that time, he has twice led the Environment and Natural Resources Division to the best years in their history in bringing successful enforcement cases, resulting in exceptional environmental results. For his great accomplishments during that time period, John was given the prestigious Presidential Rank Award and designated as a Distinguished Executive by President Bush. He is one of the few career attorneys to have received that award twice, by two successive Presidents.

Many of you also know that John has also promoted attorney professionalism and service. He is a frequent pro bono volunteer and has long encouraged others to provide legal service to the poor and disadvantaged. He has supported DC schools, and just last year lectured and participated in unique programs in Anacostia High School and Howard Law School. And, he is a swim coach in a Special Olympics program that has been quite successful. I would also be remiss if I did not point out that he has [redacted].

I believe John will be an outstanding President and will well serve the over 80,000 members of the District of Columbia bar. We are proud of him and impressed that your Bar was wise enough to elect him as your leader.

Chief Justice Wagner, it gives me a great deal of personal pleasure to commend John Cruden to you and I highly recommend that you give him the oath of office.

Sincerely,

AG Signature block

<< File: #35869-v1-wash_lawyer_june_2005_interview.DOC >>

Cruden, John (ENRD)

From: Cruden, John (ENRD)
Sent: Tuesday, June 21, 2005 7:19 PM
To: Gorsuch, Neil M
Subject: Read: Dc Bar Installation

Raymos, Jeanne

From:	Raymos, Jeanne
Sent:	Wednesday, June 22, 2005 5:54 AM
To:	Hatchett, Carolene; BlackBerry Support Staff; Blackberry Users (JMD)
Cc:	Howard, Jeffery
Subject:	RE: Global Competition Review AgencyWatch - 21 June

Diane Gainey, ATR, HR, or Tom King, ATR's Executive Officer.

-----Original Message-----
From: Hatchett, Carolene
Sent: Tuesday, June 21, 2005 6:44 PM
To: BlackBerry Support Staff; Blackberry Users (JMD)
Cc: Howard, Jeffery
Subject: FW: Global Competition Review AgencyWatch - 21 June

I'm trying to locate the person that can help with this issue. Net Tech chief, Renata Hesse is a blackberry account holder and she has tried to access this link. It asks for a GCR online account number. Do we have one for ATR? thanks for any assistance.

-----Original Message-----
From: Hesse, Renata
Sent: Tuesday, June 21, 2005 6:00 PM
To: Hatchett, Carolene
Subject: FW: Global Competition Review AgencyWatch - 21 June

sorry to keep bugging you about this, but is there any news on whether I can get a password for this?

-----Original Message-----
From: AgencyWatch@GlobalCompetitionReview.com
[mailto:AgencyWatch@GlobalCompetitionReview.com]
Sent: Tuesday, June 21, 2005 5:35 PM
To: Hesse, Renata
Subject: Global Competition Review AgencyWatch - 21 June

BlackBerry users please visit http://www.globalcompetitionreview.com/news/frontpage.cfm for the full GCR news page

This AgencyWatch briefing is sent to you by Global Competition Review

Global Competition Review is essential reading for antitrust practitioners, corporate counsel, policy makers, enforcers and anyone involved in international competition regulation and policy. To subscribe click on the cover shot opposite.

News

GCR publishes new star rankings of agencies

'Rating Enforcement' will hit the news-stands - or rather, subscribers' desks - this week. "Rating Enforcement' is our annual evaluation of the world's most economically important competition agencies.

Kroes defines her agenda

Neelie Kroes, the European competition commissioner, is making state aid reform the central plank of her time at DG Comp.

Jersey introduces competition law

Jersey in the Channel Islands has enacted competition law. The Channel Islands are sovereign territories between the UK and France, lying in the English channel.

ECN sanguine about 'Syfait'

The European Competition Network is unperturbed about a recent adverse decision from the European Court of Justice, according to sources.

France appoints new rapporteur

Romain Lesur has been appointed as a permanent member of France's Competition Council. Lesur will join the corps of rapporteurs. The news was announced 15 June. Lesur was an administrator at the INSEE (French Institute of Statistics) before being appointed.

Output

EC launches three sector inquiries

The European Commission has - sure enough - hit three sectors with the bombshell that they face wide-ranging investigations for the rest of this year.

Mexico discontinues pharma-investigation

Mexico's Federal Competition Commission has voted to stop an investigation of pharmaceutical distribution companies. The commissioners took the view that there was no evidence to sustain the matter.

Polish authority investigates life insurance

Poland's competition authority has launched an investigation of PZU Zycie the former state-owned life insurance company.

Poland's agency fighting media regulator

The UOKiK - Poland's competition authority - is in a battle with the media regulator over whether to have special merger rules for media providers.

French court suspends merger decision

France's Conseil d'Etat - the senior administrative appeal court - has plunged France's merger control system into uncertainty by suspending a merger clearance: seven months after it was given.

Telephone company's commitments published for comments

France's Competition Council has published two commitments from France Télécom. The commitments are being offered to resolve problems over the transfer of free-phone and cheap-rate numbers used by businesses.

INTERVIEW: Gabriel Bleser, Luxembourg's competition inspectorate

Gabriel Bleser is the chief rapporteur within Luxembourg's fledgling competition regime. GCR asked him about being one of the last European member states to enact competition law, and how Luxembourg plans to catch up

22 June 2005 Advanced Workshop in Regulation and Competition (The Center for Research in Regulated Industries at Rutger's University, San Diego)

25 June 2005 Parliamentary election in Bulgaria

27 June 2005 Competition Seminar (Lisbon) hosted by Portugal's Competition Authority

27 June 2005 competition seminar (hosted by Portugal's Competition Authority)

1 July 2005 NMa becomes independent agency (Holland)

3 July 2005 Parliamentary election in Albania

6 July 2005 - 8 July 2005 G8 Summit (Scotland, UK)

15 Sep 2005 end of consultation on EU's State Aid action plan

We hope you will find this e-mail briefing a useful source of information. If you would like to contact the editorial team responsible for it, please email agencywatch@globalcompetitionreview.com .

Please feel free to send this briefing on to anyone else who may also find it useful . To unregister, press reply with 'unregister' in the subject field.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Wednesday, June 22, 2005 6:01 AM
To: Gorsuch, Neil M; Kessler, Elizabeth A
Subject: Game plan this morn

Fyi, will shoot you guys a game plan later this morning memorializing what we discussed yesterday and laying out other items (i.e. List of relevant players, etc.)

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Wednesday, June 22, 2005 10:24 AM
To: Marshall, Robert L
Cc: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: Archive e-mail for Associate Robert McCallum

Can you provide me w/CD or any type of readable media which I can retrieve all Associate Robert McCallum's archived e-mail since from 2001 to present.

Please let me know if you have any questions.

Thanks

Currie Gunn
Office of the Associate Attorney General
202-514-9500

Ullyot, Theodore

From: Ullyot, Theodore
Sent: Wednesday, June 22, 2005 10:59 AM
To: Gorsuch, Neil M
Subject: Read: [redacted]

Aziz, Ibrahim I (JMD)

From: Aziz, Ibrahim I (JMD)
Sent: Wednesday, June 22, 2005 11:35 AM
To: Blackberry Users (JMD)
Subject: test

Ibrahim Aziz
JMD Server Operations

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 22, 2005 12:32 PM
To: Sampson, Kyle
Subject: Md

Per our commitment to Chip and Jervis, I consulted Robert about an additional hearing on their MOU request. Subject to the AG's views, he concurs with us that this dead horse has been plenty flogged already.

Henderson, Charles V

Subject:	Updated: Meeting: Mercer and Gorsuch
Location:	Room 4208 RFK
Start:	Wednesday, June 22, 2005 2:15 PM
End:	Wednesday, June 22, 2005 2:45 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Henderson, Charles V
Required Attendees:	Gorsuch, Neil M

When: Wednesday, June 22, 2005 2:15 PM-2:45 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 4208 RFK

~~*~*~*~*~*~*~*~*

Changing the time of the meeting to 2:15.

Comey, James (ODAG)

Subject:	Declined: Updated: Strategic Management Council
Location:	Room 4111
Start:	Friday, July 29, 2005 1:00 PM
End:	Friday, July 29, 2005 3:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Comey, James (ODAG)
Optional Attendees:	Gorsuch, Neil M

I have scheduled to be out of town on Thurs and Friday of that week, July 28 and 29. Neil Gorsuch will attend in my stead. Robt

Mercer, Bill (ODAG)

Subject:	Accepted: Meeting: Mercer and Gorsuch
Location:	Room 4208
Start:	Wednesday, July 06, 2005 2:00 PM
End:	Wednesday, July 06, 2005 3:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Mercer, Bill (ODAG)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 22, 2005 3:08 PM
To: Henke, Tracy (SMO)
Subject: mtg

are you available july 6 at 2pm to meet with me and Bill Mercer? I can fill you in on reason whenever you have a free moment.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 22, 2005 3:09 PM
To: Shaw, Aloma A
Subject: FW: Updated: Strategic Management Council

can you get this on my calendar please?

-----Original Appointment-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 22, 2005 2:57 PM
To: Comey, James (ODAG)
Cc: Gorsuch, Neil M
Subject: Declined: Updated: Strategic Management Council
When: Friday, July 29, 2005 1:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 4111

[redacted] Neil Gorsuch will attend in my stead. Robt

Long, Linda E

Subject:	Updated: Strategic Management Council
Location:	Room 4111
Start:	Friday, July 29, 2005 1:00 PM
End:	Friday, July 29, 2005 3:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Long, Linda E
Required Attendees:	Sasser, Bruce K.; Gorsuch, Neil M

When: Friday, July 29, 2005 1:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 4111

~~*~*~*~*~*~*~*~*~*

Attendees: Bill Mercer, Dawn Burton, Neil Gorsuch attending for ASG McCallum, AAG Administration Dr. Corts, Director Mueller/FBI, Bruce Sasser attending for Director Lappin/BOP, Administrator Tandy/DEA, Chief of Staff Ullyot/OAG, Jolene Lauria-Sullens/JMD
POC: Linda Long 514-1904

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 22, 2005 4:17 PM
To: Schlozman, Brad (CRT)
Subject: RE: Still 430 for the conference?

Sorry, I can't. Will reschedule.

-----Original Message-----
From: Schlozman, Brad (CRT)
Sent: Wednesday, June 22, 2005 3:31 PM
To: Gorsuch, Neil M
Subject: FW: Still 430 for the conference?

???

-----Original Message-----
From: Palmer, David (CRT)
Sent: Wednesday, June 22, 2005 3:30 PM
To: Schlozman, Brad (CRT)
Subject: Still 430 for the conference?

Sours, Raquel

From: Sours, Raquel
Sent: Wednesday, June 22, 2005 4:30 PM
To: Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Rosenberg, Chuck; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)
Cc: Beach, Andrew; Long, Linda E; Walker, Shelia M; Washington, Tracy T; Bennett, Catherine T
Subject: Senior Management Meeting

Please note the early start time of tomorrow's Senior Management Meeting.

Thanks!
Subject: Senior Management Meeting

Start: Thu 6/23/05 8:30 AM

Required Attendees: Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Rosenberg, Chuck; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)
Optional Attendees: Rosenberg, Chuck (TXS)

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Chuck Rosenberg, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Sours, Raquel

From: Sours, Raquel
Sent: Wednesday, June 22, 2005 4:32 PM
To: Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)
Cc: Long, Linda E; Gunn, Currie (SMO); Walker, Shelia M; Washington, Tracy T; Bennett, Catherine T; Webb, Lauren; Beach, Andrew
Subject: Component Coordination Meeting

Please note the early start time of tomorrow's Component Coordination Meeting.

Subject: Component Coordination Meeting

Start: Thu 6/23/05 8:50 AM

Required Attendees: Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)
Optional Attendees: Rosenberg, Chuck (TXS)

AG's Conference Room
DOJ: DAG Jim Comey, Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Chuck Rosenberg, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

Schiffer, Stuart (CIV)

From: Schiffer, Stuart (CIV)
Sent: Wednesday, June 22, 2005 4:34 PM
To: Gorsuch, Neil M
Subject: Tobacco

Phillip Morris
R.J. Reynolds
Brown & Williamson
Lorillard
Liggett
American Tobacco
British American Tobacco
B.A.T. Industries
Tobacco Institute
Council for Tobacco Research

This comes from a memo I have from a few years ago when I was last involved in the case. I do not believe that any new parties have been added. While I would prefer not to call the team's director, I can do so if need be.

Shaw, Aloma A

Subject:	Updated: OMB Biweekly Conference Call w/ Jennifer Newstead
Location:	Room 254 EEOB
Start:	Friday, June 24, 2005 2:30 PM
End:	Friday, June 24, 2005 3:30 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Friday from 2:30 PM to 3:30 PM
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Kessler, Elizabeth A; Wiggins, Mike; Gorsuch, Neil M

When: Friday, June 24, 2005 2:30 PM-3:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 254 EEOB

~~*~*~*~*~*~*~*~*~*

This conference call has been rescheduled from June 24 @ 2:30 to June 23 at 4:00-4:30.

Jennifer's secy - Carla [redacted]

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, June 22, 2005 5:23 PM
To: Gorsuch, Neil M
Subject: FW: What's your fax number?

Looks like she'll still need the original. Bring in the check tomorrow, mark it void, and I'll take care of forwarding it over.

-----Original Message-----
From: Coates, Maria
Sent: Wednesday, June 22, 2005 5:17 PM
To: Shaw, Aloma A
Subject: RE: What's your fax number?

Yes I do need the original and Thanks again.

Maria Coates
Human Resources Assistant
Personnel Staff - Employment Section
202-616-3718 fax 202-514-4012
ONE VISION - ONE PURPOSE - ONE TEAM

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, June 22, 2005 5:03 PM
To: Coates, Maria
Subject: FW: What's your fax number?

By the way, do you still need the original document or will the copy I faxed you suffice?

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, June 22, 2005 2:26 PM
To: Coates, Maria
Subject: RE: What's your fax number?

I've faxed you Neil's direct deposit form.

-----Original Message-----
From: Coates, Maria
Sent: Wednesday, June 22, 2005 2:23 PM
To: Shaw, Aloma A
Subject: RE: What's your fax number?

Hi Aloma

My fax is 514-4012

Maria Coates
Human Resources Assistant
Personnel Staff - Employment Section
202-616-3718 fax 202-514-4012

ONE VISION - ONE PURPOSE - ONE TEAM

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, June 22, 2005 2:14 PM
To: Coates, Maria
Subject: What's your fax number?

Rodgers, Janice

From: Rodgers, Janice
Sent: Wednesday, June 22, 2005 6:03 PM
To: Gorsuch, Neil M
Subject: Advice regarding participation

Neil,

This is to follow-up our conversation earlier today. The ASG has asked you to serve as OASG's contact with OPR in responding to OPR's request for documents as part of its investigation of the Department's recent actions in the tobacco litigation. You have not participated in the tobacco litigation, you began serving in the Department, as the Principal DASG, on June 13, 2005, and at this time the ASG does not intend for you to participate in the tobacco litigation. As I advised, I see no reason that you may not collect the requested documents and provide them to OPR, and respond to additional requests should OPR make them, on behalf of OASG. If I have not accurately summarized the substance of our conversation, please let me know.

Thanks,
Janice

Janice Rodgers
Deputy Director
Departmental Ethics Office
(202) 514-8196
fax 514-3117

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 22, 2005 6:06 PM
To: Shaw, Aloma A
Subject: FW: Advice regarding participation

for file

-----Original Message-----
From: Rodgers, Janice
Sent: Wednesday, June 22, 2005 6:03 PM
To: Gorsuch, Neil M
Subject: Advice regarding participation

Neil,

This is to follow-up our conversation earlier today. The ASG has asked you to serve as OASG's contact with OPR in responding to OPR's request for documents as part of its investigation of the Department's recent actions in the tobacco litigation. You have not participated in the tobacco litigation, you began serving in the Department, as the Principal DASG, on June 13, 2005, and at this time the ASG does not intend for you to participate in the tobacco litigation. As I advised, I see no reason that you may not collect the requested documents and provide them to OPR, and respond to additional requests should OPR make them, on behalf of OASG. If I have not accurately summarized the substance of our conversation, please let me know.

Thanks,
Janice

Janice Rodgers
Deputy Director
Departmental Ethics Office
(202) 514-8196
fax 514-3117

Sampson, Kyle

From: Sampson, Kyle
Sent: Wednesday, June 22, 2005 7:44 PM
To: Gorsuch, Neil M
Subject: RE: Md

Let's talk at SMO meeting in the morning.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 22, 2005 12:32 PM
To: Sampson, Kyle
Subject: Md

Per our commitment to Chip and Jervis, I consulted Robert about an additional hearing on their MOU request. Subject to the AG's views, he concurs with us that this dead horse has been plenty flogged already.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, June 23, 2005 5:59 AM
To: Gunn, Currie (SMO)
Cc: Gorsuch, Neil M; Kessler, Elizabeth A
Subject: Status

Currie, just wanted to check in and see where this (email below) stood and where we are on copying of physical files. I will be available via email today. Thanks.

-----Original Message-----
From: Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>
To: Marshall, Robert L <Robert.L.Marshall@SMOJMD.USDOJ.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Wed Jun 22 10:24:15 2005
Subject: Archive e-mail for Associate Robert McCallum

Can you provide me w/CD or any type of readable media which I can retrieve all Associate Robert McCallum's archived e-mail since from 2001 to present.

Please let me know if you have any questions.

Thanks

Currie Gunn
Office of the Associate Attorney General
202-514-9500

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, June 23, 2005 6:07 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO); Davis, Deborah J; Swenson, Lily F; Gunn, Currie (SMO); Shaw, Aloma A; Kessler, Elizabeth A
Subject: Reyes today

I will be available via email all day and can call in as needed. Possible that I make it in for the afternoon staff.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 6:53 AM
To: Schofield, Regina
Subject: Lunch?

Regina, I know our offices have trying to schedule some time to get together. But to make it simpler, how about you and me just grabbing lunch tomorrow, or perhaps sometime next week at your convenience? Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, June 23, 2005 8:13 AM
To: Gorsuch, Neil M
Subject: Read: Inquiry

Sampson, Kyle

From: Sampson, Kyle
Sent: Thursday, June 23, 2005 10:46 AM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: FW: Md

See below.

-----Original Message-----
From: Sampson, Kyle
Sent: Thursday, June 23, 2005 10:45 AM
To: 'William_K._Kelley@who.eop.gov'
Subject: RE: Md

Great. Thanks. We'll press forward.

-----Original Message-----
From: William_K._Kelley@who.eop.gov
[mailto:William_K._Kelley@who.eop.gov]
Sent: Thursday, June 23, 2005 10:41 AM
To: Sampson, Kyle
Subject: Md

Kyle--I understand that Harriet briefed the AG on yesterday's conversation. I gather that Ehrlich was referred to the COS. I also gather that they're mainly comlaining about timing now -- this Friday or next Friday or some time in 2008, I suppose. I guess next week is as good as this week, but it really is up to you folks, subject to higher level conversations which might have occurred but which I don't know about.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 10:51 AM
To: Sampson, Kyle
Cc: McCallum, Robert (SMO)
Subject: RE: Md

Thanks. Please give me a ring when you have a moment.

-----Original Message-----
From: Sampson, Kyle
Sent: Thursday, June 23, 2005 10:46 AM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: FW: Md

See below.

-----Original Message-----
From: Sampson, Kyle
Sent: Thursday, June 23, 2005 10:45 AM
To: 'William_K._Kelley@who.eop.gov'
Subject: RE: Md

Great. Thanks. We'll press forward.

-----Original Message-----
From: William_K._Kelley@who.eop.gov
[mailto:William_K._Kelley@who.eop.gov]
Sent: Thursday, June 23, 2005 10:41 AM
To: Sampson, Kyle
Subject: Md

Kyle--I understand that Harriet briefed the AG on yesterday's conversation. I gather that Ehrlich was referred to the COS. I also gather that they're mainly comlaining about timing now -- this Friday or next Friday or some time in 2008, I suppose. I guess next week is as good as this week, but it really is up to you folks, subject to higher level conversations which might have occurred but which I don't know about.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 10:53 AM
To: Schofield, Regina
Subject: Lunch

Got your voice mail. Next Weds is fine, as is tomorrow. Just let me know what works for you.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 10:54 AM
To: Clement, Paul D
Subject: Lunch

As it turns out, I have to be back for a 1:15. Would lunch at noon or thereabouts work for you?

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, June 23, 2005 10:55 AM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: Waiver Memo

Looks like we will have this Tuesday next week. Not sure the reason for the delay from Mary Beth, seems to be quality control. Mary Beth is here until July 5.

-----Original Message-----
From: Buchanan, MaryBeth
Sent: Thursday, June 23, 2005 10:43 AM
To: Reyes, Luis (SMO)
Subject: Re: Draft Memo

I am trying to get my EOUSA staff to give me a good draft. I met with the CTD lawyer yesterday to discuss the memo. She promised to have in back to me by Friday. I will then work on it over the weekend. Will Tuesday work for Robert's schedule. (I will try for Monday, but I am hosting a golf outing for my Pittsburgh office on Monday).

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Buchanan, MaryBeth <MaryBeth.Buchanan@usdoj.gov>
Sent: Thu Jun 23 10:36:15 2005
Subject: RE: Draft Memo

Hey there, just touching base on this. Left you a message at MAIN and your Pennsylvania office. What can I relay to Robert? Thanks.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, May 31, 2005 5:41 PM
To: Buchanan, MaryBeth
Subject: RE: Draft Memo

Fabulous. Thanks Mary Beth.

-----Original Message-----
From: Buchanan, MaryBeth
Sent: Tuesday, May 31, 2005 5:16 PM
To: Reyes, Luis (SMO)

Subject: Re: Draft Memo

I am trying to get him a draft by the end of the week.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Buchanan, MaryBeth <MaryBeth.Buchanan@usdoj.gov>
Sent: Tue May 31 17:13:37 2005
Subject: Draft Memo

Hi there Mary Beth,
Hope all is well. When did we agree that you guys would have a draft memo on the privilege waiver issue? Just want to give Robert a time frame to equip him when he speaks to the DAG.

Clement, Paul D

From: Clement, Paul D
Sent: Thursday, June 23, 2005 10:59 AM
To: Gorsuch, Neil M
Subject: RE: Lunch

Absolutely.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 10:54 AM
To: Clement, Paul D
Subject: Lunch

As it turns out, I have to be back for a 1:15. Would lunch at noon or thereabouts work for you?

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, June 23, 2005 11:01 AM
To: [redacted]@dodgc.osd.mil'
Cc: Gunn, Currie (SMO); Shaw, Aloma A; Gorsuch, Neil M
Subject: RE: Short Meet and Greet with Associate

I am sure we can come up with another time. Can I have Currie Gunn, Robert's assistant get in touch with [redacted]? What is his email from the outside? Is it just [redacted]@dodgc.osd.mil?
Thanks very much [redacted]

Currie, let's please set up a time with DOD General Counsel's Office for a short meet and greet with Robert McCallum, Neil Gorsuch, and myself. Thanks so very much.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, June 17, 2005 10:28 AM
To: Reyes, Luis (SMO)
Subject: FW: Short Meet and Greet with Associate

Luis, we would love to host y'all. The GC is unavailable that day (see below) - is there another day that would work?

-----Original Message-----
From: [redacted] DoD OGC
Sent: Friday, June 17, 2005 06:27
To: [redacted] DoD OGC; [redacted] DoD OGC
Subject: RE: Short Meet and Greet with Associate

[redacted]

[redacted] will be on travel the 30th. Can they pick another date? Thanks.

[redacted] USAF
Senior Military Assistant to the DoD General Counsel Pentagon Room 3E980, [redacted]

-----Original Message-----
From: [redacted] DoD OGC
Sent: Thursday, June 16, 2005 19:05
To: [redacted] DoD OGC; [redacted] DoD OGC
Subject: FW: Short Meet and Greet with Associate

Are [redacted] and [redacted] free that afternoon for a visit by the Associate AG's folks?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 11:01 AM
To: Clement, Paul D
Subject: RE: Lunch

I'll stop by your office then. Thanks.

-----Original Message-----
From: Clement, Paul D
Sent: Thursday, June 23, 2005 10:59 AM
To: Gorsuch, Neil M
Subject: RE: Lunch

Absolutely.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 10:54 AM
To: Clement, Paul D
Subject: Lunch

As it turns out, I have to be back for a 1:15. Would lunch at noon or thereabouts work for you?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 11:42 AM
To: Kim, Wan (CRT)
Subject: RE: future lunch?

the 8th works. let's do it.

-----Original Message-----
From: Kim, Wan (CRT)
Sent: Thursday, June 23, 2005 11:39 AM
To: Gorsuch, Neil M
Subject: future lunch?

I'm out next week, but are you free, say, 7/8 or the following week?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 11:44 AM
To: Schofield, Regina
Subject: RE: Lunch?

Great. I will stop by your office at 12:30. Caucus Room ok?
-----Original Message-----
From: Schofield, Regina
Sent: Thursday, June 23, 2005 11:38 AM
To: Gorsuch, Neil M
Subject: RE: Lunch?

Hey there, we've moved some stuff around so tomorrow at 12:30 is good. Where do you want to meet?

> -----Original Message-----
> **From:** Gorsuch, Neil M
> **Sent:** Thursday, June 23, 2005 6:53 AM
> **To:** Schofield, Regina
> **Subject:** Lunch?
>
> Regina, I know our offices have trying to schedule some time to get together. But to make it simpler, how about you and me just grabbing lunch tomorrow, or perhaps sometime next week at your convenience? Neil
>
> Neil M. Gorsuch
> Principal Deputy Associate Attorney General
> U.S. Department of Justice
> 950 Pennsylvania Avenue, N.W.
> Room 5706
> Washington, D.C. 20530
> direct dial: (202) 305-1434
> cell: [redacted]
> e-mail: neil.gorsuch@usdoj.gov

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, June 23, 2005 12:22 PM
To: Gorsuch, Neil M
Subject: FW: Neil Gorsuch Credit Card

Neil:

See message below regarding your govt. credit card.

I will reserve your train ticket. What time would you like to leave for Philadelphia? There is a 3:00 departing Union Station, arriving Philly at 4:40. According to the agenda, the reception begins 6:00 pm on June 27 and adjourns June 28 at 4:15 pm.

Aloma

-----Original Message-----
From: Gallagher, Elizabeth A
Sent: Thursday, June 23, 2005 11:55 AM
To: Shaw, Aloma A
Subject: RE: Neil Gorsuch Credit Card

I asked that it be FedExed to him. He may receive it Saturday. However, I think you should go ahead and make arrangements and tell Omega to charge it to ESSGTA. They will call here for approval. I'll put him on the list.

Schofield, Regina

From: Schofield, Regina
Sent: Thursday, June 23, 2005 12:26 PM
To: Gorsuch, Neil M
Subject: RE: Lunch?

sure. we're on 7th St. so it would be easier to meet you there unless you just want to come over and see this huge office.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 12:17 PM
To: Schofield, Regina
Subject: RE: Lunch?

Great. I will stop by your office at 12:30. Caucus Room ok?
-----Original Message-----
From: Schofield, Regina
Sent: Thursday, June 23, 2005 11:38 AM
To: Gorsuch, Neil M
Subject: RE: Lunch?

Hey there, we've moved some stuff around so tomorrow at 12:30 is good. Where do you want to meet?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 6:53 AM
To: Schofield, Regina
Subject: Lunch?

Regina, I know our offices have trying to schedule some time to get together. But to make it simpler, how about you and me just grabbing lunch tomorrow, or perhaps sometime next week at your convenience? Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell [redacted]
e-mail: neil.gorsuch@usdoj.gov

From: USDOJ- Office of Public Affairs
Sent: Thursday, June 23, 2005 1:10 PM
To: Sweeney, Laura (OPA)
Subject: FORMER CHEMICAL SALESMAN AGREES TO PLEAD GUILTY TO CONSPIRACY CHARGES

The information is attached in PDF format.

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, JUNE 23, 2005
WWW.USDOJ.GOV

AT
(202) 514-2007
TDD (202) 514-1888

FORMER CHEMICAL SALESMAN AGREES TO PLEAD GUILTY TO CONSPIRACY CHARGES

WASHINGTON, D.C. -- A former salesman for a Georgia-based chemical manufacturer has agreed to plead guilty to participating in two conspiracies to defraud his former employer, the Department of Justice today announced.

According to the two-count felony charge filed today in the U. S. District Court in Atlanta, Patrick J. Crowe III, a former chemical salesman for the Cartersville, Georgia corporation Chemical Products Technologies, LLC (CPT), participated in two separate conspiracies to commit mail fraud and deprive CPT of its right to the honest services of its employees. While employed as a salesman by CPT, Crowe received kickback payments from the owner and operator of an independent Tennessee trucking company in exchange for ensuring that the trucking company received business from CPT. In addition to the kickback payments, Crowe diverted profits from CPT and used the money for his own personal benefit.

"These types of schemes deprive companies of their right to the honest services of their employees and to fair and competitive pricing," said Scott D. Hammond, Deputy Assistant Attorney General in charge of the Antitrust Division's Criminal Enforcement Program.

DOJ_NMG_ 0144693

From approximately July 2000 to October 2003, Crowe and his co-conspirators participated in a kickback scheme involving the hauling of anthraquinone, a pulping additive used to increase production in the pulp and paper industry. Kickback payments were made to Crowe's shell corporation at an agreed-upon rate for each load of anthraquinone hauled for CPT. In order to facilitate this scheme, Crowe and his co-conspirators mailed and/or caused to be mailed inflated invoices, kickback checks, and other documents pertaining to the fraudulent scheme.

According to the second conspiracy charge, from April 2002 to December 2002, Crowe and his co-conspirators misled CPT to believe that CDFD Inc., a Wyoming corporation owned by Crowe, was an escrow agent with no ownership connection to Crowe or anyone else employed by CPT. CPT was also led to believe by Crowe and his co-conspirators that funds generated by CPT's glyphosate business and placed in a CDFD Inc. business account would be used to pay CPT's suppliers. Glyphosate is a herbicide used to control grasses and weeds. Crowe and his co-conspirators then diverted funds from the CDFD Inc. business account for their own personal use.

Crowe is charged with conspiracy, a violation of 18 U.S.C. § 371, which carries a maximum term of imprisonment of five years and a maximum fine of $250,000 for an individual for each count. The maximum fine may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine.

Today's charges are the first to arise out of an ongoing investigation in the Northern District of Georgia being conducted by the Antitrust Division's Atlanta Field Office. Anyone with information concerning price-fixing, bid-rigging or kickback schemes in the anthraquinone or glyphosate industries should contact the Atlanta Field Office of the Antitrust Division at (404) 331-7100.

###

05-336

DOJ_NMG_ 0144694



Crowe Information - FINAL-ATL....

DOJ_NMG_ 0144695

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA	)	
	)	Criminal No.:
v.	)	
	)	Filed:
PATRICK JOSEPH CROWE III,	)	
	)	Violation: 18 U.S.C. § 371
Defendant.	)	
_____	)	

INFORMATION

The United States of America, acting through its attorneys, charges:

COUNT ONE--CONSPIRACY
(18 U.S.C. § 371)

1. PATRICK JOSEPH CROWE III is hereby made a defendant on this charge.

I. DEFENDANT AND CO-CONSPIRATORS

2. During the period covered by this Information, defendant Crowe, a resident of Chattanooga, Tennessee, was employed as a salesman for Chemical Products Technologies, LLC ("CPT"), a corporation organized and existing under the laws of the State of Georgia with its principal place of business in Cartersville, Georgia. Among other products, CPT sold anthraquinone, a pulping additive used to increase

production in the pulp and paper industry, and glyphosate, an herbicide used to control grasses and weeds, to customers throughout the United States. The majority owner of CPT was Chemical Products Corporation ("CPC"), a Cartersville, Georgia company engaged in the business of mining and manufacturing various chemicals.

3. Co-Conspirator Number One ("CC-1) was employed as the general manager of CPT. In his position as general manager, CC-1 was responsible for the operation and profitability of the company. CC-1 was also the owner of Grey Bear, a Georgia corporation that owned 21% of CPT.

4. Co-Conspirator Number Two ("CC-2") was the sole owner and operator of an independent trucking company in Tennessee, who was hired to deliver anthraquinone for CPT.

II. DESCRIPTION OF THE OFFENSE

5. Beginning at least as early as July 2000, and continuing thereafter at least through October 10, 2003, the exact dates being unknown to the United States, in the Northern District of Georgia and elsewhere, the defendant, CC-1, and CC-2 did unlawfully, willfully, and

DOJ_NMG_ 0144697

knowingly combine, conspire, confederate, and agree in violation of Title 18, United States Code, Section 371, to commit offenses against the United States of America, to wit, to violate Title 18, United States Code, Sections 1341 and 1346.

6. It was a part and object of said conspiracy that the defendant, CC-1, and CC-2, having devised and intending to devise a scheme and artifice to defraud CPT and deprive CPT of its right to the honest services of its employees, executed such scheme and artifice to defraud by and through the use of the United States mail.

III. THE MANNER AND MEANS BY WHICH THE CONSPIRACY WAS CARRIED OUT

7. The defendant, CC-1, and CC-2 participated in a kickback scheme to defraud CPT, whereby they all agreed that CC-2 would make kickback payments to the defendant's shell corporation in exchange for ensuring that CC-2 received business from CPT. As a result of the scheme and artifice to defraud, CC-2 paid the defendant kickback payments totaling $69,428.27, a portion of which the defendant paid to CC-1. The defendant and CC-1 concealed the kickback agreement and kickback payments from CPT and CPC.

DOJ_NMG_ 0144698

8. The defendant and CC-1 had a fiduciary duty to transact business in the best interest of CPT, and to act honestly and faithfully in all of their dealings with CPT, including a duty to make full and fair disclosure to CPT of any kickbacks they received, or expected to receive, from CC-2 during the course of their employment. The defendant breached his fiduciary duty to CPT by receiving unauthorized kickback payments from CC-2.

9. For the purpose of forming and effectuating the aforesaid conspiracy, the defendant, CC-1, and CC-2 did those things that they combined and conspired to do, including, among other things:

(a) The defendant recruiting CC-2 to haul anthraquinone for CPT and then soliciting kickbacks from CC-2 in exchange for CC-2 obtaining and retaining business with CPT;

(b) The defendant, CC-1, and CC-2 agreeing that CC-2 would charge CPT an inflated price for each load of anthraquinone delivered by CC-2;

(c) The defendant, CC-1, and CC-2 agreeing that CC-2 would pay kickback money to the defendant's shell corporation for every load of anthraquinone delivered by CC-2;

(d) The defendant agreeing with CC-1 to share the kickback payments received from CC-2;

(e) The defendant and CC-1 retaining and using the kickback money for their own personal benefit;

(f) The defendant and CC-1 concealing from CPT and CPC the kickback agreement with CC-2 and the payments made by CC-2 to the defendant's shell corporation;

(g) The defendant and his co-conspirators mailing and/or causing to be mailed inflated invoices, kickback checks, and other documents pertaining to the scheme to defraud; and

(h) The defendant traveling across state lines into Georgia to deliver to CC-1 unlawfully obtained funds generated by their scheme to defraud CPT.

IV. OVERT ACTS

DOJ_NMG_ 0144700

10. In furtherance of the conspiracy and to effect the illegal objects thereof, the defendant, CC-1, and CC-2 committed overt acts in the Northern District of Georgia and elsewhere, including, but not limited to:

(a) CC-2 sending numerous inflated invoices to CPT, via United States mail, which were all received by CPT in Cartersville, Georgia;

(b) The defendant, CC-1, and CC-2 causing CPT to place checks into the United States mail in Cartersville, Georgia for delivery to CC-2 in payment of the inflated invoices;

(c) The defendant traveling across state lines on several occasions and hand-delivering kickback payments to CC-1 in Cartersville, Georgia;

(d) CC-1 depositing kickback payments received from the defendant into a personal account at Bartow County Bank in Cartersville, Georgia.

V. JURISDICTION AND VENUE

DOJ_NMG_ 0144701

11. The conspiracy charged in this Count was formed and carried out, in part, in the Northern District of Georgia within the five years preceding the filing of this Information.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371.

COUNT TWO--CONSPIRACY
(18 U.S.C. § 371)

12. PATRICK J. CROWE III is hereby made a defendant on this charge.

DOJ_NMG_ 0144702

I. DEFENDANT AND CO-CONSPIRATORS

13. Paragraphs 2 and 3 of Count One of this Information are repeated, realleged, and incorporated in Count Two with the same force and effect as if fully set forth in this Count.

14. From at least March 2002 until at least December 2002, the defendant was the primary salesman for CPT's glyphosate business and reported directly to CC-1.

15. Co-Conspirator Number Three ("CC-3") was the owner of a Nevada corporation in the business of forming corporate entities and providing nominee services to such entities.

II. DESCRIPTION OF THE OFFENSE

16. Beginning at least as early as April 2002, and continuing thereafter at least through December 3, 2002, the exact dates being unknown to the United States, in the Northern District of Georgia and elsewhere, the defendant, CC-1, and CC-3 did unlawfully, willfully, and knowingly combine, conspire, confederate, and agree in violation of Title 18, United States Code, Section 371, to commit offenses against the United

DOJ_NMG_ 0144703

States of America, to wit, to violate Title 18, United States Code, Sections 1341 and 1346.

17. It was a part and object of said conspiracy that the defendant, CC-1, and CC-3, having devised and intending to devise a scheme and artifice to defraud CPT and deprive CPT of its right to the honest services of its employees, executed the scheme and artifice to defraud by and through the use of a commercial interstate carrier.

III. THE MANNER AND MEANS BY WHICH THE CONSPIRACY WAS CARRIED OUT

18. The defendant and CC-1 devised and, along with CC-3, participated in a scheme and artifice to defraud CPT out of profits from its glyphosate business. To execute the scheme, the defendant hired CC-3 to act as a nominee for CDFD, Inc., a Wyoming corporation owned by the defendant. At the instruction of the defendant, CC-3 opened a bank account for CDFD. The defendant and CC-1 concealed the defendant's ownership of CDFD and his control over the CDFD business account.

19. In furtherance of the scheme and artifice to defraud, the defendant and CC-1 misled CPT and CPC to believe that CDFD was an escrow agent, and arranged to have all funds generated by CPT's

glyphosate business deposited into the CDFD business account set up by CC-3. It was CPT's intention that the funds deposited into the CDFD bank account would be used to pay CPT's glyphosate supplier, with the balance disbursed to CPT and Zetachem, U.S.A. (CPT's former partner in the glyphosate business). The defendant and CC-1, who were, at all times, aware that they were not authorized to use these funds for their personal benefit, diverted funds from the CDFD business account for their own personal use. As a result of the scheme and artifice to defraud, the defendant unlawfully received at least $17,416.59 from the CDFD account and CC-1 received at least $39,412.62. At the time these payments were made, CPT and CPC were unaware that the defendant and CC-1 were stealing profits from CPT's glyphosate business.

20. The defendant and CC-1 had a fiduciary duty to transact business in the best interest of CPT, and to act honestly and faithfully in all of their dealings with CPT, including a duty to disclose to CPT the defendant's ownership of CDFD, Inc., the defendant's control over the CDFD business account, and any payments the defendant and CC-1 received from the CDFD business account during the course of their

employment. The defendant breached his fiduciary duty to CPT by stealing profits from CPT's glyphosate business for his own personal use.

21. For the purpose of forming and effectuating the aforesaid conspiracy, the defendant, CC-1, and CC-2 did those things that they combined and conspired to do, including, among other things:

(a) The defendant and CC-1 agreeing to use the defendant's corporation, CDFD, Inc., to divert profits from CPT's glyphosate business for their own personal use;

(b) The defendant hiring CC-3 to serve as a nominee for CDFD, Inc., and instructing CC-3 to open a bank account for the corporation;

(c) CC-3 setting up a bank account under the name CDFD, Inc. and concealing the defendant's ownership and control over the corporation and bank account;

(d) The defendant and CC-1 misleading CPT and CPC to believe that CDFD, Inc. was an independent corporation able to serve as an escrow agent for CPT's glyphosate business;

DOJ_NMG_ 0144706

(e) The defendant and CC-1 sending instructions to CC-3 to execute the scheme, including ordering CC-3 to charge CPT phony fees on behalf of CDFD, Inc.;

(f) The defendant sending instructions to CC-3 and his employees to send checks drawn on the CDFD bank account and made payable to the defendant and CC-1, to the defendant's residence in Tennessee;

(g) The defendant and CC-1 retaining and using funds from the CDFD bank account for their own personal benefit;

(h) The defendant and CC-1 concealing their relationship to CDFD, Inc. and their control over the CDFD bank account from CPT and CPC;

(i) The defendant, CC-1, and CC-3 mailing and/or causing to be mailed documents and checks relating to their scheme to defraud CPT;

(j) The defendant traveling across state lines into Georgia to deliver to CC-1 unlawfully obtained funds generated by their scheme to defraud CPT.

IV. OVERT ACTS

22. In furtherance of the conspiracy and to effect the illegal objects thereof, the defendant, CC-1, and CC-3 committed overt acts in the Northern District of Georgia and elsewhere, including, but not limited to:

(a) CC-1 sending documents, via facsimile, from Cartersville, Georgia to CC-3 in Nevada, instructing CC-3 to bill CPT for phony fees;

(b) The defendant causing checks drawn on the CDFD business account to be placed in the United States mail and delivered to the defendant's residence in Tennessee;

(c) The defendant hand-delivering funds stolen from the CDFD business account to CC-1 in Cartersville, Georgia;

(d) CC-1 depositing funds generated by the scheme and artifice to defraud CPT into his personal account at Bartow County Bank in Cartersville, Georgia.

V. JURISDICTION AND VENUE

DOJ_NMG_ 0144708

23. The combination and conspiracy charged in this Count was formed and carried out, in part, in the Northern District of Georgia within the five years preceding the filing of this Information.

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371.

DOJ_NMG_ 0144709

Dated this _____ day of June, 2005.

/S/
R. HEWITT PATE
Assistant Attorney General

/S/
NEZIDA S. DAVIS
Chief, Atlanta Field Office
Georgia Bar No. 642083

/S/
SCOTT D. HAMMOND
Deputy Assistant Attorney General
Office

/S/
GLENN D. BAKER
Asst. Chief, Atlanta Field

Georgia Bar No. 033450

/S/
MARC SIEGEL
Director of Criminal Enforcement

/S/
HOLLY B. STEVENS
Georgia Bar No. 093550

/S/
DAVID E. NAHMIAS
United States Attorney
Northern District of Georgia

/S/
DEANA L. TIMBERLAKE-WILEY
Member of the Maryland Bar

Attorneys
U.S. Department of Justice
Antitrust Division
75 Spring Street, SW
Suite 1176
Atlanta, Georgia 30303
Tel: (404) 331-7100
Fax: (404) 331-7110

Image not available for this document, ID: 0.7.10316.80415-000002

Department of Justice

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Thursday, June 23, 2005 2:07 PM
To: Yanes, Raul
Cc: Gorsuch, Neil M
Subject: AWOL

I am out of town tomorrow and my flight into DC gets in just before 8:30 am on Monday so I will be AWOL for the meetings Friday and Monday. Neil will handle for OASG. Robt.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 3:55 PM
To: Kessler, Elizabeth A
Subject: OMB call

is this happening? if so, could you stop by and fill me in on any issues?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 3:57 PM
To: Schofield, Regina
Subject: RE: Lunch?

I'd be very happy to stop by your office. I will see you there at 12:30 and we can proceed to Caucus Rm. after.
-----Original Message-----
From: Schofield, Regina
Sent: Thursday, June 23, 2005 12:26 PM
To: Gorsuch, Neil M
Subject: RE: Lunch?

sure. we're on 7th St. so it would be easier to meet you there unless you just want to come over and see this huge office.

> -----Original Message-----
> **From:** Gorsuch, Neil M
> **Sent:** Thursday, June 23, 2005 12:17 PM
> **To:** Schofield, Regina
> **Subject:** RE: Lunch?
>
> Great. I will stop by your office at 12:30. Caucus Room ok?
> -----Original Message-----
> **From:** Schofield, Regina
> **Sent:** Thursday, June 23, 2005 11:38 AM
> **To:** Gorsuch, Neil M
> **Subject:** RE: Lunch?
>
> Hey there, we've moved some stuff around so tomorrow at 12:30 is good. Where do you want to meet?
>
> > -----Original Message-----
> > **From:** Gorsuch, Neil M
> > **Sent:** Thursday, June 23, 2005 6:53 AM
> > **To:** Schofield, Regina
> > **Subject:** Lunch?
> >
> > Regina, I know our offices have trying to schedule some time to get together. But to make it simpler, how about you and me just grabbing lunch tomorrow, or perhaps sometime next week at your convenience? Neil
> >
> > Neil M. Gorsuch
> > Principal Deputy Associate Attorney General
> > U.S. Department of Justice
> > 950 Pennsylvania Avenue, N.W.
> > Room 5706
> > Washington, D.C. 20530
> > direct dial: (202) 305-1434
> > cell: [redacted]
> > e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 3:57 PM
To: Shaw, Aloma A
Subject: RE: Neil Gorsuch Credit Card

3PM IS FINE

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, June 23, 2005 12:22 PM
To: Gorsuch, Neil M
Subject: FW: Neil Gorsuch Credit Card

Neil:

See message below regarding your govt. credit card.

I will reserve your train ticket. What time would you like to leave for Philadelphia? There is a 3:00 departing Union Station, arriving Philly at 4:40. According to the agenda, the reception begins 6:00 pm on June 27 and adjourns June 28 at 4:15 pm.

Aloma

-----Original Message-----
From: Gallagher, Elizabeth A
Sent: Thursday, June 23, 2005 11:55 AM
To: Shaw, Aloma A
Subject: RE: Neil Gorsuch Credit Card

I asked that it be FedExed to him. He may receive it Saturday. However, I think you should go ahead and make arrangements and tell Omega to charge it to ESSGTA. They will call here for approval. I'll put him on the list.

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Thursday, June 23, 2005 4:02 PM
To: Gorsuch, Neil M
Subject: RE: OMB call

i'll be right down

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 3:55 PM
To: Kessler, Elizabeth A
Subject: OMB call

is this happening? if so, could you stop by and fill me in on any issues?

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, June 23, 2005 4:23 PM
To: Gorsuch, Neil M
Subject: Phone Call

[redacted]

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, June 23, 2005 4:39 PM
To: Gorsuch, Neil M
Subject: Call [redacted]

Mercer, Bill (ODAG)

Subject:	Accepted: Updated: Meeting: Mercer, Gorsuch. and Henke
Location:	Room 4208
Start:	Wednesday, July 13, 2005 2:00 PM
End:	Wednesday, July 13, 2005 3:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Mercer, Bill (ODAG)

Gunn, Currie (SMO)

Subject:	Accepted: Tax FY2007 Budget Request Briefing
Location:	OASG Conf. Room 5710
Start:	Thursday, June 30, 2005 3:00 PM
End:	Thursday, June 30, 2005 4:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gunn, Currie (SMO)

Mercer, Bill (ODAG)

From: Mercer, Bill (ODAG)
Sent: Thursday, June 23, 2005 5:05 PM
To: Gorsuch, Neil M
Subject: Read: Updated: Meeting: Mercer, Gorsuch. and [redacted]

Schlozman, Brad (CRT)

From: Schlozman, Brad (CRT)
Sent: Friday, June 24, 2005 9:59 AM
To: Gorsuch, Neil M
Subject: Read: Cook Co

Yanes, Raul

From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Ullyot, Theodore

From: Ullyot, Theodore
Sent: Friday, June 24, 2005 10:25 AM
To: Yanes, Raul; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO); Beach, Andrew
Subject: RE:

On 1: The Judge wants to speak at the House of Delegates portion of the ABA Conference. I.e., the Monday event, not the Saturday event.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Yanes, Raul

From: Yanes, Raul
Sent: Friday, June 24, 2005 10:27 AM
To: Keisler, Peter D. (CIV); Katsas, Gregory (CIV); Gorsuch, Neil M
Subject: FW:

I thought it made sense to have a call with DOD in advance of this afternoon's mtg to talk through the issues and make the WH mtg more efficient. What's everyone's availability? Thanks.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, June 24, 2005 10:18 AM
To: Yanes, Raul
Subject: Re:

I'm free all day. Thanks, Raul.

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Raul.Yanes@usdoj.gov <Raul.Yanes@usdoj.gov>
To: [redacted]@dodgc.osd.mil [redacted]@dodgc.osd.mil>
Sent: Fri Jun 24 09:37:02 2005
Subject:

I thought it might make sense to organize a conference call today in adavance of the WH mtg to make sure we've fully aired where everyone is on this before we talk to [redacted] and [redacted] If you think that makes sense, let me know what times are good for you. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 24, 2005 10:30 AM
To: Yanes, Raul; Keisler, Peter D. (CIV); Katsas, Gregory (CIV)
Subject: RE:

free after 1:30 or before 12:30

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:27 AM
To: Keisler, Peter D. (CIV); Katsas, Gregory (CIV); Gorsuch, Neil M
Subject: FW:

I thought it made sense to have a call with DOD in advance of this afternoon's mtg to talk through the issues and make the WH mtg more efficient. What's everyone's availability? Thanks.

-----Original Message-----
From [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, June 24, 2005 10:18 AM
To: Yanes, Raul
Subject: Re:

I'm free all day. Thanks, Raul.

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Raul.Yanes@usdoj.gov <Raul.Yanes@usdoj.gov>
To[redacted]@dodgc.osd.mil [redacted]@dodgc.osd.mil>
Sent: Fri Jun 24 09:37:02 2005
Subject:

I thought it might make sense to organize a conference call today in adavance of the WH mtg to make sure we've fully aired where everyone is on this before we talk to [redacted] and [redacted] if you think that makes sense, let me know what times are good for you. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 24, 2005 10:31 AM
To: Ullyot, Theodore; Yanes, Raul; Sampson, Kyle
Cc: Henke, Tracy (SMO); Beach, Andrew
Subject: RE:

Thanks

-----Original Message-----
From: Ullyot, Theodore
Sent: Friday, June 24, 2005 10:25 AM
To: Yanes, Raul; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO); Beach, Andrew
Subject: RE:

On 1: The Judge wants to speak at the House of Delegates portion of the ABA Conference. I.e., the Monday event, not the Saturday event.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 24, 2005 10:31 AM
To: McCallum, Robert (SMO)
Subject: FW:

Here's the answer to question 1. Do you want me to share this info with ABA?

-----Original Message-----
From: Ullyot, Theodore
Sent: Friday, June 24, 2005 10:25 AM
To: Yanes, Raul; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO); Beach, Andrew
Subject: RE:

On 1: The Judge wants to speak at the House of Delegates portion of the ABA Conference. I.e., the Monday event, not the Saturday event.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Keisler, Peter D. (CIV)

From: Keisler, Peter D. (CIV)
Sent: Friday, June 24, 2005 10:32 AM
To: Gorsuch, Neil M; Yanes, Raul; Katsas, Gregory (CIV)
Subject: RE:

After 1:30 is fine with me too.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 24, 2005 10:30 AM
To: Yanes, Raul; Keisler, Peter D. (CIV); Katsas, Gregory (CIV)
Subject: RE:

free after 1:30 or before 12:30

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:27 AM
To: Keisler, Peter D. (CIV); Katsas, Gregory (CIV); Gorsuch, Neil M
Subject: FW:

I thought it made sense to have a call with DOD in advance of this afternoon's mtg to talk through the issues and make the WH mtg more efficient. What's everyone's availability? Thanks.

-----Original Message-----
From [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, June 24, 2005 10:18 AM
To: Yanes, Raul
Subject: Re:

I'm free all day. Thanks, Raul.

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Raul.Yanes@usdoj.gov <Raul.Yanes@usdoj.gov>

From: Raul.Yanes@usdoj.gov <Raul.Yanes@usdoj.gov>
To [redacted]@dodgc.osd.mil [redacted]@dodgc.osd.mil>
Sent: Fri Jun 24 09:37:02 2005
Subject:

I thought it might make sense to organize a conference call today in adavance of the WH mtg to make sure we've fully aired where everyone is on this before we talk to [redacted] and [redacted] If you think that makes sense, let me know what times are good for you. Thanks.

Yanes, Raul

Subject:	Accepted: Updated: Meeting with Harriet Miers and Bill Kelly
Location:	Harriet Miers Office @ White House
Start:	Friday, June 24, 2005 4:00 PM
End:	Friday, June 24, 2005 5:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Yanes, Raul

Yanes, Raul

From: Yanes, Raul
Sent: Friday, June 24, 2005 10:36 AM
To: [redacted]@dodgc.osd.mil'
Cc: Keisler, Peter D. (CIV); Katsas, Gregory (CIV); Gorsuch, Neil M

[redacted]

It it's alright, we will call you at your office at 2 pm to discuss our mtg. Thanks.

Katsas, Gregory (CIV)

From: Katsas, Gregory (CIV)
Sent: Friday, June 24, 2005 10:40 AM
To: Keisler, Peter D. (CIV); Gorsuch, Neil M; Yanes, Raul
Subject: RE:

Ditto.

-----Original Message-----
From: Keisler, Peter D. (CIV)
Sent: Friday, June 24, 2005 10:32 AM
To: Gorsuch, Neil M; Yanes, Raul; Katsas, Gregory (CIV)
Subject: RE:

After 1:30 is fine with me too.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 24, 2005 10:30 AM
To: Yanes, Raul; Keisler, Peter D. (CIV); Katsas, Gregory (CIV)
Subject: RE:

free after 1:30 or before 12:30

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:27 AM
To: Keisler, Peter D. (CIV); Katsas, Gregory (CIV); Gorsuch, Neil M
Subject: FW:

I thought it made sense to have a call with DOD in advance of this afternoon's mtg to talk through the issues and make the WH mtg more efficient. What's everyone's availability? Thanks.

-----Original Message-----
From [redacted]@dodgc.osd.mil [mailto [redacted]@dodgc.osd.mil]
Sent: Friday, June 24, 2005 10:18 AM
To: Yanes, Raul
Subject: Re:

I'm free all day. Thanks, Raul.

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Raul.Yanes@usdoj.gov <Raul.Yanes@usdoj.gov>
To: [redacted]@dodgc.osd.mil [redacted]@dodgc.osd.mil>
Sent: Fri Jun 24 09:37:02 2005
Subject:

I thought it might make sense to organize a conference call today in adavance of the WH mtg to make sure we've fully aired where everyone is on this before we talk to [redacted] and [redacted] If you think that makes sense, let me know what times are good for you. Thanks.

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Friday, June 24, 2005 10:54 AM
To: Yanes, Raul; [redacted]@dodgc.osd.mil
Cc: Keisler, Peter D. (CIV); Gorsuch, Neil M; Katsas, Gregory (CIV)
Subject: RE:

2 it is [redacted] Thanks.

-----Original Message-----
From: Raul.Yanes@usdoj.gov [mailto:Raul.Yanes@usdoj.gov]
Sent: Friday, June 24, 2005 10:37
To: [redacted]@dodgc.osd.mil
Cc: Peter.D.Keisler@usdoj.gov; Gregory.Katsas@usdoj.gov; Neil.Gorsuch@usdoj.gov
Subject:

[redacted]

It it's alright, we will call you at your office at 2 pm to discuss our mtg.
Thanks.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, June 24, 2005 10:57 AM
To: Gorsuch, Neil M
Subject: Re:

Yes. Confirm first with OAG but once confirmed I would like for you to call Robt Grey to alert him that the AG will do the House of delegates but NOT the opening address. He needs to get that info for his planning purposes the sooner the better. Robt.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Fri Jun 24 10:31:20 2005
Subject: FW:

Here's the answer to question 1. Do you want me to share this info with ABA?

-----Original Message-----
From: Ullyot, Theodore
Sent: Friday, June 24, 2005 10:25 AM
To: Yanes, Raul; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO); Beach, Andrew
Subject: RE:

On 1: The Judge wants to speak at the House of Delegates portion of the ABA Conference. I.e., the Monday event, not the Saturday event.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Yanes, Raul

From: Yanes, Raul
Sent: Friday, June 24, 2005 11:04 AM
To: Keisler, Peter D. (CIV)
Cc: Gorsuch, Neil M; Katsas, Gregory (CIV)
Subject: RE:

why don't we all meet in Peter's office?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, June 24, 2005 10:54 AM
To: Yanes, Raul; [redacted]@dodgc.osd.mil
Cc: Keisler, Peter D. (CIV); Gorsuch, Neil M; Katsas, Gregory (CIV)
Subject: RE:

2 it is. [redacted] Thanks.

-----Original Message-----
From: Raul.Yanes@usdoj.gov [mailto:Raul.Yanes@usdoj.gov]
Sent: Friday, June 24, 2005 10:37
To: [redacted]@dodgc.osd.mil
Cc: Peter.D.Keisler@usdoj.gov; Gregory.Katsas@usdoj.gov;
Neil.Gorsuch@usdoj.gov
Subject:

[redacted]

It it's alright, we will call you at your office at 2 pm to discuss our mtg.
Thanks.

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Friday, June 24, 2005 11:32 AM
To: Yanes, Raul; Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

The POTUS Medal of Valor is the highest award a public safety officer an receive. The Act establishing the Medal was signed prior to 9/11. This year is the third year for the awards. A Board (appointed by the POTUS and the Congress) makes recommendations to the AG and the AG sends forward to the POTUS. All of this was done prior to the election. I know that Jan Williams has talked to the WH about this event, but we still have nothing set and the Department is now accepting nominations for the next round of awards. The comments we are hearing is that we are accepting nominations for the next round and we haven't even awarded the last round. I note that in the draft AG speech for the Sheriff's conference he references MOV and that we are accepting nominations.

This event should be accomplished before March of each year. We are now way past that timeframe. Advance notice also needs to be given because the awardees have to make adjustments to their work schedules, childcare, travel for family members, etc. The department pays for the awardee and one guest only.

I am happy to give you any additional information you might need.
Tracy

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Yanes, Raul

From: Yanes, Raul
Sent: Friday, June 24, 2005 11:33 AM
To: Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Williams, Jan
Subject: RE:

Jan: can you tell us what you know about where the WH is on this?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, June 24, 2005 11:32 AM
To: Yanes, Raul; Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

The POTUS Medal of Valor is the highest award a public safety officer an receive. The Act establishing the Medal was signed prior to 9/11. This year is the third year for the awards. A Board (appointed by the POTUS and the Congress) makes recommendations to the AG and the AG sends forward to the POTUS. All of this was done prior to the election. I know that Jan Williams has talked to the WH about this event, but we still have nothing set and the Department is now accepting nominations for the next round of awards. The comments we are hearing is that we are accepting nominations for the next round and we haven't even awarded the last round. I note that in the draft AG speech for the Sheriff's conference he references MOV and that we are accepting nominations.

This event should be accomplished before March of each year. We are now way past that timeframe. Advance notice also needs to be given because the awardees have to make adjustments to their work schedules, childcare, travel for family members, etc. The department pays for the awardee and one guest only.

I am happy to give you any additional information you might need.
Tracy

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Williams, Jan

From: Williams, Jan
Sent: Friday, June 24, 2005 12:18 PM
To: Yanes, Raul; Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

This request is still pending in scheduling at the WH. I ask Cabinet Liaison about the request often and am told that are trying to fit in sometime this summer. I will remind them about the time sensitivity of the event. Hopefully, we can firm up a date in the next week.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 11:33 AM
To: Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Williams, Jan
Subject: RE:

Jan: can you tell us what you know about where the WH is on this?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, June 24, 2005 11:32 AM
To: Yanes, Raul; Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

The POTUS Medal of Valor is the highest award a public safety officer an receive. The Act establishing the Medal was signed prior to 9/11. This year is the third year for the awards. A Board (appointed by the POTUS and the Congress) makes recommendations to the AG and the AG sends forward to the POTUS. All of this was done prior to the election. I know that Jan Williams has talked to the WH about this event, but we still have nothing set and the Department is now accepting nominations for the next round of awards. The comments we are hearing is that we are accepting nominations for the next round and we haven't even awarded the last round. I note that in the draft AG speech for the Sheriff's conference he references MOV and that we are accepting nominations.

This event should be accomplished before March of each year. We are now way past that timeframe. Advance notice also needs to be given because the awardees have to make adjustments to their work schedules, childcare, travel for family members, etc. The department pays for the awardee and one guest only.

I am happy to give you any additional information you might need.
Tracy

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 24, 2005 12:19 PM
To: McCallum, Robert (SMO)
Subject: FW:

Here's the report on the 2d issue.

-----Original Message-----
From: Williams, Jan
Sent: Friday, June 24, 2005 12:18 PM
To: Yanes, Raul; Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

This request is still pending in scheduling at the WH. I ask Cabinet Liaison about the request often and am told that are trying to fit in sometime this summer. I will remind them about the time sensitivity of the event. Hopefully, we can firm up a date in the next week.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 11:33 AM
To: Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Williams, Jan
Subject: RE:

Jan: can you tell us what you know about where the WH is on this?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, June 24, 2005 11:32 AM
To: Yanes, Raul; Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

The POTUS Medal of Valor is the highest award a public safety officer an receive. The Act establishing the Medal was signed prior to 9/11. This year is the third year for the awards. A Board (appointed by the POTUS and the Congress) makes recommendations to the AG and the AG sends forward to the POTUS. All of this was done prior to the election. I know that Jan Williams has talked to the WH about this event, but we still have nothing set and the Department is now accepting nominations for the next round of awards. The comments we are hearing is that we are accepting nominations for the next round and we haven't even awarded the last round. I note that in the draft AG speech for the Sheriff's conference he references MOV and that we are accepting nominations.

This event should be accomplished before March of each year. We are now way past that timeframe. Advance notice also needs to be given because the awardees have to make adjustments to their work schedules, childcare, travel for family members, etc. The department pays for the awardee and one guest only.

I am happy to give you any additional information you might need.
Tracy

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Yanes, Raul

From: Yanes, Raul
Sent: Friday, June 24, 2005 12:21 PM
To: Williams, Jan; Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

Great. Pls. keep us posted.

-----Original Message-----
From: Williams, Jan
Sent: Friday, June 24, 2005 12:18 PM
To: Yanes, Raul; Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

This request is still pending in scheduling at the WH. I ask Cabinet Liaison about the request often and am told that are trying to fit in sometime this summer. I will remind them about the time sensitivity of the event. Hopefully, we can firm up a date in the next week.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 11:33 AM
To: Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Williams, Jan
Subject: RE:

Jan: can you tell us what you know about where the WH is on this?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, June 24, 2005 11:32 AM
To: Yanes, Raul; Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

The POTUS Medal of Valor is the highest award a public safety officer an receive. The Act establishing the Medal was signed prior to 9/11. This year is the third year for the awards. A Board (appointed by the POTUS and the Congress) makes recommendations to the AG and the AG sends forward to the POTUS. All of this was done prior to the election. I know that Jan Williams has talked to the WH about this event, but we still have nothing set and the Department is now accepting nominations for the next round of awards. The comments we are hearing is that we are accepting nominations for the next round and we haven't even awarded the last round. I note that in the draft AG speech for the Sheriff's conference he references MOV and that we are accepting nominations.

This event should be accomplished before March of each year. We are now way past that timeframe. Advance notice also needs to be given because the awardees have to make adjustments to their work schedules, childcare, travel for family members, etc. The department pays for the awardee and one guest only.

I am happy to give you any additional information you might need.
Tracy

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Palma, Josephine

From: Palma, Josephine
Sent: Friday, June 24, 2005 12:42 PM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: Lunch w/ [redacted]

I will be out of the office on June 23, 2005, returning on July 5, 2005. I will not be checking my email and voicemail messages. If you need immediate assistance, please call [redacted] Thank you.

Schofield, Regina

From: Schofield, Regina
Sent: Friday, June 24, 2005 12:57 PM
To: Gorsuch, Neil M
Subject: RE: Lunch?

Hey, sorry about lunch today. Let me know if you want to chat about the Body Armor Initiaitve and pending report. We are working on tpts for the AG and other staff this weekend. Tracy has a working knowledge so is poised to speak at NSA if she needs to address the issue also. [redacted] BJA head, also has a working knowledge of what's been going on behind the scenes.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 4:05 PM
To: Schofield, Regina
Subject: RE: Lunch?

I'd be very happy to stop by your office. I will see you there at 12:30 and we can proceed to Caucus Rm. after.

-----Original Message-----
From: Schofield, Regina
Sent: Thursday, June 23, 2005 12:26 PM
To: Gorsuch, Neil M
Subject: RE: Lunch?

sure. we're on 7th St. so it would be easier to meet you there unless you just want to come over and see this huge office.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 12:17 PM
To: Schofield, Regina
Subject: RE: Lunch?

Great. I will stop by your office at 12:30. Caucus Room ok?

-----Original Message-----
From: Schofield, Regina
Sent: Thursday, June 23, 2005 11:38 AM
To: Gorsuch, Neil M
Subject: RE: Lunch?

Hey there, we've moved some stuff around so tomorrow at 12:30 is good. Where do you want to meet?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 23, 2005 6:53 AM
To: Schofield, Regina
Subject: Lunch?

Regina, I know our offices have trying to schedule some time to get together. But to make it simpler, how about you and me just grabbing lunch tomorrow, or perhaps sometime next week at your convenience? Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, June 24, 2005 1:25 PM
To: Gorsuch, Neil M
Subject: Lunch w/ [redacted]

has been rescheduled for Wed. 6/29 - 12:30 at the Caucus Room. Reservations have been made in your name.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 24, 2005 1:30 PM
To: Yanes, Raul
Subject: WH Mtg

Would it make sense for Mike Wiggins and I to participate by phone? That way you could have both of us available, but w/o overwhelming numbers. Your call entirely.

Yanes, Raul

From: Yanes, Raul
Sent: Friday, June 24, 2005 1:38 PM
To: Gorsuch, Neil M
Subject: RE: WH Mtg

I think you should come.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 24, 2005 1:30 PM
To: Yanes, Raul
Subject: WH Mtg

Would it make sense for Mike Wiggins and I to participate by phone? That way you could have both of us available, but w/o overwhelming numbers. Your call entirely.

Wiggins, Mike

From: Wiggins, Mike
Sent: Friday, June 24, 2005 1:39 PM
To: Gorsuch, Neil M
Subject: Justice Story on takings

§ 1393. Whether, indeed, independently of the constitution of the United States, the nature of republican and free governments does not necessarily impose some restraints upon the legislative power, has been much discussed. It seems to be the general opinion, fortified by a strong current of judicial opinion, that since the American revolution no state government can be presumed to possess the transcendental sovereignty, to take away vested rights of property; to take the property of A. and transfer it to B. by a mere legislative act. That government can scarcely be deemed to be free, where the rights of property are left solely dependent upon a legislative body, without any restraint. The fundamental maxims of a free government seem to require, that the rights of personal liberty, and private property, should be held sacred. At least, no court of justice, in this country, would be warranted in assuming, that any state legislature possessed a power to violate and disregard them; or that such a power, so repugnant to the common principles of justice and civil liberty, lurked under any general grant of legislative authority, or ought to be implied from any general expression of the will of the people, in the usual forms of the constitutional delegation of power. The people ought not to be presumed to part with rights, so vital to their security and well-being, without very strong, and positive declarations to that effect.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 24, 2005 1:49 PM
To: [redacted]
Subject: RE: Justice Story on takings

Wish AMK had read his Justice Story before rendering his vote in today's case...

-----Original Message-----
From: [redacted]
Sent: Friday, June 24, 2005 1:39 PM
To: Gorsuch, Neil M
Subject: Justice Story on takings

§ 1393. Whether, indeed, independently of the constitution of the United States, the nature of republican and free governments does not necessarily impose some restraints upon the legislative power, has been much discussed. It seems to be the general opinion, fortified by a strong current of judicial opinion, that since the American revolution no state government can be presumed to possess the transcendental sovereignty, to take away vested rights of property; to take the property of A. and transfer it to B. by a mere legislative act. That government can scarcely be deemed to be free, where the rights of property are left solely dependent upon a legislative body, without any restraint. The fundamental maxims of a free government seem to require, that the rights of personal liberty, and private property, should be held sacred. At least, no court of justice, in this country, would be warranted in assuming, that any state legislature possessed a power to violate and disregard them; or that such a power, so repugnant to the common principles of justice and civil liberty, lurked under any general grant of legislative authority, or ought to be implied from any general expression of the will of the people, in the usual forms of the constitutional delegation of power. The people ought not to be presumed to part with rights, so vital to their security and well-being, without very strong, and positive declarations to that effect.

Sours, Raquel

Subject:	Updated: Senior Management Meeting
Start:	Friday, July 1, 2005 9:20 AM
End:	Friday, July 1, 2005 9:40 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)

When: Friday, July 01, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Sours, Raquel

Subject:	Updated: Component Coordination Meeting
Start:	Friday, July 01, 2005 9:40 AM
End:	Friday, July 01, 2005 10:00 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)
Optional Attendees:	Rosenberg, Chuck (TXS)

When: Friday, July 01, 2005 9:40 AM-10:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

Sours, Raquel

Subject:	Canceled: Senior Management Meeting
Start:	Monday, July 04, 2005 9:00 AM
End:	Monday, July 04, 2005 9:20 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)
Importance:	High

When: Monday, July 04, 2005 9:00 AM-9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Sours, Raquel

Subject:	Canceled: Component Coordination Meeting
Start:	Monday, July 04, 2005 9:20 AM
End:	Monday, July 04, 2005 9:40 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)
Optional Attendees:	Rosenberg, Chuck (TXS)
Importance:	High

When: Monday, July 04, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Friday, June 24, 2005 2:15 PM
To: Gorsuch, Neil M
Subject: FW: OMB meeting re the GAO report

just fyi. . .

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Friday, June 24, 2005 2:14 PM
To: Huff, Richard L
Cc: Rikhye, Evan; Brand, Rachel
Subject: RE: OMB meeting re the GAO report

Dick: Evan will attend the below meeting with you. Please get him the details and any other pertinent information he might need. Look forward to hearing how it goes. - Liz

-----Original Message-----
From: Huff, Richard L
Sent: Friday, June 24, 2005 12:03 PM
To: Kessler, Elizabeth A
Subject: OMB meeting re the GAO report

Liz -- we are meeting with [redacted], OIRA Deputy Administrator, some members of his staff, and a member of the General Counsel's Office on Monday at 4:00. Dick

Sours, Raquel

Subject:	Canceled: Senior Management Meeting
Start:	Wednesday, July 06, 2005 9:00 AM
End:	Wednesday, July 06, 2005 9:20 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)
Importance:	High

When: Wednesday, July 06, 2005 9:00 AM-9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Sours, Raquel

Subject:	Canceled: Component Coordination Meeting
Start:	Wednesday, July 06, 2005 9:20 AM
End:	Wednesday, July 06, 2005 9:40 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)
Optional Attendees:	Rosenberg, Chuck (TXS)
Importance:	High

When: Wednesday, July 06, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

Sours, Raquel

Subject:	Canceled: Senior Management Meeting
Start:	Thursday, July 07, 2005 9:00 AM
End:	Thursday, July 07, 2005 9:20 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)
Importance:	High

When: Thursday, July 07, 2005 9:00 AM-9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Sours, Raquel

Subject:	Canceled: Component Coordination Meeting
Start:	Thursday, July 07, 2005 9:20 AM
End:	Thursday, July 07, 2005 9:40 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)
Optional Attendees:	Rosenberg, Chuck (TXS)
Importance:	High

When: Thursday, July 07, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

Sours, Raquel

Subject:	Updated: Component Coordination Meeting
Start:	Friday, July 01, 2005 9:40 AM
End:	Friday, July 01, 2005 10:00 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)
Optional Attendees:	Rosenberg, Chuck (TXS)

When: Friday, July 01, 2005 9:40 AM-10:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

Sours, Raquel

Subject:	Updated: Senior Management Meeting
Start:	Friday, July 01, 2005 9:20 AM
End:	Friday, July 01, 2005 9:40 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)

When: Friday, July 01, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 24, 2005 6:40 PM
To: Wiggins, Mike
Subject: if you're still here, i'd like to fill you in on mtg; otherwise, let's talk mon am

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Friday, June 24, 2005 6:42 PM
To: Gunn, Currie (SMO)
Cc: Gorsuch, Neil M
Subject: Electronic Files From Tobacco.

Curries, let's get JMD to get up here and get the missing files asap. It seems that there are about half complete. After a review of the 3 disks that JMD generated of Robert's emails, here is what they contain:

Emails Sent and Received from all of 2002. (Great)

Emails Received from January 1, 2003 until July 7, 2003 (does not include any he Sent)

Emails Received from July 7, 2003 through September 5, 2003 (does not include any he Sent)

We still need:

Received and Sent for Fall of 2001 (9/20/2001 - 12/31/2001)
* There are a few of these on the disks above, but it is not comprehensive. For example, there records from 2002 start with a few from 9/25/01 then quickly skip to 2002 emails.

Sent from January 1, 2003 through September 2003.

Sent and Received from September 2003 to the Present.

Observations:

It could be that the reason they could not capture everything is that some files are located on Robert's actual computer in hard memory.

In particular, I know that emails dating from October 2004 to the present are located in Robert's Outlook regular "Deleted Items" folder. **While all emails are or critical importance, these would be particularly usefull to have immediately.**

Currie, let me know whatever I can do either over this weekend or bright and early Monday to help retrieve this. Thanks as always.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 24, 2005 6:46 PM
To: Ullyot, Theodore
Subject: RE:

Robert would like me to call Grey to give them a heads up for planning purposes. Just to confirm, it will be the Monday (Aug 8) event before the more hostile House of Delegates crowd, not the Sunday evening keynote speech before everyone. Right? (I don't believe there was a Saturday event planned.)

-----Original Message-----
From: Ullyot, Theodore
Sent: Friday, June 24, 2005 10:25 AM
To: Yanes, Raul; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO); Beach, Andrew
Subject: RE:

On 1: The Judge wants to speak at the House of Delegates portion of the ABA Conference. I.e., the Monday event, not the Saturday event.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Ullyot, Theodore

From: Ullyot, Theodore
Sent: Friday, June 24, 2005 7:27 PM
To: Gorsuch, Neil M
Subject: Re:

Hmm. We were presented with a choice of a Saturday 6th event and the Monday 8th HoD event. Based on that we said let's do Monday (because he cannot do Saturday). But if the option is in fact Sunday, we may want to do that. Can you confirm? Thanks.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>
Sent: Fri Jun 24 18:45:50 2005
Subject: RE:

Robert would like me to call Grey to give them a heads up for planning purposes. Just to confirm, it will be the Monday (Aug 8) event before the more hostile House of Delegates crowd, not the Sunday evening keynote speech before everyone. Right? (I don't believe there was a Saturday event planned.)

-----Original Message-----
From: Ullyot, Theodore
Sent: Friday, June 24, 2005 10:25 AM
To: Yanes, Raul; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO); Beach, Andrew
Subject: RE:

On 1: The Judge wants to speak at the House of Delegates portion of the ABA Conference. I.e., the Monday event, not the Saturday event.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 24, 2005 8:06 PM
To: Ullyot, Theodore
Subject: Re:

Ted, I double checked and you're right. I had been looking at an outdated email with a different schedule. Monday it is then. I shall let the ABA know. Neil

-----Original Message-----
From: Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Jun 24 19:26:48 2005
Subject: Re:

Hmm. We were presented with a choice of a Saturday 6th event and the Monday 8th HoD event. Based on that we said let's do Monday (because he cannot do Saturday). But if the option is in fact Sunday, we may want to do that. Can you confirm? Thanks.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>
Sent: Fri Jun 24 18:45:50 2005
Subject: RE:

Robert would like me to call Grey to give them a heads up for planning purposes. Just to confirm, it will be the Monday (Aug 8) event before the more hostile House of Delegates crowd, not the Sunday evening keynote speech before everyone. Right? (I don't believe there was a Saturday event planned.)

-----Original Message-----
From: Ullyot, Theodore
Sent: Friday, June 24, 2005 10:25 AM
To: Yanes, Raul; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO); Beach, Andrew
Subject: RE:

On 1: The Judge wants to speak at the House of Delegates portion of the ABA Conference. I.e., the Monday event, not the Saturday event.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle

To: Ohyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Ullyot, Theodore

From: Ullyot, Theodore
Sent: Saturday, June 25, 2005 12:21 PM
To: Gorsuch, Neil M
Subject: Re:

Thanks Neil. Into the lions' den -- the HoD.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>
Sent: Fri Jun 24 20:06:27 2005
Subject: Re:

Ted, I double checked and you're right. I had been looking at an outdated email with a different schedule. Monday it is then. I shall let the ABA know. Neil

-----Original Message-----
From: Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Jun 24 19:26:48 2005
Subject: Re:

Hmm. We were presented with a choice of a Saturday 6th event and the Monday 8th HoD event. Based on that we said let's do Monday (because he cannot do Saturday). But if the option is in fact Sunday, we may want to do that. Can you confirm? Thanks.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>
Sent: Fri Jun 24 18:45:50 2005
Subject: RE:

Robert would like me to call Grey to give them a heads up for planning purposes. Just to confirm, it will be the Monday (Aug 8) event before the more hostile House of Delegates crowd, not the Sunday evening keynote speech before everyone. Right? (I don't believe there was a Saturday event planned.)

-----Original Message-----
From: Ullyot, Theodore
Sent: Friday, June 24, 2005 10:25 AM
To: Yanes, Raul; Sampson, Kyle

To: Yanes, Raul; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO); Beach, Andrew
Subject: RE:

On 1: The Judge wants to speak at the House of Delegates portion of the ABA Conference. I.e., the Monday event, not the Saturday event.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 7:55 AM
To: McCallum, Robert (SMO)
Subject: Re: 482054_3.DOC

That would be great. I'd also like to update you on events here. Is there a number I can reach you at after 930?

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Jun 27 05:26:55 2005
Subject: Fw: 482054_3.DOC

Let' talk about the panel and the remarks that you may be giving. I'll be in from Atlanta about 9:30 or so unless they get me on an earlier flight. Robt.

-----Original Message-----
From: [redacted]@cov.com <[redacted]@cov.com>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Fri Jun 24 09:38:30 2005
Subject: 482054_3.DOC

Hi Neil,
Thanks for filling in for Bob at our conference. Wld you like to chat for a few minutes? I can be reached by email or, over the weekend, by leaving a message at [redacted] Here's a revised draft of my paper.
There are lots of CLE credits, including for ethics, if that matters.
Feel free to invite others in the Dept.
Thanks again,
[redacted]

<<482054_3.DOC>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:08 AM
To: Gunn, Currie (SMO)
Subject: FW: Invitation to AG from ABA Pres Robert Grey

Please could you dig up phone nos for me for Robert Grey and Stephen Zack?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, June 15, 2005 1:28 PM
To: Beach, Andrew
Cc: Ullyot, Theodore; Sampson, Kyle; Yanes, Raul; Reyes, Luis (SMO); Gorsuch, Neil M
Subject: RE: Invitation to AG from ABA Pres Robert Grey

Andy: Just got the fax in from Robert Grey and the date for the Annual Opening Assembly is SATURDAY, AUG 6th and NOT Sunday Aug 7th, despite what Robert Grey told me over the phone. A copy of the letter is on its way to you, Kyle, and Ted. Since it is Sat and the House of Delegates in Monday-Tues., I definitely rec one or the other but not both. Fly out Sat pm, give the speech, get back on the plane, and come home that Sat. night. Robt.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, June 14, 2005 8:45 AM
To: Beach, Andrew
Cc: Ullyot, Theodore; Sampson, Kyle; Yanes, Raul; Reyes, Luis (SMO); Gorsuch, Neil M
Subject: Invitation to AG from ABA Pres Robert Grey

Andy: Heads up. You have already received and are considering an invitation (letter dated Feb 28th with a follow-up letter dated May 16th) from the Chair of the ABA House of Delegates, Stephen Zack, to the AG to address the House of Delegates on either Mon or Tues Aug 8-9 at the ABA annual convention in Chicago. Robert Grey, the ABA Pres, called me yesterday and issued a SECOND invitation to the AG: this second one is to address the Opening Assembly on Sunday evening Aug 7th as the keynote speaker. The Opening Assembly is a general meeting of all members who attend the convention whereas the House of Delegates is the 546 elected local, state, and regional reps to the ABA, sort of a large policy-making body who pass resolutions, etc in the name of the ABA. The AG is a member of the House of Delegates by virtue of his office. The Opening Assembly will be a much larger group and will be held in the Chicago Auditorium. Grey is going to fax me a letter regarding the keynote speech invited and send on a hard copy to the AG. I got yesterday from your office a copy of the letter from Zack dated May 16th following up on the Feb 28th letter, and you have requested my rec on the AG's attendance. I would rec doing one or the other of the two invites, but not both. My preference would be for the AG to address the larger group, the Opening Assembly, on the Sunday and thereby reach more ABA members. It is probably a less hostile group that the House of Delegates. For planning purposes, promo materials, etc, Grey would like to know as soon as possible whether the AG can do either, or both, or none. Let me know what you would like for me to do, if anything, regarding these invites. Robt.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:12 AM
To: Williams, Jan
Subject: RE:

Thanks, Jan. As I understand it, the award is typically made between Jan and March. Applications are already coming in for next year's award. And it seems that we've heard some dissatisfaction from our friends in law enforcement that nothing has happened this year. Robert suggested that, if the WH is too backed up (for entirely understandable reasons), it may want the AG to make the award. Thanks so much for your help with this. Neil

-----Original Message-----
From: Williams, Jan
Sent: Friday, June 24, 2005 12:18 PM
To: Yanes, Raul; Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

This request is still pending in scheduling at the WH. I ask Cabinet Liaison about the request often and am told that are trying to fit in sometime this summer. I will remind them about the time sensitivity of the event. Hopefully, we can firm up a date in the next week.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 11:33 AM
To: Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Williams, Jan
Subject: RE:

Jan: can you tell us what you know about where the WH is on this?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, June 24, 2005 11:32 AM
To: Yanes, Raul; Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

The POTUS Medal of Valor is the highest award a public safety officer an receive. The Act establishing the Medal was signed prior to 9/11. This year is the third year for the awards. A Board (appointed by the POTUS and the Congress) makes recommendations to the AG and the AG sends forward to the POTUS. All of this was done prior to the election. I know that Jan Williams has talked to the WH about this event, but we still have nothing set and the Department is now accepting nominations for the next round of awards. The comments we are hearing is that we are accepting nominations for the next round and we haven't even awarded the last round. I note that in the draft AG speech for the Sheriff's conference he references MOV and that we are accepting nominations.

This event should be accomplished before March of each year. We are now way past that timeframe. Advance notice also needs to be given because the awardees have to make adjustments to their work schedules, childcare, travel for family members, etc. The department pays for the awardee and one guest only.

I am happy to give you any additional information you might need.

Tracy

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:18 AM
To: [redacted]@cov.com'
Cc: McCallum, Robert (SMO)
Subject: RE: 482054_3.DOC

[redacted] Thanks for the very interesting paper, which I had the chance read over the weekend along with some of the other submissions. It should be a very interesting conference, and I appreciate your welcoming email; filling Robert's shoes is no easy chore. I would very much like to chat in advance, if we could. Would you be available later this morning, say 11? Is there a different number I should use to reach you, or is the one below best? Warm regards, Neil

-----Original Message-----
From: [redacted]@cov.com [mailto[redacted]@cov.com]
Sent: Friday, June 24, 2005 9:39 AM
To: Gorsuch, Neil M
Cc: McCallum, Robert (SMO)
Subject: 482054_3.DOC

Hi Neil,
Thanks for filling in for Bob at our conference. Wld you like to chat for a few minutes? I can be reached by email or, over the weekend, by leaving a message at [redacted] Here's a revised draft of my paper.
There are lots of CLE credits, including for ethics, if that matters.
Feel free to invite others in the Dept.
Thanks again,
[redacted]

<<482054_3.DOC>>

Williams, Jan

From: Williams, Jan
Sent: Monday, June 27, 2005 8:22 AM
To: Gorsuch, Neil M
Cc: Henke, Tracy (SMO); Schofield, Regina
Subject: RE:

i don't think that POTUS is going to work out but i think it worth making a rush for VPOTUS. Which is something I am working on now. Agreed? I should know something in a day or so.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:12 AM
To: Williams, Jan
Subject: RE:

Thanks, Jan. As I understand it, the award is typically made between Jan and March. Applications are already coming in for next year's award. And it seems that we've heard some dissatisfaction from our friends in law enforcement that nothing has happened this year. Robert suggested that, if the WH is too backed up (for entirely understandable reasons), it may want the AG to make the award. Thanks so much for your help with this. Neil

-----Original Message-----
From: Williams, Jan
Sent: Friday, June 24, 2005 12:18 PM
To: Yanes, Raul; Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

This request is still pending in scheduling at the WH. I ask Cabinet Liaison about the request often and am told that are trying to fit in sometime this summer. I will remind them about the time sensitivity of the event. Hopefully, we can firm up a date in the next week.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 11:33 AM
To: Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Williams, Jan
Subject: RE:

Jan: can you tell us what you know about where the WH is on this?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, June 24, 2005 11:32 AM
To: Yanes, Raul; Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

The POTUS Medal of Valor is the highest award a public safety officer an receive. The Act establishing the Medal was signed prior to 9/11. This year is the third year for the awards. A Board (appointed by the POTUS and the Congress) makes recommendations to the AG and the AG sends forward to the POTUS. All of this was done prior to the election. I know that Jan Williams has talked to the WH about this event, but we still have nothing set and the Department is now accepting nominations for the next round of awards. The comments we are hearing is that we are accepting nominations for the next round

and we haven't even awarded the last round. I note that in the draft AG speech for the Sheriff's conference he references MOV and that we are accepting nominations.

This event should be accomplished before March of each year. We are now way past that timeframe. Advance notice also needs to be given because the awardees have to make adjustments to their work schedules, childcare, travel for family members, etc. The department pays for the awardee and one guest only.

I am happy to give you any additional information you might need.
Tracy

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:25 AM
To: Williams, Jan
Cc: Henke, Tracy (SMO); Schofield, Regina; McCallum, Robert (SMO)
Subject: RE:

Others will have better informed views, but it seems to me that, if we can get participation of the VP soon, that would obviously send a strong signal of support to the law enforcement community.

-----Original Message-----
From: Williams, Jan
Sent: Monday, June 27, 2005 8:22 AM
To: Gorsuch, Neil M
Cc: Henke, Tracy (SMO); Schofield, Regina
Subject: RE:

i don't think that POTUS is going to work out but i think it worth making a rush for VPOTUS. Which is something I am working on now. Agreed? I should know something in a day or so.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:12 AM
To: Williams, Jan
Subject: RE:

Thanks, Jan. As I understand it, the award is typically made between Jan and March. Applications are already coming in for next year's award. And it seems that we've heard some dissatisfaction from our friends in law enforcement that nothing has happened this year. Robert suggested that, if the WH is too backed up (for entirely understandable reasons), it may want the AG to make the award. Thanks so much for your help with this. Neil

-----Original Message-----
From: Williams, Jan
Sent: Friday, June 24, 2005 12:18 PM
To: Yanes, Raul; Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

This request is still pending in scheduling at the WH. I ask Cabinet Liaison about the request often and am told that are trying to fit in sometime this summer. I will remind them about the time sensitivity of the event. Hopefully, we can firm up a date in the next week.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 11:33 AM
To: Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Williams, Jan
Subject: RE:

Jan: can you tell us what you know about where the WH is on this?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, June 24, 2005 11:32 AM

To: Yanes, Raul; Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

The POTUS Medal of Valor is the highest award a public safety officer an receive. The Act establishing the Medal was signed prior to 9/11. This year is the third year for the awards. A Board (appointed by the POTUS and the Congress) makes recommendations to the AG and the AG sends forward to the POTUS. All of this was done prior to the election. I know that Jan Williams has talked to the WH about this event, but we still have nothing set and the Department is now accepting nominations for the next round of awards. The comments we are hearing is that we are accepting nominations for the next round and we haven't even awarded the last round. I note that in the draft AG speech for the Sheriff's conference he references MOV and that we are accepting nominations.

This event should be accomplished before March of each year. We are now way past that timeframe. Advance notice also needs to be given because the awardees have to make adjustments to their work schedules, childcare, travel for family members, etc. The department pays for the awardee and one guest only.

I am happy to give you any additional information you might need.
Tracy

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:26 AM
To: McCallum, Robert (SMO)
Subject: RE:

Confirmed with Ted over the wkend that the HoD it is. I will call Grey this morning to let him know.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Friday, June 24, 2005 10:57 AM
To: Gorsuch, Neil M
Subject: Re:

Yes. Confirm first with OAG but once confirmed I would like for you to call Robt Grey to alert him that the AG will do the House of delegates but NOT the opening address. He needs to get that info for his planning purposes the sooner the better. Robt.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Fri Jun 24 10:31:20 2005
Subject: FW:

Here's the answer to question 1. Do you want me to share this info with ABA?

-----Original Message-----
From: Ullyot, Theodore
Sent: Friday, June 24, 2005 10:25 AM
To: Yanes, Raul; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO); Beach, Andrew
Subject: RE:

On 1: The Judge wants to speak at the House of Delegates portion of the ABA Conference. I.e., the Monday event, not the Saturday event.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

[redacted]@cov.com

From: [redacted]@cov.com
Sent: Monday, June 27, 2005 8:27 AM
To: Gorsuch, Neil M
Subject: Re: 482054_3.DOC

Hi Neil
I'll be in the office until about 11:30 at [redacted], thereafter by cell [redacted] I look forward to it Thanks again for filling in [redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted]@cov.com>
CC: Robert.McCallum@usdoj.gov <Robert.McCallum@usdoj.gov>
Sent: Mon Jun 27 08:19:00 2005
Subject: RE: 482054_3.DOC

[redacted] Thanks for the very interesting paper, which I had the chance read over the weekend along with some of the other submissions. It should be a very interesting conference, and I appreciate your welcoming email; filling Robert's shoes is no easy chore. I would very much like to chat in advance, if we could. Would you be available later this morning, say 11? Is there a different number I should use to reach you, or is the one below best? Warm regards, Neil

-----Original Message-----
From: [redacted]@cov.com [mailto[redacted]@cov.com]
Sent: Friday, June 24, 2005 9:39 AM
To: Gorsuch, Neil M
Cc: McCallum, Robert (SMO)
Subject: 482054_3.DOC

Hi Neil,
Thanks for filling in for Bob at our conference. Wld you like to chat for a few minutes? I can be reached by email or, over the weekend, by leaving a message at [redacted]. Here's a revised draft of my paper.
There are lots of CLE credits, including for ethics, if that matters.
Feel free to invite others in the Dept.
Thanks again,
[redacted]

<<482054_3.DOC>>

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Monday, June 27, 2005 8:48 AM
To: Gorsuch, Neil M; Williams, Jan
Cc: Schofield, Regina; McCallum, Robert (SMO)
Subject: Re:

Jan--the first year the award ceremony was hosted by VPOTUS and the AG in the OEOB. Event could also be done in Great Hall.

Please remember for scheduling purposes that the awardees are public safety officers and issues related to works schedules etc have to be addressed as well as travel arrangements for family members and friends that want to come. If at all possible, we would like to provide two weeks notice at a minimum. DOJ only pays for the awardee and one guest. Normally the spouse, employer, kids, parents have attended in the past. We also invite reps from the national organization.

Thanks for your help.

Regina--FYI, BJA has been point on this.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>
CC: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>; McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Mon Jun 27 08:24:53 2005
Subject: RE:

Others will have better informed views, but it seems to me that, if we can get participation of the VP soon, that would obviously send a strong signal of support to the law enforcement community.

-----Original Message-----
From: Williams, Jan
Sent: Monday, June 27, 2005 8:22 AM
To: Gorsuch, Neil M
Cc: Henke, Tracy (SMO); Schofield, Regina
Subject: RE:

i don't think that POTUS is going to work out but i think it worth making a rush for VPOTUS. Which is something I am working on now. Agreed? I should know something in a day or so.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:12 AM

To: Williams, Jan
Subject: RE:

Thanks, Jan. As I understand it, the award is typically made between Jan and March. Applications are already coming in for next year's award. And it seems that we've heard some dissatisfaction from our friends in law enforcement that nothing has happened this year. Robert suggested that, if the WH is too backed up (for entirely understandable reasons), it may want the AG to make the award. Thanks so much for your help with this. Neil

-----Original Message-----
From: Williams, Jan
Sent: Friday, June 24, 2005 12:18 PM
To: Yanes, Raul; Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

This request is still pending in scheduling at the WH. I ask Cabinet Liaison about the request often and am told that are trying to fit in sometime this summer. I will remind them about the time sensitivity of the event. Hopefully, we can firm up a date in the next week.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 11:33 AM
To: Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Williams, Jan
Subject: RE:

Jan: can you tell us what you know about where the WH is on this?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, June 24, 2005 11:32 AM
To: Yanes, Raul; Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

The POTUS Medal of Valor is the highest award a public safety officer an receive. The Act establishing the Medal was signed prior to 9/11. This year is the third year for the awards. A Board (appointed by the POTUS and the Congress) makes recommendations to the AG and the AG sends forward to the POTUS. All of this was done prior to the election. I know that Jan Williams has talked to the WH about this event, but we still have nothing set and the Department is now accepting nominations for the next round of awards. The comments we are hearing is that we are accepting nominations for the next round and we haven't even awarded the last round. I note that in the draft AG speech for the Sheriff's conference he references MOV and that we are accepting nominations.

This event should be accomplished before March of each year. We are now way past that timeframe. Advance notice also needs to be given because the awardees have to make adjustments to their work schedules, childcare, travel for family members, etc. The department pays for the awardee and one guest only.

I am happy to give you any additional information you might need.
Tracy

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, June 27, 2005 8:59 AM
To: Gorsuch, Neil M
Subject: Re: 482054_3.DOC

I am on the ground at Reagan and will be in by 9:30. Try my cell if nec.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Mon Jun 27 07:54:41 2005
Subject: Re: 482054_3.DOC

That would be great. I'd also like to update you on events here. Is there a number I can reach you at after 930?

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Jun 27 05:26:55 2005
Subject: Fw: 482054_3.DOC

Let' talk about the panel and the remarks that you may be giving. I'll be in from Atlanta about 9:30 or so unless they get me on an earlier flight. Robt.

-----Original Message-----
From: [redacted]@cov.com>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Fri Jun 24 09:38:30 2005
Subject: 482054_3.DOC

Hi Neil,
Thanks for filling in for Bob at our conference. Wld you like to chat for a few minutes? I can be reached by email or, over the weekend, by leaving a message at [redacted]. Here's a revised draft of my paper.
There are lots of CLE credits, including for ethics, if that matters.
Feel free to invite others in the Dept.

Feel free to invite others in the Dept.
Thanks again,
[redacted]

<<482054_3.DOC>>

Schofield, Regina

From: Schofield, Regina
Sent: Monday, June 27, 2005 9:26 AM
To: Williams, Jan; Gorsuch, Neil M
Cc: McCallum, Robert (SMO); Henke, Tracy (SMO)
Subject: RE:

We do have two packets out there. I believe one was signed by Tracy and this is probably the one that started this discussion. However, I signed the MOV packets for the 9/11 victims last week and that packet is slated to be announced as close to 9/11 as possible. That might be the packet that we would want the POTUS to announce.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:26 AM
To: Williams, Jan
Cc: Schofield, Regina; Henke, Tracy (SMO); McCallum, Robert (SMO)
Subject: RE:

Others will have better informed views, but it seems to me that, if we can get participation of the VP soon, that would obviously send a strong signal of support to the law enforcement community.

-----Original Message-----
From: Williams, Jan
Sent: Monday, June 27, 2005 8:22 AM
To: Gorsuch, Neil M
Cc: Henke, Tracy (SMO); Schofield, Regina
Subject: RE:

i don't think that POTUS is going to work out but i think it worth making a rush for VPOTUS. Which is something I am working on now. Agreed? I should know something in a day or so.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:12 AM
To: Williams, Jan
Subject: RE:

Thanks, Jan. As I understand it, the award is typically made between Jan and March. Applications are already coming in for next year's award. And it seems that we've heard some dissatisfaction from our friends in law enforcement that nothing has happened this year. Robert suggested that, if the WH is too backed up (for entirely understandable reasons), it may want the AG to make the award. Thanks so much for your help with this. Neil

-----Original Message-----
From: Williams, Jan
Sent: Friday, June 24, 2005 12:18 PM
To: Yanes, Raul; Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

This request is still pending in scheduling at the WH. I ask Cabinet Liaison about the request often and am told that are trying to fit in sometime this summer. I will remind them about the time sensitivity of the event. Hopefully, we can firm up a date in the next week.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 11:33 AM
To: Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Williams, Jan
Subject: RE:

Jan: can you tell us what you know about where the WH is on this?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, June 24, 2005 11:32 AM
To: Yanes, Raul; Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

The POTUS Medal of Valor is the highest award a public safety officer an receive. The Act establishing the Medal was signed prior to 9/11. This year is the third year for the awards. A Board (appointed by the POTUS and the Congress) makes recommendations to the AG and the AG sends forward to the POTUS. All of this was done prior to the election. I know that Jan Williams has talked to the WH about this event, but we still have nothing set and the Department is now accepting nominations for the next round of awards. The comments we are hearing is that we are accepting nominations for the next round and we haven't even awarded the last round. I note that in the draft AG speech for the Sheriff's conference he references MOV and that we are accepting nominations.

This event should be accomplished before March of each year. We are now way past that timeframe. Advance notice also needs to be given because the awardees have to make adjustments to their work schedules, childcare, travel for family members, etc. The department pays for the awardee and one guest only.

I am happy to give you any additional information you might need.
Tracy

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this

hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Monday, June 27, 2005 10:15 AM
To: Schofield, Regina
Subject: Re:

Regina--As an FYI, the annual MOV is a President MOV award by statute. Of course, he doesn't have to do it (first year at the last minute the Veep took the POTUS place. Second year done by POTUS), but it is a good easy hit for him and important to the groups which go beyond law enforcement. The annual MOV awards are recommended by a board appt by POTUS and congress.

The 9/11 MOV is also a POTUS medal by statute.

Wanted to provide some background in case you haven't been briefed on this one yet. Let me know if you have any questions.

-----Original Message-----
From: Schofield, Regina <Regina.B.Schofield@usdoj.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Jun 27 09:25:50 2005
Subject: RE:

We do have two packets out there. I believe one was signed by Tracy and this is probably the one that started this discussion. However, I signed the MOV packets for the 9/11 victims last week and that packet is slated to be announced as close to 9/11 as possible. That might be the packet that we would want the POTUS to announce.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:26 AM
To: Williams, Jan
Cc: Schofield, Regina; Henke, Tracy (SMO); McCallum, Robert (SMO)
Subject: RE:

Others will have better informed views, but it seems to me that, if we can get participation of the VP soon, that would obviously send a strong signal of support to the law enforcement community.

-----Original Message-----
From: Williams, Jan
Sent: Monday, June 27, 2005 8:22 AM

Sent: Monday, June 27, 2005 8:22 AM
To: Gorsuch, Neil M
Cc: Henke, Tracy (SMO); Schofield, Regina
Subject: RE:

i don't think that POTUS is going to work out but i think it worth making a rush for VPOTUS. Which is something I am working on now. Agreed? I should know something in a day or so.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:12 AM
To: Williams, Jan
Subject: RE:

Thanks, Jan. As I understand it, the award is typically made between Jan and March. Applications are already coming in for next year's award. And it seems that we've heard some dissatisfaction from our friends in law enforcement that nothing has happened this year. Robert suggested that, if the WH is too backed up (for entirely understandable reasons), it may want the AG to make the award. Thanks so much for your help with this. Neil

-----Original Message-----
From: Williams, Jan
Sent: Friday, June 24, 2005 12:18 PM
To: Yanes, Raul; Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

This request is still pending in scheduling at the WH. I ask Cabinet Liaison about the request often and am told that are trying to fit in sometime this summer. I will remind them about the time sensitivity of the event. Hopefully, we can firm up a date in the next week.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 11:33 AM
To: Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Williams, Jan
Subject: RE:

Jan: can you tell us what you know about where the WH is on this?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, June 24, 2005 11:32 AM
To: Yanes, Raul; Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

The POTUS Medal of Valor is the highest award a public safety officer an receive. The Act establishing the Medal was signed prior to 9/11. This year is the third year for the awards. A Board (appointed by the POTUS and the Congress) makes recommendations to the AG and the AG sends forward to the

POTUS. All of this was done prior to the election. I know that Jan Williams has talked to the WH about this event, but we still have nothing set and the Department is now accepting nominations for the next round of awards. The comments we are hearing is that we are accepting nominations for the next round and we haven't even awarded the last round. I note that in the draft AG speech for the Sheriff's conference he references MOV and that we are accepting nominations.

This event should be accomplished before March of each year. We are now way past that timeframe. Advance notice also needs to be given because the awardees have to make adjustments to their work schedules, childcare, travel for family members, etc. The department pays for the awardee and one guest only.

I am happy to give you any additional information you might need.
Tracy

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Sampson, Kyle

From: Sampson, Kyle
Sent: Monday, June 27, 2005 10:20 AM
To: Gorsuch, Neil M
Subject: FW:
Attachments: tmp.htm

Your thoughts?

-----Original Message-----
From: [redacted] [mailto [redacted]
Sent: Monday, June 27, 2005 9:24 AM
To: Sampson, Kyle
Subject:

Kyle,

The [redacted] Let me know if I can set up a meeting with the AG.

[redacted]

[redacted]

Kyle,

The [redacted] Let me know if I can set up a meeting with the AG.

[redacted]

[redacted]

Schofield, Regina

From: Schofield, Regina
Sent: Monday, June 27, 2005 11:44 AM
To: Henke, Tracy (SMO)
Cc: Williams, Jan; Gorsuch, Neil M
Subject: RE:

Thanks, I know a little about the background. It's also been something that the AG has done on a regular basis, right? So, having worked with Cabinet Liaison and scheduling before, it's highly unlikely we could get POTUS for both events. With so many recipients of the 9/11, it would seem more practical to get him for that event.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, June 27, 2005 10:16 AM
To: Schofield, Regina
Subject: Re:

Regina--As an FYI, the annual MOV is a President MOV award by statute. Of course, he doesn't have to do it (first year at the last minute the Veep took the POTUS place. Second year done by POTUS), but it is a good easy hit for him and important to the groups which go beyond law enforcement. The annual MOV awards are recommended by a board appt by POTUS and congress.

The 9/11 MOV is also a POTUS medal by statute.

Wanted to provide some background in case you haven't been briefed on this one yet. Let me know if you have any questions.

-----Original Message-----
From: Schofield, Regina <Regina.B.Schofield@usdoj.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Henke, Tracy (SMO)
<Tracy.Henke@ SMOJMD.USDOJ.gov>
Sent: Mon Jun 27 09:25:50 2005
Subject: RE:

We do have two packets out there. I believe one was signed by Tracy and this is probably the one that started this discussion. However, I signed the MOV packets for the 9/11 victims last week and that packet is slated to be announced as close to 9/11 as possible. That might be the packet that we would want the POTUS to announce.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:26 AM
To: Williams, Jan
Cc: Schofield, Regina; Henke, Tracy (SMO); McCallum, Robert (SMO)
Subject: RE:

Others will have better informed views, but it seems to me that if we can get participation of the VP soon, that

Others will have better informed views, but it seems to me that, if we can get participation of the VP soon, that would obviously send a strong signal of support to the law enforcement community.

-----Original Message-----
From: Williams, Jan
Sent: Monday, June 27, 2005 8:22 AM
To: Gorsuch, Neil M
Cc: Henke, Tracy (SMO); Schofield, Regina
Subject: RE:

i don't think that POTUS is going to work out but i think it worth making a rush for VPOTUS. Which is something I am working on now. Agreed? I should know something in a day or so.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:12 AM
To: Williams, Jan
Subject: RE:

Thanks, Jan. As I understand it, the award is typically made between Jan and March. Applications are already coming in for next year's award. And it seems that we've heard some dissatisfaction from our friends in law enforcement that nothing has happened this year. Robert suggested that, if the WH is too backed up (for entirely understandable reasons), it may want the AG to make the award. Thanks so much for your help with this. Neil

-----Original Message-----
From: Williams, Jan
Sent: Friday, June 24, 2005 12:18 PM
To: Yanes, Raul; Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

This request is still pending in scheduling at the WH. I ask Cabinet Liaison about the request often and am told that are trying to fit in sometime this summer. I will remind them about the time sensitivity of the event. Hopefully, we can firm up a date in the next week.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 11:33 AM
To: Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Williams, Jan
Subject: RE:

Jan: can you tell us what you know about where the WH is on this?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, June 24, 2005 11:32 AM
To: Yanes, Raul; Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

The POTUS Medal of Valor is the highest award a public safety officer an receive. The Act establishing the Medal was signed prior to 9/11. This year is the third year for the awards. A Board (appointed by the POTUS and the Congress) makes recommendations to the AG and the AG sends forward to the POTUS. All of this was done prior to the election. I know that Jan Williams has talked to the WH about this event, but we still have nothing set and the Department is now accepting nominations for the next round of awards. The comments we are hearing is that we are accepting nominations for the next round and we haven't even awarded the last round. I note that in the draft AG speech for the Sheriff's conference he references MOV and that we are accepting nominations.

This event should be accomplished before March of each year. We are now way past that timeframe. Advance

notice also needs to be given because the awardees have to make adjustments to their work schedules, childcare, travel for family members, etc. The department pays for the awardee and one guest only.

I am happy to give you any additional information you might need.
Tracy

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Monday, June 27, 2005 12:09 PM
To: Schofield, Regina
Cc: Williams, Jan; Gorsuch, Neil M
Subject: Re:

WH has participated in the event for the past two years. AG participates because he recommends the names to the POTUS for him to award. The 9/11 is new and only this year. I think it is important for the WH to continue to be involved in some capacity in the annual award. However, scheduling will dictate.

-----Original Message-----
From: Schofield, Regina <Regina.B.Schofield@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
CC: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Jun 27 11:43:43 2005
Subject: RE:

Thanks, I know a little about the background. It's also been something that the AG has done on a regular basis, right? So, having worked with Cabinet Liaison and scheduling before, it's highly unlikely we could get POTUS for both events. With so many recipients of the 9/11, it would seem more practical to get him for that event.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, June 27, 2005 10:16 AM
To: Schofield, Regina
Subject: Re:

Regina--As an FYI, the annual MOV is a President MOV award by statute. Of course, he doesn't have to do it (first year at the last minute the Veep took the POTUS place. Second year done by POTUS), but it is a good easy hit for him and important to the groups which go beyond law enforcement. The annual MOV awards are recommended by a board appt by POTUS and congress.

The 9/11 MOV is also a POTUS medal by statute.

Wanted to provide some background in case you haven't been briefed on this one yet. Let me know if you have any questions.

-----Original Message-----
From: Schofield, Regina <Regina.B.Schofield@usdoj.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Jun 27 09:25:50 2005
Subject: RE:

We do have two packets out there. I believe one was signed by Tracy and this is probably the one that started this discussion. However, I signed the MOV packets for the 9/11 victims last week and that packet is slated to be announced as close to 9/11 as possible. That might be the packet that we would want the POTUS to announce.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:26 AM
To: Williams, Jan
Cc: Schofield, Regina; Henke, Tracy (SMO); McCallum, Robert (SMO)
Subject: RE:

Others will have better informed views, but it seems to me that, if we can get participation of the VP soon, that would obviously send a strong signal of support to the law enforcement community.

-----Original Message-----
From: Williams, Jan
Sent: Monday, June 27, 2005 8:22 AM
To: Gorsuch, Neil M
Cc: Henke, Tracy (SMO); Schofield, Regina
Subject: RE:

i don't think that POTUS is going to work out but i think it worth making a rush for VPOTUS. Which is something I am working on now. Agreed? I should know something in a day or so.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:12 AM
To: Williams, Jan
Subject: RE:

Thanks, Jan. As I understand it, the award is typically made between Jan and March. Applications are already coming in for next year's award. And it seems that we've heard some dissatisfaction from our friends in law enforcement that nothing has happened this year. Robert suggested that, if the WH is too backed up (for entirely understandable reasons), it may want the AG to make the award. Thanks so much for your help with this. Neil

-----Original Message-----
From: Williams, Jan

Sent: Friday, June 24, 2005 12:18 PM
To: Yanes, Raul; Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

This request is still pending in scheduling at the WH. I ask Cabinet Liaison about the request often and am told that are trying to fit in sometime this summer. I will remind them about the time sensitivity of the event. Hopefully, we can firm up a date in the next week.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 11:33 AM
To: Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Williams, Jan
Subject: RE:

Jan: can you tell us what you know about where the WH is on this?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, June 24, 2005 11:32 AM
To: Yanes, Raul; Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

The POTUS Medal of Valor is the highest award a public safety officer an receive. The Act establishing the Medal was signed prior to 9/11. This year is the third year for the awards. A Board (appointed by the POTUS and the Congress) makes recommendations to the AG and the AG sends forward to the POTUS. All of this was done prior to the election. I know that Jan Williams has talked to the WH about this event, but we still have nothing set and the Department is now accepting nominations for the next round of awards. The comments we are hearing is that we are accepting nominations for the next round and we haven't even awarded the last round. I note that in the draft AG speech for the Sheriff's conference he references MOV and that we are accepting nominations.

This event should be accomplished before March of each year. We are now way past that timeframe. Advance notice also needs to be given because the awardees have to make adjustments to their work schedules, childcare, travel for family members, etc. The department pays for the awardee and one guest only.

I am happy to give you any additional information you might need.
Tracy

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)

Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 12:12 PM
To: Henke, Tracy (SMO); Schofield, Regina
Cc: Williams, Jan
Subject: RE:

As I understand it, typically the recipient plus one get to go to the WH for recognition by POTUS or his designee. The recipients then come here, with all their family and friends, for the larger award ceremony. The WH portion is special and appreciated; if possible, we really should, I think, try to get someone over there to stand in for POTUS. VP would of course be great, but others (e.g., Andy Card, Harriet Miers, Karl Rove) would be possibilities if VP proves impossible.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, June 27, 2005 12:09 PM
To: Schofield, Regina
Cc: Williams, Jan; Gorsuch, Neil M
Subject: Re:

WH has participated in the event for the past two years. AG participates because he recommends the names to the POTUS for him to award. The 9/11 is new and only this year. I think it is important for the WH to continue to be involved in some capacity in the annual award. However, scheduling will dictate.

-----Original Message-----
From: Schofield, Regina <Regina.B.Schofield@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
CC: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Jun 27 11:43:43 2005
Subject: RE:

Thanks, I know a little about the background. It's also been something that the AG has done on a regular basis, right? So, having worked with Cabinet Liaison and scheduling before, it's highly unlikely we could get POTUS for both events. With so many recipients of the 9/11, it would seem more practical to get him for that event.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, June 27, 2005 10:16 AM
To: Schofield, Regina
Subject: Re:

Regina--As an FYI, the annual MOV is a President MOV award by statute. Of course, he doesn't have to do it (first year at the last minute the Veep took the POTUS place. Second year done by POTUS), but it is a good easy hit for him and important to the groups which go beyond law enforcement. The annual MOV awards are recommended by a board appt by POTUS and congress.

The 9/11 MOV is also a POTUS medal by statute.

Wanted to provide some background in case you haven't been briefed on this one yet. Let me know if you have any questions.

-----Original Message-----
From: Schofield, Regina <Regina.B.Schofield@usdoj.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Jun 27 09:25:50 2005
Subject: RE:

We do have two packets out there. I believe one was signed by Tracy and this is probably the one that started this discussion. However, I signed the MOV packets for the 9/11 victims last week and that packet is slated to be announced as close to 9/11 as possible. That might be the packet that we would want the POTUS to announce.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:26 AM
To: Williams, Jan
Cc: Schofield, Regina; Henke, Tracy (SMO); McCallum, Robert (SMO)
Subject: RE:

Others will have better informed views, but it seems to me that, if we can get participation of the VP soon, that would obviously send a strong signal of support to the law enforcement community.

-----Original Message-----
From: Williams, Jan
Sent: Monday, June 27, 2005 8:22 AM
To: Gorsuch, Neil M
Cc: Henke, Tracy (SMO); Schofield, Regina
Subject: RE:

i don't think that POTUS is going to work out but i think it worth making a rush for VPOTUS. Which is something I am working on now. Agreed? I should know something in a day or so.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 8:12 AM
To: Williams, Jan
Subject: RE:

Thanks, Jan. As I understand it, the award is typically made between Jan and March. Applications are already coming in for next year's award. And it seems that we've heard some dissatisfaction from our friends in law enforcement that nothing has happened this year. Robert suggested that, if the WH is too backed up (for entirely understandable reasons), it may want the AG to make the award. Thanks so much for your help with this. Neil

-----Original Message-----
From: Williams, Jan
Sent: Friday, June 24, 2005 12:18 PM
To: Yanes, Raul; Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

This request is still pending in scheduling at the WH. I ask Cabinet Liaison about the request often and am told that are trying to fit in sometime this summer. I will remind them about the time sensitivity of the event. Hopefully, we can firm up a date in the next week.

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 11:33 AM
To: Henke, Tracy (SMO); Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Williams, Jan
Subject: RE:

Jan: can you tell us what you know about where the WH is on this?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, June 24, 2005 11:32 AM
To: Yanes, Raul; Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE:

The POTUS Medal of Valor is the highest award a public safety officer an receive. The Act establishing the Medal was signed prior to 9/11. This year is the third year for the awards. A Board (appointed by the POTUS and the Congress) makes recommendations to the AG and the AG sends forward to the POTUS. All of this was done prior to the election. I know that Jan Williams has talked to the WH about this event, but we still have nothing set and the Department is now accepting nominations for the next round of awards. The comments we are hearing is that we are accepting nominations for the next round and we haven't even awarded the last round. I note that in the draft AG speech for the Sheriff's conference he references MOV and that we are accepting nominations.

This event should be accomplished before March of each year. We are now way past that timeframe.

Advance notice also needs to be given because the awardees have to make adjustments to their work schedules, childcare, travel for family members, etc. The department pays for the awardee and one guest only.

I am happy to give you any additional information you might need.
Tracy

-----Original Message-----
From: Yanes, Raul
Sent: Friday, June 24, 2005 10:21 AM
To: Ullyot, Theodore; Sampson, Kyle
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject:

Neil raises two issues, per Robert:

1) AG needs to decide whether he will be giving a speech at the upcoming ABA conference.

2) The President apparently hands out Medal of Valor awards to police officers, usually early in the year. He hasn't yet this year, and the issue is apparently sitting at the WH. We are getting inquiries about why this event hasn't yet happened. Tracy: can you add any more context to this?

Catlett, Susanne S. (TAX)

Subject:	Accepted: FW: Meet & Greet w/ Tax Division
Location:	Room 5710
Start:	Wednesday, June 22, 2005 3:30 PM
End:	Wednesday, June 22, 2005 4:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Catlett, Susanne S. (TAX)

From: USDOJ- Office of Public Affairs
Sent: Monday, June 27, 2005 2:52 PM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE SUPREME COURT'S RULING IN MGM v. GROKSTER

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, JUNE 27, 2005
WWW.USDOJ.GOV <http://WWW.USDOJ.GOV>
(202) 514-1888

AG
(202) 514-2008
TDD

STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE SUPREME COURT'S RULING IN *MGM v. GROKSTER*:

"I am pleased that the Supreme Court has considered this important case and determined that those who intentionally induce or encourage the theft of copyrighted music, movies, software, or other protected works may be held liable for their actions. As the Solicitor General argued in this case, the Ninth Circuit Court of Appeals had created a standard that was unduly narrow and prevented victims from bringing civil court cases even on the assumption that companies have actively induced others to violate federal copyright laws on a massive scale. The Department of Justice remains strongly committed to the enforcement of intellectual property rights, and we will continue to support the ability of victims of intellectual property theft to pursue remedies for infringement in the civil courts."

###

05-342

DOJ_NMG_ 0144812

Image not available for this document, ID: 0.7.10316.80139-000001

Image not available for this document, ID: 0.7.10316.80139-000002

Davis, Deborah J

From: Davis, Deborah J
Sent: Monday, June 27, 2005 2:56 PM
To: Gorsuch, Neil M
Subject: Not read: CRT/Telephone Conference

Davis, Deborah J

From: Davis, Deborah J
Sent: Monday, June 27, 2005 2:56 PM
To: Gorsuch, Neil M
Subject: Not read: Meet & Greet w/ Tax Division
Importance: High

Davis, Deborah J

From: Davis, Deborah J
Sent: Monday, June 27, 2005 2:57 PM
To: Gorsuch, Neil M
Subject: Not read: Mug Shots in Akron Case

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 3:13 PM
To: Ullyot, Theodore
Subject: ABA

ABA message relayed. They'd be glad to schedule the AG pretty much anytime Monday. To nail down the time and other arrangements who in OAG should I put the ABA in touch with?

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Monday, June 27, 2005 3:27 PM
To: Senger, Jeffrey M; Gorsuch, Neil M; Kessler, Elizabeth A
Subject: Tobacco Production Meeting

Can folks get together today at 4:30 for a quick status on this. Just want to make sure we are all on the same page. Let me know if there is a better time. Conf room?

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Monday, June 27, 2005 3:30 PM
To: Reyes, Luis (SMO); Senger, Jeffrey M; Gorsuch, Neil M
Subject: RE: Tobacco Production Meeting

I can do it, but I think Neil is out.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Monday, June 27, 2005 3:27 PM
To: Senger, Jeffrey M; Gorsuch, Neil M; Kessler, Elizabeth A
Subject: Tobacco Production Meeting

Can folks get together today at 4:30 for a quick status on this. Just want to make sure we are all on the same page. Let me know if there is a better time. Conf room?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 3:37 PM
To: Senger, Jeffrey M
Subject: Civil Justice Initiative

Can you give me a very brief precis (para or two) on the creation and status of this? Eg, how far along are we in gathering data? How far off are we from making findings? What are our goals? Many thanks.

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Monday, June 27, 2005 3:42 PM
To: Reyes, Luis (SMO); Gorsuch, Neil M; Kessler, Elizabeth A
Subject: RE: Tobacco Production Meeting

Can do.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Monday, June 27, 2005 3:27 PM
To: Senger, Jeffrey M; Gorsuch, Neil M; Kessler, Elizabeth A
Subject: Tobacco Production Meeting

Can folks get together today at 4:30 for a quick status on this. Just want to make sure we are all on the same page. Let me know if there is a better time. Conf room?

[redacted]@staff.abanet.org

From: [redacted]@staff.abanet.org
Sent: Monday, June 27, 2005 3:59 PM
To: Gorsuch, Neil M
Cc: [redacted]@nelsonmullins.com; [redacted]@BSFLLP.com; [redacted]@staff.abanet.org
Subject: Attorney General Gonzales
Attachments: tmp.htm

Mr. Gorsuch,

As follow up to our conversation, the ABA will make every effort to accommodate the schedule of Attorney General Gonzales. For your information, the House of Delegates will meet Monday, August 8 beginning at 9:00 am and Tuesday, August 9 beginning at 8:30 am at the Hyatt Regency Chicago Hotel. We look forward to hearing from you this week.

If you have any questions, please do not hesitate to contact me.

[redacted]
[redacted]ABA Policy Administration
[redacted]

Mr. Gorsuch,

As follow up to our conversation, the ABA will make every effort to accommodate the schedule of Attorney General Gonzales. For your information, the House of Delegates will meet Monday, August 8 beginning at 9:00 am and Tuesday, August 9 beginning at 8:30 am at the Hyatt Regency Chicago Hotel. We look forward to hearing from you this week.

If you have any questions, please do not hesitate to contact me.

[redacted]
[redacted]ABA Policy Administration

Ullyot, Theodore

From: Ullyot, Theodore
Sent: Monday, June 27, 2005 4:15 PM
To: Gorsuch, Neil M
Cc: Beach, Andrew
Subject: RE: ABA

Thanks Neil. Can you have them talk to Andy Beach, who handles the AG's schedule? I am copying Andy on this email. Thanks.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 3:13 PM
To: Ullyot, Theodore
Subject: ABA

ABA message relayed. They'd be glad to schedule the AG pretty much anytime Monday. To nail down the time and other arrangements who in OAG should I put the ABA in touch with?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 4:41 PM
To: Beach, Andrew
Cc: Ullyot, Theodore
Subject: Fw: Attorney General Gonzales
Attachments: tmp.htm

Andrew, Here's an email from the scheduler at the ABA regarding the AG's speech. Do you want to coordinate further arrangements from here? Best, Neil.

-----Original Message-----
From: [redacted]@staff.abanet.org <[redacted]@staff.abanet.org>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: [redacted]@nelsonmullins.com [redacted]@nelsonmullins.com>; [redacted]@BSFLLP.com [redacted]@BSFLLP.com>; [redacted]@staff.abanet.org <[redacted]@staff.abanet.org>
Sent: Mon Jun 27 15:58:53 2005
Subject: Attorney General Gonzales

Mr. Gorsuch,

As follow up to our conversation, the ABA will make every effort to accommodate the schedule of Attorney General Gonzales. For your information, the House of Delegates will meet Monday, August 8 beginning at 9:00 am and Tuesday, August 9 beginning at 8:30 am at the Hyatt Regency Chicago Hotel. We look forward to hearing from you this week.

If you have any questions, please do not hesitate to contact me.

[redacted]
[redacted] ABA Policy Administration
[redacted]

Mr. Gorsuch,

As follow up to our conversation, the ABA will make every effort to accommodate the schedule of Attorney General Gonzales. For your information, the House of Delegates will meet Monday, August 8 beginning at 9:00 am and Tuesday, August 9 beginning at 8:30 am at the Hyatt Regency Chicago Hotel. We look forward to hearing from you this week.

If you have any questions, please do not hesitate to contact me.

[redacted]
ABA Policy Administration

Beach, Andrew

From: Beach, Andrew
Sent: Monday, June 27, 2005 4:54 PM
To: Gorsuch, Neil M
Cc: Ullyot, Theodore
Subject: RE: Attorney General Gonzales

will do. thanks.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 4:41 PM
To: Beach, Andrew
Cc: Ullyot, Theodore
Subject: Fw: Attorney General Gonzales

Andrew, Here's an email from the scheduler at the ABA regarding the AG's speech. Do you want to coordinate further arrangements from here? Best, Neil.

-----Original Message-----
From: [redacted]@staff.abanet.org [redacted]@staff.abanet.org>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: [redacted]@nelsonmullins.com [redacted]@nelsonmullins.com>; [redacted]@BSFLLP.com [redacted]@BSFLLP.com>; [redacted]@staff.abanet.org [redacted]@staff.abanet.org>
Sent: Mon Jun 27 15:58:53 2005
Subject: Attorney General Gonzales

Mr. Gorsuch,

As follow up to our conversation, the ABA will make every effort to accommodate the schedule of Attorney General Gonzales. For your information, the House of Delegates will meet Monday, August 8 beginning at 9:00 am and Tuesday, August 9 beginning at 8:30 am at the Hyatt Regency Chicago Hotel. We look forward to hearing from you this week.

If you have any questions, please do not hesitate to contact me.

[redacted]
[redacted] ABA Policy Administration
[redacted]

Mercer, Bill (ODAG)

From:	Mercer, Bill (ODAG)
Sent:	Monday, June 27, 2005 6:31 PM
To:	Gorsuch, Neil M
Subject:	FW: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm
Attachments:	tmp.htm

fyi

-----Original Message-----
From: Elliott_M._Langer@who.eop.gov
[mailto:Elliott_M._Langer@who.eop.gov]
Sent: Monday, June 27, 2005 6:23 PM
To: McAtamney, James A; Burton, Dawn (ODAG); Mercer, Bill (ODAG);
Nina_Pinto@who.eop.gov; DL-OVP-HS@eopds.eop.gov;
Neil_S._Patel@ovp.eop.gov; Derrick_D._Morgan@ovp.eop.gov; [redacted]
(DHS); [redacted] (DHS); Emily_L._Kropp@who.eop.gov;
Sara_Frankfurt@omb.eop.gov; Logan_E._Dryden@omb.eop.gov;
Jessica_C._Bennett@who.eop.gov; DL-NSC-APNSA@eopds.eop.gov;
DL-NSC-ExecutiveSecretary@eopds.eop.gov;
DL-NSC-WestWingDesk@eopds.eop.gov; John_M._Persinger@who.eop.gov;
[redacted]@osd.mil; [redacted]@osd.mil; [redacted]@osd.mil;
[redacted]@osd.pentagon.mil; [redacted]@osd.pentagon.mil;
[redacted]@osd.pentagon.mil; [redacted]@osd.mil;
[redacted]js.pentagon.mil; [redacted]@osd.mil;
kruger.mary@epa.gov; Elizabeth_A._Stolpe@ceq.eop.gov;
Quesean_R._Rice@ceq.eop.gov
Cc: DL-HSC-BTS@eopds.eop.gov; DL-HSC-Front@eopds.eop.gov;
DL-HSC-EXECSEC@eopds.eop.gov
Subject: RE: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

This meeting has been CANCELLED. We will notify the agencies if the status changes. Thanks -Elliott Langer

---

From: Pinto, Nina
Sent: Monday, June 27, 2005 2:42 PM
To: DL-OVP-HS; Patel, Neil S.; Morgan, Derrick D.;
'James.A.McAtamney@usdoj.gov'; 'Dawn.Burton@usdoj.gov';
'Bill.Mercer2@usdoj.gov'; [redacted]@dhs.gov'; [redacted]@dhs.gov';
Kropp, Emily L.; Frankfurt, Sara A.; Dryden, Logan E.; Bennett, Jessica
C.; DL-NSC-APNSA; DL-NSC-Executive Secretary; DL-NSC-West Wing Desk;
Persinger, John M.; [redacted]@osd.mil' [redacted]@osd.mil';
[redacted]@osd.mil' [redacted]@osd.pentagon.mil';

[redacted]@osd.pentagon.mil';
[redacted]@osd.pentagon.mil'; [redacted]@osd.mil';
[redacted]@js.pentagon.mil'; [redacted]@osd.mil';
[redacted]@epa.gov'; Stolpe, Elizabeth A.; Rice, Quesean R.
Cc: DL-HSC-BTS; DL-HSC-Front; DL-HSC-EXECSEC
Subject: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

A Homeland Security Council Restricted Deputies Committee meeting is scheduled for June 30, 2005 from 2:30 - 3:30 p.m. in the White House Situation Room.

A read-ahead will follow. Please respond with your attendee by COB on Wednesday, June 29th.

Thank you,

Nina Pinto

Executive Secretariat
Homeland Security Council
[redacted]
Nina_Pinto@who.eop.gov

This meeting has been **CANCELLED**. We will notify the agencies if the status changes. Thanks
-Elliott Langer

From: Pinto, Nina
Sent: Monday, June 27, 2005 2:42 PM
To: DL-OVP-HS; Patel, Neil S.; Morgan, Derrick D.; 'James.A.McAtamney@usdoj.gov'; 'Dawn.Burton@usdoj.gov'; 'Bill.Mercer2@usdoj.gov'; [redacted]@dhs.gov'; [redacted]@dhs.gov'; Kropp, Emily L.; Frankfurt, Sara A.; Dryden, Logan E.; Bennett, Jessica C.; DL-NSC-APNSA; DL-NSC-Executive Secretary; DL-NSC-West Wing Desk; Persinger, John M.; [redacted]@osd.mil'; [redacted]@osd.mil'; [redacted]@osd.mil'; [redacted]@osd.pentagon.mil'; [redacted]osd.pentagon.mil'; [redacted]@osd.pentagon.mil'; [redacted]@osd.mil'; [redacted]@js.pentagon.mil'; [redacted]@osd.mil'; [redacted]@epa.gov'; Stolpe, Elizabeth A.; Rice, Quesean R.
Cc: DL-HSC-BTS; DL-HSC-Front; DL-HSC-EXECSEC
Subject: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

A Homeland Security Council Restricted Deputies Committee meeting is scheduled for June 30, 2005 from 2:30 - 3:30 p.m. in the White House Situation Room.

A read-ahead will follow. Please respond with your attendee by COB on Wednesday, June 29th.

Thank you,

Nina Pinto

Executive Secretariat
Homeland Security Council
[redacted]
Nina_Pinto@who.eop.gov

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, June 27, 2005 6:46 PM
To:	McCallum, Robert (SMO)
Cc:	Kessler, Elizabeth A
Subject:	Fw: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm
Attachments:	tmp.htm

-----Original Message-----
From: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Jun 27 18:31:28 2005
Subject: FW: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

fyi

-----Original Message-----
From: Elliott_M._Langer@who.eop.gov
[mailto:Elliott_M._Langer@who.eop.gov]
Sent: Monday, June 27, 2005 6:23 PM
To: McAtamney, James A; Burton, Dawn (ODAG); Mercer, Bill (ODAG);
Nina_Pinto@who.eop.gov; DL-OVP-HS@eopds.eop.gov;
Neil_S._Patel@ovp.eop.gov; Derrick_D._Morgan@ovp.eop.gov
(DHS) (DHS); Emily_L._Kropp@who.eop.gov;
Sara_Frankfurt@omb.eop.gov; Logan_E._Dryden@omb.eop.gov;
Jessica_C._Bennett@who.eop.gov; DL-NSC-APNSA@eopds.eop.gov;
DL-NSC-ExecutiveSecretary@eopds.eop.gov;
DL-NSC-WestWingDesk@eopds.eop.gov; John_M._Persinger@who.eop.gov;
@osd.mil @osd.mil; @osd.mil;
@osd.pentagon.mil; @osd.pentagon.mil;
@osd.pentagon.mil; @osd.mil;
@js.pentagon.mil; @osd.mil;
@epa.gov; Elizabeth_A._Stolpe@ceq.eop.gov;
Quesean_R._Rice@ceq.eop.gov
Cc: DL-HSC-BTS@eopds.eop.gov; DL-HSC-Front@eopds.eop.gov;
DL-HSC-EXECSEC@eopds.eop.gov
Subject: RE: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

This meeting has been CANCELLED. We will notify the agencies if the status changes. Thanks -Elliott Langer

From: Pinto, Nina
Sent: Monday, June 27, 2005 2:42 PM
To: DL-OVP-HS; Patel, Neil S.; Morgan, Derrick D.;
'James.A.McAtamney@usdoj.gov'; 'Dawn.Burton@usdoj.gov';
'Bill.Mercer2@usdoj.gov' [redacted]@dhs.gov'; [redacted]@dhs.gov';
Kropp, Emily L.; Frankfurt, Sara A.; Dryden, Logan E.; Bennett, Jessica
C.; DL-NSC-APNSA; DL-NSC-Executive Secretary; DL-NSC-West Wing Desk;
Persinger, John M.; [redacted]@osd.mil' [redacted]@osd.mil';
[redacted]@osd.mil'; [redacted]@osd.pentagon.mil';
[redacted]@osd.pentagon.mil';
[redacted]@osd.pentagon.mil'; [redacted]@osd.mil';
[redacted]@js.pentagon.mil'; [redacted]@osd.mil';
[redacted]@epa.gov'; Stolpe, Elizabeth A.; Rice, Quesean R.
Cc: DL-HSC-BTS; DL-HSC-Front; DL-HSC-EXECSEC
Subject: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

A Homeland Security Council Restricted Deputies Committee meeting is scheduled for June 30, 2005 from 2:30 - 3:30 p.m. in the White House Situation Room.

A read-ahead will follow. Please respond with your attendee by COB on Wednesday, June 29th.

Thank you,

Nina Pinto

Executive Secretariat
Homeland Security Council
[redacted]
Nina_Pinto@who.eop.gov

This meeting has been **CANCELLED**. We will notify the agencies if the status changes. Thanks
-Elliott Langer

From: Pinto, Nina
Sent: Monday, June 27, 2005 2:42 PM
To: DL-OVP-HS; Patel, Neil S.; Morgan, Derrick D.; 'James.A.McAtamney@usdoj.gov'; 'Dawn.Burton@usdoj.gov'; 'Bill.Mercer2@usdoj.gov'; [redacted]@dhs.gov'; [redacted]@dhs.gov'; Kropp, Emily L.; Frankfurt, Sara A.; Dryden, Logan E.; Bennett, Jessica C.; DL-NSC-APNSA; DL-NSC-Executive Secretary; DL-NSC-West Wing Desk; Persinger, John M.; [redacted]@osd.mil'; [redacted]@osd.mil'; [redacted]@osd.mil'; [redacted]osd.pentagon.mil'; [redacted]@osd.pentagon.mil'; [redacted]@osd.pentagon.mil'; [redacted]@osd.mil'; [redacted]@js.pentagon.mil'; [redacted]@osd.mil'; [redacted]@epa.gov'; Stolpe, Elizabeth A.; Rice, Quesean R.
Cc: DL-HSC-BTS; DL-HSC-Front; DL-HSC-EXECSEC
Subject: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

A Homeland Security Council Restricted Deputies Committee meeting is scheduled for June 30, 2005 from 2:30 - 3:30 p.m. in the White House Situation Room.

A read-ahead will follow. Please respond with your attendee by COB on Wednesday, June 29th.

Thank you,

Nina Pinto

Executive Secretariat
Homeland Security Council
202-456-2799
Nina_Pinto@who.eop.gov

Schlozman, Brad (CRT)

From: Schlozman, Brad (CRT)
Sent: Tuesday, June 28, 2005 6:05 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO); Wiggins, Mike
Subject: Thursday's CRT Weekly mtg

For the two reasons set forth below, I respectfully suggest that Thursday's CRT weekly mtg be postponed.

1) Wan is out on vacation this whole week.

2) I am out on Thursday and Friday. I will be in Baltimore all Thursday morning for the Maryland juvenile justice press conference and will then be heading to San Francisco for a press event in conjunction with our largest-ever human trafficking criminal raid.

I defer to you. Just let me know.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, June 28, 2005 8:55 AM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A
Subject: RE: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

I take it that this meeting has been cancelled as per Langer's email below. Liz: please confirm. If not, I can attend. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 6:46 PM
To: McCallum, Robert (SMO)
Cc: Kessler, Elizabeth A
Subject: Fw: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

-----Original Message-----
From: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Jun 27 18:31:28 2005
Subject: FW: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

fyi

-----Original Message-----
From: Elliott_M._Langer@who.eop.gov
[mailto:Elliott_M._Langer@who.eop.gov]
Sent: Monday, June 27, 2005 6:23 PM
To: McAtamney, James A; Burton, Dawn (ODAG); Mercer, Bill (ODAG);
Nina_Pinto@who.eop.gov; DL-OVP-HS@eopds.eop.gov;
Neil_S._Patel@ovp.eop.gov; Derrick_D._Morgan@ovp.eop.gov
(DHS); DHS); Emily_L._Kropp@who.eop.gov;
Sara_Frankfurt@omb.eop.gov; Logan_E._Dryden@omb.eop.gov;
Jessica_C._Bennett@who.eop.gov; DL-NSC-APNSA@eopds.eop.gov;
DL-NSC-ExecutiveSecretary@eopds.eop.gov;
DL-NSC-WestWingDesk@eopds.eop.gov; John_M._Persinger@who.eop.gov;
@osd.mil @osd.mil; @osd.mil;
@osd.pentagon.mil; @osd.pentagon.mil;
@osd.pentagon.mil; @osd.mil;
@js.pentagon.mil; @osd.mil;

[redacted]@epa.gov; Elizabeth_A._Stolpe@ceq.eop.gov;
Quesean_R._Rice@ceq.eop.gov
Cc: DL-HSC-BTS@eopds.eop.gov; DL-HSC-Front@eopds.eop.gov;
DL-HSC-EXECSEC@eopds.eop.gov
Subject: RE: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

This meeting has been CANCELLED. We will notify the agencies if the status changes. Thanks -Elliott Langer

---

From: Pinto, Nina
Sent: Monday, June 27, 2005 2:42 PM
To: DL-OVP-HS; Patel, Neil S.; Morgan, Derrick D.;
'James.A.McAtamney@usdoj.gov'; 'Dawn.Burton@usdoj.gov';
'Bill.Mercer2@usdoj.gov'; [redacted]@dhs.gov'; [redacted]@dhs.gov';
Kropp, Emily L.; Frankfurt, Sara A.; Dryden, Logan E.; Bennett, Jessica
C.; DL-NSC-APNSA; DL-NSC-Executive Secretary; DL-NSC-West Wing Desk;
Persinger, John M.; [redacted]@osd.mil'; [redacted]@osd.mil';
[redacted]osd.mil'; [redacted]@osd.pentagon.mil';
[redacted]@osd.pentagon.mil';
[redacted]@osd.pentagon.mil'; [redacted]@osd.mil';
[redacted]@js.pentagon.mil'; [redacted]@osd.mil';
[redacted]@epa.gov'; Stolpe, Elizabeth A.; Rice, Quesean R.
Cc: DL-HSC-BTS; DL-HSC-Front; DL-HSC-EXECSEC
Subject: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

A Homeland Security Council Restricted Deputies Committee meeting is scheduled for June 30, 2005 from 2:30 - 3:30 p.m. in the White House Situation Room.

A read-ahead will follow. Please respond with your attendee by COB on Wednesday, June 29th.

Thank you,

Nina Pinto

Executive Secretariat
Homeland Security Council
[redacted]
Nina_Pinto@who.eop.gov

Gunn, Currie (SMO)

Subject:	Canceled: Civil Rights Weekly
Location:	5710
Start:	Thursday, June 30, 2005 11:00 AM
End:	Thursday, June 30, 2005 12:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every Thursday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Wiggins, Mike; Kim, Wan (CRT); King, Loretta (CRT); Todd, Gordon (CRT); Torchinsky, Jason (CRT); Reyes, Luis (SMO); Schlozman, Brad (CRT); Schlozman, Brad (CRT); King, Loretta (CRT); Gorsuch, Neil M
Optional Attendees:	Saull, Bradley (CRT)
Importance:	High

When: Thursday, June 30, 2005 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Meeting for this week canceled. 6/28/2005.

Attendees: ASG Robert McCallum, Mike Wiggins-OASG, Neil Gorsuch-OASG, Brad Schlozman-CRT, Wan Kim-CRT, Loretta King-CRT, Jason Torchinsky-CRT, Luis Reyes-OASG

POC: Currie Gunn x4-9500

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Tuesday, June 28, 2005 9:20 AM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: RE: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

I just heard from Mary Neumayr in ENRD that the meeting will be rescheduled for next Wednesday, July 6 at 1 pm. A read ahead paper will supposedly be out tomorrow.

Mary is going to work off of my talking points to provide us with an updated version that will get you the latest information she has on agency positions. I also suggested to her that she plan to attend the ENRD bi-weekly on Wednesday, July 6 at 11 am so that we can brief you and answer any questions then. Does that sound good to you?

We could certainly do an earlier briefing if you like, but I don't think the issues are that complicated and it probably makes sense to do it that same day since agency positions tend to gel right before these meetings. Just let me know what you prefer, and I'll set it up.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, June 28, 2005 8:55 AM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A
Subject: RE: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

I take it that this meeting has been cancelled as per Langer's email below. Liz: please confirm. If not, I can attend. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 27, 2005 6:46 PM
To: McCallum, Robert (SMO)
Cc: Kessler, Elizabeth A
Subject: Fw: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

-----Original Message-----
From: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Jun 27 18:31:28 2005

Subject: FW: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

fyi

-----Original Message-----
From: Elliott_M._Langer@who.eop.gov
[mailto:Elliott_M._Langer@who.eop.gov]
Sent: Monday, June 27, 2005 6:23 PM
To: McAtamney, James A; Burton, Dawn (ODAG); Mercer, Bill (ODAG);
Nina_Pinto@who.eop.gov; DL-OVP-HS@eopds.eop.gov;
Neil_S._Patel@ovp.eop.gov; Derrick_D._Morgan@ovp.eop.gov; [redacted]
(DHS); [redacted] (DHS); Emily_L._Kropp@who.eop.gov;
Sara_Frankfurt@omb.eop.gov; Logan_E._Dryden@omb.eop.gov;
Jessica_C._Bennett@who.eop.gov; DL-NSC-APNSA@eopds.eop.gov;
DL-NSC-ExecutiveSecretary@eopds.eop.gov;
DL-NSC-WestWingDesk@eopds.eop.gov; John_M._Persinger@who.eop.gov;
[redacted]@osd.mi[redacted]@osd.mil; [redacted]@osd.mil;
[redacted]@osd.pentagon.mil [redacted]@osd.pentagon.mil;
[redacted]@osd.pentagon.mil; [redacted]@osd.mil;
[redacted]@js.pentagon.mil; [redacted]@osd.mil;
[redacted]@epa.gov; Elizabeth_A._Stolpe@ceq.eop.gov;
Quesean_R._Rice@ceq.eop.gov
Cc: DL-HSC-BTS@eopds.eop.gov; DL-HSC-Front@eopds.eop.gov;
DL-HSC-EXECSEC@eopds.eop.gov
Subject: RE: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

This meeting has been CANCELLED. We will notify the agencies if the status changes. Thanks -Elliott Langer

---

From: Pinto, Nina
Sent: Monday, June 27, 2005 2:42 PM
To: DL-OVP-HS; Patel, Neil S.; Morgan, Derrick D.;
'James.A.McAtamney@usdoj.gov'; 'Dawn.Burton@usdoj.gov';
'Bill.Mercer2@usdoj.gov' [redacted]@dhs.gov'; [redacted]@dhs.gov';
Kropp, Emily L.; Frankfurt, Sara A.; Dryden, Logan E.; Bennett, Jessica
C.; DL-NSC-APNSA; DL-NSC-Executive Secretary; DL-NSC-West Wing Desk;
Persinger, John M.; [redacted]@osd.mil'; [redacted]@osd.mil';
[redacted]osd.mil'; [redacted]@osd.pentagon.mil';
[redacted]@osd.pentagon.mil';
[redacted]@osd.pentagon.mil'; [redacted]@osd.mil';
[redacted]@js.pentagon.mil'; [redacted]@osd.mil';
[redacted]@epa.gov'; Stolpe, Elizabeth A.; Rice, Quesean R.
Cc: DL-HSC-BTS; DL-HSC-Front; DL-HSC-EXECSEC
Subject: HSC Deputies Committee on June 30, 2005 from 2:30 - 3:30 pm

A Homeland Security Council Restricted Deputies Committee meeting is scheduled for June 30, 2005 from 2:30 - 3:30 p.m. in the White House Situation Room.

A read-ahead will follow. Please respond with your attendee by COB on Wednesday, June 29th.

Thank you,

Nina Pinto

Executive Secretariat
Homeland Security Council
[redacted]
Nina_Pinto@who.eop.gov

Neumayr, Mary (ENRD)

From: Neumayr, Mary (ENRD)
Sent: Tuesday, June 28, 2005 9:23 AM
To: McAtamney, James A
Cc: Davis, John S (ODAG); Mercer, Bill (ODAG); Burton, Dawn (ODAG); Long, Linda E; Jackson, Marjorie L; Kessler, Elizabeth A; Gorsuch, Neil M; Johnson, Kelly A. (ENRD)
Subject: HSC Deputies Level CWA Munitions Mtg Rescheduled

HSC advises that the HSC Deputies Committee that was scheduled for June 30, 2005 from 2:30 - 3:30 pm will be rescheduled for next **Wednesday, July 6** from 1 p.m. They also advised that the read-ahead is anticipated to be issued tomorrow evening.

This message, including attachments, contains sensitive information that is intended only for the recipient(s). Information in this message is confidential and may be protected by attorney/client, work product, or other privileges.

Mary B. Neumayr
Counsel to the Assistant Attorney General
Environment and Natural Resources Division
950 Pennsylvania Avenue, NW
Room 2129
Washington, DC 20530
Tel: (202) 514-5243
Fax: (202) 514-0557
Email: mary.neumayr@usdoj.gov

Mercer, Bill (ODAG)

From: Mercer, Bill (ODAG)
Sent: Tuesday, June 28, 2005 9:37 AM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: Fw: HSC Deputies Level CWA Munitions Mtg Rescheduled

---

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neumayr, Mary (ENRD) <Mary.Neumayr@usdoj.gov>
To: McAtamney, James A <James.A.McAtamney@SMOJMD.USDOJ.gov>
CC: Davis, John S (ODAG) <John.S.Davis@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>; Burton, Dawn (ODAG) <Dawn.Burton@SMOJMD.USDOJ.gov>; Long, Linda E <Linda.E.Long@SMOJMD.USDOJ.gov>; Jackson, Marjorie L <Marjorie.L.Jackson@SMOJMD.USDOJ.gov>; Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>
Sent: Tue Jun 28 09:22:42 2005
Subject: HSC Deputies Level CWA Munitions Mtg Rescheduled

HSC advises that the HSC Deputies Committee that was scheduled for June 30, 2005 from 2:30 - 3:30 pm will be rescheduled for next Wednesday, July 6 from 1 p.m. They also advised that the read-ahead is anticipated to be issued tomorrow evening.

This message, including attachments, contains sensitive information that is intended only for the recipient(s). Information in this message is confidential and may be protected by attorney/client, work product, or other privileges.

Mary B. Neumayr
Counsel to the Assistant Attorney General Environment and Natural Resources Division 950 Pennsylvania Avenue, NW Room 2129 Washington, DC 20530 Tel: (202) 514-5243 Fax: (202) 514-0557
Email: mary.neumayr@usdoj.gov

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, June 28, 2005 9:43 AM
To: Mercer, Bill (ODAG)
Cc: Gorsuch, Neil M; Kessler, Elizabeth A
Subject: RE: HSC Deputies Level CWA Munitions Mtg Rescheduled

Will the DAG be attending or I am to sub in for him? Robt.

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Tuesday, June 28, 2005 9:37 AM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: Fw: HSC Deputies Level CWA Munitions Mtg Rescheduled

---
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neumayr, Mary (ENRD) <Mary.Neumayr@usdoj.gov>
To: McAtamney, James A <James.A.McAtamney@SMOJMD.USDOJ.gov>
CC: Davis, John S (ODAG) <John.S.Davis@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>; Burton, Dawn (ODAG) <Dawn.Burton@SMOJMD.USDOJ.gov>; Long, Linda E <Linda.E.Long@SMOJMD.USDOJ.gov>; Jackson, Marjorie L <Marjorie.L.Jackson@SMOJMD.USDOJ.gov>; Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>
Sent: Tue Jun 28 09:22:42 2005
Subject: HSC Deputies Level CWA Munitions Mtg Rescheduled

HSC advises that the HSC Deputies Committee that was scheduled for June 30, 2005 from 2:30 - 3:30 pm will be rescheduled for next Wednesday, July 6 from 1 p.m. They also advised that the read-ahead is anticipated to be issued tomorrow evening.

This message, including attachments, contains sensitive information that is intended only for the recipient(s). Information in this message is confidential and may be protected by attorney/client, work product, or other privileges.

Mary B. Neumayr
Counsel to the Assistant Attorney General Environment and Natural Resources Division 950 Pennsylvania Avenue, NW Room 2129 Washington, DC 20530 Tel: (202) 514-5243 Fax: (202) 514-0557

Email: mary.neumayr@usdoj.gov

Magnuson, Cynthia

From: Magnuson, Cynthia
Sent: Tuesday, June 28, 2005 11:09 AM
To: Allen, Gary (CIV); Apisson, Elizabeth M; Baxter, Felix (CIV); Boyle, Brian D; Branda, Joyce (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Eubanks, Sharon (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D. (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Madden, Kevin; Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Miller, Charles S; Morgan, Julian (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Sierra, Bryan; Swenson, Lily F; Thirolf, Eugene; Wiggins, Mike; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 6/28/05 Civil Division News

U.S. Seeks $14 Billion `Remedy' From Cigarette Makers (Update1)

U.S. seeks $14 billion in tobacco racketeering case

Guantanamo cases still in legal limbo

Groups back restraining orders amid ruling

Justices deny mom's right to sue police; Court: Castle Rock cops couldn't have known dad would kill kids

Courthouse removes Commandments

Moore's monument wouldn't pass test, experts agree

Justices Reinstate Suits on Internet File Sharing

Hollywood Can Sue Over Movie, Music Piracy

Press Release: People Injured by Hep A Vaccine Eligible For Compensation From HRSA

Today's Supreme Court Orders List

Bloomberg
June 28, 2005

U.S. Seeks $14 Billion `Remedy' From Cigarette Makers (Update1)

June 28 (Bloomberg) -- Cigarette makers should pay $14 billion to help smokers quit and to reduce youth smoking by 42 percent by 2013 as part of a remedy proposed by the Justice Department in its racketeering suit against tobacco companies.

The government filed a motion to that effect late yesterday, following an order by U.S. District Judge Gladys Kessler, who oversaw a nine-month trial that ended June 9. Kessler had asked the Justice Department to file ``a detailed proposed remedies order'' outlining the relief it wants if it wins the case.

The requested remedies were filed in the aftermath of assertions by anti-smoking advocates and Democrats that an earlier decision by the government to cut $120 billion from its claims was the result of political pressure from the Bush administration on the trial team.

Most of the money, $10 billion, would be earmarked to fund a 10-year, nationwide smoking cessation plan, which could be renewed if the companies break the law in the future. The remaining $4 billion would go to an anti-smoking public education campaign. In addition, the proposed order sets a goal of reducing the number of smokers under 21 years old and would fine companies $3,000 per smoker above the reduction targets.

The filing reflects the latest changes in the government's requested remedies in the case, which was brought in 1999 against Altria Group Inc.'s Philip Morris USA, Reynolds American Inc.'s R.J. Reynolds Tobacco Co. and other U.S. cigarette makers.

`Failed to Establish'

At that time, the government was seeking hundreds of billions of dollars in reimbursements for money it spent treating sick smokers and to recover what the Department of Justice called illegal industry profits.

``Philip Morris USA believes that the government has failed to establish basic liability, much less any reasonable likelihood of future wrongdoing,'' New York-based Philip Morris said in an e-mailed statement today. ``Regardless of what the government is asking for, the law and the facts applied to this case have not changed.''

The government's latest motion may signal that a settlement between the Justice Department and cigarette companies is unlikely, Smith Barney analyst Bonnie Herzog said today.

``Quite frankly, the industry is rolling the dice and allowing potentially the judge to rule on this case,'' Herzog said in an interview. ``It could work in their favor'' if the judge awards the government nothing or a relatively small amount.

Settlement Urged

Kessler had urged the two sides to settle the case, leading to a June 20 meeting in her Washington chambers with Michael Szymanczyk, chief executive of Philip Morris USA, Reynolds American CEO Susan Ivey, and industry and Justice Department lawyers.

In addition to Philip Morris and R.J. Reynolds, the defendants in the case are Brown & Williamson Tobacco Corp., Loews Corp.'s Lorillard Tobacco Co., British American Tobacco Plc's British American Tobacco (Investments) Ltd. and Vector Group Ltd.'s Liggett Group.

Lorillard spokesman Ron Milstein, R.J. Reynolds spokesman Seth Moskowitz, and Liggett spokeswoman Carrie Bloom didn't immediately return voicemail messages seeking comment.

In 2000, Kessler threw out the government's cost-recovery claims, allowing the U.S. to proceed with a case based on allegations that the industry violated racketeering laws. The Justice Department responded by seeking $280 billion it claimed the industry improperly made from cigarette sales to smokers who were addicted before age 21.

Appeals Court Ruling

After the trial started, a Washington appeals court in February said the government couldn't seek the $280 billion. Circuit Court Judge David Sentelle, who was appointed to the Court of Appeals in 1987 by President Ronald Reagan, said the government is limited to ``forward-looking'' remedies that prevent future violations of the law, rather than punishing past conduct.

Kessler called the ruling, which required the government to rethink its strategy in the middle of the trial, a ``body blow'' to the U.S. case.

Then, on June 7, during closing arguments, Justice Department lawyer Stephen Brody asked Kessler to order the industry to fund a five-year, $10 billion smoking cessation program, dropping a request for a more expansive 25-year, $130 billion plan that had been advocated by a government witness less than a month before.

The government has said it reduced its request to comply with the February appeals court ruling. Anti-smoking advocates and congressional Democrats claimed the decision was the result of political pressure on the Justice Department.

``The government keeps changing its remedies on a day-to- day basis,'' Philip Morris lawyer Dan Webb said at the end of the trial. ``It's a moving target.''

The case is U.S. v. Philip Morris USA, No. 99-CV-2496, U.S. District Court, District of Columbia.

END

REUTERS
11:06 p.m. June 27, 2005

U.S. seeks $14 billion in tobacco racketeering case

WASHINGTON – The U.S. government has asked a federal judge to force cigarette makers to fund a $10 billion quit-smoking program and another $4 billion for an anti-smoking education campaign.

Lawyers for the Justice Department told U.S. District Judge Gladys Kessler late on Monday in a motion with the court that the smoking cessation program and other remedies were needed to correct decades of alleged tobacco industry fraud.

The $10 billion would pay for a nationwide program that would run for five years if Kessler concludes that the tobacco companies violated racketeering laws. The $4 billion education program would be spread over 10 years.

The department said the court should be allowed to extend the cessation program if it deems it necessary.

The government's proposal has been heavily criticized by anti-smoking groups since it was first outlined by Justice Department lawyers during closing arguments in the landmark case earlier this month.

Critics have complained that the program is only a fraction of the $130 billion, 25-year program recommended by a government witness.

The government also asked Kessler to ban tobacco product descriptions such as "light."

Targeted in the lawsuit, filed in 1999, are Altria and its Philip Morris unit; Loews Corp.'s Lorillard Tobacco unit, which has a tracking stock, Carolina Group; Vector Group Ltd.'s Liggett Group; Reynolds American's R.J. Reynolds Tobacco unit; and British American Tobacco Plc unit, British American Tobacco Investments Ltd.

The companies deny they illegally conspired to promote smoking and say the government has no grounds to pursue them or impose additional restrictions after they drastically overhauled marketing practices as part of a 1998 settlement.

Kessler has repeatedly urged the government and cigarette makers to settle the landmark racketeering case. The two sides held meetings earlier this year at Kessler's request in an unsuccessful effort to reach a settlement.

END

Contra Costa Times (Walnut Creek,CA)
June 28, 2005

Guantanamo cases still in legal limbo

By Frank Davies, KNIGHT RIDDER

One year ago today, the Supreme Court issued a landmark ruling that opened the door to federal courts for 500-plus prisoners in the Guantanamo Bay prison camp to challenge their captivity.

But 200 detainees, including some held more than three years, who have filed habeas corpus petitions in federal court haven't been able to get through that door. After months of procedural battles, no judge has heard the merits of a single Guantanamo case.

As controversy mounts over the treatment of Guantanamo detainees, and the Bush administration argues that prisoners can be held indefinitely without being charged, even some Republican senators have called for a faster resolution of their cases.

"Our whole system is to get people to determine what the facts are, charge them and move ahead," said Sen. Mike DeWine, R-Ohio, at a recent hearing. "What's going on here? This seems to be a horribly slow process."

A habeas corpus petition, in which a prisoner claims he's being improperly jailed, "is supposed to get fast-track consideration because personal liberty is an urgent issue," said Eugene Fidell, president of the National Institute of Military Justice.

But that hasn't happened.

The Center for Constitutional Rights, which helped organize 400 lawyers to represent detainees, has had little lasting success since the Supreme Court's ruling required hearings on the detentions.

"We've had some strong rulings in our favor on one hand, and then they're taken away on the other hand," said Michael Ratner, president of the center.

Several factors, including vagueness in the 2004 Supreme Court ruling, have slowed down the pace of litigation in the Guantanamo cases, according to Fidell and other legal and national security experts.

The court, in the 6-3 decision of Rasul v. Bush, settled one important question: It ruled that Guantanamo -- a naval base leased from Cuba -- isn't outside U.S. law and that U.S. courts could hear detainees'

claims.

But it didn't set out a process to do that, leaving it to lower courts.

"It's not unusual for the Supreme Court to give a broad legal ruling and leave the details up to the district courts," said Scott Silliman, director of the Center on Law, Ethics and National Security at Duke University.

Fidell was more critical: "The court didn't do what it needed to do. Because it gave no blueprint, we have hundreds of detainees held for years, and their cases have no resolution in sight."

The Bush administration has resisted judicial review at every juncture. The Defense Department originally sought to bar lawyers' access to Guantanamo, then wanted to monitor their conversations with detainees, but lost on those issues.

"They have dug in their heels every step of the way," Ratner said. "They have ignored the clear thrust of the Supreme Court."

Justice attorneys argued that special military panels, set up last year, gave detainees adequate due process in reviewing their status as enemy combatants.

Two federal judges, Joyce Hens Green and James Robertson, rejected that argument; one, Richard J. Leon, agreed.

Even district judges who have ruled against the government have moved methodically, recognizing that appellate judges and eventually the Supreme Court will resolve the major issue of what rights a detainee has in federal court.

Green issued a strong ruling on Jan. 31 against the government, declaring that while she "would have welcomed a clearer declaration" from the Supreme Court, she decided that the prisoners had "enforceable constitutional rights."

But she then issued a stay, because her decision and one by Leon were in conflict, sending the habeas cases to the U.S. Court of Appeals in Washington. That court is receiving final briefs but hasn't yet scheduled oral arguments.

In a related case, Robertson halted military trials of a handful of detainees in November, citing a lack of due process. A ruling from the appellate court on that case is expected this summer.

UPDATE

PAKISTAN FREES 17 MEN DETAINED AFTER RETURNING FROM GUANTANAMO: A group of 17 men who were arrested upon their return home to Pakistan after being released from the U.S. prison at Guantanamo Bay, Cuba, were freed Monday after nine months in detention here, an official said.

"These are people who have been declared innocent by America. Our (intelligence) agencies have thoroughly interrogated them," said Tahir Ashrafi, a religious affairs adviser for the government in eastern Punjab province.

"They have not been found to be involved in any kind of terrorist activity," he told reporters outside the Kot Lakhpat jail.

Hundreds of Pakistanis went to Afghanistan to fight alongside the Taliban militia against the United States. After the U.S. military operation ousted the Taliban from power in 2001, many Pakistanis were jailed in Afghanistan, and some were sent to Guantanamo.

Since September 2004, some 35 Pakistanis have been freed from Guantanamo.

END

AP
Groups back restraining orders amid ruling

6/28/05

Victims' advocates scrambled to reassure the public that restraining orders are still effective for preventing domestic violence, despite a U.S. Supreme Court ruling that police cannot be sued over the way they enforce them.

The 7-2 ruling Monday ended a lawsuit by a Colorado woman who claimed Castle Rock police did not do enough to prevent her estranged husband from killing their three young daughters. The ruling said Jessica Gonzales did not have a constitutional right to police enforcement of the court order against her husband.

"The second tragedy in this case could very well be that victims of domestic violence will read this opinion to mean that protection orders are not worth the paper they're printed on, and that impression would be false," said Richard Smith, a Washington lawyer who filed a brief in support of Gonzales.
Trish Thibodo, executive director of the Colorado Coalition Against Domestic Violence, said police still have a responsibility to enforce restraining orders and to take them seriously.

"Nothing's changed," she said.

City governments feared that a ruling in Gonzales' favor could open them to a flood of lawsuits. Judges in Colorado issued more than 14,000 restraining orders in fiscal 2004.

"The potential for liability was just completely out of this world," said Brad Bailey, an assistant city attorney in Littleton who filed a brief in support of the Castle Rock police department.

Gonzales' attorney, Brian Reichel, did not immediately return a call seeking comment.

On ABC's "Good Morning America," Gonzales said now that the Supreme Court has ruled, she is moving on.

"I'm going to continue my advocacy for other victims," she said. "I believe that there is a lot to be done, and this is a new beginning for me. And continuing to try to find some resolution for why my three children were murdered."

Gonzales sued the Castle Rock police department, claiming officers ignored her pleas to find her husband after he took the three girls, ages 10, 9 and 7, from the front yard of her home in June 1999 in violation of a restraining order. Hours later, Simon Gonzales died in a gunfight with officers outside a police station. The bodies of the girls were in his truck.

Gonzales argued that she was entitled to sue based on her rights under the 14th Amendment to the U.S. Constitution and under a Colorado law that says officers must use "every reasonable means" to enforce a restraining order.

She contended that her restraining order should be considered property under the 14th Amendment and that it was taken from her without due process when police failed to enforce it.

A federal judge in Denver dismissed her lawsuit, but the 10th U.S. Circuit Court of Appeals revived it, saying the restraining order was a government benefit that should be treated like any other property.

But Justice Antonin Scalia, writing for the high court's majority, said Colorado's law does not entitle people who receive protective orders to police enforcement.

Smith, Gonzales' attorney, called the ruling "an open invitation to states to look at their statutes and enhance them and to provide the kind of protections that victims need."

He said lawmakers should ensure that police departments can be sued in state courts for failure to enforce protective orders. Under current state law, governments in Colorado and other states are immune from such lawsuits, forcing Gonzales to turn to the federal courts.

"The ultimate conclusion in this case is that states need to stand up and become accountable in protecting the innocent victims of domestic violence," Smith said.

Castle Rock officials contend they tried to help Gonzales. Police twice went to the estranged husband's apartment, kept an eye out for his truck and called his cellular phone and home phone.

Gonzales reached him on his cell phone, and he told her that he had taken the girls to an amusement park in nearby Denver. Gonzales maintains that police should have gone to the amusement park or contacted Denver police.

"We all still feel really bad about this whole situation, but in response to the allegations we were unresponsive and so on, these were all totally not true," said Police Chief Tony Lane, who was chief at the time of the slayings.

"The deaths of these girls, while tragic, I think the learning experience we gained from this will help us deal better with these situations in the future," he said.

END

Denver Post
June 28, 2005

Justices deny mom's right to sue police; Court: Castle Rock cops couldn't have known dad would kill kids

By Joey Bunch
Denver Post Staff Writer

The U.S. Supreme Court ruled that Jessica Gonzales does not have the right to sue Castle Rock police for not enforcing a restraining order against her husband just hours before he killed her three daughters in 1999.

In a 7-2 decision Monday, the court said police had no way of predicting - even after a worried Jessica Gonzales called the police - that Simon Gonzales would kill the couple's children and then start a shootout at a police station, where he was killed.

"The Supreme Court has spoken, and we're satisfied," said Castle Rock Police Chief Tony Lane. "It's time to move on."

Jessica Gonzales sought to sue the town for $30 million, arguing that the restraining order required police to arrest her husband to protect her children.

If Gonzales had prevailed, it would have had sweeping ramifications for departments nationwide, possibly making police liable when they fail to prevent a crime, legal observers say.

In Colorado, as in most other states, police are immune from lawsuits over the way they carry out their duties, except in cases of extreme negligence.

"This is a big win for local government," said Brad Bailey, an assistant city attorney for Littleton.

Municipal and police officials across the country had worried that a ruling in favor of Gonzales would spawn a slew of costly lawsuits that second-guess police actions.

"Anytime the cops don't get there fast enough, we're looking at a lawsuit," said Bailey, who wrote a brief to the court on behalf of the National League of Cities, the International Municipal Lawyers Association and the National Sheriffs' Association.

Writing for the majority, Justice Antonin Scalia cited another ruling that stated it is "simply 'common sense' that all police officers must use some discretion in deciding when and where to enforce city ordinances."

Writing in dissent, Justice John Paul Stevens, joined by Justice Ruth Bader Ginsburg, said police "lacked the discretion to do nothing."

Mandatory-arrest laws were passed in many states, including Colorado, because lawmakers found the "crisis of under-enforcement had various causes, not least of which was the perception by police departments and police officers that domestic violence was a private ... matter and that arrest was to be used as a last resort," Stevens wrote.

Since her children's deaths, Jessica Gonzales has remarried and moved to California. She said she would continue to push for enforcement of restraining orders, "so that my daughters will not have died in vain."

"We need to put pressure on our elected officials to pass laws that offer real protection to women and their families," she said in a statement released by the American Civil Liberties Union, which championed her cause.

After the court defeat, the ACLU urged state legislatures to adopt tougher laws on restraining orders and police negligence.

Gonzales' lawyer, Brian Reichel of Broomfield, doubted that would happen in Colorado, considering the immunity the state already has extended to police.

"For us, there's nowhere to go," Reichel said. "For Jessica Gonzales, the fight is over."

Reichel said the Supreme Court had "given the green light" to police to ignore restraining orders. "Police now have unfettered discretion to ignore these directives."

Police did all they could to help Jessica Gonzales as the facts unraveled the night her children were killed, said Lane, Castle Rock's police chief.

"Obviously, we have a difference in opinion on how this case was handled," he said. "But we all feel bad for Jessica because she lost her three children. The community feels horrible for her."

END

Cincinnati Post
Courthouse removes Commandments

6/28/05

A framed copy of the Ten Commandments was removed from the Gallatin County, Ky., courthouse on Monday, hours after the Supreme Court ruled their display was unconstitutional in two other Kentucky court- rooms.

The display has been the focal point of a see-saw battle between advocates of a clearer separation of church and state and those who argue the Commandments are nothing more than a reflection of the basis for U.S. law.

No similar battles over the Ten Commandments were being fought in the tri-state, according to numerous court and government officials in Hamilton County, as well as Boone, Campbell and Kenton counties in Kentucky.

But the legal battle, in various forms, has been evolving for years in the region.

Monuments showing the Protestant version of the Ten Commandments were removed from the property of four public schools in Adams County, east of Brown County, in June 2003, by federal court order following a challenge by the ACLU of Ohio.

In the Gallatin County case, Edward Kagin, an attorney and head of the Kentucky branch of American Atheism, successfully requested that the commandments be removed from the Gallatin courthouse last year. Special Judge Stanley Billingsley granted Kagin's request and moved them into his chambers.

But the commandments were quietly replaced in the courtroom since then, Circuit Clerk Sue O'Connor said.

They were removed Monday by order of Gallatin Circuit Judge Linda Bramlage.

O'Connor disagreed with the decision to remove them.

"I'm sorry to see them go. I believe in the Ten Commandments, and I don't really understand what all the controversy is over. I think everybody has a right to their beliefs, and I don't know of any time they were used to change anyone's beliefs," she said.

Kagin had a very different view, commending the Supreme Court for its 5-4 ruling against the commandment's display in Kentucky courtrooms.

"It's very good for Kentucky because we do not have an establishment for religion clause in a Kentucky forum. (The legal battle) was really quite a waste of taxpayer money," he said. "There are too many important things to do to waste time with this."

Neither Bramlage nor Billingsley could be reached for comment Monday.

Leigh Anne Hiatt, a spokeswoman for the administrative office of the courts, which oversees state courts in Kentucky, said her office does not permit the display of any art work or other objects at courthouses with the exception of plaques or honorariums dedicated to deceased judges or attorneys and the like.

"Our policies that we have been enforcing have been consistent with (Monday's) Supreme Court ruling," Hiatt said.

"In shared facilities, where the local governments have space, we do not dictate what they do with their space," she added.

In Northern Kentucky, the Boone and Kenton county court- houses are operated solely by the state courts, while Campbell County courts share their facilities with the county government.

However, the county has not posted the Ten Commandments, County Attorney Justin Verst said, and has no plans to do so.

In Boone County, members of the fiscal court have discussed posting the Ten Commandments in county facilities. County Administrator Jim Parsons said Monday that no plans were in the works for such a move.

"We decided to do nothing while the issue was being played out in court. There's nobody really pushing to do anything one way or the other at this point (in Boone County)," he said.

A quarter-century ago, the Supreme Court struck down a Kentucky law that required public schools to post a copy of the Ten Commandments in every classroom.

The state argued that the statute was designed to illustrate for students the importance of the Ten Commandments in the nation's legal code.

But in what is now called the Stone decision, the court in 1980 rejected that argument, saying the statute had no plausible secular purpose.

END

Montgomery, AL, Advertiser
June 28, 2005

Moore's monument wouldn't pass test, experts agree

By Ana Radelat

WASHINGTON -- The Ten Commandments display championed by former Alabama Chief Justice Roy Moore clearly would not pass muster under Monday's Supreme Court ruling defining which religious displays are constitutional and which are not, experts said Monday.

In two 5-4 rulings on cases out of Texas and Kentucky, the Supreme Court decided religious displays on public grounds are constitutional if they portray religion as part of the nation's legal history or offer a "neutral" acknowledgement of religion by the government.

The Supreme Court decisions leave it to observers to determine if a Ten Commandments display is predominantly secular in nature. That allows wiggle room for many displays, but not Moore's, said Lee Strang, a professor at the Ave Maria Law School in Ann Arbor, Mich.

"Roy Moore was very, very public with the fact that he wanted to promote Christianity with his display," Strang said.

The Supreme Court said Monday that a Texas display of the Ten Commandments is constitutional because it is a "passive" acknowledgement of religion and was placed in a "nonproselytizing" manner among other historical monuments on the grounds of the Texas state capitol.

"While the Commandments are religious, they have an undeniable historical meaning," wrote Chief Justice William Rehnquist in the decision on the Texas case.

Moore was ousted as chief justice on the Alabama Supreme Court after he refused to comply with an order from the 11th Circuit Court of Appeals to remove the Ten Commandments display he had installed in the Alabama Supreme Court building. The U.S. Supreme Court later rejected Moore's appeals.

Moore said Monday's court rulings will make it more difficult to keep Ten Commandments displays on private property. He accused the Supreme Court of denying God and said the rulings would lead to the slow loss of "your rights to life, liberty and property."

"The issue is and remains whether or not we can acknowledge God under the First Amendment to the Constitution of the United States," Moore said.

Sen. Richard Shelby, R-Tuscaloosa, who introduced a Ten Commandments bill in Congress, also expressed disappointed in the high court's action.

"While I am not surprised by the close decision, I believe it further reinforces the need for passage of legislation that would clarify the role of the judiciary in cases regarding the acknowledgment of God, such as the Constitution Restoration Act."

Duke law professor Erwin Chemerinsky, the attorney who represented a Texas man who protested the Texas Ten Commandments display, lost his bid to have the monument considered unconstitutional.

But he said the Supreme Court upheld his argument that there are limits on government's ability to put religious symbols on government property.

"The court clearly held that the Ten Commandments are a religious symbol, but whether a particular Ten Commandments display is constitutional

will depend on its history, purpose, and context," Chemerinsky said.

Under the new standard set by the Supreme Court, Moore's display would "no doubt" be considered unconstitutional, Chemerinsky said.

"His purpose was to unabashedly promote religion," he said.

The Supreme Court's two 5-4 decisions made it impossible for either the left or right to claim victory.

But Ralph Neas, president of People for the American Way, said he was pleased with "the affirmation of the constitutional principle of government neutrality toward religion."

"While we disagree with how the court applied that principle to the facts in Texas, we are very pleased that the court has rejected efforts to dismantle church-state separation," Neas said.

The Christian right criticized the decision most heavily.

"Today's flawed Ten Commandments decision by the Supreme Court makes the confirmation of strict constructionists to that court more important than ever," said Roberta Combs, president of the Christian Coalition of America.

END

The New York Times
June 28, 2005

Justices Reinstate Suits on Internet File Sharing

By LINDA GREENHOUSE and LORNE MANLY

WASHINGTON, June 27 - The Supreme Court handed a major victory to the entertainment and recording industries on Monday by reinstating a copyright-infringement suit against two file-sharing services.

In a unanimous opinion, the court strongly suggested that the services, Grokster and StreamCast Networks, should be found liable for the vast copyright infringement committed by those using their software to download music and movies.

Two lower federal courts in California had ruled in favor of the two companies, dismissing the lawsuit without a trial on the basis of a legal analysis that the Supreme Court found seriously flawed.

In his opinion for the court on Monday, Justice David H. Souter suggested that when properly evaluated, the evidence against Grokster and StreamCast was, in fact, so strong that the entertainment-industry plaintiffs might be entitled to summary judgment.

At the least, he said, MGM Studios and the other plaintiffs - including the Recording Industry Association of America, the Motion Picture

Association of America and a class of 27,000 music publishers and songwriters - were entitled to a trial to prove their accusations that the file-sharing companies were in business primarily to enable and induce computer users to find and download copyrighted material.

In the Supreme Court's view, the plaintiffs have effectively made that case already. Justice Souter called the record "replete with evidence" that the companies "acted with a purpose to cause copyright violations by use of software suitable for illegal use." The opinion referred to "evidence of infringement on a gigantic scale" and said that "the probable scope of copyright infringement is staggering." [Excerpts, Page C5.]

The movie and music industries, even armed with a decision affirming their legal recourse, have a long way to go to capitalize on it, and they plan new efforts to persuade or force those actually doing the downloading to desist.

Digital rights advocates, while somewhat relieved that the court did not go further, were concerned that the ruling could invite a deluge of lawsuits and a risk that they would inhibit innovation.

There is no dispute that individual users violate copyright law when they share files of copyrighted material, and the industry has had some modest success in seeking fines from college students and others. But with millions of users downloading billions of files each month, retail prosecution proved inefficient, so the music and entertainment industries turned their attention several years ago to the commercial services that make the file sharing possible.

That effort led to the Supreme Court's most important copyright case since its ruling in 1984 that shielded the manufacturers of the videocassette recorder from copyright liability for possibly infringing use by home consumers.

The court based its decision then, in Sony v. Universal City Studios, on a finding that the VCR was "capable of substantial noninfringing uses," like time-shifting, in which home users simply recorded programs for viewing later.

In ruling last year for Grokster and StreamCast, the United States Court of Appeals for the Ninth Circuit in San Francisco relied on the Sony decision, finding that the file-sharing software had possible noninfringing uses. Because the software operates in a decentralized way without using a central computer, the appeals court found, Grokster and StreamCast could not track users and had no direct knowledge of any specific instance of infringement.

The Supreme Court on Monday held that the appeals court had misapplied the Sony decision by focusing only on the technology, without regard to the business model that the technology served.

"One who distributes a device with the object of promoting its use to infringe copyright, as shown by clear expression or other affirmative steps taken to foster infringement, is liable for the resulting acts of infringement by third parties," Justice Souter wrote.

Movie and music industry executives hailed the decision. "If you build a business that aids and abets theft, you will be held accountable," said Dan Glickman, chief executive of the Motion Picture Association of America, the lobbying organization for the major Hollywood studios. BMI, representing more than 300,000 songwriters and composers, called the decision "good news indeed for the creative community whose work has been blatantly infringed."

The movie and music industries had warned that file sharing was hurting them financially, and could ultimately inhibit the creation of content. The music industry has blamed song-swapping over the Internet for its decade-long sales slump.

While movies and television shows are more difficult to trade online because of the size of their files, technological advances are making that easier and threatening the rich source of cash that DVD sales have become for the studios.

On the other hand, groups including the American Civil Liberties Union, Consumers Union, the Consumer Electronics Association and other elements of the computer and technology industries warned the court that too broad a rule of contributory copyright infringement would stifle innovation if there was a possibility that consumers might put a product to an infringing use.

It was clear from the opinion, Metro-Goldwyn-Mayer Studios Inv. v. Grokster Ltd., No. 04-480, that the justices had taken note of that argument and tried to draw a line that would protect both copyright holders and innovators. The court identified the line as "inducement" - deliberately urging consumers to make illicit use of the product or showing them how it could be done.

"Mere knowledge of infringing potential or of actual infringing uses would not be enough here to subject a distributor to liability," Justice Souter said. He added: "Nor would ordinary acts incident to product distribution, such as offering customers technical support or product updates, support liability in themselves. The inducement rule, instead, premises liability on purposeful, culpable expression and conduct, and thus does nothing to compromise legitimate commerce or discourage innovation having a lawful promise."

James Gibson, a professor of intellectual property and computer law at the University of Richmond School of Law, applauded what he called a balancing act between artistic creators and technological innovators.

By putting so much weight on proving companies' bad behavior, he said, the decision could create more legal expenses and unpredictability for technology companies. At the same time, he added, it should provide peace of mind to creators of technology that could be used for both legitimate and infringing uses.

But several technology advocates expressed concern, saying innovators would now be saddled with the befuddling notion of "intent." Matthew Neco, StreamCast's general counsel, said the ruling turned Hollywood and the recording industry into "thought police."

Michael Petricone, vice president for technology policy at the Consumer Electronics Association, said that without clear guidelines from the court on what a company must do to avoid being held liable for contributing to copyright infringement, "the legal clarity has decreased and the risk of litigation has increased."

Attorney General Alberto R. Gonzales said he was pleased the court had "determined that those who intentionally induce or encourage the theft of copyrighted music, movies, software or other protected works may be held liable for their actions." The Bush administration joined the argument in support of the studios.

While the court's judgment was unanimous, the justices did not share the same view of how useful the Sony precedent remained after more than 20 years of changing technology. A concurring opinion by Justice Ruth Bader Ginsburg, which Chief Justice William H. Rehnquist and Justice Anthony M. Kennedy joined, suggested that the Sony case's reference to "substantial noninfringing use" was too easily misunderstood by lower courts and might have to be tailored for different types of technology.

The file-sharing software might be used to swap large numbers of noninfringing files, Justice Ginsburg said, but even a big number would be "dwarfed by the huge total volume of files shared."

Justice Stephen G. Breyer, in a concurring opinion also signed by Justices John Paul Stevens and Sandra Day O'Connor, said the Sony decision had basically achieved its "innovation-protecting objective" and struck the right balance between protecting copyrights and technology. It should be retained, he said.

END

AP
Hollywood Can Sue Over Movie, Music Piracy

6/27/05

WASHINGTON -- Hollywood and the music industry can file piracy lawsuits against technology companies caught encouraging customers to steal music and movies over the Internet, the Supreme Court ruled Monday.

The justices, aiming to curtail what they called a "staggering" volume of piracy online, largely set aside concerns that new lawsuits would inhibit technology companies from developing the next iPod or other high-tech gadgets or services.

The unanimous ruling is expected to have little immediate impact on consumers, though critics said it could lead companies to include digital locks to discourage illegal behavior.

The justices left in place legal protections for companies that merely learn customers might be using products for illegal purposes.

The justices said copying digital files such as movies, music or software programs "threatens copyright holders as never before" because it's so easy and popular, especially among young people. Entertainment companies maintain that online thieves trade 2.6 billion songs, movies and other digital

files each month.

"I am pleased that the Supreme Court has considered this important case and determined that those who intentionally induce or encourage the theft of copyrighted music, movies, software or other protected works may be held liable for their actions," Attorney General Alberto Gonzales said.

The ruling represents a significant victory for Hollywood and record labels, which have resorted to suing individually the thousands of computer users caught sharing music and movies online.

"We will no longer have to compete with thieves in the night whose businesses are built on larceny," said Andrew Lack, chief executive for Sony BMG Music Entertainment.

In a tweak at entertainment companies -- and a demonstration of legal purposes for file-sharing -- computer users circulated the court's published opinion over Internet file-sharing services. Government-produced documents generally are not protected by copyright.

The court said Grokster Ltd. and Streamcast Networks Inc., developers of leading Internet file-sharing software, can be sued because they deliberately encouraged customers to download copyrighted files illegally so they could build a larger audience and sell more advertising. Writing for the court, Justice David H. Souter said the companies' "unlawful objective is unmistakable."

The court noted as evidence of bad conduct that Grokster and Streamcast made no effort to block illegal downloads, which the companies maintained wasn't possible.

But the court also said a technology company couldn't be sued if it merely learns its customers are using its products for illegal purposes. That balancing test, the court said, is necessary so that it "does nothing to compromise legitimate commerce or discourage innovation having a lawful promise."

The court said it wanted to protect an inventor who must predict how consumers months or years in the future might use new technology.

"The price of a wrong guess ... could be large," Justice Stephen G. Breyer wrote.

The lawyer for the software companies, Richard Taranto, said he will argue in a new trial that they did not encourage computer users to download music and movies illegally. He complained the Supreme Court's ruling was so vague it was impossible to know which companies might be sued.

"You can't be terribly sure how it might apply to you," Taranto said.

Taranto's partner in the case, Fred von Lohmann of the San Francisco-based Electronic Frontier Foundation, predicted the decision will "unleash a new era of legal uncertainty on America's innovators" and that unresolved questions "will probably tie up courts for a long time."

Justices said a federal appeals court in California mistakenly applied too broadly the landmark 1984 Supreme Court ruling. The court decided in the case that Sony Corp. could not be sued over consumers who used its VCRs to make illegal copies of movies because most people used VCRs legally to tape programs and watch them later.

"Nothing in Sony requires courts to ignore evidence of intent to promote infringement," the court said. It declined to go further, saying it wanted "to leave further consideration of the Sony rule for a day when that may be required."

Monday's decision did not affect the illegality of computer users downloading copyrighted materials over the Internet without permission. The ruling also was not expected to affect the thousands of copyright lawsuits filed already against computer users by the trade groups for Hollywood studios and the largest labels.

The case is Metro-Goldwyn-Mayer Studios v. Grokster, 04-480.

END

U.S. Medicine
June 27, 2005

Press Release: People Injured by Hep A Vaccine Eligible For Compensation From HRSA

By Sandra Basu

WASHINGTON-The U.S. Department of Health and Human Services' Health Resources and Services Administration (HRSA) announced that individuals who are injured by the hepatitis A vaccine are eligible for compensation under HRSA's National Vaccine Injury Compensation Program (VICP).

Hepatitis A is a liver disease caused by the hepatitis A virus and can be spread from person to person. It is the most common type of hepatitis reported in the United States. The hepatitis A vaccine is recommended for children in certain states and communities with high incidence of the disease, for people with certain chronic diseases, or for those traveling to countries where the disease is common.

According to HRSA, to be eligible for compensation, claims must be filed within three years after the first symptoms of the vaccine injury; or within two years of the vaccine-related death; and not more than four years after the start of the first symptom of the vaccine-related injury from which the death occurred.

In addition, people who believe that the vaccine has injured them have two years from the date the vaccine is covered to file a claim for injuries or deaths that occurred up to eight years before the date the vaccine is covered. For the hepatitis A vaccine, claims must be filed by Dec. 1, 2006, for injuries or deaths that occurred on or after Dec. 1, 1996.

Congress created the VICP in 1986 as an alternative to traditional civil litigation. The VCIP provides financial compensation to eligible individuals who have been injured by vaccines. In addition, compensation may also be awarded for attorneys' fees and costs.

END

Today's Supreme Court Orders List

http://www.supremecourtus.gov/orders/courtorders/062805pzr.pdf

END

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, June 28, 2005 11:10 AM
To: Davis, Deborah J; Cinciotta, Linda A; Kant, Deborah (SMO); McCallum, Robert (SMO); Gorsuch, Neil M; Henke, Tracy (SMO); Kessler, Elizabeth A; Reyes, Luis (SMO); Senger, Jeffrey M; Swenson, Lily F; [redacted]
Subject: FW: Travel Warning-Democratic Republic of the Congo
Importance: High

See below.

-----Original Message-----
From: Deaver, Dwayne R
Sent: Tuesday, June 28, 2005 10:48 AM
To: SPM
Subject: FW: Travel Warning-Democratic Republic of the Congo
Importance: High

For your information and distribution to employees.

-----Original Message-----
From: [redacted]@state.gov [mailto[redacted]@state.gov]
Sent: Monday, June 27, 2005 1:54 PM
To: Lai, Ted; Parker, Robert S; Massillon, Josette M; Teets, Edward W; Deaver, Dwayne R; agianinn@omb.eop.gov; [redacted]
(LEO); [redacted] (LEO);
[redacted]@nasa.gov; [redacted]@doc.gov; [redacted]@usaid.gov;
[redacted]@peacecorps.gov; [redacted]@doc.gov; [redacted](LEO);
[redacted]@dia.mil; [redacted]@odci.gov; [redacted](DHS);
[redacted]@dia.mil; [redacted]@hq.nasa.gov; [redacted]@state.gov;
[redacted]@usaid.gov [redacted]@fas.usda.gov;
[redacted]@faa.gov; [redacted]@fas.usda.gov;
[redacted]@usda.gov; [redacted]@state.gov; [redacted]@dia.mil;
[redacted](LEO); [redacted]@state.gov; [redacted]@state.gov;
[redacted]@state.gov; [redacted]@ibb.gov [redacted](DHS);
[redacted]@HQ.DHS.GOV; [redacted]@ucia.gov [redacted]@ibb.gov;
[redacted]@ost.dot.gov; [redacted]@dia.mil; [redacted]@leo.gov;
[redacted]@dia.mil [redacted]@nasa.gov; [redacted]@ucia.gov;
[redacted](DHS); [redacted]@peacecorps.gov; [redacted]@hq.nasa.gov;
[redacted](DHS); [redacted]@nsa.gov [redacted]@dot.gov;
[redacted]@state.gov; cey1@cdc.gov; [redacted]@doc.gov [redacted]@ucia.gov;
[redacted]@nsa.gov; [redacted]@do.treas.gov; [redacted]@HQ.DHS.GOV;
[redacted]@doc.gov; [redacted]DHS); [redacted]@state.gov;
[redacted]@do.treas.gov; [redacted]@ost.dot.gov; [redacted]@cdc.gov
Subject: Travel Warning-Democratic Republic of the Congo

Importance: High

UNCLAS SECTION 01 OF 02 STATE 118425

INFORM CONSULS

E.O. 12958: N/A
TAGS: CASC, ASEC, OTRA, CG
SUBJECT: TRAVEL WARNING - DEMOCRATIC REPUBLIC OF THE CONGO (CONGO-KINSHASA)

STATE 00118425 001.2 OF 002

1. This Travel Warning for the Democratic Republic of the Congo (Congo-Kinshasa) reiterates the Department of State's warning to U.S. citizens against traveling there in light of recent unrest and the potential for more unrest in the near future. This Travel Warning supersedes that of March 30, 2005.

2. The Department of State warns U.S. citizens against travel to the Democratic Republic of the Congo. Despite efforts to advance the peace process following the 2003 formation of a transitional government, periodic fighting continues in North and South Kivu, Ituri District, and other areas of eastern Congo. Wide-scale civil unrest broke out in May and June 2004, with rioting and looting in many cities, including the capital Kinshasa, and resulted in United Nations (U.N.) peacekeeper and civilian casualties. There were also civilian and police casualties during demonstrations in several areas of Kinshasa in January 2005 and in Mbuji Mayi in May 2005.
The challenges of implementing national elections raise the possibility of further civil disturbance over the next several months. The extension of the transitional government beyond June 2005 has prompted some opposition groups to call for large-scale demonstrations in Kinshasa and throughout the country on or about June 30, 2005.

3. Though U.N. observer forces are deployed throughout the country, unofficial armed groups and active duty troops in parts of the country are known to pillage, carjack and steal vehicles, kill extra-judicially, rape, kidnap, stir up ethnic tensions, and carry out military/paramilitary operations. The large number of rebel and government soldiers to be decommissioned as a result of the peace process is also a security concern. Travelers may be detained and questioned by ill-disciplined security forces at numerous military roadblocks throughout the country.
Government-imposed curfews, not currently in effect, could be reinstated upon short notice if the security situation deteriorates. Visitors should restrict their travel, particularly at night, to areas of Kinshasa where they are familiar. In the event of political disturbances, they should avoid the parts of the city where the disturbances occur, especially at night. There are increased police patrols and checkpoints throughout Kinshasa as the government seeks to maintain order and quell any disturbances by those opposed to extending the transition.
This often results in long traffic delays and the payment of "fines" to be allowed to pass.

4. Travelers to the Democratic Republic of the Congo routinely experience difficulties at the airport and other ports of entry, such as temporary detention and demands by immigration and security personnel for unofficial "special fees." Visas are not available at ports of entry. All foreigners, including Americans, are required to register at the office of the Direction General de Migration (DGM) in the commune of their place of residence. Foreigners may be asked to show their "jeton" (registration ticket) at security checkpoints and when departing the country.

5. Travel in the eastern provinces, especially in rural areas, remains unsafe due to continued sporadic attacks by uncontrolled militias. Land borders with Rwanda may temporarily close with little or no notice.

6. Americans should avoid all public demonstrations and

areas where crowds are gathered, exercise extreme caution, closely watch and listen for news from reliable sources, and continuously review their personal security posture.
Changes in security conditions occasionally restrict the travel of U.S. Embassy personnel.

7. U.S. citizens who travel to or remain in the Democratic Republic of the Congo despite this Travel Warning are strongly urged to register with the Embassy in Kinshasa or through the State Department's travel registration website at <https://travelregistration.state.gov>. By registering, American citizens make it easier for the Embassy or Consulate to contact them in case of emergency. The U.S. Embassy is located at 310 Avenue des Aviateurs; entrance to the Consular Section is on Avenue Dumi, opposite Ste.
Anne residence. The Embassy's 24-hour number is 243-81- 225-5872; callers within DRC should dial 081 225-5872.
Cell phones are best as landlines are often unreliable.
The Embassy website is <http://kinshasa.usembassy.gov/>.

8. U.S. citizens should also consult the Department of State's most recent Consular Information Sheet for the Democratic Republic of the Congo and the Worldwide Caution Public Announcement, both located on the Department's Internet website at <http://travel.state.gov>. Up-to-date information on safety and security is available toll free at 1-888-407-4747, or at regular toll rates at 1-202-501- 4444 for callers outside the U.S. and Canada, from 8:00 a.m. to 8:00 p.m., Eastern Time, Monday through Friday (except U.S. federal holidays).

9. Minimize considered.
RICE
BT
#8425

NNNN

From: USDOJ- Office of Public Affairs
Sent: Tuesday, June 28, 2005 2:34 PM
To: USDOJ- Office of Public Affairs
Subject: OPERATOR OF SEXUALLY ORIENTED BUSINESS PLEADS GUILTY TO FEDERAL OBSCENITY CHARGE

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, JUNE 28, 2005
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

OPERATOR OF SEXUALLY ORIENTED BUSINESS PLEADS GUILTY TO FEDERAL OBSCENITY CHARGE

WASHINGTON, D.C. - Acting Assistant Attorney General John C. Richter of the Criminal Division and Richard B. Roper, U.S. Attorney for the Northern District of Texas, announced that Leroy Moore, Sr., of Arlington, Texas, has pleaded guilty to conspiracy to engage in the business of selling or transferring obscene matter.

Moore, 64, of Arlington, Texas, entered the plea this morning in federal court in Dallas, Texas, before U.S. District Judge Ed Kinkeade. Moore, the operator of four adult bookstores in Tarrant County, Texas, faces a maximum statutory sentence of five years in prison, a $250,000 fine and restitution. Sentencing is scheduled for Sept. 29, 2005.

Moore pleaded guilty to one count of a 23-count indictment, returned in March 2005 by a federal grand jury in Dallas, that charged Moore and other individuals, including Edward Joseph Wedelstedt, of Littleton, Colorado, and Colorado-based Goalie Entertainment Holdings, Inc., with racketeering, obscenity and tax charges. Moore pleaded guilty today to the only count in which he was charged in the indictment. Generally, the indictment charges criminal activities related to the operation of dozens of video arcades across the United States where customers can pay with tokens or coins to view clips of obscene videos or DVDs. Moore has agreed to cooperate with the government's prosecution in this case and trial for the remaining defendants is set for January 2006.

Moore also pleaded guilty on June 22, 2005 to a separate indictment, filed in the Fort Worth, Texas, Division of the Northern District and unsealed in October 2004, charging him with conspiracy to evade federal taxes. Moore previously entered a guilty plea in yet another case in federal court in Fort Worth, Texas in which he was charged with being a felon in possession of a firearm, and is awaiting sentencing on that charge.

According to documents filed with the district court in Dallas, Moore managed and operated adult bookstores including the following businesses located in Tarrant County, Texas: Bright Lights I, Bright Lights II, Star Video and New Video. Each of Moore's stores contained a video arcade or "peep show," consisting of a dozen or more small, private booths containing video screens with channel controls and devices which accept

DOJ_NMG_ 0144866

coins or tokens. The video players permitted customers to view sexually explicit videos by placing money or tokens into a slot which activated the screen for a finite length of time, usually one minute or less. The customers could select from a variety of sexually explicit videos by pushing various channel buttons. Customer viewing time could be extended by inserting additional coins, currency or tokens. The adult bookstores and the video arcades operated 24 hours per day, seven days a week.

Moore has admitted that the six videos named in the indictment, which were displayed in his video arcades, are obscene. After reviewing the materials, Judge Kinkeade made a finding on the record that none of the materials in question were constitutionally protected. These videos are described as depicting hardcore sexual intercourse.

The case is being prosecuted by Trial Attorneys Steve Grocki and Alexandra Gelber of the Child Exploitation and Obscenity Section, Criminal Division, Department of Justice; Assistant U.S. Attorneys Linda Groves and Erin Nealy Cox and Special Assistant U.S. Attorney Tim Gallagher, U.S. Attorney's Office for the Northern District of Texas; and Trial Attorney Bob Kemins of the Tax Division, Department of Justice. Assistance was also provided by the Organized Crime and Racketeering Section and the Asset Forfeiture and Money Laundering Section, both part of the Criminal Division of the Department of Justice.

The RICO-obscenity investigation was spearheaded by U.S. Immigration and Customs Enforcement, and the tax evasion investigation was handled by the Criminal Investigations Division of the Internal Revenue Service. Investigative assistance was also provided by several police departments and prosecutors' investigators from several states, including the Dallas District Attorney's Office.

# # #

05-347

DOJ_NMG_ 0144867

Image not available for this document, ID: 0.7.10316.80047-000001

Department of Justice

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, June 28, 2005 2:35 PM
To: Gunn, Currie (SMO); Gorsuch, Neil M; Kessler, Elizabeth A
Cc: McCallum, Robert (SMO)
Subject: HSC Restricted Deputies Committee - has been RESCHEDULED for July 12th

This meeting has been RESCHEDULED for July 12th from 4:30 - 5:30 in EEOB 211.

-----Original Message-----
From: McAtamney, James A
Sent: Tuesday, June 28, 2005 2:16 PM
To: Reyes, Luis (SMO)
Cc: Mercer, Bill (ODAG); Neumayr, Mary (ENRD)
Subject: FW: HSC Restricted Deputies Committee on July 6, 2005 from 1:00 - 2:00 pm

Change 37-1/2....

-----Original Message-----
From: Elliott_M._Langer@who.eop.gov
[mailto:Elliott_M._Langer@who.eop.gov]
Sent: Tuesday, June 28, 2005 2:12 PM
To: McAtamney, James A; Burton, Dawn (ODAG); Mercer, Bill (ODAG);
Nina_Pinto@who.eop.gov; [redacted] (DHS); [redacted] (DHS);
DL-NSC-APNSA@eopds.eop.gov; DL-NSC-ExecutiveSecretary@eopds.eop.gov;
DL-NSC-WestWingDesk@eopds.eop.gov; [redacted]@osd.mil;
[redacted]@osd.mil; [redacted]@osd.mil; [redacted]@osd.pentagon.mil;
[redacted]@osd.pentagon.mil [redacted]@osd.pentagon.mil;
[redacted]@osd.mil; [redacted]@js.pentagon.mil;
[redacted]@osd.mil; [redacted]@epa.gov;
Elizabeth_A._Stolpe@ceq.eop.gov; Quesean_R._Rice@ceq.eop.gov;
willis.sharnett@epa.gov; qprice@ceq.eop.gov
Cc: DL-HSC-BTS@eopds.eop.gov; DL-HSC-Front@eopds.eop.gov;
DL-HSC-EXECSEC@eopds.eop.gov
Subject: RE: HSC Restricted Deputies Committee on July 6, 2005 from 1:00 - 2:00 pm

Please Note: This meeting has been RESCHEDULED for July 12th from 4:30 - 5:30 in EEOB 211.

From: [redacted]
Sent: Tuesday, June 28, 2005 10:51 AM

To: 'James.A.McAtamney@usdoj.gov'; 'Dawn.Burton@usdoj.gov';
'Bill.Mercer2@usdoj.gov'; [redacted]@dhs.gov'; [redacted]@dhs.gov';
DL-NSC-APNSA; DL-NSC-Executive Secretary; DL-NSC-West Wing Desk;
[redacted]@osd.mil'; [redacted]@osd.mil';
[redacted]@osd.mil'; [redacted]@osd.pentagon.mil';
[redacted]@osd.pentagon.mil';
[redacted]@osd.pentagon.mil'; [redacted]@osd.mil';
[redacted]@js.pentagon.mil'; [redacted]@osd.mil';
[redacted]@epa.gov'; [redacted]
Cc: DL-HSC-BTS; DL-HSC-Front; DL-HSC-EXECSEC
Subject: HSC Restricted Deputies Committee on July 6, 2005 from 1:00 - 2:00 pm

A Homeland Security Council Restricted Deputies Committee meeting is scheduled for July 6, 2005, from 1:00 - 2:00 p.m. in the EEOB room 211.

Please confirm attendance by COB on July 5th.

Thank you,

[redacted]

Associate Director
Executive Secretariat
Homeland Security Council
[redacted]
[redacted]@who.eop.gov

From: USDOJ- Office of Public Affairs
Sent: Tuesday, June 28, 2005 4:04 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER SALVADORAN CONGRESSMAN CONVICTED OF CONSPIRACY TO IMPORT AND DISTRIBUTE COCAINE INTO THE UNITED STATES

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, JUNE 28, 2005
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

FORMER SALVADORAN CONGRESSMAN CONVICTED OF CONSPIRACY TO IMPORT AND DISTRIBUTE COCAINE INTO THE UNITED STATES

WASHINGTON, D.C. - Acting Assistant Attorney General John C. Richter of the Criminal Division announced today that a federal jury in Washington, D.C., has convicted former Salvadoran congressman William Eliu-Martinez on charges of conspiracy to import and distribute cocaine into the United States.

The jury deliberated less than eight hours over two days before returning the guilty verdicts Monday afternoon. The case was prosecuted by Department of Justice Narcotic and Dangerous Drug Section Trial Attorneys Michael Mota, Patrick Hern and James Faulkner, during a two-and-a-half week trial before Judge Michael M. Mihm, visiting judge from the Central District of Illinois.

The two-count indictment charging Martinez was returned in October 2003, and Martinez was arrested by DEA agents in Panama the following month.

"Martinez, a significant Central American cocaine trafficker, now knows that he could not evade the long arm of international justice," said Acting Assistant Attorney General Richter. "These verdicts send a strong message that large-scale cocaine traffickers who send narcotics to the United States can be effectively prosecuted, no matter where they operate."

Martinez's co-defendant, Otto Herrera Garcia, is currently a fugitive and international efforts to locate and prosecute him continue.

The DEA investigation of Martinez's drug trafficking activities was conducted in close cooperation with several Central American law enforcement agencies. Investigators and prosecutors enjoyed particularly strong support from the government of El Salvador.

Martinez is scheduled to be sentenced on Sept. 12, 2005. He faces up to life in prison.

###

DOJ_NMG_ 0144872

DOJ_NMG_ 0144873

Image not available for this document, ID: 0.7.10316.80029-000001

Department of Justice

Davis, Deborah J

From: Davis, Deborah J
Sent: Tuesday, June 28, 2005 4:05 PM
To: Gorsuch, Neil M
Subject: Regina Schofield will "meet you" at Caucus Room tomorrow for lunch at 12:30

Deborah J. Davis
Staff Assistant
Phone (202) 514-1773 / Fax (202) 514-0238

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, June 28, 2005 4:20 PM
To: [redacted]
Cc: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: FW: International Rule of Law Symposium

[redacted] Can you assume responsibility to interface with [redacted] on this request. I am still not sure exactly what he would like for us to do. Robt.

-----Original Message-----
From: [redacted]@mckennalong.com [mailto[redacted]@mckennalong.com]
Sent: Friday, June 03, 2005 4:07 PM
To: McCallum, Robert (SMO)
Subject: RE: International Rule of Law Symposium

Fair questions. Sorry I wasn't clearer. The ABA is the major sponsor.
We have received funding commitments from GM, Pepsi and other such companies. We anticipate foundation funding. The goal is to bring a focus in the US on the important role that rule of law building should play in achieving world peace and a sustainable global society. Our invitees will be opinion leaders from the US government,CEOs, media, NGOs, foundations. We want prominent government leaders to speak(Justice O' Connor is helping us reach out to Secretary of State Rice). Of equal importance, I would like to see an informal dialogue within State and DOJ on the ideas side. What are the right issues to discuss?
Who are the most knowledgeable speakers? Who should be invited. This will be a nonpolitical event. We need to find the most knowledgeable thinkers in the rule of law arena who also are very practical in the real world sense, so we must have dialogue with key government leaders to make this exercise has the great impact that we are seeking.

Would it be helpful to discuss this further by phone or in person?
Thanks for your help[redacted]

[redacted]
McKenna Long & Aldridge LLP
303 Peachtree Street NE
Suite 5300
Atlanta, Georgia 30308
Phone: [redacted]
Fax: 404.527.8566

-----Original Message-----
From: Robert.McCallum@usdoj.gov [mailto:Robert.McCallum@usdoj.gov]
Sent: Wednesday, June 01, 2005 5:19 PM
To: [redacted]

Subject: RE: International Rule of Law Symposium

[redacted] I am not entirely clear on what you would like for me to do to help. Is it to provide a contact and entree with folks at State or elsewhere who might be participants in the Rule of Law Symposium scheduled for Nov.? Is it to provide a contact and entree to State Dept. policy makers regarding current or proposed Admin. foreign policy?
Is it to get you in contact with those at DOJ who are or have been in other countries trying to establish judicial/legal systems? Sorry to be confused but I am not clear on what I am to get the folks in the Admin familiar and involved with. Is this an ABA sponsored initiative or some other group? Robt.

-----Original Message-----
From [redacted]
Sent: Wednesday, May 25, 2005 9:57 AM
To: McCallum, Robert (SMO)
Subject: International Rule of Law Symposium

Robert- Good talking with you today. Attached are the concept paper on rule of law as a part of the US foreign policy and a proposed agenda (plus white papers on 2 agenda items). I would very much like to get the right people in the Administration familiar with what this is and involved. Thanks for your willingness to discuss with [redacted] I would appreciate any other suggestions that you might have. Best [redacted]

[redacted]
McKenna Long & Aldridge LLP
303 Peachtree Street NE
Suite 5300
Atlanta, Georgia 30308
Phone: [redacted]
Fax: 404.527.8366

CONFIDENTIALITY NOTICE:
This e-mail and any attachments contain information from the law firm of McKenna Long & Aldridge LLP, and are intended solely for the use of the named recipient or recipients. This e-mail may contain privileged attorney/client communications or work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

CONFIDENTIALITY NOTICE:
This e-mail and any attachments contain information from the law firm of McKenna Long & Aldridge LLP, and are intended solely for the use of the named recipient or recipients. This e-mail may contain privileged attorney/client communications or work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are

prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

CONFIDENTIALITY NOTICE:
This e-mail and any attachments contain information from the law firm of McKenna Long & Aldridge LLP, and are intended solely for the use of the named recipient or recipients. This e-mail may contain privileged attorney/client communications or work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

Sours, Raquel

From: Sours, Raquel
Sent: Tuesday, June 28, 2005 4:41 PM
To: Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Wiggins, Mike; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)
Cc: Nelson, Carrie; Long, Linda E; Gunn, Currie (SMO); Washington, Tracy T; Walker, Shelia M; Bennett, Catherine T; Webb, Lauren; Smith, Kimberly A; Grimsrud, Amy N; Beach, Andrew
Subject: Component Coordination Meeting

Component Coordination Meeting has been canceled for tomorrow.

Thanks
Subject: Component Coordination Meeting

Start: Wed 6/29/05 9:20 AM
End: Wed 6/29/05 9:40 AM

Recurrence: (none)

Meeting Status: Meeting organizer

Required Attendees: Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Wiggins, Mike; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)
Optional Attendees: Rosenberg, Chuck (TXS)

AG's Conference Room
DOJ: DAG Jim Comey, Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Mike Wiggins, Jan Williams, Crystal Roberts

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, June 28, 2005 4:44 PM
To: Gorsuch, Neil M
Subject: Luncheon's Rescheduled

Sarah Taylor rescheduled to Friday, July 1.

Phil Perry rescheduled to Wednesday, July 6

Hope you are having a cool and pleasant day.

See you tomorrow. Also, your meetings in AG's office have been canceled for tomorrow.

Currie

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 28, 2005 4:50 PM
To: Gunn, Currie (SMO)
Subject: Re: Luncheon's Rescheduled

Thanks so much, Currie.

-----Original Message-----
From: Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Jun 28 16:44:15 2005
Subject: Luncheon's Rescheduled

Sarah Taylor rescheduled to Friday, July 1.

Phil Perry rescheduled to Wednesday, July 6

Hope you are having a cool and pleasant day.

See you tomorrow. Also, your meetings in AG's office have been canceled for tomorrow.

Currie

Saull, Bradley (CRT)

From: Saull, Bradley (CRT)
Sent: Tuesday, June 28, 2005 5:00 PM
To: Saull, Bradley (CRT)
Subject: Farewell Reception for AAG Acosta (7/11)
Attachments: RAA Farewell Invite.pdf

Good afternoon,

Please find the attached invitation inviting you to attend AAG Acosta's Farewell Reception on Monday, July 11, 2005 from 3:00pm to 5:00pm.

Please RSVP to me by July 7th.

Thanks,

Bradley J. Saull

Confidential Assistant to the Assistant Attorney General
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Suite 5646
Washington, DC 20530
Phone: (202) 305-4847
Fax: (202) 514-0293
E-Mail: Bradley.Saull@usdoj.gov

Department of Justice
Civil Rights Division

Cordially invites you to
A Farewell Party
for

R. Alexander Acosta
Assistant Attorney General

July 11, 2005
3:00pm – 5:00pm
Robert F. Kennedy
Main Justice Building
Room 5643

Please RSVP to Bradley Saull at Bradley.Saull@usdoj.gov or
(202) 305-4847 by Thursday, July 7th

Gunn, Currie (SMO)

Subject:	Meet & Greet with DOD General Counsel
Location:	Pentagon, Room TBD
Start:	Wednesday, July 13, 2005 3:30 PM
End:	Wednesday, July 13, 2005 4:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Reyes, Luis (SMO)

When: Wednesday, July 13, 2005 3:30 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Pentagon, Room TBD

~~*~*~*~*~*~*~*~*~*

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Luis Reyes-OASG, DOD General Counsel's office.

POC: Currie x4-9500

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Tuesday, June 28, 2005 6:36 PM
To: Wiggins, Mike; Gorsuch, Neil M
Subject: one or both of you going over to DOD w/ me tomorrow morning?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 28, 2005 6:39 PM
To: Bradbury, Steve; 'Greg.katsas@usdoj.gov'
Subject: Kelo

Am on a train returning from a speech and just finished reading the sct decision in Kelo (eminent domain). I am blown away by Thomas's dissent. Brilliant stuff that completely demolishes the majority (and companion O'Connor dissent, incidentally). Reminds us of the plain textual meaning of the Constitution and then breathes life and vital purpose into it, explaining the weaknesses of misguided recent judicial glosses.

Of course, you know all this about your brilliant former boss. But I really enjoyed the read. Made amtrak bearable....

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 28, 2005 6:40 PM
To: Nichols, Carl (CIV); Wiggins, Mike
Subject: Re: one or both of you going over to DOD w/ me tomorrow morning?

Is Raul coming? He def should. I can make it if need be. But if Mike is able to do so, I don't think there's need for both of us.

-----Original Message-----
From: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
To: Wiggins, Mike <Mike.Wiggins@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Jun 28 18:35:53 2005
Subject: one or both of you going over to DOD w/ me tomorrow morning?

Wiggins, Mike

From: Wiggins, Mike
Sent: Wednesday, June 29, 2005 8:12 AM
To: Nichols, Carl (CIV); Gorsuch, Neil M
Subject: RE: one or both of you going over to DOD w/ me tomorrow morning?

i am. don't know if neil wants to come too

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Tuesday, June 28, 2005 6:36 PM
To: Wiggins, Mike; Gorsuch, Neil M
Subject: one or both of you going over to DOD w/ me tomorrow morning?

From: USDOJ- Office of Public Affairs
Sent: Wednesday, June 29, 2005 11:28 AM
To: USDOJ- Office of Public Affairs
Subject: MEDIA ADVISORY: ATTORNEY GENERAL ALBERTO R. GONZALES AND FBI DIRECTOR ROBERT MUELLER TO HOLD MEDIA AVAILABLITY

[Error : unloaded OLE object or mail attachment]

FOR PLANNING PURPOSES ONLY
WEDNESDAY, JUNE 29, 2005
WWW.USDOJ.GOV

AG
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES AND FBI DIRECTOR ROBERT MUELLER TO HOLD MEDIA AVAILABLITY

WASHINGTON, DC - Attorney General Alberto R. Gonzales and FBI Director Robert Mueller will deliver brief remarks and hold a media availability on the Department of Justice's and the Federal Bureau of Investigation's implementation of the WMD Commission recommendations, in the Attorney General's Conference Room at the Department of Justice on **WEDNESDAY JUNE 29, 2005 at 2:00 P.M. EDT.**

WHO: Attorney General Alberto R. Gonzales
FBI Director Robert Mueller

WHAT: Remarks and brief media availability

WHEN: **WEDNESDAY, JUNE 29, 2005**
2:00 P.M. EDT
Cameras must preset **BY 1:30 P.M. EDT**

WHERE: Attorney General's Conference Room
Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C. 20530

NOTE: Media must enter the Department at the center entrance on Constitution Ave., N.W. between Ninth and Tenth Streets. **ALL media MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as driver's license) as well as VALID MEDIA CREDENTIALS.** Cameras must be preset by **1:30 P.M. EDT**. Press inquiries regarding logistics should be directed to Cynthia Magnuson in the Office of Public Affairs at 202-514-2007 or 202-532-3583.

###

DOJ_NMG_ 0144891

Image not available for this document, ID: 0.7.10316.80018-000001

Image not available for this document, ID: 0.7.10316.80018-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, June 29, 2005 11:50 AM
To: USDOJ- Office of Public Affairs
Subject: MEDIA ADVISORY: DEPUTY ASSISTANT ATTORNEY GENERAL SCOTT HAMMOND TO HOLD A PRESS CONFERENCE REGARDING A CRIMINAL ANTITRUST PRICE-FIXING CASE

Department of Justice

FOR PLANNING PURPOSES ONLY
WEDNESDAY, JUNE 29, 2005
WWW.USDOJ.GOV

AT
(202) 514-2007
TDD (202) 514-1888

******MEDIA ADVISORY******

DEPUTY ASSISTANT ATTORNEY GENERAL SCOTT HAMMOND TO HOLD A PRESS CONFERENCE REGARDING A CRIMINAL ANTITRUST PRICE-FIXING CASE

WASHINGTON, D.C. - Scott Hammond, Deputy Assistant Attorney General for Criminal Enforcement in the Antitrust Division will hold a press conference **TODAY, WEDNESDAY, JUNE 29, 2005 at 1:00 P.M. CDT**, to announce a criminal antitrust price-fixing case. He will be joined by Susan Brooks, U. S. Attorney for the Southern District of Indiana, and Keith L. Lourdeau, Special Agent in Charge of the Federal Bureau of Investigation.

WHO: Scott Hammond, Deputy Assistant Attorney General for Criminal Enforcement
Susan W. Brooks, U.S. Attorney for the Southern District of Indiana
Keith L.Lourdeau, Special Agent in Charge, FBI

WHAT: Press Conference

WHEN: **WEDNESDAY, JUNE 29, 2005**
1:00 P.M. CDT
All cameras must be pre-set by **12:30 P.M. CDT**

WHERE: Minton-Capehart Federal Building
575 N. Pennsylvania St., RM 498
Indianapolis, Indiana

Note: **All Media MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as driver's license) as well as VALID MEDIA CREDENTIALS**. Media interested in attending the press conference must enter the Federal Building through the Pennsylvania Street entrance. Upon arrival, all media will be required to pass through security. All press inquiries regarding logistics should be directed to Laura Sweeney at 202-532-5403.

DOJ_NMG_ 0144894

###

05-344

DOJ_NMG_ 0144895

Image not available for this document, ID: 0.7.10316.80008-000001

Department of Justice

Ullyot, Theodore

From: Ullyot, Theodore
Sent: Wednesday, June 29, 2005 1:03 PM
To: Sours, Raquel; Beach, Andrew
Cc: Yanes, Raul; Brand, Rachel; Sampson, Kyle; Gorsuch, Neil M
Subject: RE: Voting Rights Act

Need to coordinate this with the policy development.

-----Original Message-----
From: [redacted]@who.eop.gov [mailto[redacted]@who.eop.gov]
Sent: Wednesday, June 29, 2005 12:57 PM
To: Sours, Raquel; Beach, Andrew
Cc: Ullyot, Theodore
Subject: Voting Rights Act
Importance: High

August 6 marks the 40th anniversary of the Voting Rights Act being signed into law. Is the AG or the Department planning any events to commemorate this event?

Brand, Rachel

From: Brand, Rachel
Sent: Wednesday, June 29, 2005 1:07 PM
To: Ullyot, Theodore; Sours, Raquel; Beach, Andrew
Cc: Yanes, Raul; Sampson, Kyle; Gorsuch, Neil M
Subject: Re: Voting Rights Act

There were some more developments yesterday in terms of what the WH wants from us. Raul, I'll fill you in since it looks like I won't be able to make it to tomorrow's daily mtg. Also, I know that CRT is planning an event in late July commemorating the anniversary but I don't know details. Brad Schlozman could tell you.

-----Original Message-----
From: Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>
To: Sours, Raquel <Raquel.Sours@SMOJMD.USDOJ.gov>; Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>
CC: Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>; Brand, Rachel <Rachel.Brand@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Jun 29 13:03:07 2005
Subject: RE: Voting Rights Act

Need to coordinate this with the policy development.

-----Original Message-----
From: [redacted]@who.eop.gov [mailto[redacted]@who.eop.gov]
Sent: Wednesday, June 29, 2005 12:57 PM
To: Sours, Raquel; Beach, Andrew
Cc: Ullyot, Theodore
Subject: Voting Rights Act
Importance: High

August 6 marks the 40th anniversary of the Voting Rights Act being signed into law. Is the AG or the Department planning any events to commemorate this event?

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Wednesday, June 29, 2005 1:16 PM
To: Duncan, James
Subject: Confirmation of Extension of Time to Respond to OPR Request to Robert D. McCallum, Jr.

Dear Mr. Duncan,
This email memorializes our recent conversation in which you granted the Associate Attorney General, Robert D. McCallum, Jr., an extension of time to respond to the request for documents, as outlined in the June 21, 2005 memorandum from H. Marshall Jarrett. Responsive documents in accordance with this request are now due to your office on July 19, 2005.

Thank you very much for your assistance with this matter. Should the need arise, please do not hesitate to contact me on this or any other matter.

Sincerely,

Luis A. Reyes,
Chief of Staff and Deputy Associate Attorney General
Office of the Associate Attorney General
United States Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530
Phone: (202) 514-9500
Fax: (202) 514-0238
Email: Luis.A.Reyes@usdoj.gov

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Wednesday, June 29, 2005 1:58 PM
To: Gorsuch, Neil M
Subject: [redacted]

Neil: Just a reminder that this group will be meeting in our conference room today at 3:30. Should be on your calendar. It looks like the entire group will be there and will be prepared to brief you on what they do. Just wanted to make sure you planned to attend this one! - Liz

Yanes, Raul

From:	Yanes, Raul
Sent:	Wednesday, June 29, 2005 3:48 PM
To:	Brand, Rachel; Ullyot, Theodore; Sours, Raquel; Beach, Andrew; Schlozman, Brad (CRT)
Cc:	Sampson, Kyle; Gorsuch, Neil M
Subject:	RE: Voting Rights Act

Brad, Could you let us know what is going to happen at the VRA event in late July?

-----Original Message-----
From: Brand, Rachel
Sent: Wednesday, June 29, 2005 1:07 PM
To: Ullyot, Theodore; Sours, Raquel; Beach, Andrew
Cc: Yanes, Raul; Sampson, Kyle; Gorsuch, Neil M
Subject: Re: Voting Rights Act

There were some more developments yesterday in terms of what the WH wants from us. Raul, I'll fill you in since it looks like I won't be able to make it to tomorrow's daily mtg. Also, I know that CRT is planning an event in late July commemorating the anniversary but I don't know details. Brad Schlozman could tell you.

-----Original Message-----
From: Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>
To: Sours, Raquel <Raquel.Sours@SMOJMD.USDOJ.gov>; Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>
CC: Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>; Brand, Rachel <Rachel.Brand@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Jun 29 13:03:07 2005
Subject: RE: Voting Rights Act

Need to coordinate this with the policy development.

-----Original Message-----
From: [redacted]@who.eop.gov [mailto[redacted]@who.eop.gov]
Sent: Wednesday, June 29, 2005 12:57 PM
To: Sours, Raquel; Beach, Andrew
Cc: Ullyot, Theodore
Subject: Voting Rights Act
Importance: High

August 6 marks the 40th anniversary of the Voting Rights Act being signed into law. Is the AG or the Department planning any events to commemorate this event?

Sours, Raquel

Subject:	Updated: Component Coordination Meeting
Start:	Thursday, June 30, 2005 9:05 AM
End:	Thursday, June 30, 2005 9:25 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); Hertling, Richard
Optional Attendees:	Rosenberg, Chuck (TXS)

When: Thursday, June 30, 2005 9:05 AM-9:25 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, Associate AG Robert McCallum, Ted Ullyot, Raul Yanes, Jeff Taylor, Chuck Rosenberg, Will Moschella, Tasia Scolinos, Courtney Elwood, Richard Hertling, Neil Gorsuch, Jan Williams, Crystal Roberts

Sours, Raquel

Subject:	Updated: Senior Management Meeting
Start:	Thursday, June 30, 2005 8:45 AM
End:	Thursday, June 30, 2005 9:05 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Rosenberg, Chuck; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)
Optional Attendees:	Bennett, Catherine T; Rosenberg, Chuck (TXS)

When: Thursday, June 30, 2005 8:45 AM-9:05 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Raul Yanes, Chuck Rosenberg, Jeff Taylor, Courtney Elwood, Neil Gorsuch

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Wednesday, June 29, 2005 4:11 PM
To: Gorsuch, Neil M
Cc: [redacted] (LEO); Swenson, Lily F
Subject: FW: [redacted]

heads up on this big ticket item. I have a call in to [redacted] at OMB to let her know. Robt.

-----Original Message-----
From: Moschella, William
Sent: Wednesday, June 29, 2005 3:28 PM
To: Keisler, Peter D. (CIV); McCallum, Robert (SMO)
Subject: FW: [redacted]

FYI

-----Original Message-----
From: Moschella, William
Sent: Tuesday, June 28, 2005 9:17 PM
To: Chris Frech (E-mail)
Cc: Seidel, Rebecca
Subject: [redacted]

Last Wednesday when you, me and Rebecca met with [redacted] on HJC, they mentioned that Rep. Chabot, the Chairman of the Constitution Subcommittee, is interested in reopening the class in [redacted] to allow those who missed the filing deadline to file claims. [redacted] I will let you know if and when we get more information.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 29, 2005 5:04 PM
To: Yanes, Raul
Subject: RE: Voting Rights Act

As Brad has relayed to me, there will be an all day affair in the Great Hall on July 27.

-----Original Message-----
From: Yanes, Raul
Sent: Wednesday, June 29, 2005 3:48 PM
To: Brand, Rachel; Ullyot, Theodore; Sours, Raquel; Beach, Andrew; Schlozman, Brad (CRT)
Cc: Sampson, Kyle; Gorsuch, Neil M
Subject: RE: Voting Rights Act

Brad, Could you let us know what is going to happen at the VRA event in late July?

-----Original Message-----
From: Brand, Rachel
Sent: Wednesday, June 29, 2005 1:07 PM
To: Ullyot, Theodore; Sours, Raquel; Beach, Andrew
Cc: Yanes, Raul; Sampson, Kyle; Gorsuch, Neil M
Subject: Re: Voting Rights Act

There were some more developments yesterday in terms of what the WH wants from us. Raul, I'll fill you in since it looks like I won't be able to make it to tomorrow's daily mtg. Also, I know that CRT is planning an event in late July commemorating the anniversary but I don't know details. Brad Schlozman could tell you.

-----Original Message-----
From: Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>
To: Sours, Raquel <Raquel.Sours@SMOJMD.USDOJ.gov>; Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>
CC: Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>; Brand, Rachel <Rachel.Brand@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Jun 29 13:03:07 2005
Subject: RE: Voting Rights Act

Need to coordinate this with the policy development.

-----Original Message-----

-----Original Message-----
From: [redacted]@who.eop.gov [mailto[redacted]@who.eop.gov]
Sent: Wednesday, June 29, 2005 12:57 PM
To: Sours, Raquel; Beach, Andrew
Cc: Ullyot, Theodore
Subject: Voting Rights Act
Importance: High

August 6 marks the 40th anniversary of the Voting Rights Act being signed into law. Is the AG or the Department planning any events to commemorate this event?

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Wednesday, June 29, 2005 5:46 PM
Subject: A Message from the Attorney General

June 29, 2005

To: All Department of Justice Employees

From: Attorney General Alberto R. Gonzales

The Justice Department's first priority is to protect America from another terrorist attack. The President has asked all of us in his Administration to respond boldly and creatively to the lethal threats presented by our enemies, and you have met that challenge. Thanks in large measure to your efforts, America is safer today than it was on September 11, 2001.

A critical reason for the Department's many successes in the War on Terror has been your willingness to answer the President's call to think continually about ways that we can be even more effective. Consistent with that spirit, and in order to build upon the already significant progress made by the Department, the President announced today his plan to restructure the Department of Justice (DOJ), including the Federal Bureau of Investigation (FBI). This reorganization, recommended in the recent report of the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (WMD Commission), will strengthen the Department's efforts to combat terrorism and other threats to national security.

The WMD Commission recommended that the divisions within DOJ that handle core national security matters - the Office of Intelligence Policy and Review (OIPR) and the Criminal Division's Counterterrorism and Counterespionage Sections - be consolidated into a new National Security Division. In the WMD Commission's view, such a reorganization would ensure greater coordination and unity of purpose among the affected components.

With regard to the FBI, the WMD Commission recommended that the FBI's primary national security functions - the Directorate of Intelligence and the Counterterrorism and Counterintelligence Divisions - be placed under a single senior FBI official. The WMD Commission concluded that such a reorganization would facilitate coordination between the FBI and the new Director of National Intelligence.

Under the planned reorganization, OIPR and the Criminal Division's Counterterrorism and Counterespionage Sections will be placed within the new National Security Division under the leadership of a new Assistant Attorney General. In that way, I believe we can maximize the effectiveness of our prosecutors handling cases in the core national security fields of counterterrorism and counterespionage - who will continue to carry out the same critical functions they handle today - and the Department's intelligence activities in those same areas. By consolidating the Department's intelligence resources into one division, the new Assistant

Attorney General will be able to coordinate all of the Department's resources to help protect America from further attacks and ensure that critical information is shared as appropriate across the Department and the Administration in support of that effort.

At the FBI, a new senior position directly under the Deputy Director will be created to oversee the FBI's intelligence, counterterrorism, and counterintelligence components, which will be combined to form a National Security Service within the Bureau. This reorganization will preserve and build upon the significant progress the FBI has made in developing its intelligence program (which will continue to span all operational divisions), and will enable the FBI to work closely with the Director of National Intelligence. The reorganization represents the logical next step in bolstering the FBI's intelligence functions and integrating those functions into the Federal government's national intelligence enterprise.

We will implement these proposed changes without sacrificing in any way the Department's commitment to protecting the civil liberties and constitutional rights of all Americans.

These reorganizations will enhance our national security. But they will not be easy to accomplish. Many details remain to be worked out, and implementing the plans while continuing to meet our day-to-day national security obligations will present an additional challenge. I know that, as always, I can count on all of you as we work to make the Department even more effective and, ultimately, our Nation stronger and safer.

Check the Intranet, DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 29, 2005 6:11 PM
To: Schofield, Regina
Subject: RE: Thank you

I am glad we met and know we're going to have fun working together. Thanks so much for your help on those two issues.

-----Original Message-----
From: Schofield, Regina
Sent: Wednesday, June 29, 2005 6:03 PM
To: Gorsuch, Neil M
Subject: Thank you

I totally enjoyed lunch! I have put in a call to Bill Mercer and am having someone look into the civil justice survey. Talk to you soon.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 29, 2005 7:02 PM
To: Gorsuch, Neil M
Subject: Naacp

Davis, Deborah J

Subject: [redacted]
Location: Room 5708

Start: Tuesday, July 05, 2005 3:00 PM
End: Tuesday, July 05, 2005 3:30 PM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Davis, Deborah J
Required Attendees: Gorsuch, Neil M; Kessler, Elizabeth A; Rubin, Jim (ENRD)

When: Tuesday, July 05, 2005 3:00 PM-3:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 5708

~~*~*~*~*~*~*~*~*~*

POC: Debbie Davis

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, June 30, 2005 9:58 AM
To: Davis, Deborah J
Subject: FW: FYI
Attachments: FW: REMINDER: AG / White House Reports, due at Noon on Tuesday following holiday weekend.msg

Deb, please come see me about this at some point today. (Open the attached email). Thanks.

-----Original Message-----
From: O'Connor, Eileen J. (AAG/TAX)
Sent: Wednesday, June 29, 2005 8:50 PM
To: Reyes, Luis (SMO)
Subject: FYI

Lu - I thought you or Robert might want to know about this.

Lee O 'C.

Cole, Thomas P. (TAX)

From: Cole, Thomas P. (TAX)
Sent: Wednesday, June 29, 2005 4:52 PM
To: O'Connor, Eileen J. (AAG/TAX)
Subject: FW: REMINDER: AG / White House Reports, due at Noon on Tuesday following holiday weekend

FYI. Naughty, Naughty, Criminal Division, which failed to even submit a report this week.

Tom Cole
Department of Justice, Tax Division
(202) 514-9611

-----Original Message-----
From: Davis, Deborah J
Sent: Wednesday, June 29, 2005 4:51 PM
To: Adams, Will; [redacted] USMS); Bedford, Tara B.; Bradshaw, Sheldon (CRT); Brantley, Bill; Brinkley, Winnie; Brown, Sally; Bruce, Margo; Budden, Jennifer; Buggs, Evelyn; Burton, Dawn; CC VIOLATION REP, USADC; Chambers, Shane; Chickinell, Rockne J. (USPC); Cole, Deloris; Cole, Thomas; Creighton, Kelly M. (NDIC); Falksen, Marilyn; Flentje, August (CIV); Freeman, Andria; Freeman, Sharee; Graham-Wyatt, Nina; Greene, Romona; Higbee, David; Hoopes, Mary Anne; Isles, Adam; Jenkins, Gloria; Jenkins, Jacqueline; Kempshall, Elizabeth; Kennedy, Darlene; Kuzma, Susan (OPA); Langford, Natalie; Limprecht, Jane; Longwitz, Tobi (CRT); Magnuson, Cynthia; Mallon, Carmen; Mansour, Linda; Mazzei, Mark J.; McKenzie, Peggy (CIV); Moore, Gilbert; Musel, David; Nasca, Paula; NealyCox, Erin; Nodal, Elizabeth; Nowacki, John; Owens, Angela (ENRD); Owens, Karen; Parmiter, Robert; Patrick, Teresa (ENRD); Robinson, Lawan; Rogers, Valissa B (CRT); Roper, Matt M; Rose, Kristina; Sampson, Kyle; Shackelford, Kelly; Shores, R. Trent; Smith, Justin (ENRD); Smith, Kimberly; Street, Tina L.; Taylor, Diane S. (OIG); Tercilla, Enriqueta; Tierney, Michael; Torchinsky, Jason (CRT); Toulou, Tracy; Tshibaka, Kelly C. (OIG); Tyler, Joyce Y (CRT); Warren, Julie; Washington, Gerrie; Webb, Lauren; Wright, Paula; Yanes, Raul
Subject: REMINDER: AG / White House Reports

Your reports are due to by Noon on Tuesday of every week. Also, for those of you in Criminal Division, we did not receive your report at all this week.

As for next week, because of holiday, reports are still due by NOON, Tues. July 5th. Sorry for the inconvenience.

Please make sure you use small black bullets and text is to be done on Romans 12 font.

Deborah J. Davis
Staff Assistant
Phone (202) 514-1773 / Fax (202) 514-0238

[redacted]@cod.uscourts.gov

From: [redacted]@cod.uscourts.gov
Sent: Thursday, June 30, 2005 10:09 AM
To: cod_cmecf@cod.uscourts.gov
Subject: U.S. District Court ECF Quality Control Update
Attachments: tmp.htm

Good Morning,

Thank you for registering for the District of Colorado's Electronic Case Filing (ECF) system. As an ECF User, you will be sent periodic e-mail updates from the court regarding ECF issues we consider important.

The United States District Court for the District of Colorado began allowing electronic filing on civil documents on June 20, 2005. To date, the court has registered 4008 attorneys for electronic filing. Since our live date, 419 attorneys have filed 679 documents electronically. There have been 0 applications by attorneys to file in paper. Listed below are some issues the court would like to bring to your attention that will help improve the quality of the work being submitted:

(1) The s/signature must be attached to a document for the document to have a valid signature. The login and password must match the s/signature. The s/signature must be typed in the format set down in Section V.C.1. of the ECF Procedures.

(2) Third party signature documents and multiple party signature documents (e.g., affidavits, joint motions, proposed scheduling orders) must follow the format set down in ECF Procedures, Section(s) V.C.5. and V.C.6.

(3) If a user is unsure of what event choice to use when filing a document, please call the court's ECF Help Desk (information below) instead of picking something just to get the document filed. For example, motions should be submitted using a motion event, responses to motions should be submitted using the response event, etc... If a document is submitted under an incorrect event, it may be difficult for chambers to quickly identify the issue and it may not get the prompt judicial attention an attorney desires. See ECF Procedures, Section V.J.1.

(4) Proposed Orders should be filed in ECF as separate attachments to the motion where appropriate as well as submitting promptly to the District Judge and Magistrate Judge e-mail account. Of the two file types allowed under the ECF Procedures, the court prefers WordPerfect. Attorneys should closely review the judicial officer e-mail accounts shown in Version 1.1 of the ECF Procedures and verify the e-mail address is correct (e.g.,

Babcock_Chambers@cod.uscourts.gov). See ECF Procedures, Section V.L.

(5) Attachments should be listed in a manner that is understandable. For example, if Exhibit is chosen as the document category then the word exhibit does not need to be added in the description line (e.g. Exhibit (category) Exhibit A (description)). The name of the attachment should be a short description of the document.

(6) Confidential Settlement Statements must be submitted in PDF format to the Magistrate Judge's e-mail account in the case, and not the District Judge.

(7) Documents filed before June 20, 2005, will not be available electronically on PACER. Attorneys get one free look at a document off the document number on the Notice of Electronic Filing. Attorneys must file an Entry of Appearance or sign a document in a case to receive notice. Making an oral appearance in court is not sufficient for notice purposes. See ECF Procedures, Section V.E.1.

(8) Documents should be filed using the case numbering protocol described in recently revised Local Rule 10.1. (e.g., 05-cv-00134-LTB-OES)

Please review the ECF Ten Most Common User Errors and ECF Quick Reference Sheet under the User Support section on the court's ECF Web Page: http://www.co.uscourts.gov/cmecf_frame.htm Attorneys and their staff may continue to sign up for ECF Classroom Training on the website. The court will continue to offer classes.

Please contact the court's ECF Help Desk toll free at 1-866-365-6381 or 303-335-2050 with any questions or concerns. You may also e-mail the court at cod_cmecf@cod.uscourts.gov.

Thanks,

[redacted]
ECF Project Manager
United States District Court
District of Colorado

Good Morning,

Thank you for registering for the District of Colorado's Electronic Case Filing (ECF) system. As an ECF User, you will be sent periodic e-mail updates from the court regarding ECF issues we consider important.

The United States District Court for the District of Colorado began allowing electronic filing on civil documents on June 20, 2005. To date, the court has registered 4008 attorneys for electronic filing. Since our live date, 419 attorneys have filed 679 documents electronically. There have been 0 applications by attorneys to file in paper. Listed below are some issues the court would like to bring to your attention that will help improve the quality of the work being submitted:

(1) The **s/signature** must be attached to a document for the document to have a valid signature. The login and password must match the s/signature. The s/signature must be typed in the format set down in Section V.C.1. of the ECF Procedures.

(2) **Third party signature documents** and **multiple party signature documents** (e.g., affidavits, joint motions, proposed scheduling orders) must follow the format set down in ECF Procedures, Section(s) V.C.5. and V.C.6.

(3) If a user is unsure of what **event choice** to use when filing a document, please **call** the court's ECF Help Desk (information below) instead of picking something just to get the document filed. For example, motions should be submitted using a motion event, responses to motions should be submitted using the response event, etc... If a document is submitted under an incorrect event, it may be difficult for chambers to quickly identify the issue and it may not get the prompt judicial attention an attorney desires. See ECF Procedures, Section V.J.1.

(4) **Proposed Orders** should be filed in ECF as separate attachments to the motion where appropriate as well as submitting promptly to the District Judge and Magistrate Judge e-mail account. Of the two file types allowed under the ECF Procedures, the court prefers WordPerfect. Attorneys should closely review the judicial officer e-mail accounts shown in Version 1.1 of the ECF Procedures and verify the e-mail address is correct (e.g., Babcock_Chambers@cod.uscourts.gov). See ECF Procedures, Section V.L.

(5) **Attachments** should be listed in a manner that is understandable. For example, if Exhibit is chosen as the document category then the word exhibit does not need to be added in the description line (e.g. Exhibit (*category*) Exhibit A (*description*)). The name of the attachment should be a **short description** of the document.

(6) **Confidential Settlement Statements** must be submitted in PDF format to the Magistrate Judge's e-mail account in the case, and not the District Judge.

(7) **Documents filed before June 20, 2005, will not be available electronically on PACER.** Attorneys get one free look at a document off the document number on the Notice of Electronic Filing. Attorneys must file an Entry of Appearance or sign a document in a case to receive notice. Making an oral appearance in court is not sufficient for notice purposes. See ECF Procedures, Section V.E.1.

(8) Documents should be filed using the **case numbering protocol** described in recently revised Local Rule 10.1. (e.g., 05-cv-00134-LTB-OES)

Please review the ECF Ten Most Common User Errors and ECF Quick Reference Sheet under the User Support section on the court's ECF Web Page: http://www.co.uscourts.gov/cmecf_frame.htm Attorneys and their staff may continue to sign up for ECF Classroom Training on the website. The court will continue to offer classes.

Please contact the court's ECF Help Desk toll free at 1-866-365-6381 or 303-335-2050 with any questions or concerns. You may also e-mail the court at cod_cmecf@cod.uscourts.gov.

Thanks,

[redacted]
ECF Project Manager
United States District Court
District of Colorado

Davis, Deborah J

Subject:	Declined: Updated: CMTS Briefing
Location:	Room 5708
Start:	Tuesday, July 05, 2005 3:00 PM
End:	Tuesday, July 05, 2005 3:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Davis, Deborah J

Debbie - You can check, but i think i have a 3pm already on the calendar. can't we keep this where it is?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 30, 2005 10:21 AM
To: Kessler, Elizabeth A
Subject: RE: Friday OMB Call

ok

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Thursday, June 30, 2005 10:21 AM
To: Gorsuch, Neil M
Subject: Friday OMB Call

I noticed on our calendars that we have a Friday call scheduled with OMB. I have a conflict and won't be able to make it. Since we had a call last week, shall we just cancel (unless they really really want to have a call with you)? If you're okay with that, I'll call over and check on that.

Davis, Deborah J

Subject:	[redacted] / Room 5708
Start:	Tuesday, July 05, 2005 3:00 PM
End:	Tuesday, July 05, 2005 3:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Davis, Deborah J
Required Attendees:	Gorsuch, Neil M; Kessler, Elizabeth A; Rubin, Jim (ENRD); Oppenheimer, Peter (ENRD)

When: Tuesday, July 05, 2005 3:00 PM-3:30 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

Neil Oppenheimer has been added to meeting.

POC: Debbie Davis

From: USDOJ- Office of Public Affairs
Sent: Thursday, June 30, 2005 11:17 AM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SETTLES LAWSUIT REGARDING CONDITIONS OF CONFINEMENT AT TWO MARYLAND JUVENILE JUSTICE FACILITIES

[Error : unloaded OLE object or mail attachment]

FOR IMMEDIATE RELEASE
THURSDAY, JUNE 30, 2005
WWW.USDOJ.GOV

CRT
(202) 514-2008
TDD (202) 514-1888

JUSTICE DEPARTMENT SETTLES LAWSUIT REGARDING CONDITIONS OF CONFINEMENT AT TWO MARYLAND JUVENILE JUSTICE FACILITIES

WASHINGTON, D.C. - The Justice Department today announced a settlement agreement with the State of Maryland regarding conditions of confinement in two juvenile justice facilities: the Cheltenham Youth Facility in Cheltenham, Maryland and the Charles H. Hickey, Jr. School in Baltimore County, Maryland. The settlement resolves a 20-month investigation into the facilities.

The agreement, filed with the United States District Court for the District of Maryland, requires the state to implement reforms to ensure that juveniles in the facilities are protected from harm and provided legally adequate services, including mental health care, medical care, and special education.

"We are pleased with the state's cooperation and willingness to implement meaningful reforms at these two facilities, both which have long and troubled histories," said Bradley J. Schlozman, Acting Assistant Attorney General for the Civil Rights Division. "If juvenile offenders are to be put on the path to law abiding and productive lives, they must not be subjected to the kind of conditions that have plagued Hickey and Cheltenham in the past."

The Department's investigation revealed numerous civil rights violations, including physical abuse of juveniles by staff, deficient suicide prevention measures, inadequate medical and mental health care, and legally insufficient special education services. Under the terms of the agreement, the state will address and correct all of the violations identified by the Department.

The Civil Rights Division conducted its investigation pursuant to the Violent Crime Control and Law Enforcement Act of 1994 and the Civil Rights of Institutionalized Persons Act of 1980 (CRIPA). These statutes allow the federal government to identify and root out systemic abuses such as those identified in this case, rather than focus on individual civil rights violations.

The Civil Rights Division has successfully resolved similar investigations of other juvenile justice facilities in Arkansas, Arizona, Georgia, Louisiana, Nevada, New Jersey, Puerto Rico, Saipan, and Mississippi. Investigations concerning juvenile justice facilities are pending in California, Hawaii, Indiana, Michigan, Ohio, and Oklahoma.

DOJ_NMG_ 0144924

The Department of Justice's enforcement effort reaches beyond juvenile facilities. Since 2001, the Department has opened 62 similar investigations into the terms and conditions of confinement at nursing homes, mental health facilities, residences for persons with developmental disabilities, jails, and prisons. These figures represent more than a 100 percent increase over the 20 such investigations initiated in the 1998-2000 time period.

###

05-352

DOJ_NMG_ 0144925

Image not available for this document, ID: 0.7.10316.79962-000001

Image not available for this document, ID: 0.7.10316.79962-000002

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, June 30, 2005 11:55 AM
To: Senger, Jeffrey M; Gorsuch, Neil M; Kessler, Elizabeth A
Subject: How about a short meet on OPR request tomorrow, can folks do 10 am?

Just let me know.

Gunn, Currie (SMO)

Subject:	Updated: Civil Components Leadership Meeting Group I
Location:	5710
Start:	Tuesday, July 05, 2005 10:00 AM
End:	Tuesday, July 05, 2005 11:00 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Reyes, Luis (SMO); Johnson, Kelly A. (ENRD); O'Connor, Eileen J. (AAG/TAX); Swenson, Lily F; Pate, R. Hewitt; White, Clifford; Roberts, Crystal; Gorsuch, Neil M; Barnett, Thomas O.; Schlozman, Brad (CRT); Cohen, Brian; Bounds, Ryan W (OLP)
Optional Attendees:	Saull, Bradley (CRT); Seidel, Rebecca; Alvarez, Michelle M. (TAX); O'Connor, Eileen J. (AAG/TAX); Bradbury, Steve; Moschella, William; Senger, Jeffrey M; Jenkins, Gloria; Keisler, Peter D. (CIV); Freeman, Sharee; Friedman, Lawrence A; Brand, Rachel; Taylor, Wendell L; Meron, Daniel (CIV); Kessler, Elizabeth A; Catapano, Debbie

When: Tuesday, July 05, 2005 10:00 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Note meeting time and date change for this mtg only due to Monday 7/4 holiday.

Attendees: OASG, CRTS, Tax, OLC, OLP, CRS, USTP, ATR, DAG, ENRD, OIPL, Civil, OPA, OLA

POC: Currie Gunn 4-9500

Gunn, Currie (SMO)

Subject:	Canceled: Bi-Weekly UST Meetings
Location:	5710
Start:	Monday, July 4, 2005 2:00 PM
End:	Monday, July 4, 2005 3:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Monday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Coleman, Tim (ODAG); Reyes, Luis (SMO); Swenson, Lily F; Gorsuch, Neil M; White, Clifford; Catapano, Debbie
Importance:	High

When: Monday, July 04, 2005 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Meeting for 7/4 canceled. Next mtg will be on 7/18.

Attendees: ASG Robert McCallum, Lily Fu Swenson, Tim Coleman-ODAG, Lawrence Friedman, Luis Reyes, Neil Gorsuch

POC: Currie Gunn x49500

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Thursday, June 30, 2005 1:14 PM
To: Reyes, Luis (SMO); Gorsuch, Neil M; Kessler, Elizabeth A
Subject: RE: How about a short meet on OPR request tomorrow, can folks do 10 am?

Fine with me.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, June 30, 2005 11:55 AM
To: Senger, Jeffrey M; Gorsuch, Neil M; Kessler, Elizabeth A
Subject: How about a short meet on OPR request tomorrow, can folks do 10 am?

Just let me know.

Elwood, Courtney

From: Elwood, Courtney
Sent: Thursday, June 30, 2005 2:18 PM
To: Wiggins, Mike
Cc: Gorsuch, Neil M
Subject: Re: hawaiian bill

My hope will be to meet with Clement, Bradbury, and whoever would like to represent the CIV division early on Tuesday, so that that braintrust can hash things out with each other -- getting the benefit of each other's views -- before the same group meets with the AG either later Tuesday or Wednesday. But all of this will depend on schedules and how the AG wants to proceed. I'll mention it to him tomorrow. Short version: if CIV is ready on Tuesday, that should be fine.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Wiggins, Mike <Mike.Wiggins@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Neil M Gorsuch (E-mail) <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Jun 30 14:10:48 2005
Subject: hawaiian bill

Civil Division can weigh in by early next week if that is soon enough.

Wiggins, Mike

From: Wiggins, Mike
Sent: Thursday, June 30, 2005 2:57 PM
To: Katsas, Gregory (CIV); Keisler, Peter D. (CIV)
Cc: Gorsuch, Neil M
Subject: Fw: hawaiian bill

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Wiggins, Mike <Mike.Wiggins@SMOJMD.USDOJ.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Jun 30 14:18:22 2005
Subject: Re: hawaiian bill

My hope will be to meet with Clement, Bradbury, and whoever would like to represent the CIV division early on Tuesday, so that that braintrust can hash things out with each other -- getting the benefit of each other's views -- before the same group meets with the AG either later Tuesday or Wednesday. But all of this will depend on schedules and how the AG wants to proceed. I'll mention it to him tomorrow. Short version: if CIV is ready on Tuesday, that should be fine.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Wiggins, Mike <Mike.Wiggins@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Neil M Gorsuch (E-mail) <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Jun 30 14:10:48 2005
Subject: hawaiian bill

Civil Division can weigh in by early next week if that is soon enough.

Roth, Monique

From: Roth, Monique
Sent: Thursday, June 30, 2005 3:02 PM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A; Parsky, Laura
Subject: Criminal Division Equities in Trade Matters

Neil, I'm so sorry I had to run out early yesterday. I hope that Chris Merriam was able to give you a snapshot of our IPR interests. I understand that CRM's interest in online gambling was also flagged for you. There is another area that we ought to talk about sometime. It involves CRM's representation of the Department before the Committee on Foreign Investment in the United States (CFIUS). CFIUS conducts national security reviews of certain transactions involving foreign acquisitions of U.S. interests. If you've been keeping up with the CNOOC bid on UNOCAL you may have gotten some background. In any event, you ought to meet Laura Parsky, the DAAG in CRM responsible for CFIUS and related matters. She was unable to make yesterday's meeting, but will probably give you a ring to brief you up.

Welcome aboard and look forward to seeing you again.

Monique Perez Roth
Senior Counsel to the Assistant Attorney General
Criminal Division
202-353-6200

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 30, 2005 3:42 PM
To: Wiggins, Mike
Subject: FW: hawaiian bill

Are you able to pass this message to CIV? Who there will be handling?

-----Original Message-----
From: Elwood, Courtney
Sent: Thursday, June 30, 2005 2:18 PM
To: Wiggins, Mike
Cc: Gorsuch, Neil M
Subject: Re: hawaiian bill

My hope will be to meet with Clement, Bradbury, and whoever would like to represent the CIV division early on Tuesday, so that that braintrust can hash things out with each other -- getting the benefit of each other's views -- before the same group meets with the AG either later Tuesday or Wednesday. But all of this will depend on schedules and how the AG wants to proceed. I'll mention it to him tomorrow. Short version: if CIV is ready on Tuesday, that should be fine.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Wiggins, Mike <Mike.Wiggins@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Neil M Gorsuch (E-mail) <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Jun 30 14:10:48 2005
Subject: hawaiian bill

Civil Division can weigh in by early next week if that is soon enough.

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, June 30, 2005 3:44 PM
To:	Roth, Monique
Cc:	Kessler, Elizabeth A; Parsky, Laura
Subject:	RE: Criminal Division Equities in Trade Matters

Monique, Thank you very much for this heads-up.

Laura, Would you mind giving me a ring or stopping by sometime to fill me in? Liz may also want to participate, unless this is very old ground for her. Thanks.

NMG
-----Original Message-----
From: Roth, Monique
Sent: Thursday, June 30, 2005 3:02 PM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A; Parsky, Laura
Subject: Criminal Division Equities in Trade Matters

Neil, I'm so sorry I had to run out early yesterday. I hope that Chris Merriam was able to give you a snapshot of our IPR interests. I understand that CRM's interest in online gambling was also flagged for you. There is another area that we ought to talk about sometime. It involves CRM's representation of the Department before the Committee on Foreign Investment in the United States (CFIUS). CFIUS conducts national security reviews of certain transactions involving foreign acquisitions of U.S. interests. If you've been keeping up with the CNOOC bid on UNOCAL you may have gotten some background. In any event, you ought to meet Laura Parsky, the DAAG in CRM responsible for CFIUS and related matters. She was unable to make yesterday's meeting, but will probably give you a ring to brief you up.

Welcome aboard and look forward to seeing you again.

Monique Perez Roth
Senior Counsel to the Assistant Attorney General
Criminal Division
202-353-6200

Davis, Deborah J

Subject:	Document Production / Room 5710
Start:	Friday, July 1, 2005 10:00 AM
End:	Friday, July 1, 2005 10:30 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Davis, Deborah J
Required Attendees:	Gorsuch, Neil M; Reyes, Luis (SMO); Kessler, Elizabeth A; Senger, Jeffrey M

When: Friday, July 01, 2005 10:00 AM-10:30 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

POC: Debbie Davis/Luis Reyes

Davis, Deborah J

Subject: [redacted] / Room 5710

Start: Friday, July 01, 2005 10:30 AM
End: Friday, July 01, 2005 11:30 AM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Davis, Deborah J
Required Attendees: McCallum, Robert (SMO); Gorsuch, Neil M; Reyes, Luis (SMO); Buchanan, MaryBeth

When: Friday, July 01, 2005 10:30 AM-11:30 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

POC: Reyes / Debbie Davis

Williams, Jan

From:	Williams, Jan
Sent:	Thursday, June 30, 2005 5:54 PM
To:	Sampson, Kyle; Ullyot, Theodore; Beach, Andrew; Schofield, Regina; Henke, Tracy (SMO); Gorsuch, Neil M
Cc:	Elwood, Courtney; Yanes, Raul
Subject:	FW: Medal of Valor
Attachments:	tmp.htm

Good news -- The VP has agreed to present the Medal of Valor.

He is available on July 14 at 3pm. Does that work?

Good news -- The VP has agreed to present the Medals of Valor.

He is available on July 14 at 3pm. Will that work on your end?

Thanks,
Laura

Laura MacDonald
Office of Cabinet Liaison
The White House
(202) 456-5866

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 30, 2005 6:04 PM
To: Williams, Jan
Cc: McCallum, Robert (SMO)
Subject: RE: Medal of Valor

Wonderful! Is this for 9/11 recipients, the annual awardees, or both?

-----Original Message-----
From: Williams, Jan
Sent: Thursday, June 30, 2005 5:54 PM
To: Sampson, Kyle; Ullyot, Theodore; Beach, Andrew; Schofield, Regina; Henke, Tracy (SMO); Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: FW: Medal of Valor

Good news -- The VP has agreed to present the Medal of Valor.

He is available on July 14 at 3pm. Does that work?

Beach, Andrew

From:	Beach, Andrew
Sent:	Thursday, June 30, 2005 6:32 PM
To:	Williams, Jan; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Henke, Tracy (SMO); Gorsuch, Neil M
Cc:	Elwood, Courtney; Yanes, Raul
Subject:	RE: Medal of Valor

yes, we'll make it work.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, June 30, 2005 5:54 PM
To: Sampson, Kyle; Ullyot, Theodore; Beach, Andrew; Schofield, Regina; Henke, Tracy (SMO); Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: FW: Medal of Valor

Good news -- The VP has agreed to present the Medal of Valor.

He is available on July 14 at 3pm. Does that work?

Henke, Tracy (SMO)

From:	Henke, Tracy (SMO)
Sent:	Thursday, June 30, 2005 6:36 PM
To:	Beach, Andrew; Williams, Jan; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc:	Elwood, Courtney; Yanes, Raul
Subject:	Re: Medal of Valor

Preference on where? Can we see if the Great Hall is available? How much time will the VP have?
Tracy

Jan--thanks for your help on this.

-----Original Message-----
From: Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Thu Jun 30 18:32:27 2005
Subject: RE: Medal of Valor

yes, we'll make it work.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, June 30, 2005 5:54 PM
To: Sampson, Kyle; Ullyot, Theodore; Beach, Andrew; Schofield, Regina; Henke, Tracy (SMO); Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: FW: Medal of Valor

Good news -- The VP has agreed to present the Medal of Valor.

He is available on July 14 at 3pm. Does that work?

Sampson, Kyle

From: Sampson, Kyle
Sent: Thursday, June 30, 2005 6:41 PM
To: Henke, Tracy (SMO); Beach, Andrew; Williams, Jan; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: RE: Medal of Valor

Let's work hard to get the Veep here in the Great Hall. Would be outstanding.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 30, 2005 6:36 PM
To: Beach, Andrew; Williams, Jan; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: Re: Medal of Valor

Preference on where? Can we see if the Great Hall is available? How much time will the VP have?
Tracy

Jan--thanks for your help on this.

-----Original Message-----
From: Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Thu Jun 30 18:32:27 2005
Subject: RE: Medal of Valor

yes, we'll make it work.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, June 30, 2005 5:54 PM
To: Sampson, Kyle; Ullyot, Theodore; Beach, Andrew; Schofield, Regina; Henke, Tracy (SMO); Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: FW: Medal of Valor

Good news -- The VP has agreed to present the Medal of Valor.

He is available on July 14 at 3pm. Does that work?

Parsky, Laura

From: Parsky, Laura
Sent: Thursday, June 30, 2005 6:55 PM
To: Gorsuch, Neil M; Roth, Monique
Cc: Kessler, Elizabeth A
Subject: RE: Criminal Division Equities in Trade Matters

Hi Neil,
Sorry I missed you the other day. I'm happy to stop by any time. Don't know if you're still around, but I have finally surfaced for air today and could come by now if you're available. Otherwise, perhaps we can find a time tomorrow. Look forward to meeting you.
Laura

Laura H. Parsky
Deputy Assistant Attorney General
Criminal Division
(202) 616-3928

From: Gorsuch, Neil M
Sent: Thursday, June 30, 2005 4:12 PM
To: Roth, Monique
Cc: Parsky, Laura; Kessler, Elizabeth A
Subject: RE: Criminal Division Equities in Trade Matters

Monique, Thank you very much for this heads-up.

Laura, Would you mind giving me a ring or stopping by sometime to fill me in? Liz may also want to participate, unless this is very old ground for her. Thanks.

NMG
-----Original Message-----
From: Roth, Monique
Sent: Thursday, June 30, 2005 3:02 PM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A; Parsky, Laura
Subject: Criminal Division Equities in Trade Matters

Neil, I'm so sorry I had to run out early yesterday. I hope that Chris Merriam was able to give you a snapshot of our IPR interests. I understand that CRM's interest in online gambling was also flagged for you. There is another area that we ought to talk about sometime. It involves CRM's representation of the Department before the Committee on Foreign Investment in the United States (CFIUS). CFIUS conducts national security reviews of certain transactions involving foreign acquisitions of U.S. interests. If you've been keeping up with the CNOOC bid on UNOCAL you may have gotten some background. In any event, you ought to meet Laura Parsky, the DAAG in CRM responsible for CFIUS and related matters. She was unable to make yesterday's meeting, but will probably give you a ring to brief you up.

Welcome aboard and look forward to seeing you again.

Monique Perez Roth
Senior Counsel to the Assistant Attorney General
Criminal Division

Criminal Division
202-353-6200

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, June 30, 2005 7:02 PM
To:	Parsky, Laura; Kessler, Elizabeth A
Cc:	Roth, Monique
Subject:	RE: Criminal Division Equities in Trade Matters

Laura and Liz - Would tomorrow at 3 work for you?

-----Original Message-----
From: Parsky, Laura
Sent: Thursday, June 30, 2005 6:55 PM
To: Gorsuch, Neil M; Roth, Monique
Cc: Kessler, Elizabeth A
Subject: RE: Criminal Division Equities in Trade Matters

Hi Neil,
Sorry I missed you the other day. I'm happy to stop by any time. Don't know if you're still around, but I have finally surfaced for air today and could come by now if you're available. Otherwise, perhaps we can find a time tomorrow. Look forward to meeting you.
Laura

Laura H. Parsky
Deputy Assistant Attorney General
Criminal Division
(202) 616-3928

From: Gorsuch, Neil M
Sent: Thursday, June 30, 2005 4:12 PM
To: Roth, Monique
Cc: Parsky, Laura; Kessler, Elizabeth A
Subject: RE: Criminal Division Equities in Trade Matters

Monique, Thank you very much for this heads-up.

Laura, Would you mind giving me a ring or stopping by sometime to fill me in? Liz may also want to participate, unless this is very old ground for her. Thanks.

NMG
-----Original Message-----
From: Roth, Monique
Sent: Thursday, June 30, 2005 3:02 PM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A; Parsky, Laura
Subject: Criminal Division Equities in Trade Matters

Neil, I'm so sorry I had to run out early yesterday. I hope that Chris Merriam was able to give you a snapshot of our IPR interests. I understand that CRM's interest in online gambling was also flagged for you. There is another area that we ought to talk about sometime. It involves CRM's representation of the Department before the Committee on Foreign Investment in the United States (CFIUS). CFIUS conducts national security reviews of certain transactions involving foreign acquisitions of U.S. interests. If you've been keeping up with the CNOOC bid on

UNOCAL you may have gotten some background. In any event, you ought to meet Laura Parsky, the DAAG in CRM responsible for CFIUS and related matters. She was unable to make yesterday's meeting, but will probably give you a ring to brief you up.

Welcome aboard and look forward to seeing you again.

Monique Perez Roth
Senior Counsel to the Assistant Attorney General
Criminal Division
202-353-6200

Parsky, Laura

From: Parsky, Laura
Sent: Thursday, June 30, 2005 7:06 PM
To: Kessler, Elizabeth A; Gorsuch, Neil M
Cc: Roth, Monique
Subject: RE: Criminal Division Equities in Trade Matters

Works for me.

Laura H. Parsky
Deputy Assistant Attorney General
Criminal Division
(202) 616-3928

From: Gorsuch, Neil M
Sent: Thursday, June 30, 2005 7:03 PM
To: Parsky, Laura; Kessler, Elizabeth A
Cc: Roth, Monique
Subject: RE: Criminal Division Equities in Trade Matters

Laura and Liz - Would tomorrow at 3 work for you?

-----Original Message-----
From: Parsky, Laura
Sent: Thursday, June 30, 2005 6:55 PM
To: Gorsuch, Neil M; Roth, Monique
Cc: Kessler, Elizabeth A
Subject: RE: Criminal Division Equities in Trade Matters

Hi Neil,
Sorry I missed you the other day. I'm happy to stop by any time. Don't know if you're still around, but I have finally surfaced for air today and could come by now if you're available. Otherwise, perhaps we can find a time tomorrow. Look forward to meeting you.
Laura

Laura H. Parsky
Deputy Assistant Attorney General
Criminal Division
(202) 616-3928

From: Gorsuch, Neil M
Sent: Thursday, June 30, 2005 4:12 PM
To: Roth, Monique
Cc: Parsky, Laura; Kessler, Elizabeth A
Subject: RE: Criminal Division Equities in Trade Matters

Monique, Thank you very much for this heads-up.

Laura, Would you mind giving me a ring or stopping by sometime to fill me in? Liz may also want to participate, unless this is very old ground for her. Thanks.

NMG
-----Original Message-----

From: Roth, Monique
Sent: Thursday, June 30, 2005 3:02 PM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A; Parsky, Laura
Subject: Criminal Division Equities in Trade Matters

Neil, I'm so sorry I had to run out early yesterday. I hope that Chris Merriam was able to give you a snapshot of our IPR interests. I understand that CRM's interest in online gambling was also flagged for you. There is another area that we ought to talk about sometime. It involves CRM's representation of the Department before the Committee on Foreign Investment in the United States (CFIUS). CFIUS conducts national security reviews of certain transactions involving foreign acquisitions of U.S. interests. If you've been keeping up with the CNOOC bid on UNOCAL you may have gotten some background. In any event, you ought to meet Laura Parsky, the DAAG in CRM responsible for CFIUS and related matters. She was unable to make yesterday's meeting, but will probably give you a ring to brief you up.

Welcome aboard and look forward to seeing you again.

Monique Perez Roth
Senior Counsel to the Assistant Attorney General
Criminal Division
202-353-6200

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 30, 2005 7:28 PM
To: Gorsuch, Neil M
Subject: contacts

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
e-mail: neil.gorsuch@usdoj.gov

Schlozman, Brad (CRT)

From: Schlozman, Brad (CRT)
Sent: Thursday, June 30, 2005 7:30 PM
To: Yanes, Raul; Brand, Rachel; Ullyot, Theodore
Cc: Sampson, Kyle; Gorsuch, Neil M; Beach, Andrew; Roberts, Crystal
Subject: RE: Voting Rights Act

We are doing an all-day event in the Great Hall on July 27. There will be a musical presentation, which was produced by the Museum of American History and is apparently "reminscent of the Selma march across teh Pettus bridge in 1965". We will then be having a series of speakers to talk about various aspects of, and their experiences with, the Voting Rights Act. For each of the speakers, I either know them personally (and am fully confident they will not do or say anything untoward), or I have vetted with colleagues who know them personally (and am, based on those conversations fully confident that the individuals will be fine). The speakers include:

** [redacted] prosecutor (prosecuted recent [redacted] case) (we invited [redacted] ** [redacted] a retired probate judge in [redacted] and a [redacted] ** [redacted], a former federal examiner in [redacted] ** [redacted] National Ass'n of Latino Elected Officials ([redacted] loves us b/c of our 203 work) ** [redacted] the Nat'l Asian Pacific American Legal Consortium [redacted] loves us b/c of our 203 work) ** [redacted] ** [redacted] the Alabama Democratic Conference (well known to the Division; [redacted] ** [redacted] American Indian Affairs, [redacted] [redacted] ([redacted])

The audience at this event will be limited to DOJ employees. We do not plan on inviting any outsiders. Please let me know if this is an event at which you would like the AG to make some remarks. We obviously would be happy to fit him in if his schedule allows, although that of course does change the dynamic a bit.

If you need any additional information, don't hesitate to call. I'll be in San Francisco tomorrow but will return next week. Have a great holiday weekend, everyone.

-----Original Message-----
From: Yanes, Raul
Sent: Wednesday, June 29, 2005 3:48 PM
To: Brand, Rachel; Ullyot, Theodore; Sours, Raquel; Beach, Andrew; Schlozman, Brad (CRT)
Cc: Sampson, Kyle; Gorsuch, Neil M
Subject: RE: Voting Rights Act

Brad, Could you let us know what is going to happen at the VRA event in late July?

-----Original Message-----
From: Brand, Rachel
Sent: Wednesday, June 29, 2005 1:07 PM
To: Ullyot, Theodore; Sours, Raquel; Beach, Andrew
Cc: Yanes, Raul; Sampson, Kyle; Gorsuch, Neil M
Subject: Re: Voting Rights Act

There were some more developments yesterday in terms of what the WH wants from us. Raul, I'll fill you in since it looks like I won't be able to make it to tomorrow's daily mtg. Also, I know that CRT is planning an event in late July commemorating the anniversary but I don't know details. Brad Schlozman could tell you.

-----Original Message-----
From: Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>
To: Sours, Raquel <Raquel.Sours@SMOJMD.USDOJ.gov>; Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>
CC: Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>; Brand, Rachel <Rachel.Brand@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Jun 29 13:03:07 2005
Subject: RE: Voting Rights Act

Need to coordinate this with the policy development.

-----Original Message-----
From: [redacted]@who.eop.gov [mailto:[redacted]@who.eop.gov]
Sent: Wednesday, June 29, 2005 12:57 PM
To: Sours, Raquel; Beach, Andrew
Cc: Ullyot, Theodore
Subject: Voting Rights Act
Importance: High

August 6 marks the 40th anniversary of the Voting Rights Act being signed into law. Is the AG or the Department planning any events to commemorate this event?

Williams, Jan

From: Williams, Jan
Sent: Friday, July 01, 2005 7:21 AM
To: Henke, Tracy (SMO); Beach, Andrew; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: RE: Medal of Valor

i will share the details as I recieve them today.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 30, 2005 6:36 PM
To: Beach, Andrew; Williams, Jan; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: Re: Medal of Valor

Preference on where? Can we see if the Great Hall is available? How much time will the VP have?
Tracy

Jan--thanks for your help on this.

-----Original Message-----
From: Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Thu Jun 30 18:32:27 2005
Subject: RE: Medal of Valor

yes, we'll make it work.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, June 30, 2005 5:54 PM
To: Sampson, Kyle; Ullyot, Theodore; Beach, Andrew; Schofield, Regina; Henke, Tracy (SMO); Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: FW: Medal of Valor

Good news -- The VP has agreed to present the Medal of Valor.

He is available on July 14 at 3pm. Does that work?

From: USDOJ- Office of Public Affairs
Sent: Friday, July 01, 2005 11:21 AM
To: USDOJ- Office of Public Affairs
Subject: U.S. INTERVENES IN SUIT AGAINST FIRMS INVOLVED IN MANUFACTURE OF DEFECTIVE BULLETPROOF VESTS SOLD TO FEDERAL, STATE AND LOCAL LAW ENFORCEMENT

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, JULY 1, 2005
WWW.USDOJ.GOV
514-1888

CIV
(202) 514-2007
TDD (202)

U.S. INTERVENES IN SUIT AGAINST FIRMS INVOLVED IN MANUFACTURE OF DEFECTIVE BULLETPROOF VESTS SOLD TO FEDERAL, STATE AND LOCAL LAW ENFORCEMENT

WASHINGTON, D.C. - The United States has filed a complaint against Second Chance Body Armor and the Toyobo Company, seeking to recover damages relating to the sale of defective Zylon bulletproof vests to the United States, Peter D. Keisler, Assistant Attorney General for the Justice Department's Civil Division and Ken Wainstein, U.S. Attorney for the District of Columbia, announced today. The vests were manufactured by Second Chance and were made of Zylon fiber manufactured by Toyobo.

The government's False Claims Act complaint alleges that the defendants provided defective Zylon bulletproof vests to federal, state and local law enforcement agencies with knowledge that the strength and bullet-stopping capacity of the Zylon vests were substantially weaker than represented. The complaint further alleges that Second Chance of Central Lake, Michigan and Toyobo of Japan entered into a conspiracy to suppress evidence that the Zylon fabric degraded faster than disclosed to the United States, particularly when exposed to light, heat and humidity. The United States bought the vests directly and partially reimbursed state and local law enforcement agencies for their purchases of the vests under the Bulletproof Vest Grant Partnership Act.

The *qui tam* or whistleblower lawsuit was originally brought by the former Director of Research and Composite Development of Second Chance, Dr. Aaron J. Westrick, in February, 2004. Under the False Claims Act, a private citizen can sue on behalf of the United States and may share in any recovery.

The United States is seeking civil fraud damages that are recoverable under the False Claims Act and common law. The investigation was conducted by the Department of the Treasury's Inspector General for Tax Administration, the General Services Administration's Office of Inspector General, the Detroit Fraud Resident

DOJ_NMG_ 0144957

Agency of the Army's Criminal Investigation Command, the Defense Criminal Investigative Service's Mid Atlantic Office, and the Department of Homeland Security's Office of Inspector General.

###

05-357

DOJ_NMG_ 0144958

Image not available for this document, ID: 0.7.10316.79692-000001

Image not available for this document, ID: 0.7.10316.79692-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 11:41 AM
To: Swenson, Lily F
Subject: RE: Lily's testimony

Well done!

-----Original Message-----
From: Swenson, Lily F
Sent: Friday, July 01, 2005 11:10 AM
To: Reyes, Luis (SMO); Wiggins, Mike; Gorsuch, Neil M; Kessler, Elizabeth A; Senger, Jeffrey M
Subject: FW: Lily's testimony

fyi, if you're interested

-----Original Message-----
From: Levine, Larry (EOIR)
Sent: Friday, July 01, 2005 7:27 AM
To: Kline, David (CIV); Swenson, Lily F; Scadron, Terri (CIV); Parmiter, Robert B; Cohn, Jonathan (CIV); Ginsburg, Douglas (CIV)
Subject: RE: Lily's testimony today

FYI: here's an article about yesterday's hearing: http://www.chron.com/cs/CDA/ssistory.mpl/nation/3248586

-----Original Message-----
From: Levine, Larry (EOIR)
Sent: Friday, July 01, 2005 7:11 AM
To: Kline, David (CIV); Swenson, Lily F; Scadron, Terri (CIV); Parmiter, Robert B; Cohn, Jonathan (CIV); Ginsburg, Douglas (CIV)
Subject: RE: Lily's testimony today

Not to pile on, but it was a treat (as always) to work with Jon, Dave, and Terri, and to meet and work with Lily, Doug, and Bobby. Lily really delivered the goods for us.

Larry

-----Original Message-----
From: Kline, David (CIV)
Sent: Thursday, June 30, 2005 9:52 PM
To: Swenson, Lily F; Scadron, Terri (CIV); Parmiter, Robert B; Levine, Larry (EOIR); Cohn, Jonathan (CIV); Ginsburg, Douglas (CIV)

Larry (EOIR); Cohn, Jonathan (CIV); Ginsburg, Douglas (CIV)
Subject: RE: Lily's testimony today

Lily --

Thanks for taking this over and for doing an excellent job. Your testimony involved immigration issues which are among the most difficult there are, you mastered them in record time, and you still did a great job.

I'm hoping OIL does get a chance to work with you again.

Regards,

-- Dave

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, June 30, 2005 6:20 PM
To: Scadron, Terri (CIV); Parmiter, Robert B; Levine, Larry (EOIR); Cohn, Jonathan (CIV); Kline, David (CIV); Ginsburg, Douglas (CIV)
Subject: Re: Lily's testimony today

Thanks to everyone for writing the testimony and getting me ready. DHS told me they thought the hearing went well today. I really enjoyed working with everyone and I hope I did okay defending DOJ. Thanks Bobby for attempting to tape it! I hope to work with each of you again.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Scadron, Terri (CIV) <tscadron@CIV.USDOJ.GOV>
To: Parmiter, Robert B <Robert.B.Parmiter@SMOJMD.USDOJ.gov>; Levine, Larry (EOIR) <Larry.Levine@EOIR.USDOJ.GOV>; Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>; Kline, David (CIV) <DKline@CIV.USDOJ.GOV>; Ginsburg, Douglas (CIV) <DGinsbur@CIV.USDOJ.GOV>
CC: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Thu Jun 30 18:06:07 2005
Subject: RE: Lily's testimony today

Fabulous! Thanks for letting us know. And congrats, Lily!

From: Parmiter, Robert B
Sent: Thursday, June 30, 2005 6:02 PM
To: Levine, Larry (EOIR); Cohn, Jonathan (CIV); Kline, David (CIV); Scadron, Terri (CIV); Ginsburg, Douglas (CIV)
Cc: Swenson, Lily F
Subject: Lily's testimony today

Just wanted everybody to know that by all accounts, Lily did an excellent job testifying today. Thanks to all for your help in guiding her through this process. Before the hearing, the committee counsel who handled the hearing said her written testimony was "terrific". So great job!

Incidentally, CSPAN-2 is replaying the hearing tonight at 10:30. I am going to try and gerry-rig OLA's old VCR to record the hearing.

Thanks again for all your efforts.

BOBBY

Robert B. Parmiter
U.S. Department of Justice
Office of Legislative Affairs
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(202) 514-1260

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 11:43 AM
To: Yanes, Raul
Subject: want to grab lunch downstairs today?

Elwood, Courtney

From: Elwood, Courtney
Sent: Friday, July 1, 2005 11:53 AM
To: Wiggins, Mike
Cc: Gorsuch, Neil M; Bennett, Catherine T
Subject: RE: hawaiian bill

I'd like to schedule a meeting with Clement, Bradbury, and the CIV representative for early on Tuesday. Who's the lucky guy?

-----Original Message-----
From: Wiggins, Mike
Sent: Thursday, June 30, 2005 2:11 PM
To: Elwood, Courtney
Cc: Neil M Gorsuch (E-mail)
Subject: hawaiian bill

Civil Division can weigh in by early next week if that is soon enough.

Bennett, Catherine T

From: Bennett, Catherine T
Sent: Friday, July 01, 2005 11:56 AM
To: Elwood, Courtney; Wiggins, Mike
Cc: Gorsuch, Neil M
Subject: RE: hawaiian bill

FYI, Paul Clement has confirmed 10:00am as the meeting time, in his office, on Tues. July 5th.

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 01, 2005 11:53 AM
To: Wiggins, Mike
Cc: Gorsuch, Neil M; Bennett, Catherine T
Subject: RE: hawaiian bill

I'd like to schedule a meeting with Clement, Bradbury, and the CIV representative for early on Tuesday. Who's the lucky guy?

-----Original Message-----
From: Wiggins, Mike
Sent: Thursday, June 30, 2005 2:11 PM
To: Elwood, Courtney
Cc: Neil M Gorsuch (E-mail)
Subject: hawaiian bill

Civil Division can weigh in by early next week if that is soon enough.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 1, 2005 1:19 PM
To: Elwood, Courtney
Cc: Bennett, Catherine T; Wiggins, Mike; Katsas, Gregory (CIV)
Subject: RE: hawaiian bill

Greg will represent CIV, but rightly points out that ENRD may have an interest and may, in fact, be the ones called on to litigate under any new law. Would you like me, in consultation with Kelly, to find an appropriate representative?

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 01, 2005 11:53 AM
To: Wiggins, Mike
Cc: Gorsuch, Neil M; Bennett, Catherine T
Subject: RE: hawaiian bill

I'd like to schedule a meeting with Clement, Bradbury, and the CIV representative for early on Tuesday. Who's the lucky guy?

-----Original Message-----
From: Wiggins, Mike
Sent: Thursday, June 30, 2005 2:11 PM
To: Elwood, Courtney
Cc: Neil M Gorsuch (E-mail)
Subject: hawaiian bill

Civil Division can weigh in by early next week if that is soon enough.

Elwood, Courtney

From: Elwood, Courtney
Sent: Friday, July 1, 2005 1:23 PM
To: Gorsuch, Neil M
Subject: RE: hawaiian bill

Sure. I'd like to keep this meeting a manageable size, however. And we'll only have a 30 minutes before I meet with the AG on the subject. So if ENRD is comfortable giving Katsas its proxy, that would be ideal.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 1:19 PM
To: Elwood, Courtney
Cc: Bennett, Catherine T; Wiggins, Mike; Katsas, Gregory (CIV)
Subject: RE: hawaiian bill

Greg will represent CIV, but rightly points out that ENRD may have an interest and may, in fact, be the ones called on to litigate under any new law. Would you like me, in consultation with Kelly, to find an appropriate representative?

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 01, 2005 11:53 AM
To: Wiggins, Mike
Cc: Gorsuch, Neil M; Bennett, Catherine T
Subject: RE: hawaiian bill

I'd like to schedule a meeting with Clement, Bradbury, and the CIV representative for early on Tuesday. Who's the lucky guy?

-----Original Message-----
From: Wiggins, Mike
Sent: Thursday, June 30, 2005 2:11 PM
To: Elwood, Courtney
Cc: Neil M Gorsuch (E-mail)
Subject: hawaiian bill

Civil Division can weigh in by early next week if that is soon enough.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 1, 2005 1:46 PM
To: Elwood, Courtney
Subject: RE: hawaiian bill

Spoke with Kelly and she reports that Jeff Clark is expert in this area. While not insisting on a seat at the table, she would encourage you to hear from Jeff. Let me know how you want to proceed.

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 01, 2005 1:23 PM
To: Gorsuch, Neil M
Subject: RE: hawaiian bill

Sure. I'd like to keep this meeting a manageable size, however. And we'll only have a 30 minutes before I meet with the AG on the subject. So if ENRD is comfortable giving Katsas its proxy, that would be ideal.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 1:19 PM
To: Elwood, Courtney
Cc: Bennett, Catherine T; Wiggins, Mike; Katsas, Gregory (CIV)
Subject: RE: hawaiian bill

Greg will represent CIV, but rightly points out that ENRD may have an interest and may, in fact, be the ones called on to litigate under any new law. Would you like me, in consultation with Kelly, to find an appropriate representative?

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 01, 2005 11:53 AM
To: Wiggins, Mike
Cc: Gorsuch, Neil M; Bennett, Catherine T
Subject: RE: hawaiian bill

I'd like to schedule a meeting with Clement, Bradbury, and the CIV representative for early on Tuesday. Who's the lucky guy?

-----Original Message-----
From: Wiggins, Mike
Sent: Thursday, June 30, 2005 2:11 PM
To: Elwood, Courtney
Cc: Neil M Gorsuch (E-mail)
Subject: hawaiian bill

Civil Division can weigh in by early next week if that is soon enough.

Elwood, Courtney

From: Elwood, Courtney
Sent: Friday, July 1, 2005 1:50 PM
To: Gorsuch, Neil M
Subject: RE: hawaiian bill

I'm delighted to hear from Jeff. My problem is timing. Is Clark around today?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 1:46 PM
To: Elwood, Courtney
Subject: RE: hawaiian bill

Spoke with Kelly and she reports that Jeff Clark is expert in this area. While not insisting on a seat at the table, she would encourage you to hear from Jeff. Let me know how you want to proceed.

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 01, 2005 1:23 PM
To: Gorsuch, Neil M
Subject: RE: hawaiian bill

Sure. I'd like to keep this meeting a manageable size, however. And we'll only have a 30 minutes before I meet with the AG on the subject. So if ENRD is comfortable giving Katsas its proxy, that would be ideal.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 1:19 PM
To: Elwood, Courtney
Cc: Bennett, Catherine T; Wiggins, Mike; Katsas, Gregory (CIV)
Subject: RE: hawaiian bill

Greg will represent CIV, but rightly points out that ENRD may have an interest and may, in fact, be the ones called on to litigate under any new law. Would you like me, in consultation with Kelly, to find an appropriate representative?

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 01, 2005 11:53 AM
To: Wiggins, Mike
Cc: Gorsuch, Neil M; Bennett, Catherine T
Subject: RE: hawaiian bill

I'd like to schedule a meeting with Clement, Bradbury, and the CIV representative for early on Tuesday. Who's the lucky guy?

-----Original Message-----
From: Wiggins, Mike
Sent: Thursday, June 30, 2005 2:11 PM
To: Elwood, Courtney
Cc: Neil M Gorsuch (E-mail)
Subject: hawaiian bill

Civil Division can weigh in by early next week if that is soon enough.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 1:53 PM
To: Elwood, Courtney
Subject: RE: hawaiian bill

I don't know. Would you like me to check and send him your way today? Or would you prefer to have him participate Tuesday?

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 01, 2005 1:50 PM
To: Gorsuch, Neil M
Subject: RE: hawaiian bill

I'm delighted to hear from Jeff. My problem is timing. Is Clark around today?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 1:46 PM
To: Elwood, Courtney
Subject: RE: hawaiian bill

Spoke with Kelly and she reports that Jeff Clark is expert in this area. While not insisting on a seat at the table, she would encourage you to hear from Jeff. Let me know how you want to proceed.

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 01, 2005 1:23 PM
To: Gorsuch, Neil M
Subject: RE: hawaiian bill

Sure. I'd like to keep this meeting a manageable size, however. And we'll only have a 30 minutes before I meet with the AG on the subject. So if ENRD is comfortable giving Katsas its proxy, that would be ideal.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 1:19 PM
To: Elwood, Courtney
Cc: Bennett, Catherine T; Wiggins, Mike; Katsas, Gregory (CIV)
Subject: RE: hawaiian bill

Greg will represent CIV, but rightly points out that ENRD may have an interest and may, in fact, be the ones called on to litigate under any new law. Would you like me, in consultation with Kelly, to find an appropriate representative?

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 01, 2005 11:53 AM
To: Wiggins, Mike
Cc: Gorsuch, Neil M; Bennett, Catherine T
Subject: RE: hawaiian bill

I'd like to schedule a meeting with Clement, Bradbury, and the CIV representative for early on Tuesday. Who's the lucky guy?

-----Original Message-----
From: Wiggins, Mike
Sent: Thursday, June 30, 2005 2:11 PM
To: Elwood, Courtney
Cc: Neil M Gorsuch (E-mail)
Subject: hawaiian bill

Civil Division can weigh in by early next week if that is soon enough.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 1, 2005 2:06 PM
To: Yanes, Raul
Subject: RE: want to grab lunch downstairs today?

a deal

-----Original Message-----
From: Yanes, Raul
Sent: Friday, July 01, 2005 11:55 AM
To: Gorsuch, Neil M
Subject: Re: want to grab lunch downstairs today?

Can't today. Let's try next week.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Fri Jul 01 11:43:20 2005
Subject: want to grab lunch downstairs today?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 2:51 PM
To: Elwood, Courtney
Subject: RE: hawaiian bill

Great. If you need anything else from this shop while Mike is out, just let me know.

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 01, 2005 2:50 PM
To: Gorsuch, Neil M
Subject: RE: hawaiian bill

I'll try calling him.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 1:53 PM
To: Elwood, Courtney
Subject: RE: hawaiian bill

I don't know. Would you like me to check and send him your way today? Or would you prefer to have him participate Tuesday?

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 01, 2005 1:50 PM
To: Gorsuch, Neil M
Subject: RE: hawaiian bill

I'm delighted to hear from Jeff. My problem is timing. Is Clark around today?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 1:46 PM
To: Elwood, Courtney
Subject: RE: hawaiian bill

Spoke with Kelly and she reports that Jeff Clark is expert in this area. While not insisting on a seat at the table, she would encourage you to hear from Jeff. Let me know how you want to proceed.

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 01, 2005 1:23 PM
To: Gorsuch, Neil M
Subject: RE: hawaiian bill

Sure. I'd like to keep this meeting a manageable size, however. And we'll only have a 30 minutes before I meet with the AG on the subject. So if ENRD is comfortable giving Katsas its proxy, that would be ideal.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 1:19 PM
To: Elwood, Courtney
Cc: Bennett, Catherine T; Wiggins, Mike; Katsas, Gregory (CIV)

Subject: RE: hawaiian bill

Greg will represent CIV, but rightly points out that ENRD may have an interest and may, in fact, be the ones called on to litigate under any new law. Would you like me, in consultation with Kelly, to find an appropriate representative?

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 01, 2005 11:53 AM
To: Wiggins, Mike
Cc: Gorsuch, Neil M; Bennett, Catherine T
Subject: RE: hawaiian bill

I'd like to schedule a meeting with Clement, Bradbury, and the CIV representative for early on Tuesday. Who's the lucky guy?

-----Original Message-----
From: Wiggins, Mike
Sent: Thursday, June 30, 2005 2:11 PM
To: Elwood, Courtney
Cc: Neil M Gorsuch (E-mail)
Subject: hawaiian bill

Civil Division can weigh in by early next week if that is soon enough.

Williams, Jan

From:	Williams, Jan
Sent:	Friday, July 1, 2005 3:27 PM
To:	Williams, Jan; Henke, Tracy (SMO); Beach, Andrew; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc:	Elwood, Courtney; Yanes, Raul
Subject:	RE: Medal of Valor

the Veep has about 1/2 hour. Location is still TBD. I have asked for the Great Hall instead of the EEOB so that we can include more people. We should know more on Tues or Wed.

-----Original Message-----
From: Williams, Jan
Sent: Friday, July 01, 2005 7:21 AM
To: Henke, Tracy (SMO); Beach, Andrew; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: RE: Medal of Valor

i will share the details as I recieve them today.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 30, 2005 6:36 PM
To: Beach, Andrew; Williams, Jan; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: Re: Medal of Valor

Preference on where? Can we see if the Great Hall is available? How much time will the VP have?
Tracy

Jan--thanks for your help on this.

-----Original Message-----
From: Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Thu Jun 30 18:32:27 2005

Sent: Thu Jun 30 18:32:27 2005
Subject: RE: Medal of Valor

yes, we'll make it work.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, June 30, 2005 5:54 PM
To: Sampson, Kyle; Ullyot, Theodore; Beach, Andrew; Schofield, Regina; Henke, Tracy (SMO); Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: FW: Medal of Valor

Good news -- The VP has agreed to present the Medal of Valor.

He is available on July 14 at 3pm. Does that work?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 1, 2005 3:35 PM
To: Williams, Jan
Subject: RE: Medal of Valor

Any word on whether this will be for the annual medals, or the 9/11 medals, or both?

-----Original Message-----
From: Williams, Jan
Sent: Friday, July 01, 2005 3:27 PM
To: Williams, Jan; Henke, Tracy (SMO); Beach, Andrew; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: RE: Medal of Valor

the Veep has about 1/2 hour. Location is still TBD. I have asked for the Great Hall instead of the EEOB so that we can include more people. We should know more on Tues or Wed.

-----Original Message-----
From: Williams, Jan
Sent: Friday, July 01, 2005 7:21 AM
To: Henke, Tracy (SMO); Beach, Andrew; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: RE: Medal of Valor

i will share the details as I recieve them today.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 30, 2005 6:36 PM
To: Beach, Andrew; Williams, Jan; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: Re: Medal of Valor

Preference on where? Can we see if the Great Hall is available? How much time will the VP have?
Tracy

Jan--thanks for your help on this.

-----Original Message-----
From: Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Thu Jun 30 18:32:27 2005
Subject: RE: Medal of Valor

yes, we'll make it work.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, June 30, 2005 5:54 PM
To: Sampson, Kyle; Ullyot, Theodore; Beach, Andrew; Schofield, Regina; Henke, Tracy (SMO); Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: FW: Medal of Valor

Good news -- The VP has agreed to present the Medal of Valor.

He is available on July 14 at 3pm. Does that work?

Williams, Jan

From: Williams, Jan
Sent: Friday, July 1, 2005 4:26 PM
To: Gorsuch, Neil M
Subject: RE: Medal of Valor

the annual MOV.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 3:36 PM
To: Williams, Jan
Subject: RE: Medal of Valor

Any word on whether this will be for the annual medals, or the 9/11 medals, or both?

-----Original Message-----
From: Williams, Jan
Sent: Friday, July 01, 2005 3:27 PM
To: Williams, Jan; Henke, Tracy (SMO); Beach, Andrew; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: RE: Medal of Valor

the Veep has about 1/2 hour. Location is still TBD. I have asked for the Great Hall instead of the EEOB so that we can include more people. We should know more on Tues or Wed.

-----Original Message-----
From: Williams, Jan
Sent: Friday, July 01, 2005 7:21 AM
To: Henke, Tracy (SMO); Beach, Andrew; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: RE: Medal of Valor

i will share the details as I recieve them today.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 30, 2005 6:36 PM
To: Beach, Andrew; Williams, Jan; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: Re: Medal of Valor

Subject: Re: Medal of Valor

Preference on where? Can we see if the Great Hall is available? How much time will the VP have?
Tracy

Jan--thanks for your help on this.

-----Original Message-----
From: Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Thu Jun 30 18:32:27 2005
Subject: RE: Medal of Valor

yes, we'll make it work.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, June 30, 2005 5:54 PM
To: Sampson, Kyle; Ullyot, Theodore; Beach, Andrew; Schofield, Regina; Henke, Tracy (SMO); Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: FW: Medal of Valor

Good news -- The VP has agreed to present the Medal of Valor.

He is available on July 14 at 3pm. Does that work?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 1, 2005 4:26 PM
To: Williams, Jan
Subject: RE: Medal of Valor

Thanks.

-----Original Message-----
From: Williams, Jan
Sent: Friday, July 01, 2005 4:26 PM
To: Gorsuch, Neil M
Subject: RE: Medal of Valor

the annual MOV.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 3:36 PM
To: Williams, Jan
Subject: RE: Medal of Valor

Any word on whether this will be for the annual medals, or the 9/11 medals, or both?

-----Original Message-----
From: Williams, Jan
Sent: Friday, July 01, 2005 3:27 PM
To: Williams, Jan; Henke, Tracy (SMO); Beach, Andrew; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: RE: Medal of Valor

the Veep has about 1/2 hour. Location is still TBD. I have asked for the Great Hall instead of the EEOB so that we can include more people. We should know more on Tues or Wed.

-----Original Message-----
From: Williams, Jan
Sent: Friday, July 01, 2005 7:21 AM
To: Henke, Tracy (SMO); Beach, Andrew; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: RE: Medal of Valor

i will share the details as I recieve them today.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 30, 2005 6:36 PM
To: Beach, Andrew; Williams, Jan; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: Re: Medal of Valor

Preference on where? Can we see if the Great Hall is available? How much time will the VP have?
Tracy

Jan--thanks for your help on this.

-----Original Message-----
From: Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Thu Jun 30 18:32:27 2005
Subject: RE: Medal of Valor

yes, we'll make it work.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, June 30, 2005 5:54 PM
To: Sampson, Kyle; Ullyot, Theodore; Beach, Andrew; Schofield, Regina; Henke, Tracy (SMO); Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: FW: Medal of Valor

Good news -- The VP has agreed to present the Medal of Valor.

He is available on July 14 at 3pm. Does that work?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 4:27 PM
To: McCallum, Robert (SMO)
Subject: FW: Medal of Valor

fyi

-----Original Message-----
From: Williams, Jan
Sent: Friday, July 01, 2005 4:26 PM
To: Gorsuch, Neil M
Subject: RE: Medal of Valor

the annual MOV.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 3:36 PM
To: Williams, Jan
Subject: RE: Medal of Valor

Any word on whether this will be for the annual medals, or the 9/11 medals, or both?

-----Original Message-----
From: Williams, Jan
Sent: Friday, July 01, 2005 3:27 PM
To: Williams, Jan; Henke, Tracy (SMO); Beach, Andrew; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: RE: Medal of Valor

the Veep has about 1/2 hour. Location is still TBD. I have asked for the Great Hall instead of the EEOB so that we can include more people. We should know more on Tues or Wed.

-----Original Message-----
From: Williams, Jan
Sent: Friday, July 01, 2005 7:21 AM
To: Henke, Tracy (SMO); Beach, Andrew; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: RE: Medal of Valor

i will share the details as I recieve them today.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 30, 2005 6:36 PM
To: Beach, Andrew; Williams, Jan; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: Re: Medal of Valor

Preference on where? Can we see if the Great Hall is available? How much time will the VP have?
Tracy

Jan--thanks for your help on this.

-----Original Message-----
From: Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Thu Jun 30 18:32:27 2005
Subject: RE: Medal of Valor

yes, we'll make it work.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, June 30, 2005 5:54 PM
To: Sampson, Kyle; Ullyot, Theodore; Beach, Andrew; Schofield, Regina; Henke, Tracy (SMO); Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: FW: Medal of Valor

Good news -- The VP has agreed to present the Medal of Valor.

He is available on July 14 at 3pm. Does that work?

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, July 1, 2005 4:30 PM
To: Henke, Tracy (SMO); Schofield, Regina
Cc: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: FW: Medal of Valor

Is there anything that OASG needs to do at this point to move this award ceremony forward? Is July 14th too short of a time fuse? Robt

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 4:27 PM
To: McCallum, Robert (SMO)
Subject: FW: Medal of Valor

fyi

-----Original Message-----
From: Williams, Jan
Sent: Friday, July 01, 2005 4:26 PM
To: Gorsuch, Neil M
Subject: RE: Medal of Valor

the annual MOV.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 3:36 PM
To: Williams, Jan
Subject: RE: Medal of Valor

Any word on whether this will be for the annual medals, or the 9/11 medals, or both?

-----Original Message-----
From: Williams, Jan
Sent: Friday, July 01, 2005 3:27 PM
To: Williams, Jan; Henke, Tracy (SMO); Beach, Andrew; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: RE: Medal of Valor

the Veep has about 1/2 hour. Location is still TBD. I have asked for the Great Hall instead of the EEOB so that we can include more people. We should know more on Tues or Wed.

-----Original Message-----
From: Williams, Jan
Sent: Friday, July 01, 2005 7:21 AM
To: Henke, Tracy (SMO); Beach, Andrew; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: RE: Medal of Valor

i will share the details as I recieve them today.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 30, 2005 6:36 PM
To: Beach, Andrew; Williams, Jan; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: Re: Medal of Valor

Preference on where? Can we see if the Great Hall is available? How much time will the VP have?
Tracy

Jan--thanks for your help on this.

-----Original Message-----
From: Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Thu Jun 30 18:32:27 2005
Subject: RE: Medal of Valor

yes, we'll make it work.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, June 30, 2005 5:54 PM
To: Sampson, Kyle; Ullyot, Theodore; Beach, Andrew; Schofield, Regina; Henke, Tracy (SMO); Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: FW: Medal of Valor

Good news -- The VP has agreed to present the Medal of Valor.

He is available on July 14 at 3pm. Does that work?

Schofield, Regina

From: Schofield, Regina
Sent: Friday, July 01, 2005 4:50 PM
To: Henke, Tracy (SMO); McCallum, Robert (SMO)
Cc: Reyes, Luis (SMO); Gorsuch, Neil M
Subject: RE: Medal of Valor

We will handle the logistics as always and it will be a great success!

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Friday, July 01, 2005 4:30 PM
To: Schofield, Regina; Henke, Tracy (SMO)
Cc: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: FW: Medal of Valor

Is there anything that OASG needs to do at this point to move this award ceremony forward? Is July 14th too short of a time fuse? Robt

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 4:27 PM
To: McCallum, Robert (SMO)
Subject: FW: Medal of Valor

fyi

-----Original Message-----
From: Williams, Jan
Sent: Friday, July 01, 2005 4:26 PM
To: Gorsuch, Neil M
Subject: RE: Medal of Valor

the annual MOV.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 01, 2005 3:36 PM
To: Williams, Jan
Subject: RE: Medal of Valor

Any word on whether this will be for the annual medals, or the 9/11 medals, or both?

-----Original Message-----
From: Williams, Jan
Sent: Friday, July 01, 2005 3:27 PM
To: Williams, Jan; Henke, Tracy (SMO); Beach, Andrew; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: RE: Medal of Valor

the Veep has about 1/2 hour. Location is still TBD. I have asked for the Great Hall instead of the EEOB so that we can include more people. We should know more on Tues or Wed.

-----Original Message-----
From: Williams, Jan
Sent: Friday, July 01, 2005 7:21 AM
To: Henke, Tracy (SMO); Beach, Andrew; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: RE: Medal of Valor

i will share the details as I recieve them today.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, June 30, 2005 6:36 PM
To: Beach, Andrew; Williams, Jan; Sampson, Kyle; Ullyot, Theodore; Schofield, Regina; Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: Re: Medal of Valor

Preference on where? Can we see if the Great Hall is available? How much time will the VP have? Tracy

Jan--thanks for your help on this.

-----Original Message-----
From: Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Thu Jun 30 18:32:27 2005
Subject: RE: Medal of Valor

yes, we'll make it work.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, June 30, 2005 5:54 PM
To: Sampson, Kyle; Ullyot, Theodore; Beach, Andrew; Schofield, Regina; Henke, Tracy (SMO); Gorsuch, Neil M
Cc: Elwood, Courtney; Yanes, Raul
Subject: FW: Medal of Valor

Good news -- The VP has agreed to present the Medal of Valor.

He is available on July 14 at 3pm. Does that work?

Schlozman, Brad (CRT)

From: Schlozman, Brad (CRT)
Sent: Monday, July 04, 2005 12:25 AM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M; Wiggins, Mike
Subject: (Excused) Absence

I will be unable to attend Tuesday's component head weekly meeting b/c the AG has asked to meet with me. (I am told it is just a courtesy meeting.) Given that Wan will not return from his vacation until Wednesday, the Civil Rights Division will not be represented at your meeting. Of course, I will keep Neil and Mike fully in the loop and am happy to meet with you at another time if you'd like a CRT briefing. In the meantime, have a wonderful Independence Day. Thanks

Brad Schlozman
Acting Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

bruno.vickers@university-college.oxford.ac.uk

From:	bruno.vickers@university-college.oxford.ac.uk
Sent:	Tuesday, July 05, 2005 4:54 AM
To:	development@university-college.oxford.ac.uk
Subject:	Univ E-Newsletter - July 2005
Attachments:	tmp.htm; tmp.gif; tmp.jpg; tmp.jpg

<http://www.univ.ox.ac.uk/oldmembers/news.html>
July 2005
Edition 1

From time to time, we would like to send you a brief e-newsletter to keep you up-to-date with the College's latest news and events. Our bulletins will contain links to a number of stories about the College, Oxford University or Higher Education more generally, and there will also be links to various upcoming events, together with the most recent attendee lists. To unsubscribe from this newsletter at any time, please email us at development@univ.ox.ac.uk <development@univ.ox.ac.uk> <development@univ.ox.ac.uk>

Univ Boathouse plans accepted - On the 16th June, Planning Permission was granted by the City Council for the building of the new Univ Boathouse Read more <http://www.univ.ox.ac.uk/oldmembers/boathouse.html>

****

Philosophy Building acquired - A day earlier, on 15th June, negotiations were completed with the University for the College's re-acquisition of the Philosophy Building on Merton Street.

****

Oxford plays key role in tackling the world's Grand Challenges - Oxford University has been selected for a grant offer from the Foundation for the National Institutes of Health totalling $26.4m (£14.5m) to support two projects covering malaria, AIDS and tuberculosis Read more <http://www.admin.ox.ac.uk/po/050628.shtmln>

****

Univ Annual Fund - We have had a tremendous response to our Annual Fund this year and we are tantalisingly close to reaching the figure of 25%

of all Old Members worldwide having made a gift. If you are still intending to make a contribution, please do so before the end our financial year on 31st July Making a gift <http://www.univ.ox.ac.uk/oldmembers/giving.html>

Australian Friends' Univ Dinner in Sydney with Professor Hartmut Pogge von Strandmann on Monday 11th July Read more <http://www.univ.ox.ac.uk/oldmembers/events/2005-07.html> Attendee List <http://www.univ.ox.ac.uk/cgi-bin/safeperl/univinfo/showevent.cgi?id=22>

****

FINAL REMINDER: Univ Society Wine Tasting, sampling 'esoteric whites', on Tuesday 19th July at the Sloane Club Read more <http://www.univ.ox.ac.uk/oldmembers/events/2005-07.html> Attendee List <http://www.univ.ox.ac.uk/cgi-bin/safeperl/univinfo/showevent.cgi?id=24>

****

An Old Members' Gaudy for the matriculation years 1973-1977 inclusive will be held at the College on Saturday 24th - Sunday 25th September Read more <http://www.univ.ox.ac.uk/oldmembers/events/2005-09.html> Attendee List <http://www.univ.ox.ac.uk/cgi-bin/safeperl/univinfo/showevent.cgi?id=21>

****

All Univ Members are invited to the College's first Annual Seminar in London to be held at UCL on Thursday 10th November. The Seminar will explore the state of journalism and Univ alumni - Peter Sissons (1961), William Shawcross (1965), Armando Iannucci (1982), Christina Lamb (1983) and Nick Robinson (1983) - will be the panellists for this event Read more <http://www.univ.ox.ac.uk/oldmembers/events/2005-11.html> Attendee List <http://www.univ.ox.ac.uk/cgi-bin/safeperl/univinfo/showevent.cgi?id=36>

Alumni & Development Office, University College, Oxford OX1 4BH; tel 01865 276 674; fax 01865 276 670; email development@univ.ox.ac.uk http://www.univ.ox.ac.uk/oldmembers

UNIV



E-SOCIETY

July 2005
Edition 1
<!--[if !supportEmptyParas]--> <!--[endif]-->
*From time to time, we would like to send you a brief **e-newsletter** to keep you up-to-date with the College's latest news and events. Our bulletins will contain links to a number of stories about the College, Oxford University or Higher Education more generally, and there will also be links to various upcoming events, together with the most recent attendee lists. To unsubscribe from this newsletter at any time, please email us at development@univ.ox.ac.uk*
<!--[if !supportEmptyParas]-->

<!--[endif]-->
<!--[endif]-->
Univ Boathouse plans accepted – On the 16th June, Planning Permission was granted by the City Council for the building of the new Univ Boathouse Read more

****

Philosophy Building acquired – A day earlier, on 15th June, negotiations were completed with the University for the College's re-acquisition of the Philosophy Building on Merton Street.

****

Oxford plays key role in tackling the world's Grand Challenges - Oxford University has been selected for a grant offer from the Foundation for the National Institutes of Health totalling $26.4m (£14.5m) to support two projects covering malaria, AIDS and tuberculosis Read more
<!--[if !supportLineBreakNewLine]-->
<!--[endif]-->
****
Univ Annual Fund – We have had a tremendous response to our Annual Fund this year and we are tantalisingly close to reaching the figure of 25% of all Old Members worldwide having made a gift. If you are still intending to make a contribution, please do so before the end our financial year on 31st July Making a gift

<!--[if !vml]--><!--[endif]-->

Australian Friends' Univ Dinner in Sydney with Professor Hartmut Pogge von Strandmann on **Monday 11th July** Read more Attendee List

****

FINAL REMINDER: Univ Society Wine Tasting, sampling 'esoteric whites', on **Tuesday 19th July** at the Sloane Club Read more Attendee List

****

An **Old Members' Gaudy** for the matriculation years **1973-1977 inclusive** will be held at the College on **Saturday 24th – Sunday 25th September** Read more Attendee List

****

All Univ Members are invited to the College's first **Annual Seminar** in London to be held at **UCL** on **Thursday 10th November**. The Seminar will explore the state of journalism and Univ alumni - Peter Sissons (1961), William Shawcross (1965), Armando Iannucci (1982), Christina Lamb (1983) and Nick Robinson (1983) – will be the panellists for this event Read more Attendee List

<!--[if !supportEmptyParas]-->

Alumni & Development Office, University College, Oxford OX1 4BH; tel 01865 276 674; fax 01865 276 670; email development@univ.ox.ac.uk

http://www.univ.ox.ac.uk/oldmembers<!--[endif]-->

Latest News

Upcoming Events

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Tuesday, July 05, 2005 9:58 AM
To: Rubin, Jim (ENRD); Gorsuch, Neil M
Subject: CMTS Briefing

[redacted]. I won't be able to make our 3 pm CMTS briefing. Why don't you all go on without me, since Neil will be going to the meeting with Robert?

Alternatively, we could do this tomorrow afternoon or almost anytime Thursday. I defer to you all on preferences.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 9:59 AM
To: Kessler, Elizabeth A
Subject: RE: CMTS Briefing

what is cmts and do i need to know about it?!

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Tuesday, July 05, 2005 9:59 AM
To: Rubin, Jim (ENRD); Gorsuch, Neil M
Subject: CMTS Briefing

Just found out that I'll need to take my daughter to the pediatrician this afternoon. I won't be able to make our 3 pm CMTS briefing. Why don't you all go on without me, since Neil will be going to the meeting with Robert?

Alternatively, we could do this tomorrow afternoon or almost anytime Thursday. I defer to you all on preferences.

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Tuesday, July 05, 2005 10:03 AM
To: Gorsuch, Neil M
Subject: RE: CMTS Briefing

Oh, yes you do, my friend . . . That's the one I mentioned that is the new cabinet-level group, which I doubt will stay cabinet level for anything more than this first meeting. It is the Committee on Marine Transportation Security. You and Robert apparently already agreed to go to the July 11 kick-off meeting in lieu of the AG. Secretary Minetta will be leading it, we're told, and Secretary Chertoff will also attend.

If you want to make sure I am tormented with this as well, we can just reschedule the briefing . . .

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 9:59 AM
To: Kessler, Elizabeth A
Subject: RE: CMTS Briefing

what is cmts and do i need to know about it?!

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Tuesday, July 05, 2005 9:59 AM
To: Rubin, Jim (ENRD); Gorsuch, Neil M
Subject: CMTS Briefing

Just found out that I'll need to take my daughter to the pediatrician this afternoon. I won't be able to make our 3 pm CMTS briefing. Why don't you all go on without me, since Neil will be going to the meeting with Robert?

Alternatively, we could do this tomorrow afternoon or almost anytime Thursday. I defer to you all on preferences.

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Tuesday, July 05, 2005 10:25 AM
To: Davis, Deborah J
Cc: Gorsuch, Neil M; Rubin, Jim (ENRD); Oppenheimer, Peter (ENRD)
Subject: Rescheduling Today's CMTS Meeting

We'll need to reschedule today's 3 pm meeting for tomorrow or Thursday.

Debbie: Please find a time that will work for me and all of the cc'd folks. 30 minutes should still do for this. Thanks. - Liz

Tyler, Joyce Y (CRT)

From:	Tyler, Joyce Y (CRT)
Sent:	Tuesday, July 5, 2005 10:33 AM
To:	Davis, Deborah J; Fowler, Liane (SMO); Gorsuch, Neil M; Henderson, George; Martinez, Jorge (OPA); Scott-Finan, Nancy; Shaw, Aloma A; Torchinsky, Jason (CRT)
Subject:	Civil Rights Weekly Report for Week Ending 7/01/2005
Attachments:	week705.wpd

July 5, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Bradley J. Schlozman
Acting Assistant Attorney General

SUBJECT: Weekly Report[1] for the Week ending July 1, 2005

NEXT WEEK

· **Trial Scheduled to Begin in Georgia Color of Law Violations Case:** On July 11th, trial is scheduled to begin in *United States v. Walker and Ramsey* (N.D. Ga.). On May 1, 2004, former DeKalb County Detention Officer/ Deputy Sheriff Melvin Walker and co-defendant David Ramsey were charged for their role in the murder of DeKalb County Sheriff-elect Derwin Brown on December 15, 2000. The indictment charges the defendants with one count of conspiring to deprive Brown of his civil rights in violation of 18 U.S.C. § 241. The indictment also charges one count of the conspiracy provision and eight counts of the substantive provision of 18 U.S.C. § 1958 (interstate murder for hire); one count of 18 U.S.C. § 242 (constitutional violations while acting under color of law); and two counts of 18 U.S.C. § 924(c) (use of a firearm). Then-Sheriff Sidney Dorsey was convicted by a state jury in connection with the murder and is serving a life sentence.

---

[1]This report is an internal document that is not intended for distribution outside of the Department of Justice.

· **Trial Scheduled to Begin in Louisiana Color of Law Case:** On July 11th, trial is scheduled to begin in *United States v. Self* (W.D. La.). On April 14, 2004, defendant Gilbert Self, a Captain of the Pine Prairie Correctional Center, was charged with violating 18 U.S.C. § 242 and 18 U.S.C. § 1512 (obstruction of justice). On July 26, 2003, the defendant allegedly struck and kicked Immigration and Customs Enforcement detainee Julio Castro-Ruebello, a Cuban national, causing severe bruising to both eyes. The defendant subsequently obstructed justice by attempting to persuade three fellow officers not to truthfully communicate information regarding the assault to federal law enforcement officials.

THIS WEEK

· **Sentencing Scheduled in FACE Case:** On July 7th, sentencing is scheduled to occur in *United States v. Waagner* (E.D. Pa.). On December 3, 2003, defendant Clayton Lee Waagner was convicted on 51 charges, including violations of the Freedom of Access to Clinic Entrances Act, threatening the use of a weapon of mass destruction, mailing threatening communications, and interstate transmission of threatening communications. On June 18, 2001, Waagner posted a notice on an internet website that he was going to kill abortion clinic and Planned Parenthood employees. On October 12 and November 7, 2001, Waagner mailed, via the United States Postal Service and Federal Express, several hundred letters, which he claimed contained anthrax, to reproductive health care providers across the country.

LAST WEEK

· **Large Anti-Trafficking Raid Undertaken and Sealed Indictments Unveiled in California:** On June 23rd, the Civil Rights Division and the U.S. Attorney's Office for the Northern District of California jointly obtained a sealed indictment charging 29 defendants with various immigration-related and money laundering counts. The indictment also charged two defendants with sex trafficking counts. The indictment grew out of an extensive investigation of brothel operators who trafficked in women smuggled into the San Francisco area from Korea. The investigation has already resulted in guilty pleas to sex trafficking conspiracy from two brothel owners. On June 30th, the Department secured search warrants and conducted a massive raid of 11 brothels and 19 residences related businesses. Agents conducting the raid found approximately 100 women inside the brothels and are currently interviewing the women to determine how many are victims of human trafficking. (As of Monday night, approximately 15 women had been identified as victims and another 24 will be held as material

witnesses.) Agents also arrested 26 subjects and seized around $2 million in cash. Hundreds of law enforcement personnel from the FBI, ICE, IRS, Diplomatic Security Service, and the San Francisco Police Department participated in this operation. The indictment was unsealed on July 1, and additional charges are anticipated as information is gathered and analyzed.

· **Settlement Announced in Maryland Juvenile Facilities Case:** On June 30th, the Division entered into a settlement agreement with the State of Maryland to resolve the Division's investigation of conditions of confinement in two state-operated juvenile justice facilities: the Cheltenham Youth Facility in Cheltenham, Maryland and the Charles H. Hickey, Jr. School in Baltimore County. The three-year agreement requires the State to ensure that youth in the facilities are protected from harm and to remedy deficiencies in medical care, mental health care, juvenile justice management and special education. Acting Assistant Attorney General Bradley Schlozman and Maryland Governor Mark Ehrlich jointly announced this agreement at a press conference in Baltimore.

· **Consent Decree Entered in Texas Hiring Practices Case:** On June 27th, the United States District Court for the Southern District of Texas approved and entered a consent decree resolving a complaint filed by the United States against the Weimar Independent School District ("Weimar ISD"). The complaint, filed under Section 706 of Title VII of the Civil Rights Act of 1964, as amended, alleged that Weimar ISD failed to hire the charging party for a high school principal position because of her race, African-American. Pursuant to the consent decree, Weimar ISD has agreed to pay the charging party the sum of $64,000, and to implement hiring and selection procedures that ensure that neither race nor any other factors prohibited by Title VII are used to discriminate against qualified applicants for employment with Weimar ISD. Weimar also will provide training to employees involved in the hiring and selection process.

· **CRIPA Findings Letter Released For Napa State Hospital:** On June 27th, the Division notified the State of California of its findings concerning unlawful conditions at the Napa State Hospital, a large, state-run psychiatric hospital in Napa, California. The Division found, among other things, that the State fails to protect patients from harm from assaults and suicide; inappropriately uses seclusion, restraint and PRN ("pro re nata" or "as-needed") psychotropic medications; and provides inadequate medical, nursing and psychiatric care. Throughout the course of the CRIPA investigation, the State declined to provide the Division with access to the facility or its records. The Division's findings are based on recent on-site surveys by state and federal regulatory agencies and correspondence and interviews with patients, family members, advocates, and other professionals.

LONG RANGE EVENTS

- No entries this period.

Division Contact: Jason Torchinsky -- 202/305-1873

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Tuesday, July 05, 2005 10:34 AM
Subject: JCON BROADCAST, WEEK OF JULY 4, 2005

JCON BROADCAST, WEEK OF JULY 4, 2005

1. **Justice Café Survey**
2. **The Attorney General's Summer Lecture Series**
3. **Visitor Emergency Information Cards**
4. **Emergency Power Interruption in Main**
5. **Training Offered by Library Staff**

Justice Café Survey

Our new *Justice Café* has a general dining area and a separate dining room that we have named the Rotunda. Seating capacity in the Rotunda is 32 people in its current configuration (maximum seating capacity is 40). Currently, the room can be reserved for groups of 10 or more people and when the room is not reserved, all employees can use it for general dining.

We are considering several options for the best use of the Rotunda and want to hear directly from our customers before a decision is made. Please take a moment to respond to the survey by clicking on the following http://10.173.2.12/justice_cafe_survey.php.

The Attorney General's Summer Lecture Series

The Attorney General's Summer Lecture Series for the Department's Presidential Management Fellows, Honors Attorneys, and paid/volunteer student interns continues this **Thursday, July 7th**, and features **Pete Williams, NBC News Justice Correspondent**. All lectures begin promptly at **11:00 a.m.,** in the Great Hall of the Robert F. Kennedy Main Justice Building. All PMFs, Honors Attorneys, and interns in the Department are invited to attend each lecture. Supervisors are requested to provide adequate time for their interns to participate.

Participants are reminded that they **must RSVP** for these events through their component's Student Employment Program Manager (for a list, refer to http://www.usdoj.gov/jmd/ps/sel.htm). Contact your Personnel Office for additional information. Due to limited seating, this series is for Department of Justice employees only; non-Departmental guests may not attend. Departmental identification required for entry.

Visitor Emergency Information Cards at the Robert F Kennedy Main Justice Building

In an effort to promote emergency awareness, the Security and Emergency Planning Staff (SEPS) has prepared a Visitor Emergency Information Card that will be provided to all visitors upon arrival at the RFK Visitors Center. This card will provide clear instructions for emergency situations, such as building evacuations and shelter-in-place.

In addition, employees who sponsor visitors with disabilities (either escorted or unescorted) should know that some emergency procedures may be different:

- If hearing impaired, a visitor will not be able to hear the public address system instructions, so please stay with your visitor and communicate the instructions using written notes, sign, or other means.
- If a visitor is blind or has impaired vision, it may be necessary to escort the visitor to the closest exit or area of safe refuge.
- For evacuations, inform visitors with a mobility disability of the "safe-haven" areas located at stairwells 3, 4, 5, 7, 8 and 10 on all floors. These safe-havens are intended to provide a safe refuge during emergencies. Once it is determined that the elevators in the affected area are safe to operate, persons with disabilities may use the elevator to evacuate the building or remain there until the Area Monitor, Fire Department, or other emergency personnel directs them from the safe-haven area out of the building or back to their meeting.
- All employees should be aware of the quickest route to their component's staging area outside the building or to a designated shelter-in-place location. Please refer to the RFK Occupant Emergency Plan on the DOJNet, or contact your RFK component area monitor for additional information.

Thank you for your assistance and cooperation. Please contact Joan Kendrall, Associate Director, Emergency Management Operations and Policy Group, SEPS, on 616-7663 with questions.

EMERGENCY POWER INTERRUPTION IN MAIN

On Saturday, July 9th between 5:00 a.m. and 10:00 a.m., the emergency switchboard for the north side (Pennsylvania Avenue side) of the RFK MAIN Justice Building will be de-energized to replace a faulty breaker. The temporary outage will not affect building power to offices or corridors; however, all elevators on the north side of the building (passenger elevators 1, 2, 3 and 4 along with freight elevators 31 and 40) will not be in service during the outage. The upper floors and basement levels may be accessed by using the stairwells or any elevator on the south side of the building. If you have any questions concerning this temporary outage, please contact Justice Building Services at 514-2186 or 514-1611.

Library Staff Training

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are open to all DOJ staff. Please see the current class list at: http://10.173.2.12/jmd/lib/training/currentclasses.htm

Check the Intranet, DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 10:37 AM
To: Kessler, Elizabeth A
Subject: RE: CMTS Briefing

ah yes, marine transport. i await the mtg with baited breath. up to you on whether or not to reschedule. i will take my medicine without complaint.

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Tuesday, July 05, 2005 10:03 AM
To: Gorsuch, Neil M
Subject: RE: CMTS Briefing

Oh, yes you do, my friend . . . That's the one I mentioned that is the new cabinet-level group, which I doubt will stay cabinet level for anything more than this first meeting. It is the Committee on Marine Transportation Security. You and Robert apparently already agreed to go to the July 11 kick-off meeting in lieu of the AG. Secretary Minetta will be leading it, we're told, and Secretary Chertoff will also attend.

If you want to make sure I am tormented with this as well, we can just reschedule the briefing . . .

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 9:59 AM
To: Kessler, Elizabeth A
Subject: RE: CMTS Briefing

what is cmts and do i need to know about it?!

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Tuesday, July 05, 2005 9:59 AM
To: Rubin, Jim (ENRD); Gorsuch, Neil M
Subject: CMTS Briefing

Just found out that I'll need to take my daughter to the pediatrician this afternoon. I won't be able to make our 3 pm CMTS briefing. Why don't you all go on without me, since Neil will be going to the meeting with Robert?

Alternatively, we could do this tomorrow afternoon or almost anytime Thursday. I defer to you all on preferences.

Davis, Deborah J

Subject:	Updated: CMTS Briefing / Room 5708
Start:	Wednesday, July 06, 2005 3:00 PM
End:	Wednesday, July 06, 2005 3:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Davis, Deborah J
Required Attendees:	Gorsuch, Neil M; Kessler, Elizabeth A; Rubin, Jim (ENRD); Oppenheimer, Peter (ENRD)

When: Wednesday, July 06, 2005 3:00 PM-3:30 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

Neil Oppenheimer has been added to meeting.

POC: Debbie Davis

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 11:10 AM
To: [redacted]@georgewbush.com'
Subject: Lunch with [redacted]

[redacted] Is lunch still on for 12:15 at the University Club? Best, Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
e-mail: neil.gorsuch@usdoj.gov

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, July 05, 2005 11:23 AM
To: Gorsuch, Neil M
Subject: 9th Circuit OLP Meeting at 2

Rachel mentioned a meeting on how the Department is going to proceed on this front. I believe Robert would like to be looped in. Are you free at 2 today to attend by chance?

Miranda, Gail (ENRD)

From:	Miranda, Gail (ENRD)
Sent:	Tuesday, July 5, 2005 11:38 AM
To:	Zwick, Ken (CIV); Alexander, Craig (ENRD); Barsky, Seth (ENRD); Baylor, Lewis (ENRD); Bogan, Shanedda L. (ENRD); Brighton, William (ENRD); Brook, Bob (ENRD); Brookshire, James (ENRD); Bruffy, Robert (ENRD); Bryant, Dan (OLP); Burgess, Wells (ENRD); Butler, Virginia (ENRD); Clark, Jeffrey B. (ENRD); Clark, Tom (ENRD); Cruden, John (ENRD); Davis, Deborah J; Davis, John S (ODAG); Disheroon, Fred (ENRD); Dworkin, Karen (ENRD); Edgar, Mary (ENRD); Emrich, Andrew (ENRD); Findlay, Charles (ENRD); Fisherow, Benjamin (ENRD); Fowler, Liane (SMO); Gelber, Bruce (ENRD); Gluck, Ronald (ENRD); Goldman, Greer (ENRD); Gorsuch, Neil M; Grishaw, Letitia (ENRD); Gunn, Currie (SMO); Haugrud, Jack (ENRD); Henderson, Charles V; Hoang, Anthony (ENRD); Johnson, Kelly A. (ENRD); Katz, Maureen (ENRD); Keeney, John; Kessler, Elizabeth A; Kilbourne, Jim (ENRD); Lazarus, William (ENRD); Lesch, Jaclyn; Mahan, Ellen (ENRD); Maher, Robert (ENRD); Mariani, Tom (ENRD); Martella, Roger (ENRD); McCabe, Catherine (ENRD); McCallum, Robert (SMO); Mergen, Andy (ENRD); Milius, Pauline (ENRD); Miller, Charles S; Monson, Peter C (ENRD); Neumayr, Mary (ENRD); Newton, Cullen (ENRD); O'Connor, Eileen J. (AAG/TAX); Oppenheimer, Peter (ENRD); Owen, Peter B; Patrick, Teresa (ENRD); Porritt, Ben; Racicot, Tim (ENRD); Randall, Gary (ENRD); Rogers, Cherie (ENRD); Rogers, Steven (ENRD); Rubin, Jim (ENRD); Samuels, Stephen (ENRD); Saxe, Keith (ENRD); Schachter, Scott (ENRD); Schiffer, Stuart (CIV); Shaw, Aloma A; Shockey, Charles (ENRD); Smith, Justin (ENRD); Smith, Marc (ENRD); Sobeck, Eileen (ENRD); Turner, John (ENRD); Uhlmann, David (ENRD); Vaden, Christopher (ENRD); Wardzinski, Karen (ENRD); Webb, John T. (ENRD); Weiss, Patricia; Williams, Jean (ENRD); Young, Russell (ENRD)
Subject:	Attached is ENRD's Weekly Report to the AG - July 5, 2005
Attachments:	#88025-v1-AG_weekly_report_7_5_05_(draft).DOC

U.S. Department of Justice

Environment and Natural Resources Division

Assistant Attorney General
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Telephone (202) 514-2701
Facsimile (202) 514-0557

July 5, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Kelly A. Johnson
Acting Assistant Attorney General
Environment and Natural Resources Division

THIS WEEK

- **Challenge to Biological Research Facility:** The Division will file a brief with the Ninth Circuit on July 5 defending a Department of Energy (DOE) decision to operate a Biosafety Level 3 laboratory at Lawrence Livermore National Laboratory. The plaintiff argues DOE's environmental assessment understates the risk of pathogen release.

- **Trial in Clean Air Act Case:** Trial on liability is set to begin July 6 in Columbus, Ohio, in a Clean Air Act enforcement case against power plant owner American Electric Power Co.

- **Briefing on Coal Bed Methane:** The Division will lodge its opening brief on July 8 in an appeal to the Ninth Circuit of a district court holding that the Bureau of Land Management violated the National Environmental Policy Act (NEPA) by not considering a phased development alternative for coal bed methane in Montana.

- **Challenge to Northwest Forest Plan:** On July 8 the Division will move for summary judgment in a Western District of Washington case in which fishermen challenge the 2004 amendments to the Northwest Forest Plan's Aquatic Conservation Strategy.

NEXT WEEK

- **Hearing on Arizona Snowbowl:** Environmental groups and Native American tribes challenge U.S. Forest Service approval of improvements at the Arizona Snowbowl, a ski area operated under a Forest Service special use permit. Plaintiffs generally object to expansion of the resort and use of reclaimed waste water in snowmaking. They assert violations of NEPA, the National Forest Management Act, the National Historic Preservation Act, the federal government's trust responsibility, and the Religious Freedom Restoration Act. A hearing on plaintiffs' motion for preliminary injunction is expected the week of July 11.

- **Appellate Argument in Columbia River Power System Dispute:** On May 26 the District of Oregon invalidated a National Marine Fisheries Service biological opinion under the Endangered Species Act for 14 federal dams located on the Columbia and Snake Rivers. The court then ordered a spill program at five projects. The Division has filed an interlocutory appeal with the Ninth Circuit; oral argument is set for July 13 in Seattle.

LAST WEEK

- **Appellate Reversal on Cayuga Indian Nation Claim:** On June 28 the Second Circuit issued a published opinion reversing a district court judgment that would have required the State of New York to pay $248 million for violation of the Nonintercourse Act in acquiring the Cayuga reservation two centuries ago.

- **Adverse Decision on Pesticide Registrations:** On June 29 the Ninth Circuit affirmed a district court holding that the Environmental Protection Agency (EPA) improperly failed to initiate consultation under the Endangered Species Act regarding the effect of pesticide registrations under the Federal Insecticide, Fungicide, and Rodenticide Act on listed salmon species in the Pacific Northwest. The district court ordered consultation on 54 pesticide ingredients.

- **Conviction in Criminal Trial:** On June 30 a Virgin Islands jury returned guilty verdicts on all 16 counts of Clean Air Act and false statement violations against Cleve-Allan George and Dylan Starnes. Both men were charged in connection with improper removal and disposal of asbestos during a demolition project in a low-income neighborhood.

DIVISION CONTACT

Kelly A. Johnson
Acting Assistant Attorney General
(202) 514-4760

DOJ_NMG_ 0145018

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 11:39 AM
To: Reyes, Luis (SMO)
Subject: RE: 9th Circuit OLP Meeting at 2

i can if robt would like me to attend, but i don't feel a need to be invited. completely up to robt.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 05, 2005 11:23 AM
To: Gorsuch, Neil M
Subject: 9th Circuit OLP Meeting at 2

Rachel mentioned a meeting on how the Department is going to proceed on this front. I believe Robert would like to be looped in. Are you free at 2 today to attend by chance?

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, July 05, 2005 11:47 AM
To: Gorsuch, Neil M
Subject: Re: 9th Circuit OLP Meeting at 2

I think it will be fine if we just get a specific download after a decision from OLP is made on how we are proceeding. I will make sure and get with Rachel and Ryan Bounds and keep you and Robert apprised.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Tue Jul 05 11:38:53 2005
Subject: RE: 9th Circuit OLP Meeting at 2

i can if robt would like me to attend, but i don't feel a need to be invited. completely up to robt.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 05, 2005 11:23 AM
To: Gorsuch, Neil M
Subject: 9th Circuit OLP Meeting at 2

Rachel mentioned a meeting on how the Department is going to proceed on this front. I believe Robert would like to be looped in. Are you free at 2 today to attend by chance?

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, July 05, 2005 11:47 AM
To: Gorsuch, Neil M
Subject: Read: 9th Circuit OLP Meeting at 2

Davis, Deborah J

Subject:	Updated: CMTS Briefing / Room 5708
Start:	Wednesday, July 06, 2005 4:00 PM
End:	Wednesday, July 06, 2005 4:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Davis, Deborah J
Required Attendees:	Gorsuch, Neil M; Kessler, Elizabeth A; Rubin, Jim (ENRD); Oppenheimer, Peter (ENRD)

When: Wednesday, July 06, 2005 4:00 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*~*

Peter Oppenheimer has been added to meeting.

POC: Debbie Davis

Tyler, Joyce Y (CRT)

From:	Tyler, Joyce Y (CRT)
Sent:	Tuesday, July 5, 2005 12:01 PM
To:	Davis, Deborah J; Fowler, Liane (SMO); Gorsuch, Neil M; Henderson, George; Martinez, Jorge (OPA); Scott-Finan, Nancy; Shaw, Aloma A; Torchinsky, Jason (CRT)
Subject:	Civil Rights Weekly Report for Week Ending 7/01/2005January 17, 2004
Attachments:	week705.doc

July 5, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Bradley J. Schlozman
Acting Assistant Attorney General

SUBJECT: Weekly Report[1] for the Week ending July 1, 2005

NEXT WEEK

- **Trial Scheduled to Begin in Georgia Color of Law Violations Case:** On July 11th, trial is scheduled to begin in *United States v. Walker and Ramsey* (N.D. Ga.). On May 1, 2004, former DeKalb County Detention Officer/ Deputy Sheriff Melvin Walker and co-defendant David Ramsey were charged for their role in the murder of DeKalb County Sheriff-elect Derwin Brown on December 15, 2000. The indictment charges the defendants with one count of conspiring to deprive Brown of his civil rights in violation of 18 U.S.C. § 241. The indictment also charges one count of the conspiracy provision and eight counts of the substantive provision of 18 U.S.C. § 1958 (interstate murder for hire); one count of 18 U.S.C. § 242 (constitutional violations while acting under color of law); and two counts of 18 U.S.C. § 924(c) (use of a firearm). Then-Sheriff Sidney Dorsey was convicted by a state jury in connection with the murder and is serving a life sentence.

- **Trial Scheduled to Begin in Louisiana Color of Law Case:** On July 11th, trial is scheduled to begin in *United States v. Self* (W.D. La.). On April 14, 2004, defendant Gilbert Self, a Captain of the Pine Prairie Correctional Center, was charged with violating 18 U.S.C. § 242 and 18 U.S.C. § 1512 (obstruction of justice). On July 26, 2003, the defendant allegedly struck and kicked Immigration and Customs Enforcement detainee Julio Castro-Ruebello, a Cuban national, causing severe bruising to both eyes. The defendant subsequently obstructed justice by attempting to persuade three fellow officers not to truthfully communicate information regarding the assault to federal law enforcement officials.

THIS WEEK

[1]This report is an internal document that is not intended for distribution outside of the Department of Justice.

- **Sentencing Scheduled in FACE Case:** On July 7th, sentencing is scheduled to occur in *United States v. Waagner* (E.D. Pa.). On December 3, 2003, defendant Clayton Lee Waagner was convicted on 51 charges, including violations of the Freedom of Access to Clinic Entrances Act, threatening the use of a weapon of mass destruction, mailing threatening communications, and interstate transmission of threatening communications. On June 18, 2001, Waagner posted a notice on an internet website that he was going to kill abortion clinic and Planned Parenthood employees. On October 12 and November 7, 2001, Waagner mailed, via the United States Postal Service and Federal Express, several hundred letters, which he claimed contained anthrax, to reproductive health care providers across the country.

LAST WEEK

- **Large Anti-Trafficking Raid Undertaken and Sealed Indictments Unveiled in California:** On June 23rd, the Civil Rights Division and the U.S. Attorney's Office for the Northern District of California jointly obtained a sealed indictment charging 29 defendants with various immigration-related and money laundering counts. The indictment also charged two defendants with sex trafficking counts. The indictment grew out of an extensive investigation of brothel operators who trafficked in women smuggled into the San Francisco area from Korea. The investigation has already resulted in guilty pleas to sex trafficking conspiracy from two brothel owners. On June 30th, the Department secured search warrants and conducted a massive raid of 11 brothels and 19 residences related businesses. Agents conducting the raid found approximately 100 women inside the brothels and are currently interviewing the women to determine how many are victims of human trafficking. (As of Monday night, approximately 15 women had been identified as victims and another 24 will be held as material witnesses.) Agents also arrested 26 subjects and seized around $2 million in cash. Hundreds of law enforcement personnel from the FBI, ICE, IRS, Diplomatic Security Service, and the San Francisco Police Department participated in this operation. The indictment was unsealed on July 1, and additional charges are anticipated as information is gathered and analyzed.

- **Settlement Announced in Maryland Juvenile Facilities Case:** On June 30th, the Division entered into a settlement agreement with the State of Maryland to resolve the Division's investigation of conditions of confinement in two state-operated juvenile justice facilities: the Cheltenham Youth Facility in Cheltenham, Maryland and the Charles H. Hickey, Jr. School in Baltimore County. The three-year agreement requires the State to ensure that youth in the facilities are protected from harm and to remedy deficiencies in medical care, mental health care, juvenile justice management and special education. Acting Assistant Attorney General Bradley Schlozman and Maryland Governor Mark Ehrlich jointly announced this agreement at a press conference in Baltimore.

- **Consent Decree Entered in Texas Hiring Practices Case:** On June 27th, the United States District Court for the Southern District of Texas approved and entered a consent decree resolving a complaint filed by the United States against the Weimar Independent School District ("Weimar ISD"). The complaint, filed under Section 706 of Title VII of

the Civil Rights Act of 1964, as amended, alleged that Weimar ISD failed to hire the charging party for a high school principal position because of her race, African-American. Pursuant to the consent decree, Weimar ISD has agreed to pay the charging party the sum of $64,000, and to implement hiring and selection procedures that ensure that neither race nor any other factors prohibited by Title VII are used to discriminate against qualified applicants for employment with Weimar ISD. Weimar also will provide training to employees involved in the hiring and selection process.

- **CRIPA Findings Letter Released For Napa State Hospital:** On June 27th, the Division notified the State of California of its findings concerning unlawful conditions at the Napa State Hospital, a large, state-run psychiatric hospital in Napa, California. The Division found, among other things, that the State fails to protect patients from harm from assaults and suicide; inappropriately uses seclusion, restraint and PRN ("pro re nata" or "as-needed") psychotropic medications; and provides inadequate medical, nursing and psychiatric care. Throughout the course of the CRIPA investigation, the State declined to provide the Division with access to the facility or its records. The Division's findings are based on recent on-site surveys by state and federal regulatory agencies and correspondence and interviews with patients, family members, advocates, and other professionals.

LONG RANGE EVENTS

- No entries this period.

Division Contact: Jason Torchinsky -- 202/305-1873

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 12:08 PM
To: Ullyot, Theodore
Subject: Lunch

Want to grab lunch either today or sometime this week?

Ullyot, Theodore

From: Ullyot, Theodore
Sent: Tuesday, July 05, 2005 12:13 PM
To: Gorsuch, Neil M
Subject: Read: Lunch

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 12:14 PM
To: Kim, Wan (CRT)
Subject: lunch

Can we reschedule our lunch planned for this Friday? Sorry about this. I am free any day next week that works for you.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 12:16 PM
To: Ullyot, Theodore
Subject: RE: Lunch

Perfect. I'll stop by your digs then.

-----Original Message-----
From: Ullyot, Theodore
Sent: Tuesday, July 05, 2005 12:15 PM
To: Gorsuch, Neil M
Subject: RE: Lunch

Yes -- great idea -- how about today? Let's say 12:30.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 12:08 PM
To: Ullyot, Theodore
Subject: Lunch

Want to grab lunch either today or sometime this week?

McCallum, Robert (SMO)

From:	McCallum, Robert (SMO)
Sent:	Tuesday, July 5, 2005 12:30 PM
To:	Taylor, Jeffrey (OAG); Mercer, Bill (ODAG)
Cc:	Gorsuch, Neil M; Buchanan, MaryBeth; Reyes, Luis (SMO)
Subject:	RDM revision 4 Memorandum Regarding Waiver Requests.wpd
Attachments:	RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Bill and Jeff: Here is the draft memo from me and Mary Beth regarding attny/client priv and work/product waivers which I mentioned this am. I have previously mentioned it to Jim. Mary Beth and I would like to discuss it with you and, if you think the memo has merit or that some additional guidance in this area is warranted, get input regarding it from the Corp Fraud Task Force and the subcomm of the AGAC. Robt.

RDM revision 4 Memorandum Regarding Waiver Requests.wpd

MEMORANDUM

To: ALL UNITED STATES ATTORNEYS AND DEPARTMENT COMPONENT HEADS

From: James B. Comey
Deputy Attorney General

Robert D. McCallum, Jr.
Associate Attorney General

Subject: Guidance for Federal Prosecutors Regarding Requests for Corporate Waiver of the Attorney-Client Privilege and Work Product Protection

On January 20, 2003, former Deputy Attorney General Larry D. Thompson issued a Memorandum to all United States Attorneys ' Offices (USAOs) regarding Principles of Federal Prosecution of Business Organizations. This memorandum, commonly known as the Thompson Memorandum, found at USAM 9 -162, remains the Department 's policy on charging business organizations and includes factors to be considered in making charging decisions.

One of the nine factors the Thompson Memorandum sets forth in determining whether to charge a corporation or other business organization is "the corporation's timely and voluntary disclosure of wrongdoing and its willingness to cooperate in the investigation of its agents, including, if necessary, the waiver of corporate attorney -client and work product protection." Thompson Memorandum, Section II.B.4. The Thompson Memorandum elaborates on this factor by providing that a federal prosecutor may ensure the complete and truthful cooperation of a corporation by requesting, "in appropriate circumstances[,]" that the corporation waive the attorney-
client privilege and attorney work -product protection, which the Memorandum recognizes also may be "critical in enabling the government to evaluate the completeness of a corporation's voluntary disclosure and cooperation." Id., Section VI.B. This memorandum clarifies the Thompson Memorandum and provides further guidance to federal prosecutors regarding waiver requests.

In applying the factors set forth in the Thompson Memorandum, federal prosecutors have always considered and should continue to consider carefully whether a request to a business entity for a waiver of attorney -client privilege or attorney work -product protection is necessary to establish corporate cooperation in an investigation. While cooperation is an critical and important factor in the Department's charging decision regarding a corporate target, the Thompson Memorandum recognizes that the attorney -client and work product privileges serve important, long-
recognized public policies encouraging candid communications between counsel and client and promoting sound corporate governance. Accordingly, the Thompson memorandum acknowledges recognizes and that a business organization's full cooperation may does not always require a waiver, expressly stating. The Thompson Memorandum expressly states that the Department "does not . . . consider waiver of a corporation's attorney -client and work product

protection an absolute requirement, and prosecutors should consider the willingness of a corporation to waive such protection *when necessary to provide timely and complete information* as one factor in evaluating the corporation's cooperation." Id. (emphasis added).

Because the Thompson Memorandum limits requests of such waivers to situations where they are necessary, federal prosecutors should first consider other available alternatives before seeking waivers. At the most basic level, a business organization may, for example, provide complete access to its employees, business records, organizational charts, compliance program, and any third -party witnesses over which it may have influence, such as customers, vendors, accountants, and former employees. In many cases, such action may be sufficient for the government to obtain timely and complete information concerning a suspected crime. In other instances involving complex business organizations or large volumes of evidence, obtaining timely and complete information may require the corporation to take additional steps, such as identifying for investigators specific witnesses and documents central to the suspected criminal conduct. A business organization could, without providing counsel 's notes or reports, identify promptly and make available to investigators all of the witnesses and documents involved in its own internal investigation by corporate counsel and provide assurances that the witnesses will make full disclosure. If such actions would be adequate for federal investigators to determine timely the complete underlying facts, then the federal prosecutors should, consistent with the Thompson Memorandum, consider this option before requesting a waiver.

If the alternatives to a waiver are insufficient to acquire timely and complete information, federal prosecutors should seek approval from the United States Attorney, Branch Director, or a specifically designated supervisory attorney before requesting that attorney -client privilege or work-
product protection be waived.

If approval for a waiver request is obtained, the Thompson Memorandum instructs that the "waiver should ordinarily be limited to the factual internal investigation and any contemporaneous advice given to the corporation concerning the conduct at issue." Id., Section VI.B, n.3. The Thompson Memorandum further provides that, "[e]xcept in unusual circumstances, prosecutors should not seek a waiver with respect to communications and work product related to advice concerning the government's criminal investigation." Id. The Thompson Memorandum, therefore, draws an important distinction between the underlying factual information and factual work product, on the one hand, and opinion work product or attorney-client communications, on the other hand. It also draws a significant distinction between legal advice rendered "contemporaneous[ly]" with "the conduct at issue" and "advice concerning the government 's criminal investigation." Id. By drawing these distinctions, the Thompson Memorandum seeks to minimize, to the extent possible consistent with prosecutorial necessity, the intrusion into privileged communications.

Consistent with the Thompson Memorandum, a waiver, when deemed necessary, should be limited in most cases to factual information gleaned by the corporation's own investigation, including, where appropriate, corporate counsel's interview notes and other factual findings, as opposed to privileged communications or counsel's opinion work product.

As the Thompson Memorandum outlines, a waiver request seeking privileged

communications or opinion work product created contemporaneously with the underlying conduct under investigation may also be sometimes appropriate. Id. (discussing "contemporaneous advice"). The necessity of such information, however, should be evaluated independently from the necessity of factual findings, interview notes, and other fact work product. Frequently, intrusion into "contemporaneous advice" may not be necessary.

Finally, the Thompson Memorandum indicates that a waiver request for opinion work product or attorney -client communications concerning the government 's criminal investigation itself may be warranted. The Memorandum instructs, however, that "prosecutorsions should not seek a waiver with respect" to such information except in "unusual circumstances." Id. It is similarly important that a pProsecutors should exercise similar care when evaluatingcarefully the necessity ofconsider seeking a waiver for opinion work product or attorney -client communications that were created after the transactions under investigation and involve self-evaluation activities, so that companies are not discouraged from candidly engaging in self-evaluation and assessing ways to improve corporate governance. Of course, there may be cases in which even information falling into these categories may be required. One example would be a case in which there is strong reason to believe that counsel's advice about the government's current investigation constitutes an obstruction of justice, though undoubtedly there will be others as well.

Brantley, Bill

From: Brantley, Bill
Sent: Tuesday, July 5, 2005 12:44 PM
To: Davis, Deborah J
Cc: Akers, Matthew; McFarland, Steven T (ODAG); Overstreet, Wanda S; Roberts, Crystal; Henke, Tracy (SMO); Gorsuch, Neil M; Shaw, Aloma A; Schofield, Regina; Nolan, Cheri; Daley, Cybele; Tzitzon, Nicholas; McGarry, Beth; White, Jana; Segerdahl-Ayers, Nancy; Pinkelman, James; Kendrick, Glenda; Pierce, Pete; Stuart, Diane; Herraiz, Domingo S.; Greenfeld, Larry; Flores, Robert; Hart, Sarah V.; Gillis, John; Hernandez, Nelson; Costigan, Michael; Alston, Michael; Silver, Gary; Schwimer, Cynthia J.; Madan, Rafael A.; Meldon, Jill; Fralick, Gerald; Mansour, Linda
Subject: OJP Submission for the Weekly Report for July 3 - 10
Attachments: 703A.05.wpd

Hi Deborah,

Attached is OJP's submission for the Weekly Report for July 3 - 10, 2005, which I'm sending you in Linda Mansour's absence. Please let me know if you have any questions.

Thanks,
Bill Brantley, OCOM

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Regina B. Schofield
Assistant Attorney General

SUBJECT: Weekly Report for the Week of July 3 - July 10, 2005

NEXT WEEK

· ***Technology:** On July 13 at OJP, the National Institute of Justice (NIJ) will host a demonstration of the Brijot Imaging Systems' BIS-WDS millimeter waved-based concealed weapons detector, which uses technology developed by Lockheed Martin with about $3 million in NIJ funding over seven years. The Brijot BIS-WDS offers a revolutionary capability to detect metallic and non-metallic weapons hidden under clothing at ranges of three to nine meters away from the camera. The Brijot system does not emit any radiation; rather, it works by developing an image from the differences in the temperature of the human body and objects that are carried close to it. Although these images are grainier than a photograph, the shape of objects stands out clearly against the human body. The images are recorded at about 30 frames a second, providing a real-time video of the person or persons being observed.

· **Counties:** On July 15 in Honolulu, HI, Bureau of Justice Assistance Director Herraiz will attend the National Association of Counties (NACo) Annual Conference and deliver the keynote address to county officials and their staff. NACo is the only national organization that represents county governments in the United States. Its membership totals more than 2,000 counties, representing more than 80 percent of the nation's population.

· **Financial Management:** On July 13-14 in Los Angeles, CA, the Office of the Comptroller will conduct a Financial Management Training Seminar for some 90

DOJ_NMG_ 0145036

participants from across the country.

- **Tribal Youth:** On July 12-14 in San Francisco, CA, the Office of Juvenile Justice and Delinquency Prevention will sponsor the Tribal Youth Program Northwest Regional Training Conference. The conference will provide training on capacity building, communication strategies, and resource development, and will allow staff to meet with grantees to conduct grant monitoring sessions and receive program updates.

- **Drug Courts:** On July 11-14 in Alexandria, VA, the Bureau of Justice Assistance and the Office of Juvenile Justice and Delinquency Prevention will co-sponsor an "Operationalizing Your Juvenile Drug Court" training program under the FY 2005 Drug Court Planning Initiative. This will be the third in a series of three training programs for communities interested in planning a juvenile drug court. Nine jurisdictions will participate. The training program's objective is to help jurisdictions move from the planning stage to the implementation stage. The program will be an intensive hands-on opportunity for courts to engage in the team process, clarify roles and responsibilities, build on the knowledge gained from previous training events, and complete their program design. At the end of the training, teams will be required to design an action plan and a program outline (the basis of policy and procedure development).

  On July 12-14 in Philadelphia, PA, the Bureau of Justice Assistance will sponsor an "Adult Operational" training program under the FY 2005 Drug Court Planning Initiative. This will be the third in a series of three training programs for communities interested in planning an adult drug court. Eleven jurisdictions will participate. The training programs focus on comprehensively educating the entire jurisdictional team on specialized drug court issues and how they relate to implementation. The training also will focus on the development of a "Jurisdictional Action Plan" to implement the drug court, as well as a "Policies and Procedures Manual." Training program participants also will learn how to develop a long-term sustainability plan that includes traditional and nontraditional funding, resource development, evaluation, and monitoring. Finally, all participants will visit an operational drug court, where they will observe a drug court team staffing and court session.

- **Juvenile Justice:** On July 11 in Washington, DC at the National Campaign to Stop Violence: Do the Write Thing Challenge Ceremony, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give opening remarks emphasizing the importance of involving the nation's youth in helping to stop violence in their communities through partnerships with faith- and community-based organizations.

- **Violence Against Women:** On July 11 in Portsmouth, NH at the 9th International Family Violence Research Conference, National Institute of Justice (NIJ) senior staff will present a session on NIJ's violence against women research and funding processes. Rodney Hammond of the CDC will present similar information on the CDC.

THIS WEEK

DOJ_NMG_ 0145037

· ***Courts:** On July 10-14 in San Francisco, CA, staff of the National Institute of Justice (NIJ) and the Bureau of Justice Assistance will attend the Annual Conference of the National Association for Court Management. More than 400 presiding and administrative judges, clerks of court, court managers, administrative directors, and other court staff are expected to attend. Janice Munsterman of NIJ's Justice Systems Research Division will participate on a panel that discusses court research findings and the historical trends of court research.

· **Reentry:** On July 8 in Washington, DC, staff of the Bureau of Justice Assistance will attend the National Committee on Community Corrections Meeting to focus on the Second Chance Act and other reentry bills that have been introduced in Congress. Representatives from the offices of Senators Brownback, Specter, and Landrieu are expected to attend. Rob Morrison, Director for Public Policy at the National Association of State Alcohol/Drug Abuse Directors, will give a presentation.

· **Juvenile Justice:** On July 6 in San Diego, CA at the Family, Career, and Community Leaders of America (FCCLA) National Leadership Meeting, Office of Juvenile Justice and Delinquency Prevention (OJJDP) Administrator Flores will provide opening remarks emphasizing the importance of youth involvement in helping to prevent youth violence and commending FCCLA for its Stop the Violence program, funded by OJJDP.

· **Victim Services:** On July 6, 2005, the Office for Victims of Crime will host a Web Forum discussion with consultant Viki Sharp on compassion fatigue in victim services and advocacy. OVC's Web Forum (http://ovc.ncjrs.org/ovcproviderforum) is a platform for victim service providers and allied professionals to gain peer insight and support related to best practices in victim services.

· **Crime Prevention:** On July 5 in Washington, DC, Jay Albanese, Chief of the National Institute of Justice (NIJ) International Center, will meet with Director General Daniel Sansfacon of the Centre for International Crime Prevention (CIPC). The purpose of Director Sansfacon's visit is to exchange information about CIPC and develop a closer relationship with NIJ. While in Washington, he also will meet with the National Crime Prevention Council and the U.S. Conference of Mayors.

LAST WEEK

· ***Gang Statistics:** On June 27, the Bureau of Justice Statistics released *Violence by Gang Members, 1993-2003*, which presents data based on the National Crime Victimization Survey and provides estimates of the number and rate of violent crimes committed by offenders who victims perceived to be members of gangs. It also presents information on demographic characteristics of the victims of violence by gang members such as race, age, and gender, and characteristics of the incident such as police notification and number of offenders. Trends in violence by gang members also are examined. The study found that violence by perceived gang members declined over most of the 11-year period,

DOJ_NMG_ 0145038

falling from a 1994 peak of about 1.1 million violent victimizations (5.2 victimizations per 1,000 persons age 12 and older) to 341,000 (1.4 per 1,000) in 2003. In 2003, 6.5 percent of all homicides and 9.3 percent of all homicides with a firearm were identified by police investigations as gang-related. Male victims of violence identified gang members as the offenders at a higher rate than female victims. Hispanics were more likely than non-Hispanics to be victims of violent crimes committed by gang members. Gang members were more likely to victimize younger persons than older persons.

- ***Law Enforcement:** On June 25-29 in Louisville, KY, Deputy Associate Attorney General Henke, Bureau of Justice Assistance (BJA) Director Herraiz, and OJP staff participated in the National Sheriffs' Association annual conference. On June 25, Ms. Henke addressed the Legislative Affairs Committee. On June 28, she gave the keynote address at the National Sheriffs' Institute graduates luncheon. On June 27, BJA Director Herraiz addressed the Major Counties Sheriffs' Association. BJA Deputy Director Burch and staff presented and conducted workshops on how BJA is addressing law enforcement needs and issues, information sharing, and identity theft and participated in discussions related to many of BJA's ongoing efforts with NSA, including Neighborhood Watch programs and a court security publication. Also, Office of Communications staff debuted the new OJP exhibit and brochure.

  On June 30 in Alexandria, VA, Bureau of Justice Assistance Associate Deputy Director Griffith and staff met with representatives of the International Association of Chiefs of Police to discuss law enforcement and reentry practices.

  On June 29 in Washington, DC, Bureau of Justice Assistance Deputy Director Burch and staff met with representatives of the International Association of Directors of Law Enforcement Standards and Training (IADLEST) to discuss plans for creating a national database on police officer certifications. Once available, this database will enable law enforcement and certification officials nationwide to determine if an officer was or is certified in another state and provide the status of the certification.

- **Youth Gangs:** On July 1, the Office of Juvenile Justice and Delinquency Prevention released *Highlights of the 2002-2003 National Youth Gang Surveys*. The fact sheet summarizes findings from the National Youth Gang Surveys for 2002 and 2003. The findings provide evidence that gangs, gang members, and gang-related homicides are concentrated in larger cities.

- **Missing Children:** On July 1, the Office of Juvenile Justice and Delinquency Prevention released *National Estimates of Children Missing Involuntarily or for Benign Reasons.* The bulletin provides data on two large groups of children not often recognized in the literature on missing children. The information is derived from surveys conducted as part of the Second National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children.

DOJ_NMG_ 0145039

- **Juvenile Courts:** On July 1, the Office of Juvenile Justice and Delinquency Prevention released *The Mathematics of Risk Classification: Changing Data into Valid Instruments for Juvenile Courts*. The report, which is only available online, describes risk classification instruments that juvenile courts can develop to predict future behavior of juvenile offenders, comparing validity of several risk-screening instruments derived from three different statistical methodologies.

- **DNA:** On June 30 in Sacramento, CA at the California District Attorneys' Association conference, National Institute of Justice (NIJ) Director Hart gave remarks on DNA identification for law enforcement. She discussed the President's DNA Initiative and highlighted the NIJ resources available to prosecutors.

  On June 27 in Washington, DC, National Institute of Justice (NIJ) Director Hart gave opening remarks at the NIJ-hosted annual DNA Grantees Workshop for agencies and organizations receiving funding support for DNA lab improvement, backlog analysis, research or technology development, and other areas in which DNA technology is used in the criminal justice community.

- **Faith-Based:** On June 29 in Miami, FL, Deputy Associate Attorney General Henke gave opening remarks at the closing session of the Office of Juvenile Justice and Delinquency Prevention's Faith-Based Conference.

- **Mental Health:** On June 28 in Washington, DC at a forum on Research in Mental Health/Criminal Justice, Bureau of Justice Assistance and National Institute of Justice staff met with representatives of the National Institute of Mental Health and other research organizations to identify the current state of research in mental health/criminal justice and to determine additional research needed to benefit the field.

- **Juvenile Justice:** On June 27 in Miami, FL at the conference "Navigating the Federal Funding Process: Federal Grants Application Training," Office of Juvenile Justice and Delinquency Prevention Administrator Flores gave opening remarks encouraging faculty members from small, independent, and faith-based colleges and universities to participate in the federal grants process. Office for Victims of Crime Deputy Director Greenhouse also participated on the panel.

- **Statistics:** On June 27 in Washington, DC, Bureau of Justice Statistics Director Greenfeld and staff briefed Dr. Jukka Savolainen, a senior research analyst for the National Institute for Justice Research in Helsinki, Finland, on BJS statistical programs and provided information on the utility of crime data analysis. Dr. Savolainen also met with NIJ staff and gave a presentation titled "Decline of Domesticity of a Surge in Civility? Sources of Decline in Domestic Violence Against Women in Finland, 1980-2003."

- **Technology:** On June 27-29 in New Orleans, LA at the Government Emerging

DOJ_NMG_ 0145040

Technology Alliance Conference, staff of the Bureau of Justice Assistance served as advisors for a track dedicated to state and local law enforcement information sharing.

LONG-RANGE EVENTS

- On July 18-20, the National Institute of Justice (NIJ) will sponsor its annual National Research and Evaluation Conference. NIJ Director Hart will give opening remarks and staff will moderate panels on methamphetamine use, prescription drug acquisition, use, and abuse, and prisoner reentry.

- On July 20 in New Orleans, LA, Office for Victims of Crime Director Gillis will speak at the Gulf States' U.S. Attorney's Offices' Crime Victims Conference.

- On July 20 in Washington, DC at the Executive Federal Prisoner-Reentry Partners meeting, National Institute of Justice staff will moderate a presentation on prisoner reentry. This workshop will present an overview of the implementation, impact, and cost benefit evaluation of the Serious and Violent Offenders Reentry Initiative (SVORI), which has provided funds to states and territories for prisoner reentry programs in an effort to reduce the number of prisoners who are rearrested. The presentation will include a discussion of innovations being implemented by SVORI sites and the barriers and challenges they face.

- On July 25 in Washington, DC, Bureau of Justice Statistics Director Greenfeld will give remarks at the National Consortium for Justice Information and Statistics (SEARCH) annual membership group meeting. Representatives of all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands comprise the group. Members are primarily state-level justice officials responsible for operational decisions and policymaking concerning the management of criminal justice data, particularly criminal history record information.

- On August 1 in San Francisco, CA, Office for Victims of Crime Director Gillis will speak at the International Homicide Investigators Association Conference.

- On August 7 in Philadelphia, PA, National Institute of Justice (NIJ) Director Hart will give opening remarks at the International Society of Criminology's 14th World Congress of Criminology. She will highlight NIJ research that has impacted law enforcement agencies worldwide. She also will meet the Swedish Minister of Justice and be available for remarks to the press.

- On August 8 in Baltimore, MD, National Institute of Justice (NIJ) staff will attend the American Correctional Association's national summer conference and disseminate relevant NIJ findings to corrections practitioners and others.

- On August 8 in Atlanta, GA, Office for Victims of Crime Director Gillis will speak at the

DOJ_NMG_ 0145041

National Organization for Victim Assistance Conference.

- On August 12 in Washington, DC, Office for Victims of Crime Director Gillis will speak at the Hand in Hand with Children: Guiding and Protecting conference, sponsored by the National Center for Missing and Exploited Children.

- On August 16 in Brisbane, Australia, Community Capacity Development Office Director Hernandez will address the International Conference on Engaging Communities. He will participate on a panel on "Engaging People: Building Safer Communities."

- On August 22-25 in Los Angeles, CA, the Community Capacity Development Office (CCDO) will hold its first national conference. At the conference, CCDO and the Corporation for National and Community Service will sign an interagency agreement to support offender reentry efforts, especially in Weed and Seed communities.

- In August 2005, the Bureau of Justice Statistics will announce almost $24 million in funding to the States, DC, and territories for cooperative agreements to provide support for improvements in criminal history records nationwide. This grant program, begun in 1995 following passage of the Brady Act, is designed to assist states in building the infrastructure to support nationwide background checks for firearms purchases and for other purposes, such as employment or volunteering with children, where a background check is required.

- In August 2005, the Bureau of Justice Statistics will release the first report in a series on deaths in prisons and jails, as required by the Deaths in Custody Act. The report will focus on trends in suicides and homicides in prisons and jails. For the first time, detailed information on the circumstances surrounding such deaths will be made available. Analysis will include data on the time of day, location within the facilities, characteristics of the deceased inmates, length of stay prior to death, and criminal status.

- In August 2005, the Bureau of Justice Statistics (BJS) will announce the estimates for criminal victimization in the U.S. during 2004. These annual estimates, which BJS has been producing since 1973, provide the national measure of the public's exposure to crime and its consequences for them.

- During summer 2005, the Bureau of Justice Statistics (BJS), in collaboration with DHS, will initiate the Computer Security Survey of U.S. businesses, a survey of 36,000 businesses nationwide on the impact of computer crime, theft, and fraud. BJS also will examine e-mail stalking and harassment in the workplace.

- On September 8-12 in Phoenix, AZ at the National Foundation for Women Legislators annual conference, National Institute of Justice (NIJ) Director Hart will give remarks on NIJ’s involvement with the President’s DNA Initiative, specifically efforts to solve cold cases and to identify missing persons.

DOJ_NMG_ 0145042

- On September 11-14 in St. Petersburg, FL, National Institute of Justice Director Hart will give opening remarks at the National Conference on Science, Technology, and the Law.

- On September 13 in Charleston, WV, Office for Victims of Crime Director Gillis will speak at the Victim Assistance Symposium.

- On September 20 in Greensboro, NC, Office for Victims of Crime Director Gillis will speak at the U.S. Attorneys' Conference.

- On September 30 in Miami, FL, Bureau of Justice Assistance Director Herraiz will give keynote remarks at the Citizens' Crime Watch of Miami-Dade 30th Annual Awards Ceremony.

- October 8-11 in Washington, DC, the Bureau of Justice Assistance, the National Crime Prevention Council, and the Crime Prevention Coalition of America will sponsor the National Conference on Preventing Crime. The conference will celebrate 25 years of nationwide crime prevention successes, identify current crime issues and ways to address them, and renew commitments to prevention as a priority in reducing crime in the future.

- On October 25-27 in Phoenix, AZ at the American Society of Crime Laboratory Directors annual symposium, National Institute of Justice (NIJ) Director Hart will give remarks on a variety of NIJ forensic science initiatives, including establishment of the Forensic Science Commission.

- In October 2005, the Bureau of Justice Statistics, together with the National Center for Education Statistics in DoEd, will release the annual Indicators of School Crime and Safety, which provides the national estimates of student and teacher victimization at school.

- During fall 2005, the Bureau of Justice Statistics will conduct for the first time the Census of Medical Examiners and Coroners Offices, which will focus on the medico-legal investigation of deaths and obtain information on agency personnel, expenditures, functions, workload, and needs. This census also will collect data on the number of unidentified remains held by medical examiner/coroner offices and their related policies and procedures for handling such remains.

- The Bureau of Justice Assistance (BJA) will begin hosting this fall its annual regional conferences titled, "Demonstrating the Value of America's Justice Initiatives." BJA Director Herraiz and staff will attend these conferences to meet with representatives of State Administering Agencies and criminal justice practitioners throughout the country. The goal will be to share information about BJA initiatives and promising practices. The conferences will be held September 12-14 in New Orleans, LA (BJA South Region), October 31-November 2 in Charlotte, NC (BJA Southeast Region), November 7-9 in Minneapolis, MN (BJA Midwest Region), November 28-30 in Santa Monica, CA (BJA

DOJ_NMG_ 0145043

West Region), and December 12-14 in Newport, RI (BJS Northeast Region).

· By year-end 2005, the Bureau of Justice Statistics (BJS) will conduct a study of recidivism of domestic violence defendants charged in state courts in 2002. This recidivism study will track defendants following their arrest for a domestic violence offense in 2002, to evaluate how many were rearrested, convicted, and sentenced to incarceration during the follow-up period. With the cooperation of participating local prosecutor offices, the study will assess the percentage of defendants rearrested for repeated domestic violence against the same victim. The study also will examine the impact of alternative sentencing programs, such as anger management and batterer's intervention on subsequent offending.

OJP GRANT ACTIVITY
SUMMARY INFORMATION THROUGH JULY 9, 2005

· ***Bureau of Justice Assistance, Thornton, Colorado***
$84,154 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Thornton.

· ***Bureau of Justice Assistance, Tallahassee, Florida***
$20,532,197 - Edward Byrne Memorial Justice Assistance Grant awarded to the Florida Department of Law Enforcement.

· ***Bureau of Justice Assistance, Gastonia, North Carolina***
$254,264 - Edward Byrne Memorial Justice Assistance Grant awarded to Gaston County.

· ***Bureau of Justice Assistance, Newton, North Carolina***
$47,683 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Catawba.

· ***Bureau of Justice Assistance, Portland, Oregon***
$1,030,701 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Portland.

· ***Bureau of Justice Assistance, Beaufort, South Carolina***
$14,162 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Beaufort.

· ***Bureau of Justice Assistance, Greer, South Carolina***
$12,482 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Greer.

· ***Bureau of Justice Assistance, Birmingham, Alabama***
$95,250- Gang Resistance Education and Training Grant awarded to the City of

DOJ_NMG_ 0145044

Birmingham.

- ***Bureau of Justice Assistance, Albuquerque, New Mexico***
  $62,900 - Gang Resistance Education and Training Grant awarded to the Bernalillo County Sheriff's Department.

- ***Bureau of Justice Assistance, Bethlehem, Pennsylvania***
  $25,295 - Gang Resistance Education and Training Grant awarded to the City of Bethlehem.

- ***Bureau of Justice Assistance, Dunbar, West Virginia***
  $21,123 - Gang Resistance Education and Training awarded to the Dunbar Police Department.

- ***Bureau of Justice Assistance, Washington, D.C.***
  $99,998 - Congressionally Mandated Awards Grant awarded to National Criminal Justice Association.

- ***Bureau of Justice Assistance, St. Paul, Minnesota***
  $493,322 - Congressionally Mandated Awards Grant awarded to Bureau of Criminal Apprehension.

- ***Bureau of Justice Assistance, Tchula, Mississippi***
  $98,664 - Congressionally Mandated Awards Grant awarded to the City of Tchula.

- ***Bureau of Justice Assistance, Albany, New York***
  $350,000 - FY 2005 Developing and Enhancing Prescriptions Drug Monitoring awarded to the New York State Department of Health.

- ***Bureau of Justice Assistance, Golden, Colorado***
  $143,300 - FY 05 BJA Solicited Awards grant awarded to Jefferson County.

- ***Bureau of Justice Assistance, Richmond, Virginia***
  $100,000 - FY 2005 BJA Solicited Awards grant awarded to Virginia Crime Prevention Association, Inc.

- ***Bureau of Justice Assistance, Alexandria, Virginia***
  $1,102,316 - FY 05 BJA Solicited Awards grant awarded to the National Association of Drug Court Professionals.

- ***Community Capacity Development Office, Oregon City, Oregon***
  $175,000 - Weed and Seed Program Guide and Application Kit: Competitive Sites Grant awarded to Clackamas County.

DOJ_NMG_ 0145045

- ***National Institute of Justice, New York, New York***
  $9,108 - National Institute of Justice Continuation Awards to Research Foundation of City University of New York.

- ***Office of Juvenile Justice and Delinquency Prevention, Juneau, Alaska***
  $600,000 - Title II Grant awarded to the Alaska Department of Health and Social Services.

- ***Office of Juvenile Justice and Delinquency Prevention, Tallahassee, Florida***
  $3,050,000 - Title II Grant awarded to the Florida Department of Juvenile Justice.

- ***Office of Juvenile Justice and Delinquency Prevention, Barrigada, Guam***
  $100,000- Title II Grant awarded to the Guam Department of Youth Affairs.

- ***Office of Juvenile Justice and Delinquency Prevention, Nashville, Tennessee***
  $1,170,000 - Title II Grant awarded to the Tennessee Commission on Children and Youth.

- ***Office of Juvenile Justice and Delinquency Prevention, Washington, DC***
  $739,982 - FY 05 Earmarks - Demonstration Programs Division grant awarded to For Love of Children.

- ***Office of Juvenile Justice and Delinquency Prevention, Winona, Minnesota***
  $197,329 - FY 05 Earmarks - Demonstration Programs Division grant awarded to Winona State University.

- ***Office for Victims of Crime, Bethel, Alaska***
  $35,000 - FY 05 Counseling for Crime Victims in Indian Country by Faith-Based Organizations Continuation grant awarded to the Tundra Womens Coalition.

- ***Office for Victims of Crime, Dallas, Texas***
  $35,000 - Crimes Against Children Conference grant awarded to the Dallas Children's Advocacy Center.

DIVISION/COMPONENT CONTACT

Nancy Ayers, Director, Office of Communications, 307-0703

DOJ_NMG_ 0145046

Jenkins, Gloria

From: Jenkins, Gloria
Sent: Tuesday, July 05, 2005 12:51 PM
To: Jenkins, Gloria
Subject: Farewell Reception for David A. Higbee, Antitrust Division

Please Join Us at a Farewell Reception
for
David A. Higbee
Deputy Assistant Attorney General
and
Chief of Staff
Antitrust Division
United States Department of Justice

Wednesday, July 13, 2005
3:00 until 4:30 p.m.
Main Conference Room
Office of the Assistant Attorney General for Antitrust
Department of Justice, Main Building
Room 3109
950 Pennsylvania Avenue, NW
Washington, DC

Please rsvp to me by cob 7/8/05. Thank you.

Gloria Jenkins
Confidential Assistant to Thomas O. Barnett
Antitrust Division
U.S. Department of Justice
gloria.jenkins@usdoj.gov
(202) 514-2401

Kim, Wan (CRT)

From: Kim, Wan (CRT)
Sent: Tuesday, July 05, 2005 12:56 PM
To: Gorsuch, Neil M
Subject: Re: lunch

No problem. Let's try next Thursday.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>
Sent: Tue Jul 05 12:14:27 2005
Subject: lunch

Can we reschedule our lunch planned for this Friday? Sorry about this. I am free any day next week that works for you.

Greene, Bil

From: Greene, Bil
Sent: Tuesday, July 5, 2005 1:18 PM
To: Gorsuch, Neil M
Subject: Contacts
Attachments: Restaurants Main.wpd

Mr. Gorsuch,

I'm sure it seems that we have been giving you the run-around. But we have had some problems.

For starters I could not get your CD ROM drive to read your CD. But I was able to read it on my computer and then copy it to your hard drive.

The problem we are having now is apparently your PST (contact) files were created on computer running Microsoft Office 2003. Your current computer is running Microsoft Office 2000. Your PST files are not backward compatible. Bobby Marshall is working on them to see what he can do but I fear he won't be able to convert the files.

The other side of the coin would be to upgrade your computer to one of the new computers running Windows XP and Microsoft Office 2003. However in order to do this I need to get Andy Anderson's approval. I sent Andy an e-mail telling him what was going on with your PST files but Andy is out today and so far I have not gotten any response.

I was going to send you this e-mail to let you know we were taking your issue seriously when I heard that you wanted me to call you. I called and was told you were at lunch.

Thanks,

Bil

Restaurants by Main Justice

Bil Greene

Last updated May 9, 2005

Restaurant Phone	Address	Food	Cost	Taste	Comment	Web Site Minus the WWW
701 393-0701	701 Pennsylvania	American	$$$$	TTT	Not enough variety.	
8th St. Deli & Mk	401 8th St. N.W.	American/Chinese	$	TT	Pretty good food.	
Andale 783-3133	401 7th St., N.W.	Mexican	$$$	TT	Feeble try at haute Mexican cuisine. Dishes are pre-made.	
Arena Café	521 G St., N.W.	Greek	$$$	TT	Looks better on the inside.	
Aria 312-1250	1300 Penn.	Italian	$$$	?	In Reagan Building	ariatrattoria.com
Au Bon Pain	10th & Penn.	French Bakery	$$	TTT	Good for a while. House of Pain.	aubonpain.com
Austin Grill 393-3776	750 E St., N.W.	Tex-Mex	$$$	TT	Somehow it falls short	Austingrill.com
BICN. Bldg	600 E St., N.W.	Deli	$$	T	Soups, salads, sandwiches	
Bistro d'Oc 393-5444	518 10th Street	French	$$$	TT1/2	Could be better	
Burma 638-1280	740 6th St., N.W.	Burmese	$$$	TTT	Good food, slow staff. Above Mr. Yungs	
Café Atlantico 393-0812	405 8th St., N.W.	Nuevo Latino	$$$$	TTTT	Not as good as before.	cafeatlanticodc.com
Capital Grille 448-3900	601 Pennsylvania Ave	Steak House	$$$$	TTTT	Top notch restaurant. Ask for Bearnaise sauce. Speciality is dry aged beef.	Thecapitalgrille
Capitol Q Texas BBQ 347-8396	707 H St., N.W.	American BBQ	$$	TTT	More popular since Bush was selected.	
Caucus Room 393-1300	401 9th St. N.W. 9th & D St.	American	$$$$$	TTT	Some hits and misses.	thecaucusroom.com
Charlie Chiangs Grande Café	631 H St., N.W.	Cantonese/ Chinese	$$	?	Cantonese buffet spread.	
Chipotle 347-4701	601F St. N.W.	Mexican	$$	$$1/2	Big Burritos quick	
Cosi	700 11th St.	Sandwich/pizza	$$$	TT	Cranberry roasted turkey is good	xando.com
Dept. of Commerce	1401 Constitution Ave., N.W.	American cafeteria	$$	TTT	Use tunnel in Reagan Bldg. under Const. Ave	
Dept. of Labor	3rd & C St., N.W.	American	$$	TTT	Rooftop dining	
District ChopHouse & Brewery 347-4127	509 7th St., N.W.	American	$$$	TTT	Pretty good food for the price.	chophouse.com
Domino's 639-8700	1300 L	Pizza	$$	TT	Typical Domino's	dominos.com
Dutch Mill	639 Indiana Ave. N.W	American	$$	TT	Known for their turkey.	

Elephant & Castle 347-7707	1201 Penn. Ave	English	?	?	Opening May 18th	elephantcastle.com/
Ella's Wood Fired Pizza 638-3434	901 F St.	Pizza	$$$	TT		ellaspizza.com/
ESPN Zone 783-3776	11 & E	American	$$$$	TTT	Black Angus burger $8.75. Good steaks. Game room.	Espnzone.com
Fado Irish Pub 789-0066	808 7th St., N.W.	New Irish	$$$	TTT	Nice decor, decent food	fadoirishpub.com
Five Guys 202-393-2900	808 H St., N.W.	Hamburgers & Fries	$$	TTT	Single and double burgers	fiveguys.com/
Fresh Express Deli	601 D St., N.W.	American	$	T	Easy access for PHB	
Fuddruckers 628-3380	7th & H St. Corner	Hamburgers	$$$	TT	Lots of windows.	fuddruckers.com
Full Kee	509 H St., N.W.	Cantonese	$	TTT	Remodeled; helps to speak Chinese	
Ginger Cove/Reef 248-7733	822 E Street	Carribean	$$$1/2	TTT	Interesting menus	
Golden Palace	720 7th St., N.W.	Chinese	$$$	TTT	Dim sum is the draw.	
Gordon Biersch 783-0404	900 F St., N.W.	Creole American	$$$	T	Food leaves something to be desired.	gordonbiersch.com
Hard Rock Café 737-7625	999 E St. N. W.	American	$$	T	Simply too noisy.	hardrockcafe.com/
Hooters	825 7th St. N.W.	American	$$	?	I don't think food is the attraction here.	hooters.com/
Hunan Chinatown	624 H St., N.W.	Chinese	$$$	TTT	Not bad!	
IndeBleu 202-333-2538	707 G St. N.W.	French-Indian	?	?		bleu.com/
Jack's 347-8482	625 Indiana Ave. N.W	American	$$	T	Hits and misses. Buffet food often cold.	
Jack's Vietnamese 347-3582	736 6th Street NW	Vietnamese	$$	TTT	Small place, try honey grilled pork with rice.	
Jaleo 628-7952	480 7th St., N.W.	Spanish Tapas	$$$$	TTT	Nice for small eaters.	jaleo.com/
Johnny's Deli 393-6030	601 Pennsylvania	American	$$	TTT	Better deli than normal	
La Tasca 347-9190	722 7th St., N.W.	Spanish	$$$	?	Tapas for the small appitite	
Legal Seafood 347-0007	704 7th St., N.W.	Seafood	$$$	TT1/2	Dependable fresh fish	legalseafoods.com
Les Halles 347-6848	1201 Penn.	French	$$$$	TTT1/2	Good for people watching	leshalles.net/
Le Paradou 347-6780	678 Indiana Ave.	French	$$$$$	TTTTT	Best in the area!!	leparadou.net/
Manhattan Deli	801 Pennsylvania	American	$$	T	Italian Deli	manhattandeli.com/
Matchbox 289-4441	713 H. St. N.W.	Pizza	$$$	TT	Compare to Ella's?	Matchboxdc.com
McCormick & Schmick's 639-9330	901 F. St. N.W.	Seafood	$$$	?		mccormickandschmicks.com
McDonalds	6th & E, 13th & F,	Fast Food	$$	T	Usual Mc Donald's	mcdonalds.com

	7th St. in MCI Center					
Mehak 408-9292	817 7th St., N.W.	Indian	$$	TTT	Try Butter Chicken Coupon on website	mehak.com
Mr. Yungs 628-1098	740 6th St., N.W.	Cantonese	$$$	TTT	Good dim sum.	
Museum of Natural History	10th & Constitution	Atrium Café	$$	TT	Can get crowded & noisy	mnh.si.edu/SpecialEvents/Cafe.htm
National Place	1325 Penn Ave.	Food Court	$$	TT	Food court closed for remodeling	
National Portrait Gallery	7th & F	American	$$$	TT	Closed for remodeling until January 2005.	
Necessities	625 Indiana Ave	American	$$	T	In garage by Jacks	
Nick & Stef's 661-5040	601 F St., N.W.	American	$$$$	TTTT	Showing some slippage	
Oceanaire 347-2277	1201 F St. NW	Seafood	$$$	?	?	theoceanaire.com
Olsson's Books	420 7th St., N.W.	American	$$$	TT	Dine in a book store	olssons.com/lansburgh.htm
Pavilion	11th & Penn	Food Court	$	½ T	See Food Court List at bottom of this guide!	
Popeye's	11& F St., N.W.	American	$$	TT	Fowl meat	Popeyes.com
Poste 783-6060	(8th & E-F Sts.) 555 8th St.	American	$$$$	TTT	In Hotel Monoco, yet another chef, 3rd one	monaco-dc.com/html/dining.htm
Potbelly 202-347-7100	11&F St., N.W.	American	$$	TT	Cheap sandwiches	Potbelly.com
Potbelly 478-0070	726 7th St., N.W.	American	$$	TT	Cheap sandwiches	Potbelly.com
R.F.D Washington 289-2626	810 7th St., N.W.	American	?	?	Beer dishes, replaces Coco Loco	rfdwashington.com/
Ronald Reagan Bldg	1300 Penn. Ave.	Food Court	$$	TT	See Food Court list at bottom of this guide	
Rosa Mexicano 783-5522	575 7th Street	Mexican	$$$	TT1/2	Don't sit in the bar area if you want full service	rosamexicano.com/
Ruby Tuesday 347-0276	712 7th St., N.W.	American	$$$	TT	Strawberry shortcake with no strawberries	ruby-tuesday.com
Rupperts 783-0699	1017 7th St., N.W.	Contemporary American	$$$$$	TTTT		rupperts.com
Ruth's Chris Steak House 393-4488	724 9th St. between G & H	Steaks	$$$$$	?	Temple of meat	ruthschris.com/
Sculpture Garden	9th & Penn.	Contemporary American	$$	TT	Inside of the Sculpture Garden (Smithsonian)	nga.gov/xio/pavilionpr.htm
Signatures 661-4728	801 Penn.	Steaks	$$$$$	TTTT	Small portion, big price	signatures-dc.com/
SoHo	860 E St., N.W.	Variety	$$$	TT	Deli & Buffet; SoHo is So So	
Stacks & Archives	1101 Penn. N.W.	Kosher	?	?	Deli, kosher food	
Subway	510 9th St. N.W. 709 H St., NW	Subs	$$	TT		Subway.com
Teaism	8th & D	Japanese	$$	TT	Bento boxes	teaism.com
Ten Penh 393-4500	10th & Penn.	Oriental	$$$	TTT	Mixed reviews	tenpenh.com/

DOJ_NMG_ 0145053

TGI Friday's	1215 Penn.	American	$$$	TT	Hits & Misses	tgifridays.com
Tony Cheng's Mongolian	619 H St., N.W.	Chinese	$$$	TTT	All you can eat.	
Tony Cheng's Seafood Restaurant 371-8669	619-621 H St.	Chinese	$$	TTTT	One of area's best Chinese restaurants. Try siu lim bao, brothy Shanghai dumpling.	Tonycheng.com
Tosca 367-1990	1112 F St. N.W.	Italian	$$$$$	TTTTT	Great food!!!	http://toscadc.com/
Waffle House	522 10th St., N.W.	Breakfast	$	TT	My choice for breakfast	
Wall Street Deli	415 6th St., N.W.	American	$$	T	Across the street	wallstreetdeli.com
Zaytinya 638-0800	701 9th St., N.W.	Greek, Lebanon, Turkey	$$$	TTT	Tapas like Jaleo. Owned by Jaleo and Café Atlantico	
Zola 654-0999	800 F St., N.W.	American	$$$$	TT	Hits and many misses	

For restaurant reviews try WWW.Zagat.COM or www.gayot.com
For restaurant summaries try www.dcguide.com.

Restaurants in Ronald Regan Building food court: Bassett's Turkey, Bucks County Coffee Co., Everything Yogurt & Salad Café, Flamers Charbroiled Hamburgers and Chicken, Gelatissimo, the Great Steak & Potato Co., Great Wraps, Kabuki Sushi & eriyaki, Kelly's Cajun Grill, Larry's Cookies & Ice Cream, Nach-O Fast, Quick Pita, Sbarro, Subway, Wall Street Deli, Yeni's Dim Sum Plus.
Also in the Ronald Regan Building is Jordan's Restaurant.
Place has a million kids in it at lunch time and is like a mad house.

Pavilion Food Court: Ben & Jerrie's Ice Cream, Shotgun Sushi & Teriyaki, Everything Yogurt & Salad, Indian Delight, Larry's Cookies & Ice Cream, Panda Café (Chinese), Quick Pita (Gyros), Enrico's Colzone, Pizzas & Subs, Georgetown Deli, Temptations (Pastry), Greek Taverina (Gyros), Hot Bagel Express. **All the food is pretty bad since the place mainly caters to kids, one time customers, at noon.**

National Place Food Court: Court is closed for remodeling as of 5/7/04.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 2:03 PM
To: Kim, Wan (CRT)
Subject: RE: lunch

next thurs it is

-----Original Message-----
From: Kim, Wan (CRT)
Sent: Tuesday, July 05, 2005 12:56 PM
To: Gorsuch, Neil M
Subject: Re: lunch

No problem. Let's try next Thursday.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>
Sent: Tue Jul 05 12:14:27 2005
Subject: lunch

Can we reschedule our lunch planned for this Friday? Sorry about this. I am free any day next week that works for you.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 5, 2005 2:05 PM
To: Greene, Bil
Subject: RE: Contacts

I very much appreciate your help with this, and am especially glad to have this update. Thanks for staying on this. Operating with addresses and phone nos sure does make life easier.

-----Original Message-----
From: Greene, Bil
Sent: Tuesday, July 05, 2005 1:18 PM
To: Gorsuch, Neil M
Subject: Contacts

Mr. Gorsuch,

I'm sure it seems that we have been giving you the run-around. But we have had some problems.

For starters I could not get your CD ROM drive to read your CD. But I was able to read it on my computer and then copy it to your hard drive.

The problem we are having now is apparently your PST (contact) files were created on computer running Microsoft Office 2003. Your current computer is running Microsoft Office 2000. Your PST files are not backward compatible. Bobby Marshall is working on them to see what he can do but I fear he won't be able to convert the files.

The other side of the coin would be to upgrade your computer to one of the new computers running Windows XP and Microsoft Office 2003. However in order to do this I need to get Andy Anderson's approval. I sent Andy an e-mail telling him what was going on with your PST files but Andy is out today and so far I have not gotten any response.

I was going to send you this e-mail to let you know we were taking your issue seriously when I heard that you wanted me to call you. I called and was told you were at lunch.

Thanks,

Bil << File: Restaurants Main.wpd >>

Greene, Bil

From: Greene, Bil
Sent: Tuesday, July 5, 2005 2:11 PM
To: Gorsuch, Neil M
Subject: RE: Contacts

I tend to think the obvious solution is for us to upgrade your computer since that will be coming sooner or later anyway (in your case better sooner than later). In the meantime Bobby Marshall wants me to ask you who created your files in the first place. Bobby thinks that if we call them we might be able to better figure out what is going on as he is having troubles apparently with the files and at one point was telling me they were empty. I knew they were not empty as I was able to import them on my computer but he said he couldn't on his.

Interesting problem

_____

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 2:05 PM
To: Greene, Bil
Subject: RE: Contacts

I very much appreciate your help with this, and am especially glad to have this update. Thanks for staying on this. Operating with addresses and phone nos sure does make life easier.

-----Original Message-----
From: Greene, Bil
Sent: Tuesday, July 05, 2005 1:18 PM
To: Gorsuch, Neil M
Subject: Contacts

Mr. Gorsuch,

I'm sure it seems that we have been giving you the run-around. But we have had some problems.

For starters I could not get your CD ROM drive to read your CD. But I was able to read it on my computer and then copy it to your hard drive.

The problem we are having now is apparently your PST (contact) files were created on computer running Microsoft Office 2003. Your current computer is running Microsoft Office 2000. Your PST files are not backward compatible. Bobby Marshall is working on them to see what he can do but I fear he won't be able to convert the files.

The other side of the coin would be to upgrade your computer to one of the new computers running Windows XP and Microsoft Office 2003. However in order to do this I need to get Andy Anderson's approval. I sent Andy an e-mail telling him what was going on with your PST files but Andy is out today and so far I have not gotten any response.

I was going to send you this e-mail to let you know we were taking your issue seriously when I heard that you wanted me to call you. I called and was told you were at lunch.

Thanks,

Bil << File: Restaurants Main.wpd >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 5, 2005 2:15 PM
To: Greene, Bil
Subject: RE: Contacts

My former assistant, Jessica Bartlow (202 367 7726) can direct you to the right person in the firm's IT department. Thanks again. Neil

-----Original Message-----
From: Greene, Bil
Sent: Tuesday, July 05, 2005 2:11 PM
To: Gorsuch, Neil M
Subject: RE: Contacts

I tend to think the obvious solution is for us to upgrade your computer since that will be coming sooner or later anyway (in your case better sooner than later). In the meantime Bobby Marshall wants me to ask you who created your files in the first place. Bobby thinks that if we call them we might be able to better figure out what is going on as he is having troubles apparently with the files and at one point was telling me they were empty. I knew they were not empty as I was able to import them on my computer but he said he couldn't on his.

Interesting problem

_____
From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 2:05 PM
To: Greene, Bil
Subject: RE: Contacts

I very much appreciate your help with this, and am especially glad to have this update. Thanks for staying on this. Operating with addresses and phone nos sure does make life easier.

-----Original Message-----
From: Greene, Bil
Sent: Tuesday, July 05, 2005 1:18 PM
To: Gorsuch, Neil M
Subject: Contacts

Mr. Gorsuch,

I'm sure it seems that we have been giving you the run-around. But we have had some problems.

For starters I could not get your CD ROM drive to read your CD. But I was able to read it on my computer and then copy it to your hard drive.

The problem we are having now is apparently your PST (contact) files were created on computer running Microsoft Office 2003. Your current computer is running Microsoft Office 2000. Your PST files are not backward compatible. Bobby Marshall is working on them to see what he can do but I fear he won't be able to convert the files.

The other side of the coin would be to upgrade your computer to one of the new computers running Windows XP and Microsoft Office 2003. However in order to do this I need to get Andy Anderson's

approval. I sent Andy an e-mail telling him what was going on with your PST files but Andy is out today and so far I have not gotten any response.

I was going to send you this e-mail to let you know we were taking your issue seriously when I heard that you wanted me to call you. I called and was told you were at lunch.

Thanks,

Bil << File: Restaurants Main.wpd >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 5, 2005 5:43 PM
To: Reyes, Luis (SMO)
Subject: RE: Tomorrow

Godspeed.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 05, 2005 5:34 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: Tomorrow

Gentlemen: I will be out [redacted], and will be back in first thing Thurs.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 5, 2005 5:57 PM
To: Nichols, Carl (CIV); [redacted] (E-mail)
Cc: Yanes, Raul
Subject: tomorrow

You guys available for a call tomorrow morning with Raul and me to touch base on where we're going over the next few days? Say 11?

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, July 05, 2005 5:58 PM
To: Gorsuch, Neil M
Subject: RE: Tomorrow

Thank you kind sir

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 5:43 PM
To: Reyes, Luis (SMO)
Subject: RE: Tomorrow

Godspeed.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 05, 2005 5:34 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: Tomorrow

Gentlemen: I will be out [redacted], and will be back in first thing Thurs.

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Tuesday, July 5, 2005 6:03 PM
To: Gorsuch, Neil M; [redacted] (E-mail)
Cc: Yanes, Raul
Subject: RE: tomorrow

not at 11; anytime other than 10-11:30.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 5:57 PM
To: Nichols, Carl (CIV); [redacted] (E-mail)
Cc: Yanes, Raul
Subject: tomorrow

You guys available for a call tomorrow morning with Raul and me to touch base on where we're going over the next few days? Say 11?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 5, 2005 6:10 PM
To: Nichols, Carl (CIV); [redacted] (E-mail)
Cc: Yanes, Raul
Subject: RE: tomorrow

How about 9:30?

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Tuesday, July 05, 2005 6:03 PM
To: Gorsuch, Neil M; [redacted] (E-mail)
Cc: Yanes, Raul
Subject: RE: tomorrow

not at 11; anytime other than 10-11:30.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 5:57 PM
To: Nichols, Carl (CIV); [redacted] E-mail)
Cc: Yanes, Raul
Subject: tomorrow

You guys available for a call tomorrow morning with Raul and me to touch base on where we're going over the next few days? Say 11?

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Tuesday, July 05, 2005 6:11 PM
To: Gorsuch, Neil M; [redacted] (E-mail)
Cc: Yanes, Raul
Subject: RE: tomorrow

ok by me

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 6:10 PM
To: Nichols, Carl (CIV); [redacted] (E-mail)
Cc: Yanes, Raul
Subject: RE: tomorrow

How about 9:30?

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Tuesday, July 05, 2005 6:03 PM
To: Gorsuch, Neil M; [redacted] (E-mail)
Cc: Yanes, Raul
Subject: RE: tomorrow

not at 11; anytime other than 10-11:30.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 5:57 PM
To: Nichols, Carl (CIV); [redacted] (E-mail)
Cc: Yanes, Raul
Subject: tomorrow

You guys available for a call tomorrow morning with Raul and me to touch base on where we're going over the next few days? Say 11?

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Tuesday, July 5, 2005 6:11 PM
To: Gorsuch, Neil M; Nichols, Carl (CIV)
Cc: Yanes, Raul
Subject: RE: tomorrow

Same here.

-----Original Message-----
From: Carl.Nichols@usdoj.gov [mailto:Carl.Nichols@usdoj.gov]
Sent: Tuesday, July 05, 2005 18:12
To: Neil.Gorsuch@usdoj.gov; [redacted](E-mail)
Cc: Raul.Yanes@usdoj.gov
Subject: RE: tomorrow

ok by me

> -----Original Message-----
> From: Gorsuch, Neil M
> Sent: Tuesday, July 05, 2005 6:10 PM
> To: Nichols, Carl (CIV); [redacted](E-mail)
> Cc: Yanes, Raul
> Subject: RE: tomorrow
>
> How about 9:30?
>
> -----Original Message-----
> From: Nichols, Carl (CIV)
> Sent: Tuesday, July 05, 2005 6:03 PM
> To: Gorsuch, Neil M; [redacted](E-mail)
> Cc: Yanes, Raul
> Subject: RE: tomorrow
>
> not at 11; anytime other than 10-11:30.
>
> -----Original Message-----
> From: Gorsuch, Neil M
> Sent: Tuesday, July 05, 2005 5:57 PM
> To: Nichols, Carl (CIV); [redacted](E-mail) > Cc: Yanes, Raul
> Subject: tomorrow
>
> You guys available for a call tomorrow morning with Raul and me to touch base on where we're going over the next few days? Say 11?
>

Yanes, Raul

From: Yanes, Raul
Sent: Tuesday, July 5, 2005 6:20 PM
To: [redacted]@dodgc.osd.mil'; Gorsuch, Neil M; Nichols, Carl (CIV)
Subject: RE: tomorrow

me too

-----Original Message-----
From [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Tuesday, July 05, 2005 6:11 PM
To: Gorsuch, Neil M; Nichols, Carl (CIV)
Cc: Yanes, Raul
Subject: RE: tomorrow

Same here.

-----Original Message-----
From: Carl.Nichols@usdoj.gov [mailto:Carl.Nichols@usdoj.gov]
Sent: Tuesday, July 05, 2005 18:12
To: Neil.Gorsuch@usdoj.gov; [redacted](E-mail)
Cc: Raul.Yanes@usdoj.gov
Subject: RE: tomorrow

ok by me

> -----Original Message-----
> From: Gorsuch, Neil M
> Sent: Tuesday, July 05, 2005 6:10 PM
> To: Nichols, Carl (CIV); [redacted](E-mail)
> Cc: Yanes, Raul
> Subject: RE: tomorrow
>
> How about 9:30?
>
> -----Original Message-----
> From: Nichols, Carl (CIV)
> Sent: Tuesday, July 05, 2005 6:03 PM
> To: Gorsuch, Neil M; [redacted](E-mail)
> Cc: Yanes, Raul
> Subject: RE: tomorrow
>
> not at 11; anytime other than 10-11:30.
>
> -----Original Message-----

> -----Original Message-----
> From: Gorsuch, Neil M
> Sent: Tuesday, July 05, 2005 5:57 PM
> To: Nichols, Carl (CIV); [redacted] (E-mail) > Cc: Yanes, Raul
> Subject: tomorrow
>
> You guys available for a call tomorrow morning with Raul and me to touch base on where we're going over the next few days? Say 11?
>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 5, 2005 7:09 PM
To: Yanes, Raul
Subject: RE:

The other day I recall Jim Comey asking for ideas about potential candidates for the new AAG slot on terrorism. I was just speaking with [redacted] who expressed interest in that job. What do you think?

-----Original Message-----
From: Yanes, Raul
Sent: Tuesday, July 05, 2005 6:21 PM
To: Gorsuch, Neil M
Subject:

I'll come by at 930 for the call.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 5, 2005 7:15 PM
To: Yanes, Raul
Subject: RE:

Will do.

-----Original Message-----
From: Yanes, Raul
Sent: Tuesday, July 05, 2005 7:14 PM
To: Gorsuch, Neil M
Subject: RE:

Brad's terrific, as you know. I think if he is interested, I would recommend he call Kyle and let him know.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 7:10 PM
To: Yanes, Raul
Subject: RE:

The other day I recall Jim Comey asking for ideas about potential candidates for the new AAG slot on terrorism. I was just speaking with Brad Berenson who expressed interest in that job. What do you think?

-----Original Message-----
From: Yanes, Raul
Sent: Tuesday, July 05, 2005 6:21 PM
To: Gorsuch, Neil M
Subject:

I'll come by at 930 for the call.

Magnuson, Cynthia

From: Magnuson, Cynthia
Sent: Wednesday, July 06, 2005 10:44 AM
To: Allen, Gary (CIV); Apisson, Elizabeth M; Baxter, Felix (CIV); Boyle, Brian D; Branda, Joyce (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Eubanks, Sharon (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D. (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Madden, Kevin; Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Miller, Charles S; Morgan, Julian (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Sierra, Bryan; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wiggins, Mike; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 7/6/05 Civil Division News

GM Wins Ground In US Pension Suit

Gov't asked US to dismiss suit against Talisman for aiding genocide in Sudan

Challenge to "don't ask, don't tell" policy to be heard in Boston

Don’t Ask, Don't Tell Policy to be Challenged in Boston Court

COLUMN: Traci Lords law an attack on free speech

DowJones
July 6, 2005

GM Wins Ground In US Pension Suit

By Ellen E. Schultz

Jul 06, 2005 (Dow Jones Commodities News Select via Comtex) --A federal court has ruled in favor of General Motors Corp. in its bid to recover as much as $253 million from the federal government for one of its underfunded pension plans.

The decision, by Judge Nancy Firestone of the U.S. Court of Federal Claims, is the first of its kind and may precipitate moves by other government contractors to try to recoup some of the underfunding of pension funds that existed when the contractors closed or sold divisions.

GM's suit comes at a time when corporate pension plans, which were robustly overfunded in the 1990s, have become collectively underfunded for a variety of reasons, including stock-market losses, low interest rates and corporate decision-making. Pension plans in the Standard & Poor's 500 had a net underfunding

of $159 billion at the end of 2004, compared with net overfunding of $263 billion at the end of 1999.

The U.S. government is likely to appeal the court's decision in the case of GM vs. U.S., and any potential recovery could take years. A spokesman for GM says it wouldn't be appropriate to comment until the matter has been fully resolved.

Still, the decision is significant. When companies have contracts with the government to provide goods or services, the government pays for salaries and pays a portion of the pension costs. When companies subsequently close or sell a unit with an overfunded pension plan, the government generally recovers the portion of the pension surplus attributable to the amounts it contributed to the pension fund.

GM argued that the government was similarly obligated to make contributions to an underfunded pension of a division GM sold in 1993, Allison Gas Turbine, which provided services to the government. In 1996, GM filed a claim for $253 million, and sued the government on Jan. 27, 2000, in the federal court of claims, which handles contract disputes.

In her decision, filed on June 28 in the Washington, D.C., court, Judge Firestone said the government should pay the allocable amount of the pension underfunding, though she didn't specify a dollar amount. However, the judge denied GM's motion to recover not only the underfunded amount, but a profit as well.

Contractors say that if the government was able to recover pension surplus during the good times, it is only fair that it share the pain in the bad times.

"The court rejected three of the arguments the government has asserted to avoid paying contractor pension claims," said Karen Manos, a lawyer with Howrey LLP, a global litigation firm that represents government contractors. Over the years, there have been numerous suits between contractors and the government over the disposition of surplus pension assets.

If the pension ruling is upheld by the Court of Appeals for the Federal Circuit, it could also establish a significant loophole in government contracts: the decision says that ceilings on government spending under contracts would not apply to pension claims.

Consequently, if government agencies are required to pay for underfunded pensions of divisions sold or closed by companies that have -- or used to have -- government contracts, they would have to seek additional appropriations from Congress, or cut spending in other areas.

END

Canadian Press
July 6, 2005

Gov't asked US to dismiss suit against Talisman for aiding genocide in Sudan

TORONTO (CP) -- As Prime Minister Paul Martin joins other world leaders in a summit focusing on aid for Africa, documents show his government asked the U.S. this year to persuade its courts to dismiss a suit against Talisman Energy Corp. for assisting genocide in Sudan.

The Calgary-based oil company is being sued in U.S. District Court in New York by the Presbyterian Church of Sudan and a number of Sudanese individuals for complicity in genocide perpetrated by the Sudanese government.

Talisman, which sold its Sudanese oil operations in 2003, denies the claim. Talisman spokesperson Barry Nelson told the Toronto Star Tuesday he couldn't comment on the diplomatic efforts because the U.S. judge had imposed a gag order on the litigants.

The company has persuaded Ottawa -- and through it, the U.S. government -- to weigh in on its side to have the case dismissed.

Documents obtained by the Toronto Star show Martin's government sent two diplomatic notes to Washington -- one last July and the most recent this year -- complaining that trying a Canadian company in a U.S. court raises serious foreign policy issues.

In a six-page diplomatic note to the U.S. State Department, Ottawa asked that U.S. officials intervene in an ongoing class-action lawsuit filed four years ago against Talisman by Sudanese refugees.

They claim the Calgary company stood by as Sudan's military murdered and displaced thousands of people living on or near prospective oil exploration sites.

``The `Talisman case' is problematic,'' says the note, which is initialled, bears the official seal of Canada's embassy in Washington and was sent Jan. 14.

The memo goes on to say the U.S. court's action ``infringes on Canada's conduct of foreign policy'' and that by assuming jurisdiction over Talisman, whose shares are widely available for trading on the New York Stock Exchange, the U.S. courts have created a ``chilling effect'' on Canadian companies considering investing in Sudan.

After receiving the recent missive from Canada, the State Department asked the U.S. Department of Justice to send a similar note of concern to the court, which it did on March 15.

The State Department said it took no position on whether Talisman was guilty of the allegations, but shared Ottawa's concern about trying a Canadian company in a U.S. court for activities that took place in another country.

The court has asked all parties involved in the case to file submissions on this question and will rule on this particular point later.

Talisman's roots in Sudan date to August 1998 when the Calgary company announced it had made a friendly $295 million bid to buy Arakis Energy Corp., whose assets included a one-quarter stake in the Greater Nile Petroleum Operating Co.

Within months of Talisman's arrival in the East African nation, the company came under fire amid charges it had been complicit in the Sudanese government's move to displace hundreds of thousands of civilians as it bolstered its control of more oilfields.

END

The Advocate
July 06, 2005

Challenge to "don't ask, don't tell" policy to be heard in Boston

During her first five years in the Navy, Jen Kopfstein avoided conversations about her personal life. In the collegiate atmosphere of the Naval Academy and the close quarters of a ship, that was difficult for Kopfstein. "I felt like I was being forced to lie and having to be dishonest," said Kopfstein. "I could never share anything about my family or my home life or even say what I did on the weekend. It is hurtful to do that."

So Kopfstein wrote a letter to her commanding officer telling him she was a lesbian. Under the military's

"don't ask, don't tell" policy, she was discharged from the Navy. Kopfstein and 11 other service members are challenging the 12-year-old policy, arguing in a federal lawsuit that it violates their constitutional rights to privacy, free speech, and equal protection of the law. "It's a terrible policy," said Kopfstein, 30, of San Diego. "It's very detrimental to morale. It turns people into second-class citizens."

"Don't ask, don't tell," established in 1993 under the Clinton administration, prohibits the military from asking about the sexual orientation of service members but requires discharge of those who acknowledge being gay or engaging in homosexual activity. On Friday the Bush administration will ask a federal judge in Boston to dismiss the lawsuit.

In court documents, the Justice Department argues that Congress, in approving "don't ask, don't tell," recognized that the military is characterized by its own rules and traditions, including some restrictions that would not be accepted in civilian society. The policy "rationally furthers the government's interest in maintaining unit cohesion, reducing sexual tensions, and promoting personal privacy," the government argues.

But the Servicemembers Legal Defense Network, which filed the lawsuit, argues that the policy is clearly discriminatory. "The government has never produced a shred of evidence that this is necessary for military readiness," said executive director C. Dixon Osburn. "Don't ask, don't tell" punishes people for who they are, Osburn said. "You cannot say that you are gay if you are in the military. You cannot tell your mom, you cannot tell your colleagues, you cannot tell anyone."

Derek Sparks joined the Navy just after high school and earned more than a dozen medals and commendations during his 14-year career, which included deployments for Operation Desert Storm and Operation Enduring Freedom in Afghanistan. In 2002 a shipmate said he had seen Sparks and two other men engaging in homosexual activity in Sparks's office. All three men denied the accusation. During the investigation, Sparks acknowledged that he is gay. "It was out of frustration," Sparks said. "I had been hiding for so long and leading a double life in the Navy. At that point I had just kind of had enough."

"The atmosphere was one that forced you to hide," he said. "You would hear remarks every day--antigay remarks--so any person in their right mind would not want to reveal their sexuality." The Navy discharged Sparks, of Seattle, in April 2002.

"Don't ask, don't tell" has been upheld by appeals courts in several other jurisdictions. "The Department of Defense policy on homosexual conduct in the military implements a federal law enacted in 1993 following extensive hearings and debate. The law would need to be changed to affect the department's policy," said Lt. Col. Ellen Krenke, a Pentagon spokeswoman.

Osburn said one of the reasons they filed the lawsuit in Boston is because the appeals court here--the first circuit--has never been asked to rule in a case involving the policy. One of the plaintiffs, Laura Galaburda, a former second lieutenant in the Air Force Reserves, lives in Boston. Osburn's group is hoping a 2003 U.S. Supreme Court ruling will help their case. The ruling said state laws criminalizing homosexual sex were unconstitutional. The group is also arguing that with the country at war and recruitment lagging, it does not make sense to dismiss experienced gay and lesbian service members because of their sexual orientation.

END

Gay Financial Network
July 5, 2005

Don’t Ask, Don't Tell Policy to be Challenged in Boston Court

A dozen former military service members are challenging the 12-year-old “don't ask, don't tell policy,” and will argue in a federal lawsuit on Friday that it violates their constitutional rights to privacy, free speech and equal protection of the law.

The Servicemembers Legal Defense Network, which filed the lawsuit, will argue that the policy is discriminatory.

"The government has never produced a shred of evidence that this is necessary for military readiness," said executive director C. Dixon Osburn.

"Don't ask, don't tell," established in 1993 under the Clinton administration, prohibits the military from asking about the sexual orientation of service members but requires discharge of those who acknowledge being gay or engaging in homosexual activity.

The military discharged 653 men and women in 2004 under the gay ban.

On Friday, the Bush administration will ask a federal judge in Boston to dismiss the lawsuit, reports the *Associated Press.*

The Justice Department will argue that the military is characterized by its own rules and traditions, including some restrictions that would not be accepted in civilian society.

The policy "rationally furthers the government's interest in maintaining unit cohesion, reducing sexual tensions and promoting personal privacy," the government argues.

"Don't ask, don't tell" has been upheld by appeals courts in several other jurisdictions.

Osburn said one of the reasons they filed the lawsuit in Boston is because the appeals court here - the 1st Circuit - has never been asked to rule in a case involving the policy.

Osburn's group is hoping the 2003 U.S. Supreme Court ruling that said state laws criminalizing homosexual sex were unconstitutional will help their case.

The group is also arguing that with the country at war and recruitment lagging, it does not make sense to dismiss experienced gay and lesbian service members because of their sexual orientation.

“The military continues to sacrifice national security and military readiness in favor of simple prejudice,” said SLDN Executive Director C. Dixon Osburn.

“Americans do not care if the helicopter pilot rescuing a wounded soldier or the medic treating that soldier is gay. Lesbian and gay service members have a valuable role to play on the home front and the frontlines. Their continued discharge weakens our national defense.”

The military discharged 653 men and women in 2004 under the gay ban, the second lowest total since “don’t ask, don’t tell” was implemented. The Pentagon discharges include at least 41 healthcare professionals, 30 sonar and radar specialists, 20 combat engineers, 17 law enforcement agents, 12 security guards and 7 biological and chemical warfare specialists who were fired because of sexual orientation. At least 9 language specialists were also discharged.

END

University Wire
July 6, 2005

COLUMN: Traci Lords law an attack on free speech

By Jordan Niebur

LINCOLN, Neb., Jul 05, 2005 (Daily Nebraskan, U-WIRE via COMTEX) --The adult entertainment industry, an industry many people only have a glancing affair with, and many other companies that would not be readily included, dodged a very large salvo from the Justice Department a couple of weeks ago.

Using a law nicknamed the Traci Lords law (18 U.S.C. 2257), which requires all producers of pornographic images to insure and maintain records of their employees' maturity, the Justice Department attempted to expand the enforcement of the law to cover not only the maintenance of records for every employee or contributor of material at a company, but to require records for every picture, video, and other pieces retroactive to 1995.

Any forms of ID would be required to be American in origin, and all records would be subject to seizure without notice (read: no warrant). Not only would the producers of such material be required under the proposed new laws to maintain such records, but any second-hand distributors, e.g. personal Web sites, would be required as well. The amount of paperwork for most companies in the area would be staggering, especially for smaller businesses.

Although 18 U.S.C. 2257 does have a highly admirable reason for existence -- the combating of child exploitation (Lords was a minor when she began her career in adult films) -- the application the Bush Justice Department is attempting would force undue and unconstitutional restrictions upon the adult-oriented companies.

This battle actually began during the Clinton administration, with then-Attorney General Janet Reno attempting to include secondary distributors (not those who produced the material) as "producers" under law, and enforce the same requirements.

In Sundance Associates v. Reno, the 10th Circuit Court of Appeals ruled that the plaintiff, a publisher of magazines for swingers, was not required to maintain the same records because the material was secondhand in nature.

Attorney General Roberto Gonzales, however, attempted to sidestep that decision with his own effort to expand 2257. That effort has been temporarily halted with an injunction overseen by Federal District Court Judge Walker Miller, and the case Free Speech Coalition v. Gonzales will be heard later this year.

The constitutionality of 2257 hinges on how Justice Miller (and likely the appellate court, onward) define the First, Fourth and Fifth amendments in this case. One concern many actors and actresses have aired has been one of their own personal privacy.

While adult companies have long maintained files confirming their employees' ages, the proposed requirements would force that information, the addresses, real names, ages, etc. of all those people to be in the hands of countless Web masters. The privacy that those people still manage to keep would be lost to the online world.

As the suit noted, "Indeed, requiring 20-, 30-, 40-, 50-, and 60-year-old performers to divulge personal information and identification documents to producers of regulated expressive works is not a narrowly-tailored means of promoting a legitimate and compelling government interest in child protection."

These regulations are not engineered to prevent child pornography, but to stifle free speech.

The few minors who have managed to infiltrate the industry, Traci Lords of course the most well known, have provided their employers with identification that, even under the stricter regulations, would still pass.

And that is the end result of these new regulations. This "pro-business" administration is seeking to

cripple the adult entertainment industry under the guise of "protecting our children."

Rather than attacking child pornography in the areas it actually occurs, or attempting to infiltrate the sectors of pedophiles, the Bush Administration has decided to attack the people that offend them the most, to limit their rights, to destroy their livelihoods. Let's just hope that this assault on free speech fails, as it should have seven years ago.

END

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 06, 2005 12:51 PM
To: Gunn, Currie (SMO)
Subject: Phil perry

Can you plse email me his phone no? Thanks.

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Wednesday, July 06, 2005 12:54 PM
To: Gorsuch, Neil M
Subject: RE: Phil perry
Importance: High

His cell [redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, July 06, 2005 12:51 PM
To: Gunn, Currie (SMO)
Subject: Phil perry

Can you plse email me his phone no? Thanks.

Marshall, Robert L

From: Marshall, Robert L
Sent: Wednesday, July 6, 2005 2:16 PM
To: Gorsuch, Neil M
Cc: Greene, Bil
Subject: RE: Contacts

Mr. Gorsuch,

I'm helping Bil with the import of your contact information. I've run into some issues with the files that are on the cd that was supplied. One problem is that while extracting the files it is asking me to authenticate with a CRT server (CRTEX02) - I'm assuming it is one of the Exchange (mail) servers. I've called (and left message) with Jessica - I will update you as soon as I hear back from her……

Bobby

From: Greene, Bil
Sent: Tuesday, July 05, 2005 2:54 PM
To: Marshall, Robert L
Subject: FW: Contacts

fyi

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 2:15 PM
To: Greene, Bil
Subject: RE: Contacts

My former assistant, Jessica Bartlow (202 367 7726) can direct you to the right person in the firm's IT department. Thanks again. Neil

-----Original Message-----
From: Greene, Bil
Sent: Tuesday, July 05, 2005 2:11 PM
To: Gorsuch, Neil M
Subject: RE: Contacts

I tend to think the obvious solution is for us to upgrade your computer since that will be coming sooner or later anyway (in your case better sooner than later). In the meantime Bobby Marshall wants me to ask you who created your files in the first place. Bobby thinks that if we call them we might be able to better figure out what is going on as he is having troubles apparently with the files and at one point was telling me they were empty. I knew they were not empty as I was able to import them on my computer but he said he couldn't on his.

Interesting problem

From: Gorsuch, Neil M

Sent: Tuesday, July 05, 2005 2:05 PM
To: Greene, Bil
Subject: RE: Contacts

I very much appreciate your help with this, and am especially glad to have this update. Thanks for staying on this. Operating with addresses and phone nos sure does make life easier.

-----Original Message-----
From: Greene, Bil
Sent: Tuesday, July 05, 2005 1:18 PM
To: Gorsuch, Neil M
Subject: Contacts

Mr. Gorsuch,

I'm sure it seems that we have been giving you the run-around. But we have had some problems.

For starters I could not get your CD ROM drive to read your CD. But I was able to read it on my computer and then copy it to your hard drive.

The problem we are having now is apparently your PST (contact) files were created on computer running Microsoft Office 2003. Your current computer is running Microsoft Office 2000. Your PST files are not backward compatible. Bobby Marshall is working on them to see what he can do but I fear he won't be able to convert the files.

The other side of the coin would be to upgrade your computer to one of the new computers running Windows XP and Microsoft Office 2003. However in order to do this I need to get Andy Anderson's approval. I sent Andy an e-mail telling him what was going on with your PST files but Andy is out today and so far I have not gotten any response.

I was going to send you this e-mail to let you know we were taking your issue seriously when I heard that you wanted me to call you. I called and was told you were at lunch.

Thanks,

Bil << File: Restaurants Main.wpd >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 06, 2005 2:20 PM
To: Marshall, Robert L
Subject: RE: Contacts

Thanks, Bobby. Since Jessica isn't around, you might try David Althoff. The main number for the firm is 326-7900. David is the head IT person. Many thanks for all your help. Neil

-----Original Message-----
From: Marshall, Robert L
Sent: Wednesday, July 06, 2005 2:16 PM
To: Gorsuch, Neil M
Cc: Greene, Bil
Subject: RE: Contacts

Mr. Gorsuch,

I'm helping Bil with the import of your contact information. I've run into some issues with the files that are on the cd that was supplied. One problem is that while extracting the files it is asking me to authenticate with a CRT server (CRTEX02) - I'm assuming it is one of the Exchange (mail) servers. I've called (and left message) with Jessica - I will update you as soon as I hear back from her……

Bobby

From: Greene, Bil
Sent: Tuesday, July 05, 2005 2:54 PM
To: Marshall, Robert L
Subject: FW: Contacts

fyi

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 2:15 PM
To: Greene, Bil
Subject: RE: Contacts

My former assistant, Jessica Bartlow (202 367 7726) can direct you to the right person in the firm's IT department. Thanks again. Neil

-----Original Message-----
From: Greene, Bil
Sent: Tuesday, July 05, 2005 2:11 PM
To: Gorsuch, Neil M
Subject: RE: Contacts

I tend to think the obvious solution is for us to upgrade your computer since that will be coming sooner or later anyway (in your case better sooner than later). In the meantime Bobby Marshall wants me to ask you who created your files in the first place. Bobby thinks that if we call them we might be able to better

figure out what is going on as he is having troubles apparently with the files and at one point was telling me they were empty. I knew they were not empty as I was able to import them on my computer but he said he couldn't on his.

Interesting problem

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 2:05 PM
To: Greene, Bil
Subject: RE: Contacts

I very much appreciate your help with this, and am especially glad to have this update. Thanks for staying on this. Operating with addresses and phone nos sure does make life easier.

-----Original Message-----
From: Greene, Bil
Sent: Tuesday, July 05, 2005 1:18 PM
To: Gorsuch, Neil M
Subject: Contacts

Mr. Gorsuch,

I'm sure it seems that we have been giving you the run-around. But we have had some problems.

For starters I could not get your CD ROM drive to read your CD. But I was able to read it on my computer and then copy it to your hard drive.

The problem we are having now is apparently your PST (contact) files were created on computer running Microsoft Office 2003. Your current computer is running Microsoft Office 2000. Your PST files are not backward compatible. Bobby Marshall is working on them to see what he can do but I fear he won't be able to convert the files.

The other side of the coin would be to upgrade your computer to one of the new computers running Windows XP and Microsoft Office 2003. However in order to do this I need to get Andy Anderson's approval. I sent Andy an e-mail telling him what was going on with your PST files but Andy is out today and so far I have not gotten any response.

I was going to send you this e-mail to let you know we were taking your issue seriously when I heard that you wanted me to call you. I called and was told you were at lunch.

Thanks,

Bil << File: Restaurants Main.wpd >>

Marshall, Robert L

From: Marshall, Robert L
Sent: Wednesday, July 06, 2005 2:25 PM
To: Gorsuch, Neil M
Subject: RE: Contacts

Will Do…… !

From: Gorsuch, Neil M
Sent: Wednesday, July 06, 2005 2:20 PM
To: Marshall, Robert L
Subject: RE: Contacts

Thanks, Bobby. Since Jessica isn't around, you might try David Althoff. The main number for the firm is 326-7900. David is the head IT person. Many thanks for all your help. Neil

-----Original Message-----
From: Marshall, Robert L
Sent: Wednesday, July 06, 2005 2:16 PM
To: Gorsuch, Neil M
Cc: Greene, Bil
Subject: RE: Contacts

Mr. Gorsuch,

I'm helping Bil with the import of your contact information. I've run into some issues with the files that are on the cd that was supplied. One problem is that while extracting the files it is asking me to authenticate with a CRT server (CRTEX02) - I'm assuming it is one of the Exchange (mail) servers. I've called (and left message) with Jessica - I will update you as soon as I hear back from her……

Bobby

From: Greene, Bil
Sent: Tuesday, July 05, 2005 2:54 PM
To: Marshall, Robert L
Subject: FW: Contacts

fyi

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 2:15 PM
To: Greene, Bil
Subject: RE: Contacts

My former assistant, Jessica Bartlow (202 367 7726) can direct you to the right person in the firm's IT department. Thanks again. Neil

-----Original Message-----

From: Greene, Bil
Sent: Tuesday, July 05, 2005 2:11 PM
To: Gorsuch, Neil M
Subject: RE: Contacts

I tend to think the obvious solution is for us to upgrade your computer since that will be coming sooner or later anyway (in your case better sooner than later). In the meantime Bobby Marshall wants me to ask you who created your files in the first place. Bobby thinks that if we call them we might be able to better figure out what is going on as he is having troubles apparently with the files and at one point was telling me they were empty. I knew they were not empty as I was able to import them on my computer but he said he couldn't on his.

Interesting problem

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 2:05 PM
To: Greene, Bil
Subject: RE: Contacts

I very much appreciate your help with this, and am especially glad to have this update. Thanks for staying on this. Operating with addresses and phone nos sure does make life easier.

-----Original Message-----
From: Greene, Bil
Sent: Tuesday, July 05, 2005 1:18 PM
To: Gorsuch, Neil M
Subject: Contacts

Mr. Gorsuch,

I'm sure it seems that we have been giving you the run-around. But we have had some problems.

For starters I could not get your CD ROM drive to read your CD. But I was able to read it on my computer and then copy it to your hard drive.

The problem we are having now is apparently your PST (contact) files were created on computer running Microsoft Office 2003. Your current computer is running Microsoft Office 2000. Your PST files are not backward compatible. Bobby Marshall is working on them to see what he can do but I fear he won't be able to convert the files.

The other side of the coin would be to upgrade your computer to one of the new computers running Windows XP and Microsoft Office 2003. However in order to do this I need to get Andy Anderson's approval. I sent Andy an e-mail telling him what was going on with your PST files but Andy is out today and so far I have not gotten any response.

I was going to send you this e-mail to let you know we were taking your issue seriously when I heard that you wanted me to call you. I called and was told you were at lunch.

Thanks,

Bil << File: Restaurants Main.wpd >>

Sours, Raquel

Subject:	Updated: Senior Management Meeting
Start:	Thursday, July 14, 2005 8:30 AM
End:	Thursday, July 14, 2005 8:50 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)

When: Thursday, July 14, 2005 8:30 AM-8:50 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Sours, Raquel

Subject:	Updated: Component Coordination Meeting
Start:	Thursday, July 14, 2005 8:50 AM
End:	Thursday, July 14, 2005 9:10 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)
Optional Attendees:	Rosenberg, Chuck (TXS)

When: Thursday, July 14, 2005 8:50 AM-9:10 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

Marshall, Robert L

From: Marshall, Robert L
Sent: Thursday, July 07, 2005 8:18 AM
To: Gorsuch, Neil M
Subject: RE: Contacts

……. Arghhhhh….. His voice mail said he will be out of the office until next week….. Any other contacts?

From: Gorsuch, Neil M
Sent: Wednesday, July 06, 2005 2:20 PM
To: Marshall, Robert L
Subject: RE: Contacts

Thanks, Bobby. Since Jessica isn't around, you might try David Althoff. The main number for the firm is 326-7900. David is the head IT person. Many thanks for all your help. Neil

-----Original Message-----
From: Marshall, Robert L
Sent: Wednesday, July 06, 2005 2:16 PM
To: Gorsuch, Neil M
Cc: Greene, Bil
Subject: RE: Contacts

Mr. Gorsuch,

I'm helping Bil with the import of your contact information. I've run into some issues with the files that are on the cd that was supplied. One problem is that while extracting the files it is asking me to authenticate with a CRT server (CRTEX02) - I'm assuming it is one of the Exchange (mail) servers. I've called (and left message) with Jessica - I will update you as soon as I hear back from her……

Bobby

From: Greene, Bil
Sent: Tuesday, July 05, 2005 2:54 PM
To: Marshall, Robert L
Subject: FW: Contacts

fyi

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 2:15 PM
To: Greene, Bil
Subject: RE: Contacts

My former assistant, Jessica Bartlow (202 367 7726) can direct you to the right person in the firm's IT department. Thanks again. Neil

-----Original Message-----
From: Greene, Bil
Sent: Tuesday, July 05, 2005 2:11 PM
To: Gorsuch, Neil M
Subject: RE: Contacts

I tend to think the obvious solution is for us to upgrade your computer since that will be coming sooner or later anyway (in your case better sooner than later). In the meantime Bobby Marshall wants me to ask you who created your files in the first place. Bobby thinks that if we call them we might be able to better figure out what is going on as he is having troubles apparently with the files and at one point was telling me they were empty. I knew they were not empty as I was able to import them on my computer but he said he couldn't on his.

Interesting problem

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 2:05 PM
To: Greene, Bil
Subject: RE: Contacts

I very much appreciate your help with this, and am especially glad to have this update. Thanks for staying on this. Operating with addresses and phone nos sure does make life easier.

-----Original Message-----
From: Greene, Bil
Sent: Tuesday, July 05, 2005 1:18 PM
To: Gorsuch, Neil M
Subject: Contacts

Mr. Gorsuch,

I'm sure it seems that we have been giving you the run-around. But we have had some problems.

For starters I could not get your CD ROM drive to read your CD. But I was able to read it on my computer and then copy it to your hard drive.

The problem we are having now is apparently your PST (contact) files were created on computer running Microsoft Office 2003. Your current computer is running Microsoft Office 2000. Your PST files are not backward compatible. Bobby Marshall is working on them to see what he can do but I fear he won't be able to convert the files.

The other side of the coin would be to upgrade your computer to one of the new computers running Windows XP and Microsoft Office 2003. However in order to do this I need to get Andy Anderson's approval. I sent Andy an e-mail telling him what was going on with your PST files but Andy is out today and so far I have not gotten any response.

I was going to send you this e-mail to let you know we were taking your issue seriously when I heard that you wanted me to call you. I called and was told you were at lunch.

Thanks,

Bil << File: Restaurants Main.wpd >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 07, 2005 8:40 AM
To: Marshall, Robert L
Subject: Re: Contacts

Sorry for the difficulties. You might ask to speak with matt heyer or anyone in the it department.

-----Original Message-----
From: Marshall, Robert L <Robert.L.Marshall@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Jul 07 08:17:57 2005
Subject: RE: Contacts

..... Arghhhhh..... His voice mail said he will be out of the office until next week..... Any other contacts?

From: Gorsuch, Neil M
Sent: Wednesday, July 06, 2005 2:20 PM
To: Marshall, Robert L
Subject: RE: Contacts

Thanks, Bobby. Since Jessica isn't around, you might try David Althoff. The main number for the firm is 326-7900. David is the head IT person. Many thanks for all your help. Neil

-----Original Message-----
From: Marshall, Robert L
Sent: Wednesday, July 06, 2005 2:16 PM
To: Gorsuch, Neil M
Cc: Greene, Bil
Subject: RE: Contacts

Mr. Gorsuch,

I'm helping Bil with the import of your contact information. I've run into some issues with the files that are on the cd that was supplied. One problem is that while extracting the files it is asking me to authenticate with a CRT server (CRTEX02) - I'm assuming it is one of the Exchange (mail) servers. I've called (and left message) with Jessica - I will update you as soon as I hear back from her.....

Bobby

From: Greene, Bil
Sent: Tuesday, July 05, 2005 2:54 PM
To: Marshall, Robert L

To: Marshall, Robert L
Subject: FW: Contacts

fyi

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 2:15 PM
To: Greene, Bil
Subject: RE: Contacts

My former assistant, Jessica Bartlow (202 367 7726) can direct you to the right person in the firm's IT department. Thanks again. Neil

-----Original Message-----
From: Greene, Bil
Sent: Tuesday, July 05, 2005 2:11 PM
To: Gorsuch, Neil M
Subject: RE: Contacts

I tend to think the obvious solution is for us to upgrade your computer since that will be coming sooner or later anyway (in your case better sooner than later). In the meantime Bobby Marshall wants me to ask you who created your files in the first place. Bobby thinks that if we call them we might be able to better figure out what is going on as he is having troubles apparently with the files and at one point was telling me they were empty. I knew they were not empty as I was able to import them on my computer but he said he couldn't on his.

Interesting problem

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 2:05 PM
To: Greene, Bil
Subject: RE: Contacts

I very much appreciate your help with this, and am especially glad to have this update. Thanks for staying on this. Operating with addresses and phone nos sure does make life easier.

-----Original Message-----
From: Greene, Bil
Sent: Tuesday, July 05, 2005 1:18 PM
To: Gorsuch, Neil M
Subject: Contacts

Mr. Gorsuch,

I'm sure it seems that we have been giving you the run-around. But we have had some problems.

For starters I could not get your CD ROM drive to read your CD. But I was able to read it on my computer and then copy it to your hard drive.

The problem we are having now is apparently your PST (contact) files were created on computer running Microsoft Office 2003. Your current computer is running Microsoft Office 2000. Your PST files are not backward compatible. Bobby Marshall is working on them to see what he can do but I fear he won't be able to convert the files.

The other side of the coin would be to upgrade your computer to one of the new computers running Windows XP and Microsoft Office 2003. However in order to do this I need to get Andy Anderson's approval. I sent Andy an e-mail telling him what was going on with your PST files but Andy is out today and so far I have not gotten any response.

I was going to send you this e-mail to let you know we were taking your issue seriously when I heard that you wanted me to call you. I called and was told you were at lunch.

Thanks,

Bil << File: Restaurants Main.wpd >>

Marshall, Robert L

From: Marshall, Robert L
Sent: Thursday, July 07, 2005 8:41 AM
To: Gorsuch, Neil M
Subject: RE: Contacts

Thanks Neil - will do!

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 07, 2005 8:40 AM
To: Marshall, Robert L
Subject: Re: Contacts

Sorry for the difficulties. You might ask to speak with matt heyer or anyone in the it department.

-----Original Message-----
From: Marshall, Robert L <Robert.L.Marshall@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Jul 07 08:17:57 2005
Subject: RE: Contacts

..... Arghhhhh..... His voice mail said he will be out of the office until next week..... Any other contacts?

From: Gorsuch, Neil M
Sent: Wednesday, July 06, 2005 2:20 PM
To: Marshall, Robert L
Subject: RE: Contacts

Thanks, Bobby. Since Jessica isn't around, you might try David Althoff. The main number for the firm is 326-7900. David is the head IT person. Many thanks for all your help. Neil

-----Original Message-----
From: Marshall, Robert L
Sent: Wednesday, July 06, 2005 2:16 PM
To: Gorsuch, Neil M
Cc: Greene, Bil
Subject: RE: Contacts

Mr. Gorsuch,

I'm helping Bil with the import of your contact information. I've run into some issues with the files that are on the cd that was supplied. One problem is that while extracting the files it is asking me to authenticate with a CRT server (CRTEX02). I'm assuming it is one of the Exchange (mail) servers. I've

authenticate with a CRT server (CRTEX02) - I'm assuming it is one of the Exchange (mail) servers. I've called (and left message) with Jessica - I will update you as soon as I hear back from her.....

Bobby

From: Greene, Bil
Sent: Tuesday, July 05, 2005 2:54 PM
To: Marshall, Robert L
Subject: FW: Contacts

fyi

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 2:15 PM
To: Greene, Bil
Subject: RE: Contacts

My former assistant, Jessica Bartlow (202 367 7726) can direct you to the right person in the firm's IT department. Thanks again. Neil

-----Original Message-----
From: Greene, Bil
Sent: Tuesday, July 05, 2005 2:11 PM
To: Gorsuch, Neil M
Subject: RE: Contacts

I tend to think the obvious solution is for us to upgrade your computer since that will be coming sooner or later anyway (in your case better sooner than later). In the meantime Bobby Marshall wants me to ask you who created your files in the first place. Bobby thinks that if we call them we might be able to better figure out what is going on as he is having troubles apparently with the files and at one point was telling me they were empty. I knew they were not empty as I was able to import them on my computer but he said he couldn't on his.

Interesting problem

From: Gorsuch, Neil M
Sent: Tuesday, July 05, 2005 2:05 PM
To: Greene, Bil
Subject: RE: Contacts

I very much appreciate your help with this, and am especially glad to have this update. Thanks for staying on this. Operating with addresses and phone nos sure does make life easier.

-----Original Message-----
From: Greene, Bil
Sent: Tuesday, July 05, 2005 1:18 PM
To: Gorsuch, Neil M
Subject: Contacts

Mr. Gorsuch,

I'm sure it seems that we have been giving you the run-around. But we have had some problems.

For starters I could not get your CD ROM drive to read your CD. But I was able to read it on my computer and then copy it to your hard drive.

The problem we are having now is apparently your PST (contact) files were created on computer running Microsoft Office 2003. Your current computer is running Microsoft Office 2000. Your PST files are not backward compatible. Bobby Marshall is working on them to see what he can do but I fear he won't be able to convert the files.

The other side of the coin would be to upgrade your computer to one of the new computers running Windows XP and Microsoft Office 2003. However in order to do this I need to get Andy Anderson's approval. I sent Andy an e-mail telling him what was going on with your PST files but Andy is out today and so far I have not gotten any response.

I was going to send you this e-mail to let you know we were taking your issue seriously when I heard that you wanted me to call you. I called and was told you were at lunch.

Thanks,

Bil << File: Restaurants Main.wpd >>

Rodgers, Janice

From: Rodgers, Janice
Sent: Thursday, July 7, 2005 9:09 AM
To: Gorsuch, Neil M
Subject: your 278

Neil,

I've reviewed your disclosure report -- did you realize you didn't sign it? perhaps in your HASTE to complete it and get it to me (or out of your office) you forgot.

I want to make two annotations: on Schedule D Part I, outside positions, I want to delete the entries for membership in the ABA, ATLA and various state bar associations because they are not required if you are just a dues-paying member. Membership on the Council on Foreign Relations is different, and does need to be reported.

Also, on Schedule C Part II, Agreements and Arrangements, I want to add our standard language that you will [redacted].

If you approve these changes, I will make them, sign the report and send it back to you for you to sign. It will have our cover letter transmitting the report to Robert to certify, and you can give it to him after you sign it.

Thanks,

Janice

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 07, 2005 9:17 AM
To: Rodgers, Janice
Subject: RE: your 278

Janice,

What can I say about forgetting to sign? That it was only my joy and pleasure in filling out the forms that distracted me?! Your proposed changes are fine ([redacted]). Thank you for all your help. Neil

-----Original Message-----
From: Rodgers, Janice
Sent: Thursday, July 07, 2005 9:09 AM
To: Gorsuch, Neil M
Subject: your 278

Neil,

I've reviewed your disclosure report -- did you realize you didn't sign it? perhaps in your HASTE to complete it and get it to me (or out of your office) you forgot.

I want to make two annotations: on Schedule D Part I, outside positions, I want to delete the entries for membership in the ABA, ATLA and various state bar associations because they are not required if you are just a dues-paying member. Membership on the Council on Foreign Relations is different, and does need to be reported.

Also, on Schedule C Part II, Agreements and Arrangements, I want to add our standard language that you will [redacted]

If you approve these changes, I will make them, sign the report and send it back to you for you to sign. It will have our cover letter transmitting the report to Robert to certify, and you can give it to him after you sign it.

Thanks,

Janice

Rodgers, Janice

From: Rodgers, Janice
Sent: Thursday, July 7, 2005 9:20 AM
To: Gorsuch, Neil M
Subject: RE: your 278

Great -- I'll have the report delivered to you sometime today.

Thanks-
Janice

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 07, 2005 9:17 AM
To: Rodgers, Janice
Subject: RE: your 278

Janice,

What can I say about forgetting to sign? That it was only my joy and pleasure in filling out the forms that distracted me?! Your proposed changes are fine ([redacted]). Thank you for all your help. Neil

-----Original Message-----
From: Rodgers, Janice
Sent: Thursday, July 07, 2005 9:09 AM
To: Gorsuch, Neil M
Subject: your 278

Neil,

I've reviewed your disclosure report -- did you realize you didn't sign it? perhaps in your HASTE to complete it and get it to me (or out of your office) you forgot.

I want to make two annotations: on Schedule D Part I, outside positions, I want to delete the entries for membership in the ABA, ATLA and various state bar associations because they are not required if you are just a dues-paying member. Membership on the Council on Foreign Relations is different, and does need to be reported.

Also, on Schedule C Part II, Agreements and Arrangements, I want to add our standard language that you will [redacted].

If you approve these changes, I will make them, sign the report and send it back to you for you to sign. It will have our cover letter transmitting the report to Robert to certify, and you can give it to him after you sign it.

Thanks,

Janice

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Thursday, July 07, 2005 9:34 AM
To: Wiggins, Mike; Reyes, Luis (SMO); Henke, Tracy (SMO)
Cc: Gorsuch, Neil M
Subject: RE: COGCON 2 IMPLEMENTATION

Wiggins has agreed to cover for us through this weekend. I will be in Atlanta tonight and through noon tomorrow, at Highlands, NC Friday night through Sunday afternoon, in Atlanta Sun night, and back here Mon am arriving at 8 am at National. Contact numbers are cell [redacted], Atlanta [redacted], NC [redacted]. My berry works in NC, cell sometimes does not. Robt.

-----Original Message-----
From: Wiggins, Mike
Sent: Thursday, July 07, 2005 8:11 AM
To: Reyes, Luis (SMO); McCallum, Robert (SMO); Henke, Tracy (SMO)
Subject: FW: COGCON 2 IMPLEMENTATION
Importance: High

fyi

-----Original Message-----
From: McNally, Dan **On Behalf Of** EPG
Sent: Thursday, July 07, 2005 8:02 AM
To: Rosebrock, James A.; Vanyur, John; Zwick, Ken (CIV); Richter, John; Augustine, Donald P.; Downs, David; Renkiewicz, Martin; Allen, Michael (JMD); Schreiber, Jayne; Wiggins, Mike; McAtamney, James A; Simmons, Carolyn M; Gary, Jane H; McGarry, Beth; Burton, Faith; Hart, Rosemary; Talamona, Gina; Faurot, Robert J; Wilkinson, Monty; [redacted] (USMS); Melson, Ken
Cc: Vasaio, Tony; JCC; EPG
Subject: COGCON 2 IMPLEMENTATION
Importance: High

This email is being sent to the points of contact for each of the offices with representation on the Emergency Relocation Facility (ERF) Cadre.

Continuity of Government Condition (COGCON) 2 has been implemented. Attached is the COGCON matrix that provides guidance for COOP activities. COGCON 2 staffing level, according to the attached is: "Deploy sufficient staff to alternate operating facility(ies) to allow activation with four hors notice."

Each POC addressed in this email should ensure at least one member of your cadre (Core, Core Reserve, or Alternate) be placed on standby, and be prepared to arrive at the ERF within four hours, if and when directed to do so.

<< File: COOPcogcon.doc >>

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Thursday, July 7, 2005 9:37 AM
To: Yanes, Raul
Cc: Gorsuch, Neil M
Subject: AWOL on Friday

Raul: [redacted] and will miss the AG meeting tomorrow am. Neil will cover. I will be back for the meeting Monday arriving at Reagan Nat. at 8am. Robt.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, July 7, 2005 9:49 AM
To: Gorsuch, Neil M; Wiggins, Mike
Cc: Gunn, Currie (SMO)
Subject: FW: new associate counsel

fyi: Jenny Brosnahan and new associate counsel to the President, Bob Hoyt, are planning on dropping by tomorrow around 10:20 or 10:30. They just want to say hello and introduce Bob. (They understand that Robert is out of town, but since they will be in the building, want to stop by). I recommend moving the Group II meeting back to 11? Any objections?

-----Original Message-----
From: Jennifer_R._Brosnahan@who.eop.gov
[mailto:Jennifer_R._Brosnahan@who.eop.gov]
Sent: Thursday, July 07, 2005 9:37 AM
To: Reyes, Luis (SMO); Sampson, Kyle
Cc: Robert_F._Hoyt@who.eop.gov
Subject: RE: new associate counsel

We're going to come over around 10 a.m., and start in OAG, if that is ok with you. So maybe we'll show up at OASG around 10:20 or 10:30? Please let us know if we should adjust somehow. Thanks, and see you tomorrow.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 7, 2005 10:21 AM
To: Reyes, Luis (SMO); Wiggins, Mike
Cc: Gunn, Currie (SMO)
Subject: RE: new associate counsel

Sounds right to me.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, July 07, 2005 9:49 AM
To: Gorsuch, Neil M; Wiggins, Mike
Cc: Gunn, Currie (SMO)
Subject: FW: new associate counsel

fyi: Jenny Brosnahan and new associate counsel to the President, Bob Hoyt, are planning on dropping by tomorrow around 10:20 or 10:30. They just want to say hello and introduce Bob. (They understand that Robert is out of town, but since they will be in the building, want to stop by). I recommend moving the Group II meeting back to 11? Any objections?

-----Original Message-----
From: Jennifer_R._Brosnahan@who.eop.gov
[mailto:Jennifer_R._Brosnahan@who.eop.gov]
Sent: Thursday, July 07, 2005 9:37 AM
To: Reyes, Luis (SMO); Sampson, Kyle
Cc: Robert_F._Hoyt@who.eop.gov
Subject: RE: new associate counsel

We're going to come over around 10 a.m., and start in OAG, if that is ok with you. So maybe we'll show up at OASG around 10:20 or 10:30? Please let us know if we should adjust somehow. Thanks, and see you tomorrow.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 7, 2005 10:22 AM
To: Gunn, Currie (SMO); Reyes, Luis (SMO); Wiggins, Mike
Subject: RE: new associate counsel

Even better idea! Thanks.

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Thursday, July 07, 2005 9:50 AM
To: Reyes, Luis (SMO); Gorsuch, Neil M; Wiggins, Mike
Subject: RE: new associate counsel

With Tracy & Robert out, Neil, would you like to cancel Group II. Please advise?

Currie

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, July 07, 2005 9:49 AM
To: Gorsuch, Neil M; Wiggins, Mike
Cc: Gunn, Currie (SMO)
Subject: FW: new associate counsel

fyi: Jenny Brosnahan and new associate counsel to the President, Bob Hoyt, are planning on dropping by tomorrow around 10:20 or 10:30. They just want to say hello and introduce Bob. (They understand that Robert is out of town, but since they will be in the building, want to stop by). I recommend moving the Group II meeting back to 11? Any objections?

-----Original Message-----
From: Jennifer_R._Brosnahan@who.eop.gov
[mailto:Jennifer_R._Brosnahan@who.eop.gov]
Sent: Thursday, July 07, 2005 9:37 AM
To: Reyes, Luis (SMO); Sampson, Kyle
Cc: Robert_F._Hoyt@who.eop.gov
Subject: RE: new associate counsel

We're going to come over around 10 a.m., and start in OAG, if that is ok with you. So maybe we'll show up at OASG around 10:20 or 10:30? Please let us know if we should adjust somehow. Thanks, and see you tomorrow.

Full Name: Mike O'Neill
Last Name: O'Neill
First Name: Mike

Business: [redacted]

E-mail: [redacted]@judiciary-rep.senate.gov
E-mail Display As: [redacted]@judiciary-rep.senate.gov

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 7, 2005 10:25 AM
To: Gunn, Currie (SMO)
Subject: Favor

could you get the email address for [redacted] the US Senate Judiciary Cmte, for me? The main tel no over there is [redacted]. Thanks very much.gorsuch@usdoj.gov

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, July 7, 2005 10:31 AM
To: Gorsuch, Neil M
Subject: Read: new associate counsel

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, July 7, 2005 10:37 AM
To: Gorsuch, Neil M
Subject: Read: new associate counsel

Meron, Daniel (CIV)

From: Meron, Daniel (CIV)
Sent: Thursday, July 07, 2005 10:43 AM
To: Gorsuch, Neil M
Subject: Read: Policy question

Magnuson, Cynthia

From: Magnuson, Cynthia
Sent: Thursday, July 7, 2005 10:44 AM
To: Allen, Gary (CIV); Apisson, Elizabeth M; Baxter, Felix (CIV); Boyle, Brian D; Branda, Joyce (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Eubanks, Sharon (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D. (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Madden, Kevin; Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Miller, Charles S; Morgan, Julian (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Sierra, Bryan; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wiggins, Mike; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 7/7/05 Civil Division News

Family sues to gain freedom of Los Angeles filmmaker detained in Iraq by U.S. military

Chinese teen may stay in U.S. during appeal

Guidant faces legal battles following recalls

GM wins U.S. pension aid

AP
July 7, 2005

Family sues to gain freedom of Los Angeles filmmaker detained in Iraq by U.S. military

By JEREMIAH MARQUEZ
Associated Press Writer

LOS ANGELES_Cyrus Kar's family says his passion for a documentary film he was making about an ancient Persian ruler brought him to Iraq in May. Potential bomb parts found inside a taxi hired by the filmmaker have kept him there, locked up in a U.S. military jail outside Baghdad.

Now relatives of the 44-year-old Iranian-American have sued the U.S. government to gain his freedom. They contend his detention tramples his constitutional rights, and that FBI officials have cleared him of suspicion.

"I'm here to beg President Bush ... to release an innocent boy," Kar's aunt, Parvin Modarress, said at a news conference Wednesday to announce the filing of the lawsuit in Washington, D.C. "He went to Iraq to do his dream work, to make a documentary."

Born in Iran, Kar became as thoroughly immersed in American culture as any native-born citizen after immigrating here as a child, according to his family.

The Los Angeles resident served in the Navy for several years. He studied marketing at San Jose State University, business at Pepperdine University, and worked in the computer industry during Silicon Valley's tech boom.

And several years ago Kar decided to try his hand at filmmaking.

With help from independent director-producer Philippe Diaz, he began working on a documentary about Cyrus the Great, a Persian king during the 500s B.C.

He interviewed experts and scholars and shot up to 60 hours of footage at archaeological sites in Afghanistan, Iran and Tajikistan, according to his family and Diaz.

Diaz, chairman of the Los Angeles studio Cinema Libre, said Kar had spent close to $90,000 in savings and loans so far to shoot the film. The studio had paid about $10,000 and planned to put up another $100,000 or more in post-production.

Diaz thought Kar's detention was a mistake. A staunch supporter of the Iraq war, Kar was far more right of center than many left leaning colleagues and relatives, Diaz said.

"It was always a joke because Cyrus is much more conservative," Diaz said. "He always believed in everything which is American."

Among Kar's final tasks was shooting in and around the ancient city of Babylon, one of Cyrus the Great's conquests.

On May 17, officials and family say, he was traveling with an Iranian filmmaker after leaving a Baghdad hotel when their taxi was stopped at a checkpoint.

Iraqi security forces allegedly seized several dozen washing machine timers found in the taxi _ components frequently used in terrorist bombs.

"I think most people would agree that's somewhat suspicious," said Pentagon spokesman Lt. Col. John Skinner. "All of the facts need to be thoroughly questioned. ... These are life and death situations, and when it comes to issues of security you need to be extremely cautious."

Kar's relatives say that FBI agents searched his home and that Agent John D. Wilson in Los Angeles told them weeks ago that Kar's story had checked out.

The agent allegedly told the family that Kar had passed a polygraph test, been cleared of any charges, and that the washing machine timers belonged to the taxi driver, who was transporting them to a friend.

FBI spokeswoman Cathy Viray declined to comment.

Kar is among five Americans detained for suspected insurgent activity by the U.S. military in Iraq, according to his family and government officials. Others include three Iraqi-Americans and a Jordanian-American.

Incarcerated at Camp Cropper, near Baghdad International Airport, Kar spoke several times with his family during monitored 10-minute conversations.

He sounded tired in the first call in May, irate in the second. He was frustrated that the military could hold him, saying "they had all the power," according to his family.

When his aunt asked why he was detained, Kar said, "It's because of the taxi driver," when an eavesdropping American official told him not to discuss the case.

"I'm hurt by our government," said Kar's cousin Shahrzad Folger. "I'm hurt that they would do this to one of their own citizens, to one of their veterans."

END

Akron Beacon Journal (Ohio) (KRT)
July 7, 2005

Chinese teen may stay in U.S. during appeal

A teenager who said he might be killed by smugglers in China if he is deported will be allowed to stay in the United States while his appeal is pending.

A teenager who said he might be killed by smugglers in China if he is deported will be allowed to stay in the United States while his appeal is pending.

The 3rd U.S. Circuit Court of Appeals in Philadelphia said Wednesday it will allow Young Zheng, 17, to remain in this country while it decides whether to order his case reopened.

Young is at a federal juvenile detention facility in Houston.

He came to the United States illegally in January 2003 and later attended Central-Hower High School in Akron, where he lived with an uncle.

Young's lawyers want the case reopened to argue that if he is returned to China, he and his family face death by the smugglers to whom he owes about $50,000.

A decision could take two months.

Young said his father chose to send him away from China because he faced "extreme discrimination" as the second child born to the family.

He was denied asylum by both an immigration judge and the Board of Immigration Appeals before the smugglers began to threaten him and his family, Young has said.

END

AP
July 7, 2005

Guidant faces legal battles following recalls

By ASHLEY M. HEHER
Associated Press Writer

INDIANAPOLIS_Guidant Corp., which has recalled 87,600 implantable cardiac defibrillators in three weeks, is facing mounting legal pressure from angry shareholders and frightened patients.

Securities fraud lawsuits filed in June and July allege six executives at the Indianapolis-based company

sold nearly $40 million worth of stock at "artificially inflated prices" while knowing about undisclosed flaws in thousands of implantable defibrillators.

Court documents show the leaders at Guidant sold a combined 537,571 shares of company stock between Jan. 31 and May 23. More than half the shares were sold by CEO Ronald Dollens.

The suits, filed in federal court in Indianapolis, are the latest salvos aimed at Guidant, which faces lawsuits from dozens of patients for failing to notify physicians about flaws in several defibrillators. The company also is under investigation by the Food and Drug Administration, which said July 1 that defects in 42,000 defibrillators could be deadly.

Analysts disagree about the impact of the suits, but nearly all say they're unlikely to affect a pending $24.5 billion acquisition offer from New Jersey-based Johnson & Johnson.

Jeffrey J. Leebaw, a J&J spokesman, said Wednesday that the company is reviewing Guidant data but still plans to close the deal in the third quarter.

John Putnam, an analyst with Stanford Group Co. in Boca Raton, Fla., said investors appear confident the deal will take place.

Between June 17, when the company announced its first recall, and June 24, Guidant stock traded between $73.83 and $59.94 on the New York Stock Exchange. On June 24, the day the company issued its second safety advisory, the stock closed at $63.90.

On Wednesday, Guidant stock fell $1.07 in trading to $65.03.

"Obviously, people are speculating that J&J is not going to walk away from the deal," Putnam said.

Guidant spokesman Steve Tragash declined to comment on the lawsuits. Officials have previously said patient safety is "paramount" for the company.

Many analysts said the flurry of lawsuits was expected after Guidant issued safety advisories for 11 models of its implantable defibrillators, which shock the heart back into a regular rhythm.

Keay Makae, a medical device analyst with C.E. Unterberg, Towbin, said the patient lawsuits could be more damaging.

"I would say statistically, the number of (securities fraud) lawsuits that end up damaging a company seems to be on the low side," he said. "The patient ones potentially are more serious."

Robert C. Hilliard, a Texas attorney who has filed suit against Guidant in Texas District Court, said the outcry isn't surprising.

"Most of these people are just very angry and betrayed," he said. "Most of them have heart conditions or preexisting heart problems, and now they're faced with going under the knife again or just hoping this one won't be a defective one."

But Bill Hicks, a professor at Indiana University's law school, said the shareholder lawsuits could pose more of a threat.

"Product liability is part of doing business," he said.

Philip T. Powell, a professor at Indiana University's Kelley School of Business, disagreed. Stock sales aren't unusual when a company is preparing for a merger, he said.

"These people are retiring," Powell said. "So they're going to move their portfolio around."

Experts predict the company ultimately will settle the complaints.

"Guidant is not going to fight it," Powell said of the consumer lawsuits. "There's admitted liability. They'd be stupid to fight it."

Repeated messages were left by The Associated Press with lawyers from the Connecticut firm Scott & Scott, Pennsylvania-based Schiffrin & Barroway and Maryland attorney Charles J. Pivens. All three firms have filed securities fraud cases against Guidant.

END

Detroit Free Press
July 7, 2005

GM wins U.S. pension aid

BY ANDREW DUNN
BLOOMBERG

General Motors Corp. and other government contractors can recover some pension shortfalls from the U.S. government, a federal judge ruled.

U.S. Judge Nancy Firestone of the Court of Federal Claims in Washington, D.C., ruled that the federal government must pay some share of the pension funding deficit accrued under flexibly priced contracts it had with Allison Gas Turbine, which GM sold in 1993. GM claims the government owes it as much as $252.8 million in defined-benefit pension contributions.

GM has been seeking reimbursement of the costs, based on accounting adjustments as of the time of the Allison sale, since 2000.

"If the calculation results in a deficit, then the government's share must be increased," Firestone wrote in a June 28 opinion declining to dismiss the case. "The plaintiff is entitled to a settling-up."

The GM case parallels another involving Allegheny Teledyne Inc. and the carmaker. In that 2002 case, Firestone ruled that recovery of excess pension contributions or payment of shortfalls weren't available under fixed-price government contracts.

Firestone's more recent decision, denying the U.S. motion to dismiss GM's suit, rejected the government's contract-based objections to payment of GM pension shortfalls under flexibly priced contracts.

GM spokesman Jerry Dubrowski said the company would have no comment before the case was fully resolved. U.S. Justice Department spokesman Charles Miller had no comment.

GM shares fell 55 cents to $34.22 on the New York Stock Exchange. The stock has fallen about 14% this year.

END

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Thursday, July 07, 2005 10:46 AM
To: McCallum, Robert (SMO); Davis, Deborah J; Kant, Deborah (SMO); Cinciotta, Linda A; Gorsuch, Neil M; Henke, Tracy (SMO); Kessler, Elizabeth A; Reyes, Luis (SMO); Senger, Jeffrey M; Swenson, Lily F; Wiggins, Mike
Subject: FW: Security Alert

See below.

Currie

-----Original Message-----
From: Dunlap, James L
Sent: Thursday, July 07, 2005 10:45 AM
To: SPM; Santangelo, Mari (JMD); Allen, Michael (JMD); Lofthus, Lee J
Cc: Scolinos, Tasia; Madden, Kevin; Talamona, Gina; Johnson, Paul
Subject: Security Alert

ALL:

Alert DC is reporting that although there are no credible threats for DC at this time, increased security at Metro stations & critical facilities by MPD has been implemented.

James L. Dunlap
Director
Security & Emergency Planning Staff

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Thursday, July 07, 2005 10:57 AM
To: Gorsuch, Neil M
Subject: RE: Favor

[redacted]@judiciary-rep.senate.gov

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 07, 2005 10:25 AM
To: Gunn, Currie (SMO)
Subject: Favor

could you get the email address for [redacted] the US Senate Judiciary Cmte, for me? The main tel no over there is [redacted]. Thanks very much.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 07, 2005 10:57 AM
To: Gunn, Currie (SMO)
Subject: RE: Favor

super; thanks

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Thursday, July 07, 2005 10:57 AM
To: Gorsuch, Neil M
Subject: RE: Favor

[redacted]@judiciary-rep.senate.gov

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 07, 2005 10:25 AM
To: Gunn, Currie (SMO)
Subject: Favor

could you get the email address for [redacted] the US Senate Judiciary Cmte, for me? The main tel no over there is [redacted]. Thanks very much.gorsuch@usdoj.gov

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Thursday, July 07, 2005 10:57 AM
To: Gorsuch, Neil M
Subject: Read: Favor

Joanna.Nunan@dot.gov

From:	Joanna.Nunan@dot.gov
Sent:	Thursday, July 7, 2005 11:12 AM
To:	Sellers, Kiahna (OAG)
Cc:	Gorsuch, Neil M; Rubin, Jim (ENRD); McAtamney, James A; Robert.Mariner@dot.gov
Subject:	RE: First Meeting of the Committee on the Marine Transportation System (CMTS)
Importance:	High

Kiahna,

That is great news that the Attorney General will be attending the CMTS meeting on Monday. Jim Rubin (cc'd above) is the DOJ working group member, who has the briefing book for the Attorney General. Does this mean that Associate Attorney General Robert McCallum is his +1? Please contact me if I can be of further assistance.

Thanks so much,
Joanna
Joanna Nunan
Commander, U. S. Coast Guard
Military Assistant to the Secretary of Transportation (202) 366-5742 joanna.nunan@dot.gov

-----Original Message-----
From: Kiahna.Sellers2@usdoj.gov [mailto:Kiahna.Sellers2@usdoj.gov]
Sent: Wednesday, July 06, 2005 15:40
To: Nunan, Joanna <OST>
Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Dear Joanna -

I am compiling a briefing book for Attorney General Gonzales for Monday, July 11, 2005. Would you please send me an updated participants list and any other materials you may have for the meeting below, which the Attorney General should see?

Many thanks,
Kiahna Sellers
202-514-7281

Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Start: Mon 7/11/05 2:00 PM
End: Mon 7/11/05 3:00 PM

Recurrence: (none)

Beach, Andrew

From:	Beach, Andrew
Sent:	Thursday, July 7, 2005 11:28 AM
To:	Sellers, Kiahna (OAG); Gorsuch, Neil M; McAtamney, James A
Cc:	Taylor, Jeffrey (OAG)
Subject:	RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

Neil:
the AG is planning to attend the Marine Transportation meeting on Monday. should the Associate go as his plus one?

-----Original Message-----
From: Joanna.Nunan@dot.gov [mailto:Joanna.Nunan@dot.gov]
Sent: Thursday, July 07, 2005 11:13 AM
To: Sellers, Kiahna (OAG)
Cc: Gorsuch, Neil M; Rubin, Jim (ENRD); McAtamney, James A;
Robert.Mariner@dot.gov
Subject: RE: First Meeting of the Committee on the Marine Transportation
System (CMTS)
Importance: High

Kiahna,

That is great news that the Attorney General will be attending the CMTS meeting on Monday. Jim Rubin (cc'd above) is the DOJ working group member, who has the briefing book for the Attorney General. Does this mean that Associate Attorney General Robert McCallum is his +1? Please contact me if I can be of further assistance.

Thanks so much,
Joanna
Joanna Nunan
Commander, U. S. Coast Guard
Military Assistant to the Secretary of Transportation (202) 366-5742 joanna.nunan@dot.gov

-----Original Message-----
From: Kiahna.Sellers2@usdoj.gov [mailto:Kiahna.Sellers2@usdoj.gov]
Sent: Wednesday, July 06, 2005 15:40
To: Nunan, Joanna <OST>
Subject: First Meeting of the Committee on the Marine Transportation
System (CMTS)

Dear Joanna -

I am compiling a briefing book for Attorney General Gonzales for Monday, July 11, 2005. Would you please send me an updated participants list and any other materials you may have for the meeting below, which the Attorney General should see?

Many thanks,
Kiahna Sellers
202-514-7281

Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Start: Mon 7/11/05 2:00 PM
End: Mon 7/11/05 3:00 PM

Recurrence: (none)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 07, 2005 11:29 AM
To: Sellers, Kiahna (OAG)
Cc: Rubin, Jim (ENRD); McAtamney, James A; Robert.Mariner@dot.gov
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

Kiahna,

I have the briefing materials and would be happy to pass them along and fill you in on the background. But is the AG attending? I'd understood that he asked Robert to attend in his place. Let me know how you want to proceed.

Neil Gorsuch

-----Original Message-----
From: Joanna.Nunan@dot.gov [mailto:Joanna.Nunan@dot.gov]
Sent: Thursday, July 07, 2005 11:13 AM
To: Sellers, Kiahna (OAG)
Cc: Gorsuch, Neil M; Rubin, Jim (ENRD); McAtamney, James A;
Robert.Mariner@dot.gov
Subject: RE: First Meeting of the Committee on the Marine Transportation
System (CMTS)
Importance: High

Kiahna,

That is great news that the Attorney General will be attending the CMTS meeting on Monday. Jim Rubin (cc'd above) is the DOJ working group member, who has the briefing book for the Attorney General. Does this mean that Associate Attorney General Robert McCallum is his +1? Please contact me if I can be of further assistance.

Thanks so much,
Joanna
Joanna Nunan
Commander, U. S. Coast Guard
Military Assistant to the Secretary of Transportation (202) 366-5742 joanna.nunan@dot.gov

-----Original Message-----
From: Kiahna.Sellers2@usdoj.gov [mailto:Kiahna.Sellers2@usdoj.gov]
Sent: Wednesday, July 06, 2005 15:40
To: Nunan, Joanna <OST>

Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Dear Joanna -

I am compiling a briefing book for Attorney General Gonzales for Monday, July 11, 2005. Would you please send me an updated participants list and any other materials you may have for the meeting below, which the Attorney General should see?

Many thanks,
Kiahna Sellers
202-514-7281

Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Start: Mon 7/11/05 2:00 PM
End: Mon 7/11/05 3:00 PM

Recurrence: (none)

Rubin, Jim (ENRD)

From: Rubin, Jim (ENRD)
Sent: Thursday, July 7, 2005 11:33 AM
To: Gorsuch, Neil M
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

Neil, I called Kiahna and advised that you and Robert had planned to go to the meeting, and if any change was made in that plan and they needed more info, I would be happy to provide it. But I did suggest she contact your office to straigthen the whole thing out first. I sent her on to Liz and Deborah. My understanding is that the AG's office, or at least the DAG's, sent this request down to the OASG in the first place!

I will now step out of the way to avoid further confusion, but if you want further materials, briefings, etc. please let me know.

BTW, doesn't really seem like a vital meeting for the AG, but . . .

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 07, 2005 11:29 AM
To: Sellers, Kiahna (OAG)
Cc: Rubin, Jim (ENRD); McAtamney, James A; Robert.Mariner@dot.gov
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

Kiahna,

I have the briefing materials and would be happy to pass them along and fill you in on the background. But is the AG attending? I'd understood that he asked Robert to attend in his place. Let me know how you want to proceed.

Neil Gorsuch

-----Original Message-----
From: Joanna.Nunan@dot.gov [mailto:Joanna.Nunan@dot.gov]
Sent: Thursday, July 07, 2005 11:13 AM
To: Sellers, Kiahna (OAG)
Cc: Gorsuch, Neil M; Rubin, Jim (ENRD); McAtamney, James A;
Robert.Mariner@dot.gov
Subject: RE: First Meeting of the Committee on the Marine Transportation
System (CMTS)
Importance: High

Kiahna

Kiahna,

That is great news that the Attorney General will be attending the CMTS meeting on Monday. Jim Rubin (cc'd above) is the DOJ working group member, who has the briefing book for the Attorney General. Does this mean that Associate Attorney General Robert McCallum is his +1? Please contact me if I can be of further assistance.

Thanks so much,
Joanna
Joanna Nunan
Commander, U. S. Coast Guard
Military Assistant to the Secretary of Transportation (202) 366-5742 joanna.nunan@dot.gov

-----Original Message-----
From: Kiahna.Sellers2@usdoj.gov [mailto:Kiahna.Sellers2@usdoj.gov]
Sent: Wednesday, July 06, 2005 15:40
To: Nunan, Joanna <OST>
Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Dear Joanna -

I am compiling a briefing book for Attorney General Gonzales for Monday, July 11, 2005. Would you please send me an updated participants list and any other materials you may have for the meeting below, which the Attorney General should see?

Many thanks,
Kiahna Sellers
202-514-7281

Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Start: Mon 7/11/05 2:00 PM
End: Mon 7/11/05 3:00 PM

Recurrence: (none)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 7, 2005 11:40 AM
To: Rubin, Jim (ENRD)
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

Thanks, Jim. I'll sort it out.

-----Original Message-----
From: Rubin, Jim (ENRD)
Sent: Thursday, July 07, 2005 11:33 AM
To: Gorsuch, Neil M
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

Neil, I called Kiahna and advised that you and Robert had planned to go to the meeting, and if any change was made in that plan and they needed more info, I would be happy to provide it. But I did suggest she contact your office to straigthen the whole thing out first. I sent her on to Liz and Deborah. My understanding is that the AG's office, or at least the DAG's, sent this request down to the OASG in the first place!

I will now step out of the way to avoid further confusion, but if you want further materials, briefings, etc. please let me know.

BTW, doesn't really seem like a vital meeting for the AG, but . . .

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 07, 2005 11:29 AM
To: Sellers, Kiahna (OAG)
Cc: Rubin, Jim (ENRD); McAtamney, James A; Robert.Mariner@dot.gov
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

Kiahna,

I have the briefing materials and would be happy to pass them along and fill you in on the background. But is the AG attending? I'd understood that he asked Robert to attend in his place. Let me know how you want to proceed.

Neil Gorsuch

-----Original Message-----
From: Joanna.Nunan@dot.gov [mailto:Joanna.Nunan@dot.gov]

From: Joanna.Nunan@dot.gov [mailto:Joanna.Nunan@dot.gov]
Sent: Thursday, July 07, 2005 11:13 AM
To: Sellers, Kiahna (OAG)
Cc: Gorsuch, Neil M; Rubin, Jim (ENRD); McAtamney, James A; Robert.Mariner@dot.gov
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)
Importance: High

Kiahna,

That is great news that the Attorney General will be attending the CMTS meeting on Monday. Jim Rubin (cc'd above) is the DOJ working group member, who has the briefing book for the Attorney General. Does this mean that Associate Attorney General Robert McCallum is his +1? Please contact me if I can be of further assistance.

Thanks so much,
Joanna
Joanna Nunan
Commander, U. S. Coast Guard
Military Assistant to the Secretary of Transportation (202) 366-5742 joanna.nunan@dot.gov

-----Original Message-----
From: Kiahna.Sellers2@usdoj.gov [mailto:Kiahna.Sellers2@usdoj.gov]
Sent: Wednesday, July 06, 2005 15:40
To: Nunan, Joanna <OST>
Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Dear Joanna -

I am compiling a briefing book for Attorney General Gonzales for Monday, July 11, 2005. Would you please send me an updated participants list and any other materials you may have for the meeting below, which the Attorney General should see?

Many thanks,
Kiahna Sellers
202-514-7281

Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Start: Mon 7/11/05 2:00 PM
End: Mon 7/11/05 3:00 PM

Recurrence: (none)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 7, 2005 11:47 AM
To: Beach, Andrew; Sellers, Kiahna (OAG); McAtamney, James A
Cc: Taylor, Jeffrey (OAG)
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

Andrew,

I had understood that the AG and DAG had sent this down asking Robert to represent DOJ. If that direction has changed, though, I'd be happy to pass along the briefing books and share with the right folk(s) what I've gleaned. Just let me know to whom I should speak. As to the plus-one, that's entirely up to OAG, but based on what I know I'm not sure this meeting is particularly vital such that it merits the presence of both the AG and the Associate. Perhaps Jeff would make sense as the plus-one if the AG attends?

Let me know how you want to proceed.

Neil

-----Original Message-----
From: Beach, Andrew
Sent: Thursday, July 07, 2005 11:28 AM
To: Sellers, Kiahna (OAG); Gorsuch, Neil M; McAtamney, James A
Cc: Taylor, Jeffrey (OAG)
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

Neil:
the AG is planning to attend the Marine Transportation meeting on Monday. should the Associate go as his plus one?

-----Original Message-----
From: Joanna.Nunan@dot.gov [mailto:Joanna.Nunan@dot.gov]
Sent: Thursday, July 07, 2005 11:13 AM
To: Sellers, Kiahna (OAG)
Cc: Gorsuch, Neil M; Rubin, Jim (ENRD); McAtamney, James A; Robert.Mariner@dot.gov
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)
Importance: High

Kiahna,

That is great news that the Attorney General will be attending the CMTS meeting on Monday. Jim Rubin (cc'd above) is the DOJ working group member, who has the briefing book for the Attorney General. Does this mean that Associate Attorney General Robert McCallum is his +1? Please contact me if I can be of further assistance.

Thanks so much,
Joanna
Joanna Nunan
Commander, U. S. Coast Guard
Military Assistant to the Secretary of Transportation (202) 366-5742 joanna.nunan@dot.gov

-----Original Message-----
From: Kiahna.Sellers2@usdoj.gov [mailto:Kiahna.Sellers2@usdoj.gov]
Sent: Wednesday, July 06, 2005 15:40
To: Nunan, Joanna <OST>
Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Dear Joanna -

I am compiling a briefing book for Attorney General Gonzales for Monday, July 11, 2005. Would you please send me an updated participants list and any other materials you may have for the meeting below, which the Attorney General should see?

Many thanks,
Kiahna Sellers
202-514-7281

Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Start: Mon 7/11/05 2:00 PM
End: Mon 7/11/05 3:00 PM

Recurrence: (none)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 07, 2005 12:32 PM
To: Reyes, Luis (SMO)
Subject: bullet proof vests

Regina is coming over at 1 to talk with me about the status of the bullet proof vests problem/issue. If you have time/interest, please feel free to join us.

Gunn, Currie (SMO)

Subject:	Updated: Group II ASG Leadership Meeting
Location:	5710
Start:	Friday, July 15, 2005 10:30 AM
End:	Friday, July 15, 2005 11:30 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Friday from 10:30 AM to 11:30 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Dhillon, Uttam; Kessler, Elizabeth A; Reyes, Luis (SMO); Hertling, Richard; Henke, Tracy (SMO); Gorsuch, Neil M
Optional Attendees:	Tamargo, Mauricio J; Wiggins, Mike; Cinciotta, Linda A; Matthews, Laurel; Shaw, Aloma A; Metcalfe, Daniel J; Fowler, Liane (SMO); Huff, Richard L; Williams, Dionne; Baker, Sharon; Schauder, Andrew; Moschella, William; Stuart, Diane; Henke, Tracy (SMO)

When: Friday, July 15, 2005 10:30 AM-11:30 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

This mtg has been moved to next Friday, 7/15/2005.

Attendees: Robert McCallum, Neil Gorsuch, Tracy Henke, Elizabeth Kessler, Gerald Reynolds, Mike Wiggins, Deborah Daniels, Diane Stuart, Carl Peed, Richard Huff, Daniel Metcalfe, Linda Cinciotta and Mauricio Tamargo, Uttam Dhillon, Greg Harris, Richard Hertling, Dan Bryant

POC: Currie Gunn x-49500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 7, 2005 2:03 PM
To: Kessler, Elizabeth A
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

I sent a similar email to Beach.

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Thursday, July 07, 2005 1:46 PM
To: Ullyot, Theodore; Sampson, Kyle; Yanes, Raul
Cc: Sellers, Kiahna (OAG); Gorsuch, Neil M
Subject: FW: First Meeting of the Committee on the Marine Transportation System (CMTS)
Importance: High

Ted/Kyle/Raul: I'm not sure which of you may have heard of this, but we need some guidance soon. This meeting is scheduled for Monday at 2pm. Robert and Neil were planning to attend for DOJ. My understanding was that a request came to us from the AG's office for Robert to handle the meeting. While the meeting is Cabinet-level in theory, thus far the only Cabinet members confirmed to attend are Secretary Mineta (who is leading the group) and Secretary Chertoff (who has equities in the topic, particularly given the Coast Guard's role).

Neil Gorsuch and I were briefed on this yesterday by the ENRD staff attorneys who have been attending the planning sessions. We see no major DOJ issues at this time and no particular reason the AG should attend this meeting, which is largely a kick-off meeting for the group and not a decisional meeting.

Can you let us know if the AG is in fact planning to attend? If so, we'll need some idea of what sort of preparation he would like. Thanks for any help in straightening us out. - Liz

-----Original Message-----
From: Rubin, Jim (ENRD)
Sent: Thursday, July 07, 2005 11:22 AM
To: Kessler, Elizabeth A; Davis, Deborah J
Subject: FW: First Meeting of the Committee on the Marine Transportation System (CMTS)
Importance: High

!!!!!!!

-----Original Message-----
From: Joanna.Nunan@dot.gov [mailto:Joanna.Nunan@dot.gov]
Sent: Thursday, July 07, 2005 11:13 AM
To: Sellers, Kiahna (OAG)
Cc: Gorsuch, Neil M; Rubin, Jim (ENRD); McAtamney, James A; Robert.Mariner@dot.gov
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)
Importance: High

Kiahna,

That is great news that the Attorney General will be attending the CMTS meeting on Monday. Jim Rubin (cc'd above) is the DOJ working group member, who has the briefing book for the Attorney General. Does this mean that Associate Attorney General Robert McCallum is his +1? Please contact me if I can be of further assistance.

Thanks so much,
Joanna
Joanna Nunan
Commander, U. S. Coast Guard
Military Assistant to the Secretary of Transportation (202) 366-5742 joanna.nunan@dot.gov

-----Original Message-----
From: Kiahna.Sellers2@usdoj.gov [mailto:Kiahna.Sellers2@usdoj.gov]
Sent: Wednesday, July 06, 2005 15:40
To: Nunan, Joanna <OST>
Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Dear Joanna -

I am compiling a briefing book for Attorney General Gonzales for Monday, July 11, 2005. Would you please send me an updated participants list and any other materials you may have for the meeting below, which the Attorney General should see?

Many thanks,
Kiahna Sellers
202-514-7281

Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Start: Mon 7/11/05 2:00 PM
End: Mon 7/11/05 3:00 PM

Recurrence: (none)

Davis, Deborah J

Subject:	Accepted: Meet & Greet Jennifer Brosnahan & Bob Hoyt of White House Counsel Office
Location:	Room 5710
Start:	Friday, July 8, 2005 10:30 AM
End:	Friday, July 8, 2005 11:00 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Davis, Deborah J

Ullyot, Theodore

From: Ullyot, Theodore
Sent: Thursday, July 07, 2005 2:24 PM
To: Kessler, Elizabeth A; Sampson, Kyle; Yanes, Raul
Cc: Sellers, Kiahna (OAG); Gorsuch, Neil M
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

What is(are) the issue(s) for discussion?

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Thursday, July 07, 2005 1:46 PM
To: Ullyot, Theodore; Sampson, Kyle; Yanes, Raul
Cc: Sellers, Kiahna (OAG); Gorsuch, Neil M
Subject: FW: First Meeting of the Committee on the Marine Transportation System (CMTS)
Importance: High

Ted/Kyle/Raul: I'm not sure which of you may have heard of this, but we need some guidance soon. This meeting is scheduled for Monday at 2pm. Robert and Neil were planning to attend for DOJ. My understanding was that a request came to us from the AG's office for Robert to handle the meeting. While the meeting is Cabinet-level in theory, thus far the only Cabinet members confirmed to attend are Secretary Mineta (who is leading the group) and Secretary Chertoff (who has equities in the topic, particularly given the Coast Guard's role).

Neil Gorsuch and I were briefed on this yesterday by the ENRD staff attorneys who have been attending the planning sessions. We see no major DOJ issues at this time and no particular reason the AG should attend this meeting, which is largely a kick-off meeting for the group and not a decisional meeting.

Can you let us know if the AG is in fact planning to attend? If so, we'll need some idea of what sort of preparation he would like. Thanks for any help in straightening us out. - Liz

-----Original Message-----
From: Rubin, Jim (ENRD)
Sent: Thursday, July 07, 2005 11:22 AM
To: Kessler, Elizabeth A; Davis, Deborah J
Subject: FW: First Meeting of the Committee on the Marine Transportation System (CMTS)
Importance: High

.....

!!!!!!!

-----Original Message-----
From: [redacted]@dot.gov [mailto[redacted]@dot.gov]
Sent: Thursday, July 07, 2005 11:13 AM
To: Sellers, Kiahna (OAG)
Cc: Gorsuch, Neil M; Rubin, Jim (ENRD); McAtamney, James A; [redacted]@dot.gov
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)
Importance: High

Kiahna,

That is great news that the Attorney General will be attending the CMTS meeting on Monday. Jim Rubin (cc'd above) is the DOJ working group member, who has the briefing book for the Attorney General. Does this mean that Associate Attorney General Robert McCallum is his +1? Please contact me if I can be of further assistance.

Thanks so much,

[redacted]
Commander, U. S. Coast Guard
Military Assistant to the Secretary of Transportation[redacted]@dot.gov

-----Original Message-----
From: Kiahna.Sellers2@usdoj.gov [mailto:Kiahna.Sellers2@usdoj.gov]
Sent: Wednesday, July 06, 2005 15:40
To[redacted]<OST>
Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Dear[redacted]-

I am compiling a briefing book for Attorney General Gonzales for Monday, July 11, 2005. Would you please send me an updated participants list and any other materials you may have for the meeting below, which the Attorney General should see?

Many thanks,
Kiahna Sellers
202-514-7281

Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Start: Mon 7/11/05 2:00 PM
End: Mon 7/11/05 3:00 PM

Recurrence: (none)

Beach, Andrew

From:	Beach, Andrew
Sent:	Thursday, July 7, 2005 2:25 PM
To:	Gorsuch, Neil M; Sellers, Kiahna (OAG); McAtamney, James A
Cc:	Taylor, Jeffrey (OAG)
Subject:	RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

I see that Elizabeth Kessler has inquired directly of Ted and Kyle on this. perhaps something has changed. I'll let you know what I find out.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 07, 2005 11:48 AM
To: Beach, Andrew; Sellers, Kiahna (OAG); McAtamney, James A
Cc: Taylor, Jeffrey (OAG)
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

Andrew,

I had understood that the AG and DAG had sent this down asking Robert to represent DOJ. If that direction has changed, though, I'd be happy to pass along the briefing books and share with the right folk(s) what I've gleaned. Just let me know to whom I should speak. As to the plus-one, that's entirely up to OAG, but based on what I know I'm not sure this meeting is particularly vital such that it merits the presence of both the AG and the Associate. Perhaps Jeff would make sense as the plus-one if the AG attends?

Let me know how you want to proceed.

Neil

-----Original Message-----
From: Beach, Andrew
Sent: Thursday, July 07, 2005 11:28 AM
To: Sellers, Kiahna (OAG); Gorsuch, Neil M; McAtamney, James A
Cc: Taylor, Jeffrey (OAG)
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

Neil:
the AG is planning to attend the Marine Transportation meeting on Monday. should the Associate go as his plus one?

-----Original Message-----
From: Joanna.Nunan@dot.gov [mailto:Joanna.Nunan@dot.gov]
Sent: Thursday, July 07, 2005 11:13 AM
To: Sellers, Kiahna (OAG)
Cc: Gorsuch, Neil M; Rubin, Jim (ENRD); McAtamney, James A;
Robert.Mariner@dot.gov
Subject: RE: First Meeting of the Committee on the Marine Transportation
System (CMTS)
Importance: High

Kiahna,

That is great news that the Attorney General will be attending the CMTS meeting on Monday. Jim Rubin (cc'd above) is the DOJ working group member, who has the briefing book for the Attorney General. Does this mean that Associate Attorney General Robert McCallum is his +1? Please contact me if I can be of further assistance.

Thanks so much,
Joanna
Joanna Nunan
Commander, U. S. Coast Guard
Military Assistant to the Secretary of Transportation (202) 366-5742 joanna.nunan@dot.gov

-----Original Message-----
From: Kiahna.Sellers2@usdoj.gov [mailto:Kiahna.Sellers2@usdoj.gov]
Sent: Wednesday, July 06, 2005 15:40
To: Nunan, Joanna <OST>
Subject: First Meeting of the Committee on the Marine Transportation
System (CMTS)

Dear Joanna -

I am compiling a briefing book for Attorney General Gonzales for Monday, July 11, 2005. Would you please send me an updated participants list and any other materials you may have for the meeting below, which the Attorney General should see?

Many thanks,
Kiahna Sellers
202-514-7281

Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Start: Mon 7/11/05 2:00 PM
End: Mon 7/11/05 3:00 PM

Recurrence: (none)

Sampson, Kyle

From:	Sampson, Kyle
Sent:	Thursday, July 07, 2005 4:05 PM
To:	Kessler, Elizabeth A; Ullyot, Theodore; Yanes, Raul
Cc:	Sellers, Kiahna (OAG); Gorsuch, Neil M; Beach, Andrew
Subject:	RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

I concur. Robert should attend on behalf of the AG and represent the Department.

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Thursday, July 07, 2005 4:04 PM
To: Ullyot, Theodore; Sampson, Kyle; Yanes, Raul
Cc: Sellers, Kiahna (OAG); Gorsuch, Neil M
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

Just a reminder that we had previously received instructions that Robert should handle this. Given what we have learned about the meeting, that continues to make perfect sense to us. About the meeting --

The plan for the meeting is for the Secretary of Transportation to first make opening remarks on the "State of the Marine Transportation System." Those remarks are expected to emphasize the system's need for modernization, improved security, decreased congestion, and an improved ability to handle economic growth and increased trade. The following Departments will then make presentations providing an "overview" of their Departments' involvement with and interest in marine transportation: DHS (Secretary Chertoff); DOD (Undersecretary of Defense for Policy, Douglas Feith); Commerce (Undersecretary of Commerce for Oceans and Atmosphere, Vice Admiral Conrad Lautenbacher).

The group will then be asked to approve the Charter of the CMTS. The Charter is expected to be approved without changes. It is quite general (and exceedingly bureaucratic) and essentially provides that the group (and its various subgroups) will meet periodically and work to improve the marine transportation system.

Last, the meeting will proceed to a general discussion and open forum. We have identified no DOJ issues that should be raised in that forum.

Neil and I see no reason for the AG to attend. Please let us know how you would like it handled, however, and we'll provide whoever is going with whatever is needed.

-----Original Message-----
From: Ullyot, Theodore
Sent: Thursday, July 07, 2005 2:24 PM
To: Kessler, Elizabeth A; Sampson, Kyle; Yanes, Raul
Cc: Sellers, Kiahna (OAG); Gorsuch, Neil M

Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

What is(are) the issue(s) for discussion?

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Thursday, July 07, 2005 1:46 PM
To: Ullyot, Theodore; Sampson, Kyle; Yanes, Raul
Cc: Sellers, Kiahna (OAG); Gorsuch, Neil M
Subject: FW: First Meeting of the Committee on the Marine Transportation System (CMTS)
Importance: High

Ted/Kyle/Raul: I'm not sure which of you may have heard of this, but we need some guidance soon. This meeting is scheduled for Monday at 2pm. Robert and Neil were planning to attend for DOJ. My understanding was that a request came to us from the AG's office for Robert to handle the meeting. While the meeting is Cabinet-level in theory, thus far the only Cabinet members confirmed to attend are Secretary Mineta (who is leading the group) and Secretary Chertoff (who has equities in the topic, particularly given the Coast Guard's role).

Neil Gorsuch and I were briefed on this yesterday by the ENRD staff attorneys who have been attending the planning sessions. We see no major DOJ issues at this time and no particular reason the AG should attend this meeting, which is largely a kick-off meeting for the group and not a decisional meeting.

Can you let us know if the AG is in fact planning to attend? If so, we'll need some idea of what sort of preparation he would like. Thanks for any help in straightening us out. - Liz

-----Original Message-----
From: Rubin, Jim (ENRD)
Sent: Thursday, July 07, 2005 11:22 AM
To: Kessler, Elizabeth A; Davis, Deborah J
Subject: FW: First Meeting of the Committee on the Marine Transportation System (CMTS)
Importance: High

!!!!!!!

-----Original Message-----
From: Joanna.Nunan@dot.gov [mailto:Joanna.Nunan@dot.gov]
Sent: Thursday, July 07, 2005 11:13 AM
To: Sellers, Kiahna (OAG)
Cc: Gorsuch, Neil M; Rubin, Jim (ENRD); McAtamney, James A; Robert.Mariner@dot.gov
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

Importance: High

Kiahna,

That is great news that the Attorney General will be attending the CMTS meeting on Monday. Jim Rubin (cc'd above) is the DOJ working group member, who has the briefing book for the Attorney General. Does this mean that Associate Attorney General Robert McCallum is his +1? Please contact me if I can be of further assistance.

Thanks so much,
Joanna
Joanna Nunan
Commander, U. S. Coast Guard
Military Assistant to the Secretary of Transportation (202) 366-5742 joanna.nunan@dot.gov

-----Original Message-----
From: Kiahna.Sellers2@usdoj.gov [mailto:Kiahna.Sellers2@usdoj.gov]
Sent: Wednesday, July 06, 2005 15:40
To: Nunan, Joanna <OST>
Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Dear Joanna -

I am compiling a briefing book for Attorney General Gonzales for Monday, July 11, 2005. Would you please send me an updated participants list and any other materials you may have for the meeting below, which the Attorney General should see?

Many thanks,
Kiahna Sellers
202-514-7281

Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Start: Mon 7/11/05 2:00 PM
End: Mon 7/11/05 3:00 PM

Recurrence: (none)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 7, 2005 6:50 PM
To: McCallum, Robert (SMO)
Subject: Web Site Policies
Attachments: Section 14_TK.doc

Per your request, I reviewed the draft policy and some comments are attached in redline. Let me know if/how you'd like me to proceed from here. Safe travels.

30. THE DEPARTMENT'S INTERNET WEB SITES.

a. This section sets forth the Department's policy and responsibilities of components regarding the Department's publicly accessible Internet Web sites. It applies to the Department's publicly accessible Internet Web sites and all components that post information on those sites. It does not apply to Department Web sites that are not accessed by the general public or to the Department's Intranet sites. The policy of the Department of Justice is to maintain publicly accessible Internet Web sites that comply with all relevant law and guidance. See OMB Memorandum M-05-04, Policies for Federal Agency Public Websites (December 17, 2004), for additional information on relevant laws and guidance.

b. To satisfy these requirements, the Assistant Attorney General for Administration has established the following DOJ Web site policy:

(1) Web Hosting and Publishing Facilities. All Department Internet Web site content shall be hosted on and made available to the public (i.e., published) through Web site hosting services approved by the DOJ CIO.

(2) Domain Names. All Department Internet Web site content shall be published under domain names approved by the DOJ CIO.

(3) Content.

(a) The Department and its components shall comply with all relevant laws and guidance, and Department policies, guidance and standards regarding Web site content, design and publishing formats, including OMB Memorandum M-05-04 and any associated guidance. Components shall certify quarterly to the DOJ CIO that all policies and guidance have been met. [Is quarterly certification really necessary or just more paperwork?]

(b) The Department and its components shall publish only the following content on the Department's Internet Web sites:

i) Content generated by the Department or another United States government agency;

ii) Content that is in the public domain;

iii) Content that the Department has obtained written permission from the original source to post on the Department's Internet Web sites, and for which the appropriate attribution and copyright notices are included; or

iv) Content used in accordance with "fair use" (17 U.S.C. Section 107) after consultation with component counsel.

(c) Components shall, prior to publishing any content on the Department's Internet Web site, submit such content for review and approval by the appropriate Component Web Content Authorizer.

i) In addition to approval by a Component Web Content Authorizer, components must also obtain approval from the Web Governance Group before publishing on the Department's Internet Web sites materials extraneous to the component's normal business operations. In addition, components should seek prior approval for materials that seek to comment on or offer opinions about the Department's policies; legislative matters (including pending legislation or Congressional testimony); as well as any matters pending before, or the policies or rulings of, any federal, state, or local court or agency.

[This policy doesn't seem to expressly address who is responsible for approving dept-wide (ie, not component-specific) materials. Do we want to assign that task to the Web Governance Group?]

(4) FOIA. The Department shall comply with the Freedom of Information Act by maintaining pages on its Web sites that include the information and documents that FOIA requires government agencies to post, in accordance with guidance provided by the Office of Information and Privacy.

(5) Privacy. The Department shall ensure that the privacy of visitors to its Internet Web sites is protected by complying with the relevant privacy laws and guidance, including OMB Memorandum M-03-22, OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002 (September 26, 2003) and any associated guidance. The Department shall also comply with its posted Privacy Policy, and its Internet Web sites shall provide links to this policy.

(6) Accessibility. The Department shall comply with all laws and guidance concerning the accessibility of its Internet Web sites to individuals with disabilities and to individuals with limited English proficiency, including Section 508 of the Rehabilitation Act (29 U.S.C. Section 794(d)) and Executive Order 13166, Improving Access to Services for People with Limited English Proficiency.

(7) Security. The Department shall comply with all laws and guidance relating to Internet Web site security, including National Institute of

Standards and Technology (NIST) Special Publication 800-44, "Guidelines on Securing Public Web Servers," and any associated guidance.

c. Responsibilities:

(1) The Web Governance Group is established to ensure that the content on the Department's Internet Web sites supports the Department's mission and is consistent with the Department's strategic objectives.

(a) Membership of the Web Governance Group is as follows:

(i) The Department Web Content Manager;

(ii) Representatives from each of the following offices: Office of the Associate Attorney General, Office of Legislative Affairs, Office of Legal Policy, and Office of Public Affairs.

(b) The Web Governance Group is responsible for:

(i) Consulting with the Assistant Attorney General for Administration on policies and guidance pertaining to Web content;

(ii) Reviewing and approving Web content described in section b(3)(d) above.

(c) The Web Governance Group shall be convened as needed to review proposed Web content provided by a Component Web Content Authorizer.

(2) The Assistant Attorney General for Administration shall be responsible for:

(a) Developing policies and guidance for all Department Internet Web sites;

(b) Appointing a Department Web Content Manager. This position resides within the Office of the CIO.

(3) The DOJ CIO shall be responsible for:

(a) Deploying, operating, and maintaining the information technology resources used to host the Department's Internet Web sites;

(b) Overseeing the operation of the Department's Internet Web sites to ensure that they comply with information technology statutes, regulations, policies and guidance;

(c) Reviewing component requests for component-specific domain names and hosting services.

(4) The Department Web Content Manager shall be responsible for:

(a) Overseeing the content on the Department's Internet Web sites;

(b) Ensuring that content on the Department's Internet Web sites not affiliated with a specific DOJ component is in compliance with relevant Federal laws and guidance, as well as Department policies, guidance and standards regarding Web content;

(c) Working with Component Web Authorizers and Managers to ensure that the content on their component Web sites is in compliance with relevant Federal laws and guidance as well as Department policies, guidance and standards regarding Web content.

(5) Component Heads shall be responsible for:

(a) Making all decisions for the component as to whether the content to be published on its public Web site is appropriate;

(b) Appointing Component Web Content Managers and Component Web Content Authorizers;

(c) Informing the Department's Web Content Manager of such appointments.

(6) Component Web Content Managers shall assist Component Heads in:

(a) Ensuring that the content on their component Web site is in compliance with relevant Federal laws and guidance as well as Department policies, guidance and standards regarding Web content;

(b) Establishing procedures for publishing content on their component Web sites to ensure:

(i) Approval by the Component Head or the Component Content Authorizer;

(ii) Compliance with Federal laws and guidance as well as Department policies, guidance, and standards regarding Web content.

(c) Establishing FOIA pages for their component Web sites and ensuring that these pages include the required information and documents.

(7) Component Web Content Authorizers shall assist Component Heads in:

(a) Ensuring that the content on their component Web sites is appropriate by reviewing and approving all content prior to publication;

(b) Obtaining review and approval by the Web Governance Group for materials that require such approval.

(8) Component CIOs are responsible for:

(a) Ensuring that the operation of their component Web sites is in compliance with relevant information technology laws, policies and guidance.

(b) Submitting requests for approval of component-specific hosting services and domain names to the DOJ CIO.

Do we really need components to appoint web content managers, web authorizers, and web cios? Seems like a lot of layers. I assume that one person could carry out all three functions? But to avoid potentially creating another layer of bureaucracy, could we compress the manager and authorizer functions (items 6 and 7 above), for example, into one role?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 07, 2005 9:42 PM
To: Ullyot, Theodore
Subject: Re: Your phone message

Ted, No rush at all. Will touch base with you in am. Thanks, Neil

-----Original Message-----
From: Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Jul 07 20:13:19 2005
Subject: Your phone message

Neil -- Got your message. Tried you back through command center but got voice mail. I am reachable tonight through command center, or stop by tomorrow. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 7:33 AM
To: McCallum, Robert (SMO)
Subject: Re: Web Site Policies

Will do

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Jul 07 22:36:40 2005
Subject: Re: Web Site Policies

Send them on to lily. Robt

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Jul 07 18:50:01 2005
Subject: Web Site Policies

Per your request, I reviewed the draft policy and some comments are attached in redline. Let me know if/how you'd like me to proceed from here. Safe travels.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 8, 2005 8:49 AM
To: Swenson, Lily F
Subject: Web Site Policies
Attachments: Section 14_TK.doc

Lily - Robert asked me to take a look at the web site policy. You've done a masterful job. Attached are some minor comments for your consideration. Make of them whatever you think best. Neil

30. THE DEPARTMENT'S INTERNET WEB SITES.

a. This section sets forth the Department's policy and responsibilities of components regarding the Department's publicly accessible Internet Web sites. It applies to the Department's publicly accessible Internet Web sites and all components that post information on those sites. It does not apply to Department Web sites that are not accessed by the general public or to the Department's Intranet sites. The policy of the Department of Justice is to maintain publicly accessible Internet Web sites that comply with all relevant law and guidance. See OMB Memorandum M-05-04, Policies for Federal Agency Public Websites (December 17, 2004), for additional information on relevant laws and guidance.

b. To satisfy these requirements, the Assistant Attorney General for Administration has established the following DOJ Web site policy:

(1) Web Hosting and Publishing Facilities. All Department Internet Web site content shall be hosted on and made available to the public (i.e., published) through Web site hosting services approved by the DOJ CIO.

(2) Domain Names. All Department Internet Web site content shall be published under domain names approved by the DOJ CIO.

(3) Content.

(a) The Department and its components shall comply with all relevant laws and guidance, and Department policies, guidance and standards regarding Web site content, design and publishing formats, including OMB Memorandum M-05-04 and any associated guidance. Components shall certify quarterly to the DOJ CIO that all policies and guidance have been met. [Is quarterly certification really necessary or just more paperwork?]

(b) The Department and its components shall publish only the following content on the Department's Internet Web sites:

i) Content generated by the Department or another United States government agency;

ii) Content that is in the public domain;

iii) Content that the Department has obtained written permission from the original source to post on the Department's Internet Web sites, and for which the appropriate attribution and copyright notices are included; or

iv) Content used in accordance with "fair use" (17 U.S.C. Section 107) after consultation with component counsel.

(c) Components shall, prior to publishing any content on the Department's Internet Web site, submit such content for review and approval by the appropriate Component Web Content Authorizer.

i) In addition to approval by a Component Web Content Authorizer, components must also obtain approval from the Web Governance Group before publishing on the Department's Internet Web sites materials extraneous to the component's normal business operations. In addition, components should seek prior approval for materials that seek to comment on or offer opinions about the Department's policies; legislative matters (including pending legislation or Congressional testimony); as well as any matters pending before, or the policies or rulings of, any federal, state, or local court or agency.

[This policy doesn't seem to expressly address who is responsible for approving dept-wide (ie, not component-specific) materials. Do we want to assign that task to the Web Governance Group?]

(4) FOIA. The Department shall comply with the Freedom of Information Act by maintaining pages on its Web sites that include the information and documents that FOIA requires government agencies to post, in accordance with guidance provided by the Office of Information and Privacy.

(5) Privacy. The Department shall ensure that the privacy of visitors to its Internet Web sites is protected by complying with the relevant privacy laws and guidance, including OMB Memorandum M-03-22, OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002 (September 26, 2003) and any associated guidance. The Department shall also comply with its posted Privacy Policy, and its Internet Web sites shall provide links to this policy.

(6) Accessibility. The Department shall comply with all laws and guidance concerning the accessibility of its Internet Web sites to individuals with disabilities and to individuals with limited English proficiency, including Section 508 of the Rehabilitation Act (29 U.S.C. Section 794(d)) and Executive Order 13166, Improving Access to Services for People with Limited English Proficiency.

(7) Security. The Department shall comply with all laws and guidance relating to Internet Web site security, including National Institute of

Standards and Technology (NIST) Special Publication 800-44, "Guidelines on Securing Public Web Servers," and any associated guidance.

c. Responsibilities:

(1) The Web Governance Group is established to ensure that the content on the Department's Internet Web sites supports the Department's mission and is consistent with the Department's strategic objectives.

(a) Membership of the Web Governance Group is as follows:

(i) The Department Web Content Manager;

(ii) Representatives from each of the following offices: Office of the Associate Attorney General, Office of Legislative Affairs, Office of Legal Policy, and Office of Public Affairs.

(b) The Web Governance Group is responsible for:

(i) Consulting with the Assistant Attorney General for Administration on policies and guidance pertaining to Web content;

(ii) Reviewing and approving Web content described in section b(3)(d) above.

(c) The Web Governance Group shall be convened as needed to review proposed Web content provided by a Component Web Content Authorizer.

(2) The Assistant Attorney General for Administration shall be responsible for:

(a) Developing policies and guidance for all Department Internet Web sites;

(b) Appointing a Department Web Content Manager. This position resides within the Office of the CIO.

(3) The DOJ CIO shall be responsible for:

(a) Deploying, operating, and maintaining the information technology resources used to host the Department's Internet Web sites;

(b) Overseeing the operation of the Department's Internet Web sites to ensure that they comply with information technology statutes, regulations, policies and guidance;

(c) Reviewing component requests for component-specific domain names and hosting services.

(4) The Department Web Content Manager shall be responsible for:

(a) Overseeing the content on the Department's Internet Web sites;

(b) Ensuring that content on the Department's Internet Web sites not affiliated with a specific DOJ component is in compliance with relevant Federal laws and guidance, as well as Department policies, guidance and standards regarding Web content;

(c) Working with Component Web Authorizers and Managers to ensure that the content on their component Web sites is in compliance with relevant Federal laws and guidance as well as Department policies, guidance and standards regarding Web content.

(5) Component Heads shall be responsible for:

(a) Making all decisions for the component as to whether the content to be published on its public Web site is appropriate;

(b) Appointing Component Web Content Managers and Component Web Content Authorizers;

(c) Informing the Department's Web Content Manager of such appointments.

(6) Component Web Content Managers shall assist Component Heads in:

(a) Ensuring that the content on their component Web site is in compliance with relevant Federal laws and guidance as well as Department policies, guidance and standards regarding Web content;

(b) Establishing procedures for publishing content on their component Web sites to ensure:

(i) Approval by the Component Head or the Component Content Authorizer;

(ii) Compliance with Federal laws and guidance as well as Department policies, guidance, and standards regarding Web content.

(c) Establishing FOIA pages for their component Web sites and ensuring that these pages include the required information and documents.

(7) Component Web Content Authorizers shall assist Component Heads in:

(a) Ensuring that the content on their component Web sites is appropriate by reviewing and approving all content prior to publication;

(b) Obtaining review and approval by the Web Governance Group for materials that require such approval.

(8) Component CIOs are responsible for:

(a) Ensuring that the operation of their component Web sites is in compliance with relevant information technology laws, policies and guidance.

(b) Submitting requests for approval of component-specific hosting services and domain names to the DOJ CIO.

Do we really need components to appoint web content managers, web authorizers, and web cios? Seems like a lot of layers. I assume that one person could carry out all three functions? But to avoid potentially creating another layer of bureaucracy, could we compress the manager and authorizer functions (items 6 and 7 above), for example, into one role?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 8, 2005 9:47 AM
To: Senger, Jeffrey M
Subject: RE: Lunch

Afraid I have made other plans. Have fun.

-----Original Message-----
From: Senger, Jeffrey M
Sent: Friday, July 08, 2005 9:32 AM
To: Reyes, Luis (SMO); Wiggins, Mike; Swenson, Lily F; Henke, Tracy (SMO); Kessler, Elizabeth A; Gorsuch, Neil M
Subject: Lunch

Are any of you going to the Federalist Society lunch today?
Jeff

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 8, 2005 9:48 AM
To: Gunn, Currie (SMO)
Subject: RE: Please let me know if you have any leave to report for pp13 6/26 thru 7/9

No, thanks.

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Friday, July 08, 2005 9:35 AM
To: Kessler, Elizabeth A; Swenson, Lily F; Reyes, Luis (SMO); Gorsuch, Neil M
Subject: Please let me know if you have any leave to report for pp13 6/26 thru 7/9

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 10:08 AM
To: Schofield, Regina
Cc: Henke, Tracy (SMO)
Subject: SCAAP

The AG on April 19 wrote a letter to the AZ governor promising, among other things, that Hope Janke of BJA would be in touch regarding AZ's request for additional resources under the SCAAP program. I've just learned that, apparently, the promised contact did not occur (according to AZ). Could you look into this and make sure the contact happens ASAP? Please let me know what the upshot of the communication is. Also, is there a mechanism for providing AZ and border states like it with additional resources under SCAAP (eg through transfers from other states that don't need the resources as much)?

Thanks so much for your help on this.

Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 10:08 AM
To: Elwood, Courtney
Subject: FW: SCAAP

FYI.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 10:08 AM
To: Schofield, Regina
Cc: Henke, Tracy (SMO)
Subject: SCAAP

The AG on April 19 wrote a letter to the AZ governor promising, among other things, that Hope Janke of BJA would be in touch regarding AZ's request for additional resources under the SCAAP program. I've just learned that, apparently, the promised contact did not occur (according to AZ). Could you look into this and make sure the contact happens ASAP? Please let me know what the upshot of the communication is. Also, is there a mechanism for providing AZ and border states like it with additional resources under SCAAP (eg through transfers from other states that don't need the resources as much)?

Thanks so much for your help on this.

Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 10:09 AM
To: Schofield, Regina
Subject: Bullet Proof vests

One more question, following up from our conversation yesterday. Is there some plan to share our findings with the military and federal law enforcement in advance, or contemporaneously with, the planned announcement?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 10:17 AM
To: Mercer, Bill (ODAG)
Cc: Swenson, Lily F
Subject: Privacy/OIP working group

Bill - for the working group you're setting up, both Lily and I would like to attend, at least initially. Thanks, Neil

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 10:22 AM
To: Gorsuch, Neil M
Subject: Re: SCAAP

Courtney emailed regina and myself as well. I am checking on it.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Schofield, Regina <Regina.B.Schofield@usdoj.gov>
CC: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 10:08:13 2005
Subject: SCAAP

The AG on April 19 wrote a letter to the AZ governor promising, among other things, that Hope Janke of BJA would be in touch regarding AZ's request for additional resources under the SCAAP program. I've just learned that, apparently, the promised contact did not occur (according to AZ). Could you look into this and make sure the contact happens ASAP? Please let me know what the upshot of the communication is. Also, is there a mechanism for providing AZ and border states like it with additional resources under SCAAP (eg through transfers from other states that don't need the resources as much)?

Thanks so much for your help on this.

Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 10:26 AM
To: Henke, Tracy (SMO)
Subject: RE: SCAAP

Thanks

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 10:22 AM
To: Gorsuch, Neil M
Subject: Re: SCAAP

Courtney emailed regina and myself as well. I am checking on it.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Schofield, Regina <Regina.B.Schofield@usdoj.gov>
CC: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 10:08:13 2005
Subject: SCAAP

The AG on April 19 wrote a letter to the AZ governor promising, among other things, that Hope Janke of BJA would be in touch regarding AZ's request for additional resources under the SCAAP program. I've just learned that, apparently, the promised contact did not occur (according to AZ). Could you look into this and make sure the contact happens ASAP? Please let me know what the upshot of the communication is. Also, is there a mechanism for providing AZ and border states like it with additional resources under SCAAP (eg through transfers from other states that don't need the resources as much)?

Thanks so much for your help on this.

Neil

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Friday, July 08, 2005 10:26 AM
To: Gorsuch, Neil M; Kessler, Elizabeth A; Senger, Jeffrey M; Swenson, Lily F; Gorsuch, Neil M
Subject: Please stop by the conference room to say hello to Jenny and Bob from WH

They have arrived.

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 10:57 AM
To: Herraiz, Domingo S.
Cc: Gorsuch, Neil M; Elwood, Courtney; Schofield, Regina
Subject: Re: Ltr from Napolitano re SCAAP

Thanks Domingo for the quick reply.

I suggest that Hope call the DOC person today. Then a letter should be prepared for your signature or Regina's to the Governor referencing the conversation that Hope had with the DOC and that if there are additional questions to contact the person who signs the letter. That letter should go out the door within 48 hours of the phone call. Please provide a copy of that letter to Courtney and myself. Thanks.

-----Original Message-----
From: Herraiz, Domingo S. <Domingo.S.Herraiz@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 10:11:38 2005
Subject: RE: Ltr from Napolitano re SCAAP

Here are the details:

We have sent two letters to the Governor responding to prior requests, one on December 6, 2004 and one on February 24, 2005 both under my signature. On April 19, 2005 Attorney General Gonzales sent his letter to the Governor as a response.

BJA at the same time had written a letter to Dora Schriro at the Arizona Department of Corrections explaining in detail the program and relevant issues. She had also previously corresponded regarding the same issue. BJA was told by OCOM not send that letter because an AG letter would be sent to the Governor directly and answered the questions. It is true that in the AG letter it is identified that Hope Janke of BJA would contact the Governor or her designate, however we were confused based on other directions that we received. We can call immediately if that is the direction you wish us to pursue. Our question is do we call Dora Schriro, Director, Arizona Department of Corrections or the Governor. Please advise how to proceed. All the details are readily available and contained in our original letter to Dora Schriro.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 8:39 AM
To: Herraiz, Domingo S.
Subject: Fw: Ltr from Napolitano re SCAAP

See below

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>
CC: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 08:36:57 2005
Subject: Ltr from Napolitano re SCAAP

Tracy and Regina -- The AG received another letter dated June 27 from Governor Napolitano re: SCAAP, a copy of which was directed to OJP. The Governor says that Hope Jenke has not contacted her or her office as promised in the AG's letter of April 19. I hope that she is mistaken because it reflects poorly on the AG if he promises that a member of his staff will call and they do not. Can you help me find out whether Hope called? If so, who did she speak to? If not, why not? And, if not, please ask her to do so immediately.

Thanks.
Courtney

Elwood, Courtney

From:	Elwood, Courtney
Sent:	Friday, July 08, 2005 11:00 AM
To:	Henke, Tracy (SMO); Herraiz, Domingo S.
Cc:	Gorsuch, Neil M; Schofield, Regina
Subject:	RE: Ltr from Napolitano re SCAAP

I'd like for Hope to call the Governor's office today as well as DOC. At the start of the call, Hope can tell the Governor that she is prepared to call DOC contact if the Governor prefers. The AG's letter promised that Hope would contact the Governor or someone the Governor designates.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 10:57 AM
To: Herraiz, Domingo S.
Cc: Gorsuch, Neil M; Elwood, Courtney; Schofield, Regina
Subject: Re: Ltr from Napolitano re SCAAP

Thanks Domingo for the quick reply.

I suggest that Hope call the DOC person today. Then a letter should be prepared for your signature or Regina's to the Governor referencing the conversation that Hope had with the DOC and that if there are additional questions to contact the person who signs the letter. That letter should go out the door within 48 hours of the phone call. Please provide a copy of that letter to Courtney and myself. Thanks.

-----Original Message-----
From: Herraiz, Domingo S. <Domingo.S.Herraiz@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 10:11:38 2005
Subject: RE: Ltr from Napolitano re SCAAP

Here are the details:

We have sent two letters to the Governor responding to prior requests, one on December 6, 2004 and one on February 24, 2005 both under my signature. On April 19, 2005 Attorney General Gonzales sent his letter to the Governor as a response.

BJA at the same time had written a letter to Dora Schriro at the Arizona Department of Corrections explaining in detail the program and relevant issues. She had also previously corresponded regarding the same issue. BJA was told by OCOM not send that letter because an AG letter would be sent to the Governor directly and answered the questions. It is true that in the AG letter it is identified that Hope Janke of BJA would contact the Governor or her designate, however we were confused based on other

directions that we received. We can call immediately if that is the direction you wish us to pursue. Our question is do we call Dora Schriro, Director, Arizona Department of Corrections or the Governor. Please advise how to proceed. All the details are readily available and contained in our original letter to Dora Schriro.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 8:39 AM
To: Herraiz, Domingo S.
Subject: Fw: Ltr from Napolitano re SCAAP

See below

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>
CC: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 08:36:57 2005
Subject: Ltr from Napolitano re SCAAP

Tracy and Regina -- The AG received another letter dated June 27 from Governor Napolitano re: SCAAP, a copy of which was directed to OJP. The Governor says that Hope Jenke has not contacted her or her office as promised in the AG's letter of April 19. I hope that she is mistaken because it reflects poorly on the AG if he promises that a member of his staff will call and they do not. Can you help me find out whether Hope called? If so, who did she speak to? If not, why not? And, if not, please ask her to do so immediately.

Thanks.
Courtney

Elwood, Courtney

From:	Elwood, Courtney
Sent:	Friday, July 08, 2005 11:02 AM
To:	Henke, Tracy (SMO); Herraiz, Domingo S.
Cc:	Gorsuch, Neil M; Schofield, Regina
Subject:	RE: Ltr from Napolitano re SCAAP

Also, if Hope could give me a call once she's contacted the Governor's office, I'd appreciate it. I'll be curious to hear what was said. Thanks.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 10:57 AM
To: Herraiz, Domingo S.
Cc: Gorsuch, Neil M; Elwood, Courtney; Schofield, Regina
Subject: Re: Ltr from Napolitano re SCAAP

Thanks Domingo for the quick reply.

I suggest that Hope call the DOC person today. Then a letter should be prepared for your signature or Regina's to the Governor referencing the conversation that Hope had with the DOC and that if there are additional questions to contact the person who signs the letter. That letter should go out the door within 48 hours of the phone call. Please provide a copy of that letter to Courtney and myself. Thanks.

-----Original Message-----
From: Herraiz, Domingo S. <Domingo.S.Herraiz@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 10:11:38 2005
Subject: RE: Ltr from Napolitano re SCAAP

Here are the details:

We have sent two letters to the Governor responding to prior requests, one on December 6, 2004 and one on February 24, 2005 both under my signature. On April 19, 2005 Attorney General Gonzales sent his letter to the Governor as a response.

BJA at the same time had written a letter to Dora Schriro at the Arizona Department of Corrections explaining in detail the program and relevant issues. She had also previously corresponded regarding the same issue. BJA was told by OCOM not send that letter because an AG letter would be sent to the Governor directly and answered the questions. It is true that in the AG letter it is identified that Hope Janke of BJA would contact the Governor or her designate, however we were confused based on other directions that we received. We can call immediately if that is the direction you wish us to pursue. Our

question is do we call Dora Schriro, Director, Arizona Department of Corrections or the Governor. Please advise how to proceed. All the details are readily available and contained in our original letter to Dora Schriro.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 8:39 AM
To: Herraiz, Domingo S.
Subject: Fw: Ltr from Napolitano re SCAAP

See below

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>
CC: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 08:36:57 2005
Subject: Ltr from Napolitano re SCAAP

Tracy and Regina -- The AG received another letter dated June 27 from Governor Napolitano re: SCAAP, a copy of which was directed to OJP. The Governor says that Hope Jenke has not contacted her or her office as promised in the AG's letter of April 19. I hope that she is mistaken because it reflects poorly on the AG if he promises that a member of his staff will call and they do not. Can you help me find out whether Hope called? If so, who did she speak to? If not, why not? And, if not, please ask her to do so immediately.

Thanks.
Courtney

Herraiz, Domingo S.

From: Herraiz, Domingo S.
Sent: Friday, July 08, 2005 11:04 AM
To: Henke, Tracy (SMO)
Cc: Elwood, Courtney; Gorsuch, Neil M; Schofield, Regina
Subject: RE: Ltr from Napolitano re SCAAP

will make the call now and prepare the letter immediately following to go out today.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 10:58 AM
To: Herraiz, Domingo S.
Cc: Schofield, Regina; Gorsuch, Neil M; Elwood, Courtney
Subject: Re: Ltr from Napolitano re SCAAP

Thanks Domingo for the quick reply.

I suggest that Hope call the DOC person today. Then a letter should be prepared for your signature or Regina's to the Governor referencing the conversation that Hope had with the DOC and that if there are additional questions to contact the person who signs the letter. That letter should go out the door within 48 hours of the phone call. Please provide a copy of that letter to Courtney and myself.

Thanks.

-----Original Message-----
From: Herraiz, Domingo S. <Domingo.S.Herraiz@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 10:11:38 2005
Subject: RE: Ltr from Napolitano re SCAAP

Here are the details:

We have sent two letters to the Governor responding to prior requests, one on December 6, 2004 and one on February 24, 2005 both under my signature. On April 19, 2005 Attorney General Gonzales sent his letter to the Governor as a response.

BJA at the same time had written a letter to Dora Schriro at the Arizona Department of Corrections explaining in detail the program and relevant issues. She had also previously corresponded regarding the same issue. BJA was told by OCOM not send that letter because an AG letter would be sent to the Governor directly and answered the questions. It is true that in the AG letter it is identified that Hope Janke of BJA would contact the Governor or her designate, however we were confused based on other directions that we received. We can call immediately if that is the direction you wish us to pursue. Our question is do we call Dora Schriro, Director, Arizona Department of Corrections or the Governor. Please advise how to proceed. All the details are readily available and contained in our original letter to Dora Schriro.

-----Original Message-----
From: Henke, Tracy (SMO)

Sent: Friday, July 08, 2005 8:39 AM
To: Herraiz, Domingo S.
Subject: Fw: Ltr from Napolitano re SCAAP

See below

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>
CC: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 08:36:57 2005
Subject: Ltr from Napolitano re SCAAP

Tracy and Regina -- The AG received another letter dated June 27 from Governor Napolitano re: SCAAP, a copy of which was directed to OJP. The Governor says that Hope Jenke has not contacted her or her office as promised in the AG's letter of April 19. I hope that she is mistaken because it reflects poorly on the AG if he promises that a member of his staff will call and they do not. Can you help me find out whether Hope called? If so, who did she speak to? If not, why not? And, if not, please ask her to do so immediately.

Thanks.
Courtney

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 11:04 AM
To: Elwood, Courtney; Henke, Tracy (SMO); Herraiz, Domingo S.
Cc: Schofield, Regina
Subject: RE: Ltr from Napolitano re SCAAP

Thanks very much, Tracy, for making this happen. Beyond the immediate call, could someone please look into and report back soon on the questions whether (a) the legal authority exists, and (b) the resources exist under SCAAP to provide border states like AZ with additional resources from other regions that may not need them as badly?

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 08, 2005 11:02 AM
To: Henke, Tracy (SMO); Herraiz, Domingo S.
Cc: Gorsuch, Neil M; Schofield, Regina
Subject: RE: Ltr from Napolitano re SCAAP

Also, if Hope could give me a call once she's contacted the Governor's office, I'd appreciate it. I'll be curious to hear what was said. Thanks.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 10:57 AM
To: Herraiz, Domingo S.
Cc: Gorsuch, Neil M; Elwood, Courtney; Schofield, Regina
Subject: Re: Ltr from Napolitano re SCAAP

Thanks Domingo for the quick reply.

I suggest that Hope call the DOC person today. Then a letter should be prepared for your signature or Regina's to the Governor referencing the conversation that Hope had with the DOC and that if there are additional questions to contact the person who signs the letter. That letter should go out the door within 48 hours of the phone call. Please provide a copy of that letter to Courtney and myself. Thanks.

-----Original Message-----
From: Herraiz, Domingo S. <Domingo.S.Herraiz@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 10:11:38 2005
Subject: RE: Ltr from Napolitano re SCAAP

Here are the details:

We have sent two letters to the Governor responding to prior requests, one on December 6, 2004 and one on February 24, 2005 both under my signature. On April 19, 2005 Attorney General Gonzales sent his letter to the Governor as a response.

BJA at the same time had written a letter to Dora Schriro at the Arizona Department of Corrections explaining in detail the program and relevant issues. She had also previously corresponded regarding the same issue. BJA was told by OCOM not send that letter because an AG letter would be sent to the Governor directly and answered the questions. It is true that in the AG letter it is identified that Hope Janke of BJA would contact the Governor or her designate, however we were confused based on other directions that we received. We can call immediately if that is the direction you wish us to pursue. Our question is do we call Dora Schriro, Director, Arizona Department of Corrections or the Governor. Please advise how to proceed. All the details are readily available and contained in our original letter to Dora Schriro.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 8:39 AM
To: Herraiz, Domingo S.
Subject: Fw: Ltr from Napolitano re SCAAP

See below

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>
CC: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 08:36:57 2005
Subject: Ltr from Napolitano re SCAAP

Tracy and Regina -- The AG received another letter dated June 27 from Governor Napolitano re: SCAAP, a copy of which was directed to OJP. The Governor says that Hope Jenke has not contacted her or her office as promised in the AG's letter of April 19. I hope that she is mistaken because it reflects poorly on the AG if he promises that a member of his staff will call and they do not. Can you help me find out whether Hope called? If so, who did she speak to? If not, why not? And, if not, please ask her to do so immediately.

Thanks.
Courtney

Elwood, Courtney

From: Elwood, Courtney
Sent: Friday, July 8, 2005 11:04 AM
To: Henke, Tracy (SMO); Herraiz, Domingo S.
Cc: Gorsuch, Neil M; Schofield, Regina
Subject: RE: Ltr from Napolitano re SCAAP

Sorry for the piecemeal response, but on rereading Mr. Herraiz's e-mail further questions/thoughts came to mind:

What is OCOM? Can someone send me a copy of the letter to Dora Schriro that was prepared but not sent.

Thanks.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 10:57 AM
To: Herraiz, Domingo S.
Cc: Gorsuch, Neil M; Elwood, Courtney; Schofield, Regina
Subject: Re: Ltr from Napolitano re SCAAP

Thanks Domingo for the quick reply.

I suggest that Hope call the DOC person today. Then a letter should be prepared for your signature or Regina's to the Governor referencing the conversation that Hope had with the DOC and that if there are additional questions to contact the person who signs the letter. That letter should go out the door within 48 hours of the phone call. Please provide a copy of that letter to Courtney and myself. Thanks.

-----Original Message-----
From: Herraiz, Domingo S. <Domingo.S.Herraiz@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 10:11:38 2005
Subject: RE: Ltr from Napolitano re SCAAP

Here are the details:

We have sent two letters to the Governor responding to prior requests, one on December 6, 2004 and one on February 24, 2005 both under my signature. On April 19, 2005 Attorney General Gonzales sent his letter to the Governor as a response.

BJA at the same time had written a letter to Dora Schriro at the Arizona Department of Corrections

explaining in detail the program and relevant issues. She had also previously corresponded regarding the same issue. BJA was told by OCOM not send that letter because an AG letter would be sent to the Governor directly and answered the questions. It is true that in the AG letter it is identified that Hope Janke of BJA would contact the Governor or her designate, however we were confused based on other directions that we received. We can call immediately if that is the direction you wish us to pursue. Our question is do we call Dora Schriro, Director, Arizona Department of Corrections or the Governor. Please advise how to proceed. All the details are readily available and contained in our original letter to Dora Schriro.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 8:39 AM
To: Herraiz, Domingo S.
Subject: Fw: Ltr from Napolitano re SCAAP

See below

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>
CC: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 08:36:57 2005
Subject: Ltr from Napolitano re SCAAP

Tracy and Regina -- The AG received another letter dated June 27 from Governor Napolitano re: SCAAP, a copy of which was directed to OJP. The Governor says that Hope Jenke has not contacted her or her office as promised in the AG's letter of April 19. I hope that she is mistaken because it reflects poorly on the AG if he promises that a member of his staff will call and they do not. Can you help me find out whether Hope called? If so, who did she speak to? If not, why not? And, if not, please ask her to do so immediately.

Thanks.
Courtney

Herraiz, Domingo S.

From: Herraiz, Domingo S.
Sent: Friday, July 08, 2005 11:08 AM
To: Henke, Tracy (SMO); Elwood, Courtney
Cc: Gorsuch, Neil M; Schofield, Regina
Subject: RE: Ltr from Napolitano re SCAAP

Will do.

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 08, 2005 11:02 AM
To: Herraiz, Domingo S.; Henke, Tracy (SMO)
Cc: Schofield, Regina; Gorsuch, Neil M
Subject: RE: Ltr from Napolitano re SCAAP

I'd like for Hope to call the Governor's office today as well as DOC. At the start of the call, Hope can tell the Governor that she is prepared to call DOC contact if the Governor prefers. The AG's letter promised that Hope would contact the Governor or someone the Governor designates.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 10:57 AM
To: Herraiz, Domingo S.
Cc: Gorsuch, Neil M; Elwood, Courtney; Schofield, Regina
Subject: Re: Ltr from Napolitano re SCAAP

Thanks Domingo for the quick reply.

I suggest that Hope call the DOC person today. Then a letter should be prepared for your signature or Regina's to the Governor referencing the conversation that Hope had with the DOC and that if there are additional questions to contact the person who signs the letter. That letter should go out the door within 48 hours of the phone call. Please provide a copy of that letter to Courtney and myself. Thanks.

-----Original Message-----
From: Herraiz, Domingo S. <Domingo.S.Herraiz@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 10:11:38 2005
Subject: RE: Ltr from Napolitano re SCAAP

Here are the details:

We have sent two letters to the Governor responding to prior requests, one on December 6, 2004 and one on February 24, 2005 both under my signature. On April 19, 2005 Attorney General Gonzales sent his letter to the Governor as a response.

BJA at the same time had written a letter to Dora Schriro at the Arizona Department of Corrections explaining in detail the program and relevant issues. She had also previously corresponded regarding the same issue. BJA was told by OCOM not send that letter because an AG letter would be sent to the Governor directly and answered the questions. It is true that in the AG letter it is identified that Hope Janke of BJA would contact the Governor or her designate, however we were confused based on other directions that we received. We can call immediately if that is the direction you wish us to pursue. Our question is do we call Dora Schriro, Director, Arizona Department of Corrections or the Governor. Please advise how to proceed. All the details are readily available and contained in our original letter to Dora Schriro.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 8:39 AM
To: Herraiz, Domingo S.
Subject: Fw: Ltr from Napolitano re SCAAP

See below

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>
CC: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 08:36:57 2005
Subject: Ltr from Napolitano re SCAAP

Tracy and Regina -- The AG received another letter dated June 27 from Governor Napolitano re: SCAAP, a copy of which was directed to OJP. The Governor says that Hope Jenke has not contacted her or her office as promised in the AG's letter of April 19. I hope that she is mistaken because it reflects poorly on the AG if he promises that a member of his staff will call and they do not. Can you help me find out whether Hope called? If so, who did she speak to? If not, why not? And, if not, please ask her to do so immediately.

Thanks.
Courtney

Herraiz, Domingo S.

From: Herraiz, Domingo S.
Sent: Friday, July 08, 2005 11:19 AM
To: Henke, Tracy (SMO); Elwood, Courtney; Gorsuch, Neil M
Cc: Schofield, Regina
Subject: RE: Ltr from Napolitano re SCAAP

I will work with OJP's Office of General Council today to get the answer to your questions. Overall, there is not enough money in the program, however your question of targeting those resources is where I will focus the discussion with OGC.

Domingo

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 11:12 AM
To: Herraiz, Domingo S.; Elwood, Courtney; Henke, Tracy (SMO)
Cc: Schofield, Regina
Subject: RE: Ltr from Napolitano re SCAAP

Thanks very much, Tracy, for making this happen. Beyond the immediate call, could someone please look into and report back soon on the questions whether (a) the legal authority exists, and (b) the resources exist under SCAAP to provide border states like AZ with additional resources from other regions that may not need them as badly?

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 08, 2005 11:02 AM
To: Henke, Tracy (SMO); Herraiz, Domingo S.
Cc: Gorsuch, Neil M; Schofield, Regina
Subject: RE: Ltr from Napolitano re SCAAP

Also, if Hope could give me a call once she's contacted the Governor's office, I'd appreciate it. I'll be curious to hear what was said. Thanks.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 10:57 AM
To: Herraiz, Domingo S.
Cc: Gorsuch, Neil M; Elwood, Courtney; Schofield, Regina
Subject: Re: Ltr from Napolitano re SCAAP

Thanks Domingo for the quick reply.

I suggest that Hope call the DOC person today. Then a letter should be prepared for your signature or Regina's to the Governor referencing the conversation that Hope had with the DOC and that if there are additional questions to contact the person who signs the letter. That letter should go out the door within 48 hours of the phone call. Please provide a copy of that letter to Courtney and myself. Thanks.

-----Original Message-----
From: Herraiz, Domingo S. <Domingo.S.Herraiz@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 10:11:38 2005
Subject: RE: Ltr from Napolitano re SCAAP

Here are the details:

We have sent two letters to the Governor responding to prior requests, one on December 6, 2004 and one on February 24, 2005 both under my signature. On April 19, 2005 Attorney General Gonzales sent his letter to the Governor as a response.

BJA at the same time had written a letter to Dora Schriro at the Arizona Department of Corrections explaining in detail the program and relevant issues. She had also previously corresponded regarding the same issue. BJA was told by OCOM not send that letter because an AG letter would be sent to the Governor directly and answered the questions. It is true that in the AG letter it is identified that Hope Janke of BJA would contact the Governor or her designate, however we were confused based on other directions that we received. We can call immediately if that is the direction you wish us to pursue. Our question is do we call Dora Schriro, Director, Arizona Department of Corrections or the Governor. Please advise how to proceed. All the details are readily available and contained in our original letter to Dora Schriro.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 8:39 AM
To: Herraiz, Domingo S.
Subject: Fw: Ltr from Napolitano re SCAAP

See below

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>
CC: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 08:36:57 2005
Subject: Ltr from Napolitano re SCAAP

Tracy and Regina -- The AG received another letter dated June 27 from Governor Napolitano re: SCAAP, a copy of which was directed to OJP. The Governor says that Hope Jenke has not contacted her or her office as promised in the AG's letter of April 19. I hope that she is mistaken because it reflects poorly on the AG if he promises that a member of his staff will call and they do not. Can you help me find out whether Hope called? If so, who did she speak to? If not, why not? And, if not, please ask her to do so immediately.

Thanks.
Courtney

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 8, 2005 11:22 AM
To: Herraiz, Domingo S.; Henke, Tracy (SMO); Elwood, Courtney
Cc: Schofield, Regina
Subject: RE: Ltr from Napolitano re SCAAP

Thank you. I'd just like to understand the process and opportunities we may or may not have to target resources to specific needs.

-----Original Message-----
From: Herraiz, Domingo S.
Sent: Friday, July 08, 2005 11:19 AM
To: Henke, Tracy (SMO); Elwood, Courtney; Gorsuch, Neil M
Cc: Schofield, Regina
Subject: RE: Ltr from Napolitano re SCAAP

I will work with OJP's Office of General Council today to get the answer to your questions. Overall, there is not enough money in the program, however your question of targeting those resources is where I will focus the discussion with OGC.

Domingo

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 11:12 AM
To: Herraiz, Domingo S.; Elwood, Courtney; Henke, Tracy (SMO)
Cc: Schofield, Regina
Subject: RE: Ltr from Napolitano re SCAAP

Thanks very much, Tracy, for making this happen. Beyond the immediate call, could someone please look into and report back soon on the questions whether (a) the legal authority exists, and (b) the resources exist under SCAAP to provide border states like AZ with additional resources from other regions that may not need them as badly?

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 08, 2005 11:02 AM
To: Henke, Tracy (SMO); Herraiz, Domingo S.
Cc: Gorsuch, Neil M; Schofield, Regina
Subject: RE: Ltr from Napolitano re SCAAP

Also, if Hope could give me a call once she's contacted the Governor's office, I'd appreciate it. I'll be

curious to hear what was said. Thanks.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 10:57 AM
To: Herraiz, Domingo S.
Cc: Gorsuch, Neil M; Elwood, Courtney; Schofield, Regina
Subject: Re: Ltr from Napolitano re SCAAP

Thanks Domingo for the quick reply.

I suggest that Hope call the DOC person today. Then a letter should be prepared for your signature or Regina's to the Governor referencing the conversation that Hope had with the DOC and that if there are additional questions to contact the person who signs the letter. That letter should go out the door within 48 hours of the phone call. Please provide a copy of that letter to Courtney and myself. Thanks.

-----Original Message-----
From: Herraiz, Domingo S. <Domingo.S.Herraiz@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 10:11:38 2005
Subject: RE: Ltr from Napolitano re SCAAP

Here are the details:

We have sent two letters to the Governor responding to prior requests, one on December 6, 2004 and one on February 24, 2005 both under my signature. On April 19, 2005 Attorney General Gonzales sent his letter to the Governor as a response.

BJA at the same time had written a letter to Dora Schriro at the Arizona Department of Corrections explaining in detail the program and relevant issues. She had also previously corresponded regarding the same issue. BJA was told by OCOM not send that letter because an AG letter would be sent to the Governor directly and answered the questions. It is true that in the AG letter it is identified that Hope Janke of BJA would contact the Governor or her designate, however we were confused based on other directions that we received. We can call immediately if that is the direction you wish us to pursue. Our question is do we call Dora Schriro, Director, Arizona Department of Corrections or the Governor. Please advise how to proceed. All the details are readily available and contained in our original letter to Dora Schriro.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 8:39 AM
To: Herraiz, Domingo S.
Subject: Fw: Ltr from Napolitano re SCAAP

See below

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>
CC: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 08:36:57 2005
Subject: Ltr from Napolitano re SCAAP

Tracy and Regina -- The AG received another letter dated June 27 from Governor Napolitano re: SCAAP, a copy of which was directed to OJP. The Governor says that Hope Jenke has not contacted her or her office as promised in the AG's letter of April 19. I hope that she is mistaken because it reflects poorly on the AG if he promises that a member of his staff will call and they do not. Can you help me find out whether Hope called? If so, who did she speak to? If not, why not? And, if not, please ask her to do so immediately.

Thanks.
Courtney

Magnuson, Cynthia

From: Magnuson, Cynthia
Sent: Friday, July 08, 2005 11:37 AM
To: Allen, Gary (CIV); Apisson, Elizabeth M; Baxter, Felix (CIV); Boyle, Brian D; Branda, Joyce (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Eubanks, Sharon (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D. (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Madden, Kevin; Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Miller, Charles S; Morgan, Julian (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Sierra, Bryan; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wiggins, Mike; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 7/8/05 Civil Division News

Pentagon told to quit supporting Scout fest

Judge: No gov't money for Boy Scout trip

Guam veterans may expect compensation under atomic amendment bill

Press Release: F.O.P. Request for Investigation of Second Chance Leads to Federal Lawsuit

Scientist prepares support of R-CALF USA

Hopi to sue Forest Service

Chicago Tribune
7/8/05

Pentagon told to quit supporting Scout fest

By Rudolph Bush
Tribune staff reporter

A federal judge in Chicago has ruled that the military's historic support of the national Boy Scout Jamboree is unconstitutional, issuing an injunction against the Pentagon's future participation in the event.

Ruling on a 1999 suit brought by the American Civil Liberties Union, U.S. District Judge Blanche Manning wrote that the plaintiffs in the suit had "shown irreparable injury that ... their constitutional rights as taxpayers are being violated."

She concluded that the Pentagon's participation in the jamboree violated the 1st Amendment because the

Boy Scouts of America "excludes atheists and agnostics" and calls for members to believe in God.

"They're a religious organization by their own description," said Rev. Eugene Winkler, a retired Methodist pastor from Chicago and the primary plaintiff in the case.

Winkler has filed suit against other public organizations that support Scouting. Manning's ruling, issued June 22, is among his most significant victories.

The Department of Justice, which defended the Pentagon in the suit, has not yet decided whether to appeal.

The Pentagon plans to spend $7.3 million supporting this year's jamboree near Washington D.C. It defends its participation as a valuable training exercise for Scouts who must learn to quickly assemble "tent cities" in the field.

Manning's ruling won't affect plans for this year's jamboree, scheduled to begin July 25 and expected to involve 40,000 Boy Scouts.

If the ruling holds up, it will take effect in 2010, the year of the next jamboree.

Defense Department officials and the Boy Scouts are hopeful that the ruling will be overturned on appeal.

"It seems odd that the ACLU would defend the 1st Amendment rights of other organizations like Nazis and nudists ... but not the Boy Scouts," said Bob Bork, a Boy Scouts spokesman.

END

Associated Press
Thursday, July 7, 2005 · Last updated 8:39 p.m. PT

Judge: No gov't money for Boy Scout trip

By DAN CATERINICCHIA
ASSOCIATED PRESS WRITER

CHICAGO -- A federal judge has ruled the Pentagon can no longer spend millions in government money to ready a Virginia military base for a national Boy Scout event typically held every four years, the American Civil Liberties Union announced Thursday.

U.S. District Judge Blanche Manning's June 22 order stems from a 1999 lawsuit by the ACLU of Illinois that claimed the Defense Department sponsorship violates the First Amendment because the Scouts require members to swear an oath of duty to God.

Justice Department spokesman Charles Miller said Thursday the government was still considering its options.

The order doesn't cover this year's National Scout Jamboree, which start July 25 and is expected to draw more than 40,000 people to the Army's Fort A.P. Hill in Virginia.

A Scouts spokesman said he expects the Pentagon's lawyers to appeal.

"We are confident that an appeal to the 7th Circuit will return everything to the status quo," Bob Bork said.

ACLU of Illinois spokesman Ed Yohnka said no other youth organization receives millions of dollars in government support, and that the injunction is the latest step toward ending the Scouts' unfair advantage.

The Defense Department notified the Chicago federal court in April that it would support this summer's jamboree, despite a ruling by Manning in March that the department's aid was unconstitutional. The government argued at the time that the ruling wasn't final.

The government aid, which amounted to $6 million and $8 million respectively for the jamborees in 1997 and 2001, was used to transport military personnel and other goods there, according to Manning's March order. The government expected to pay about $7.3 million for this year's jamboree.

Jamboree activities include archery, biking, a confidence course, environmental conservation programs and kayaking, according to the Scouts' Web site.

The Rev. Eugene Winkler, a Methodist minister who is one of the plaintiffs in the case, said he got involved because he did not agree with the use of taxpayer money to support the Scouts.

"We're not attacking the Scouts and neither is the ACLU," Winkler said. "This issue is not about the Boy Scouts at all. It's about government funding for religious purposes. It's about separation" of church and state.

END

PacNews
July 7, 2005

Guam veterans may expect compensation under atomic amendment bill

07 JULY 2005 HAGATNA (Pacnews) ----- Thousands of Guam veterans who suffered disabilities as a result of radiation exposure would get compensated if a new bill filed in Congress, which would slacken the requirements for compensation eligibility is passed into law.

H.R. 2962, filed by Congressman Neal Abercrombie and cosponsored by Congresswoman Madeleine Bordallo last week, would remove the provision in the Atomic Veterans Relief Act that set high criteria for payment eligibility.

It requires that the payment applicant provide a record showing a certain level of exposure to ionizing radiation while in service during nuclear testing.

"This provision has hampered the ability of thousands of veterans from receiving benefits," said Robert Celestial, president of the Pacific Association of Radiation Survivors.

Celestial said that when the Atomic Veterans Relief Act was implemented, about 18,000 applied for compensation but only 50 got compensated because of the high criteria on the level of ionizing radiation that was set by the law.

"We expect that under the amendment bill, more veterans would qualify for compensation," Celestial said.

HR 2962 removes the requirement for "dose reconstruction record."

Any atomic veteran exposed to ionizing radiation due to residual contamination resulting from an atomic detonation would be eligible if the bill is enacted into law

A recent report by the Committee to Assess the Scientific Information for the Radiation Exposure

Screening and Education Program stated that Guam residents who were exposed to radiation fallout when the US conducted nuclear tests in the Pacific in the 1950s were eligible for compensation under RECA program.

The RECA program has two components-one covers compensation for "downwinders" or those who were exposed to radiation fallout, and the other for "onsite participants," or those who worked in areas where ships were decontaminated and those who mined and milled uranium for the nuclear weapons program.

END

U.S. Newswire
July 7, 2005

Press Release: F.O.P. Request for Investigation of Second Chance Leads to Federal Lawsuit

WASHINGTON, Jul 7, 2005 (U.S. Newswire via COMTEX) --Chuck Canterbury, National president of the Fraternal Order of Police, welcomed the news that United States has filed a complaint against Second Chance Body Armor and the Toyobo Company seeking to recover damages relating to the sale of defective soft body armor manufactured with Zylon.

"The F.O.P. brought this to the attention of the Justice Department last summer," Canterbury said. "We suggested that an investigation of the company was definitely in order because they 'intentionally concealed a known defect' in their bullet-resistant vests and ignored the advice of their Director of Research to immediately notify their customers that the degradation of Zylon put the lives of officers wearing body armor manufactured from this material at risk."

The False Claims Act complaint alleges that the defendants provided defective Zylon bullet-resistant vests to Federal, State and local law enforcement agencies despite being aware that the strength and bullet-stopping capacity of the Zylon vests were substantially weaker than represented. The suit also alleges that Second Chance and Toyobo conspired to suppress evidence that Zylon degraded faster than disclosed to the Federal government, which bought the vests directly and partially reimbursed State and local law enforcement agencies for their purchases under the Bulletproof Vest Partnership Grant Act. The original law suit was brought by the former Director of Research and Composite Development of Second Chance, Dr. Aaron J. Westrick, last year.

"Second Chance has repeatedly demonstrated that its primary interest is protecting themselves, not the law enforcement officers in the field," Canterbury said. "I am glad to see that the Federal government is taking them to task for deceptions which put officers' lives at risk."

END

Aberdeen American News (SD)
July 8, 2005

Scientist prepares support of R-CALF USA

R-CALF USA filed its reply brief in its litigation against the U.S. Department of Agriculture (USDA) bovine spongiform encephalopathy (BSE) minimal risk region rule that would allow imports of cattle and beef from countries with BSE, specifically Canada.

The brief was filed in the U.S. District Court for the District of Montana. In support of its brief, R-CALF USA also submitted declarations prepared by four renowned scientists, including a declaration prepared

by Stanley B. Prusiner, M.D. Ð winner of the 1997 Nobel Prize for medicine Ð and the world's preeminent expert in the field of neurodegenerative diseases caused by prions, the infectious protein that causes BSE. Prusiner's 10-page declaration provides clear scientific evidence in support of R-CALF USA's position in its litigation against USDA.

Currently, Prusiner is the director of the Institute for Neurodegenerative Diseases, a neurology professor at the University of California, San Francisco (UCSF), and founder of InPro Biotechnology, Inc.

In 1997, Prusiner was awarded the Nobel Prize in physiology or medicine for his discovery of the infectious protein agents (which he named "prions") that cause fatal neurodegenerative diseases such as BSE, scrapie in sheep, chronic wasting disease in deer and elk, and Creutzfeldt-Jakob Disease (CJD) in humans, as well as variant Creutzfeldt-Jakob Disease (vCJD) in humans. The human prion disease vCJD is caused by ingestion of BSE-infected beef and beef products.

Other scientists joining Prusiner in support of R-CALF USA's litigation and whose written declarations also were filed with R-CALF USA's reply brief were: Louis Anthony Cox, Jr., Ph.D., a Colorado statistician who examined the BSE risk to the United States by resuming beef imports from Canada; Gail Charnley, Ph.D., an internationally recognized scientist specializing in environmental health risk assessment and risk management science and policy; and, Gary A. Weaver, D.V.M., Ph.D., Esq., a Senior Fellow at the Center for Food and Nutrition Policy at Virginia Tech, whose areas of expertise include agroterrorism, bioterrorism, animal health, food safety and security.

R-CALF USA's reply brief is available at www.r-calfusa.com.

END

Gallup Independent

Hopi to sue Forest Service
7/7/05

Late Tuesday evening, the Hopi Tribal Council authorized the tribe to pursue legal action against the U.S. Forest Service to protect the San Francisco Peaks in Flagstaff from the proposed Arizona Snowbowl expansion.

On June 24, DNA People's Legal Services Inc. on behalf of the Hualapai Tribe, Navajo Medicine Man Norris Nez, and Hopi leader, Bill Bucky Preston, filed a complaint in U.S. District Court alleging three potential adverse impacts from Alternative 2 of the Final Environmental Impact Statement (FEIS), chosen as the preferred alternative by the U.S. Forest Service.

In addition, they claim the FEIS admitted that a portion of those impacts are irreversible; that all written communication to tribes and Native Americans was provided only in the English language and that "despite explicit requests to do so, those documents were never translated by the Forest Service into any Native American language, whether written or by audio- or videotape."

Also, they claim that Defendant Nora Rasure, forest supervisor, failed to accommodate and extend the 60-day public comment period on the Draft EIS, and that the defendants Forest Service, Rasure, and Harv Forsgren, regional forester violated the Religious Freedom Restoration Act by selecting Alternative 2.

They allege the defendants' actions are not in accordance with the federal government's trust responsibilities to tribes and Native Americans and violate the American Indian Religious Freedom Act, the National Historic Preservation Act, the National Environmental Policy Act, and three executive orders from the National Forest Management Act the Forest Service's own regulations.

Hopi Chairman Wayne Taylor Jr., expressed his "deep disappointment" last month when the Forest Service's regional office upheld Rasure's earlier decision to expand the Arizona Snowbowl.

"It is our duty and obligation to protect and preserve the spiritual integrity of 'Nuvatukyaovi' (San Francisco Peaks) as an afforded right of our First Amendment freedoms and we will never cease our efforts to defend our beliefs, religious and cultural properties," Taylor said.

Tuesday's action by the Hopi Tribal Council gives official sanction to the lawsuit filed June 30 naming the U.S. Forest Service as a defendant and seeking to overturn the decision regarding the expansion.

Leigh Kuwanwisiwma, director of the Hopi Cultural Preservation Office, endorsed the tribal council's decision. He previously has described the Forest Service action as an "attack on our place of worship."

Following Tuesday's action, Kuwanwisiwma said, "This step by the Hopi Tribal Council to pursue legal action shows a continuity of support and unity for the ongoing Snowbowl expansion issue by the tribal government and religious leaders. ...Their actions are very much appreciated by the Hopi people."

The Hopi believe the expansion will severely impact their ability to maintain their continued spiritual connection to the Peaks.

In the lawsuit filed by DNA, the plaintiffs allege the Forest Service failed to consider alternatives other than the chosen action "that in fact the process was a confirmation of a predetermined decision, and no alternatives other than one that contained snowmaking were truly considered."

The action as proposed would "substantially burden" the Plaintiff's religion by adding reclaimed wastewater to the mountain which would contain trace amounts of cadavers, human blood, feces, urine, pharmaceuticals, and a number of other materials, thus causing irreversible harm, DNA charged.

Levon Henry, executive director of the agency, said, "The focus of our complaint is to preserve sacred places for all tribes. The Forest Service should respect Native American religion. Their decision to go forward clearly demonstrates their focus is on economic gain not on respect of our traditions," Henry said.

The complaint states that Navajo elder Norris Nez, 75, a respected, practicing Navajo medicine man living near Tuba City, does not speak, read or write English and does not have or use a personal computer, "as is the situation with a great number of Navajo ... many of whom are likewise without telephones or access to the Internet and do not have personal vehicles."

The complaint also makes similar statements regarding Hualapai elders and Bill Bucky Preston, who resides in the Hopi Village of Walpi.

END

Davis, Deborah J

From: Davis, Deborah J
Sent: Friday, July 08, 2005 11:41 AM
To: Gorsuch, Neil M
Subject: Call Tracy Henke on cell [redacted]

Deborah J. Davis
Staff Assistant
Phone (202) 514-1773 / Fax (202) 514-0238

Rubin, Jim (ENRD)

From: Rubin, Jim (ENRD)
Sent: Friday, July 8, 2005 11:50 AM
To: Joanna.Nunan@dot.gov; Sellers, Kiahna (OAG); Kessler, Elizabeth A
Cc: Gorsuch, Neil M; McAtamney, James A; Robert.Mariner@dot.gov
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)

My understanding now is that Robert McCallum, the Associate Attorney General, will be representing DOJ at the 7/11 meeting, accompanied by Neil Gorsuch, Principal Deputy Associate Attorney General.

-----Original Message-----
From: Joanna.Nunan@dot.gov [mailto:Joanna.Nunan@dot.gov]
Sent: Thursday, July 07, 2005 11:13 AM
To: Sellers, Kiahna (OAG)
Cc: Gorsuch, Neil M; Rubin, Jim (ENRD); McAtamney, James A; Robert.Mariner@dot.gov
Subject: RE: First Meeting of the Committee on the Marine Transportation System (CMTS)
Importance: High

Kiahna,

That is great news that the Attorney General will be attending the CMTS meeting on Monday. Jim Rubin (cc'd above) is the DOJ working group member, who has the briefing book for the Attorney General. Does this mean that Associate Attorney General Robert McCallum is his +1? Please contact me if I can be of further assistance.

Thanks so much,
Joanna
Joanna Nunan
Commander, U. S. Coast Guard
Military Assistant to the Secretary of Transportation (202) 366-5742 joanna.nunan@dot.gov

-----Original Message-----
From: Kiahna.Sellers2@usdoj.gov [mailto:Kiahna.Sellers2@usdoj.gov]
Sent: Wednesday, July 06, 2005 15:40
To: Nunan, Joanna <OST>
Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Dear Joanna -

I am compiling a briefing book for Attorney General Gonzales for Monday, July 11, 2005. Would you please send me an updated participants list and any other materials you may have for the meeting below, which the Attorney General should see?

Many thanks,
Kiahna Sellers
202-514-7281

Subject: First Meeting of the Committee on the Marine Transportation System (CMTS)

Start: Mon 7/11/05 2:00 PM
End: Mon 7/11/05 3:00 PM

Recurrence: (none)

Sours, Raquel

Subject:	Updated: Senior Management Meeting
Start:	Monday, July 11, 2005 8:30 AM
End:	Monday, July 11, 2005 8:50 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)

When: Monday, July 11, 2005 8:30 AM-8:50 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Sours, Raquel

Subject:	Updated: Component Coordination Meeting
Start:	Monday, July 11, 2005 8:50 AM
End:	Monday, July 11, 2005 9:10 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)
Optional Attendees:	Rosenberg, Chuck (TXS)

When: Monday, July 11, 2005 8:50 AM-9:10 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

Sours, Raquel

Subject:	Updated: Senior Management Meeting
Start:	Monday, July 11, 2005 8:40 AM
End:	Monday, July 11, 2005 9:00 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)

When: Monday, July 11, 2005 8:40 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Sours, Raquel

Subject:	Updated: Component Coordination Meeting
Start:	Monday, July 11, 2005 9:00 AM
End:	Monday, July 11, 2005 9:20 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)
Optional Attendees:	Rosenberg, Chuck (TXS)

When: Monday, July 11, 2005 9:00 AM-9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, July 08, 2005 12:16 PM
To: Yanes, Raul; Gorsuch, Neil M
Subject: Monday am meetings

Raul: My flight back to DC hits the ground at Reagan Nat at 8am and so I might be late getting to the resceduled meeting. Neil will be there in any event. Robt.

Sours, Raquel

Subject:	Canceled: Component Coordination Meeting
Start:	Monday, July 18, 2005 9:20 AM
End:	Monday, July 18, 2005 9:40 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)
Optional Attendees:	Rosenberg, Chuck (TXS)
Importance:	High

When: Monday, July 18, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

Sours, Raquel

Subject:	Updated: Senior Management Meeting
Start:	Monday, May 2, 2005 9:00 AM
End:	Monday, May 2, 2005 9:20 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Rosenberg, Chuck; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)

When: Occurs every weekday effective 5/2/05 until 6/30/05 from 9:00 AM to 9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Chuck Rosenberg, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Sours, Raquel

Subject:	Senior Management Meeting
Start:	Friday, July 1, 2005 9:00 AM
End:	Friday, July 1, 2005 9:20 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)

When: Occurs every weekday effective 7/1/05 until 10/31/05 from 9:00 AM to 9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Chuck Rosenberg, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Sours, Raquel

Subject:	Updated: Senior Management Meeting
Start:	Monday, July 11, 2005 8:40 AM
End:	Monday, July 11, 2005 9:00 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)

When: Monday, July 11, 2005 8:40 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Chuck Rosenberg, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Sours, Raquel

Subject:	Updated: Senior Management Meeting
Start:	Thursday, July 14, 2005 8:30 AM
End:	Thursday, July 14, 2005 8:50 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)

When: Thursday, July 14, 2005 8:30 AM-8:50 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Chuck Rosenberg, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Sours, Raquel

Subject:	Canceled: Senior Management Meeting
Start:	Monday, July 18, 2005 9:00 AM
End:	Monday, July 18, 2005 9:20 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)
Importance:	High

When: Monday, July 18, 2005 9:00 AM-9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Chuck Rosenberg, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Sours, Raquel

From: Sours, Raquel
Sent: Friday, July 08, 2005 12:49 PM
To: Long, Linda E; Gunn, Currie (SMO); Washington, Tracy T; Walker, Shelia M; Bennett, Catherine T; Webb, Lauren; Donlin, Molly; Mercer, Bill (ODAG); Gorsuch, Neil M; Roberts, Crystal; Grimsrud, Amy N
Subject: July 18, 2005

Senior Management and Component Coordination Meetings have been canceled for July 18

thanks

Schofield, Regina

From: Schofield, Regina
Sent: Friday, July 08, 2005 1:12 PM
To: Henke, Tracy (SMO); Elwood, Courtney; Herraiz, Domingo S.
Cc: Gorsuch, Neil M
Subject: RE: Ltr from Napolitano re SCAAP

The Office of Communications. And we're looking for the ltr.

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 08, 2005 11:12 AM
To: Herraiz, Domingo S.; Henke, Tracy (SMO)
Cc: Schofield, Regina; Gorsuch, Neil M
Subject: RE: Ltr from Napolitano re SCAAP

Sorry for the piecemeal response, but on rereading Mr. Herraiz's e-mail further questions/thoughts came to mind:

What is OCOM? Can someone send me a copy of the letter to Dora Schriro that was prepared but not sent.

Thanks.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 10:57 AM
To: Herraiz, Domingo S.
Cc: Gorsuch, Neil M; Elwood, Courtney; Schofield, Regina
Subject: Re: Ltr from Napolitano re SCAAP

Thanks Domingo for the quick reply.

I suggest that Hope call the DOC person today. Then a letter should be prepared for your signature or Regina's to the Governor referencing the conversation that Hope had with the DOC and that if there are additional questions to contact the person who signs the letter. That letter should go out the door within 48 hours of the phone call. Please provide a copy of that letter to Courtney and myself. Thanks.

-----Original Message-----
From: Herraiz, Domingo S. <Domingo.S.Herraiz@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>

Sent: Fri Jul 08 10:11:38 2005
Subject: RE: Ltr from Napolitano re SCAAP

Here are the details:

We have sent two letters to the Governor responding to prior requests, one on December 6, 2004 and one on February 24, 2005 both under my signature. On April 19, 2005 Attorney General Gonzales sent his letter to the Governor as a response.

BJA at the same time had written a letter to Dora Schriro at the Arizona Department of Corrections explaining in detail the program and relevant issues. She had also previously corresponded regarding the same issue. BJA was told by OCOM not send that letter because an AG letter would be sent to the Governor directly and answered the questions. It is true that in the AG letter it is identified that Hope Janke of BJA would contact the Governor or her designate, however we were confused based on other directions that we received. We can call immediately if that is the direction you wish us to pursue. Our question is do we call Dora Schriro, Director, Arizona Department of Corrections or the Governor. Please advise how to proceed. All the details are readily available and contained in our original letter to Dora Schriro.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, July 08, 2005 8:39 AM
To: Herraiz, Domingo S.
Subject: Fw: Ltr from Napolitano re SCAAP

See below

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>
CC: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 08:36:57 2005
Subject: Ltr from Napolitano re SCAAP

Tracy and Regina -- The AG received another letter dated June 27 from Governor Napolitano re: SCAAP, a copy of which was directed to OJP. The Governor says that Hope Jenke has not contacted her or her office as promised in the AG's letter of April 19. I hope that she is mistaken because it reflects poorly on the AG if he promises that a member of his staff will call and they do not. Can you help me find out whether Hope called? If so, who did she speak to? If not, why not? And, if not, please ask her to do so immediately.

Thanks.
Courtney

Schofield, Regina

From: Schofield, Regina
Sent: Friday, July 08, 2005 1:39 PM
To: Gorsuch, Neil M
Subject: RE: Bullet Proof vests

They will be invited to the briefing we do for all law enforcement the day before the annoucement.
-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 10:10 AM
To: Schofield, Regina
Subject: Bullet Proof vests

One more question, following up from our conversation yesterday. Is there some plan to share our findings with the military and federal law enforcement in advance, or contemporaneously with, the planned announcement?

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Friday, July 08, 2005 1:46 PM
To: McCallum, Robert (SMO); Davis, Deborah J; Shaw, Aloma A; Gorsuch, Neil M; Henke, Tracy (SMO); Kessler, Elizabeth A; Reyes, Luis (SMO); Senger, Jeffrey M; Swenson, Lily F; Wiggins, Mike
Subject: AG Portraits

JMD is currently working with an outside photographer to update and prepare a new booklet of all the AG portraits. The SMO's portraits will be photographed the earlier part of next week. The portraits for the Associate's office were removed today so they can be photographed and will be returned hopefully, the later part of next week.

Thanks

Currie

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 3:03 PM
To: Gunn, Currie (SMO)
Subject: emails

could you please dig up for me the email addresses for bill kelly and brett gary (sp?) at the white house counsel's office; also, it'd be nice to know how to spell brett's last name. thank you!

Sours, Raquel

Subject:	Canceled: Senior Management Meeting
Start:	Monday, August 08, 2005 8:15 AM
End:	Monday, August 08, 2005 8:35 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)
Importance:	High

When: Monday, August 08, 2005 8:15 AM-8:35 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Sours, Raquel

Subject:	Senior Management Meeting
Start:	Monday, August 08, 2005 8:15 AM
End:	Monday, August 08, 2005 8:35 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)

When: Monday, August 08, 2005 8:15 AM-8:35 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Chuck Rosenberg, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Friday, July 08, 2005 3:45 PM
To: Gorsuch, Neil M
Subject: as i mentioned to mike, if you want to talk before the mtg w/ the AG, i'm available

Comey, James (ODAG)

Subject:	Accepted: Updated: Strategic Management Council
Location:	Room 4111
Start:	Friday, July 29, 2005 1:00 PM
End:	Friday, July 29, 2005 3:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Comey, James (ODAG)

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Friday, July 08, 2005 4:06 PM
To: Scolinos, Tasia; Madden, Kevin
Cc: Gorsuch, Neil M
Subject: RE: Proposed OASG Press Release (Re: New Deputies)
Attachments: OASG Press Release1.doc

Know your swamped [redacted], but please let me know where we stand on this one way or the other. May be close to stale. If you recommend keeping Robert's name out we could change to the AG or the DOJ. Thanks.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 29, 2005 6:25 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Tasia, Kevin:
Touching base with you on this. Let me get your thoughts on release or changes so I can get back to the Associate. Thanks as always..
<< File: OASG Press Release1.doc >>

Lou

Luis A. Reyes,
Chief of Staff and Deputy Associate Attorney General
Office of the Associate Attorney General
United States Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530
Phone: (202) 514-9500
Fax: (202) 514-0238
Email: Luis.A.Reyes@usdoj.gov

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 15, 2005 8:16 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: Proposed OASG Press Release (Re: New Deputies)

Attached is the proposed release. Query whether we should hold off on this or excise Robert's name from all of this and just do it from the "Department of Justice"?

<< File: OASG Press Release.doc >>

ASSOCIATE ATTORNEY GENERAL ROBERT D. MCCALLUM, JR. ANNOUNCES APPOINTMENT OF NEW DEPUTY ASSOCIATE ATTORNEYS GENERAL

WASHINGTON, D.C. - Associate Attorney General Robert D. McCallum, Jr. announced today the appointment of three new Deputy Associate Attorneys General in the Office of the Associate Attorney General (OASG).

In announcing the new appointments to his office, Associate Attorney General Robert D. McCallum, Jr. said, "Our new Deputy Associate Attorneys General bring considerable practical experience and legal skills of the highest caliber to the Associate Attorney General's Office. We are excited to have them aboard."

Neil M. Gorsuch has been appointed Principal Deputy Associate Attorney General. Prior to his appointment, Mr. Gorsuch was a partner at the Washington firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, where his practice focused on complex trial and appellate litigation, including antitrust and securities matters. Mr. Gorsuch served as a law clerk to the Honorable Byron R. White and the Honorable Anthony M. Kennedy of the U.S. Supreme Court, as well as to the Honorable David B. Sentelle of the U.S. Court of Appeals for the D.C. Circuit. Mr. Gorsuch holds a doctorate in legal philosophy from Oxford, where he was a Marshall scholar; a J.D. from the Harvard Law School, where he studied as a Truman scholar; and a B.A. from Columbia University. Among other items in his new portfolio, Mr. Gorsuch will oversee terrorism-related litigation matters and advise the Associate Attorney General on all issues that reach the office for consideration.

Luis A. Reyes has been appointed Chief of Staff and Deputy Associate Attorney General. From 2003 to 2005, Mr. Reyes served as Counselor to the Assistant Attorney General for the Department's Civil Rights Division. As the Assistant Attorney General's senior legal counsel he was involved in a wide range of litigation, legislative, and policy-related matters. Mr. Reyes was heavily involved in the Department's efforts to combat human trafficking, appearing before state legislative bodies and civil rights groups to speak on the topic. Prior to joining the Civil Rights Division, Mr. Reyes served as Counsel to the Assistant Attorney General for the Civil Division where he advised on administrative and litigation related matters. Mr. Reyes joined the Department of Justice in 2001, after serving as an Assistant Attorney General for the State of Texas for three years under then state Attorney General John Cornyn. Mr. Reyes is a graduate of the University of Texas at Austin, and the University of Texas School of Law. In his new role, Mr. Reyes will work with the Department's Tax Division, the Community Relations Service, and will be involved in internal and organizational issues as assigned by the Associate Attorney General.

Lily Fu Swenson has been appointed Deputy Associate Attorney General. Ms. Swenson joins the OASG from the Washington office of Mayer, Brown, Rowe and Maw LLP where she served as hiring partner and a member of the firm's antitrust and litigation practice groups. Ms. Swenson's practice focused primarily on class action and appellate litigation, including antitrust, securities and professional liability matters. Ms. Swenson graduated from the University of Minnesota School of Law in 1993 and the University of Wisconsin at Madison in 1990. Prior to joining Mayer, Brown, Rowe & Maw, she clerked for the Honorable Michael S. Kanne of the United States Court of Appeals for the Seventh Circuit. In her new post, Ms. Swenson will oversee antitrust as well as commercial, health care fraud and immigration litigation matters.

ASSOCIATE ATTORNEY GENERAL ROBERT D. MCCALLUM, JR. ANNOUNCES APPOINTMENT OF NEW DEPUTY ASSOCIATE ATTORNEYS GENERAL

WASHINGTON, D.C. - Associate Attorney General Robert D. McCallum, Jr. announced today the appointment of three new Deputy Associate Attorneys General in the Office of the Associate Attorney General (OASG).

In announcing the new appointments to his office, Associate Attorney General Robert D. McCallum, Jr. said, "Our new Deputy Associate Attorneys General bring considerable practical experience and legal skills of the highest caliber to the Associate Attorney General's Office. We are excited to have them aboard."

Neil M. Gorsuch has been appointed Principal Deputy Associate Attorney General. Prior to his appointment, Mr. Gorsuch was a partner at the Washington firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, where his practice focused on complex trial and appellate litigation, including antitrust and securities matters. Mr. Gorsuch served as a law clerk to the Honorable Byron R. White and the Honorable Anthony M. Kennedy of the U.S. Supreme Court, as well as to the Honorable David B. Sentelle of the U.S. Court of Appeals for the D.C. Circuit. Mr. Gorsuch holds a doctorate in legal philosophy from Oxford, where he was a Marshall scholar; a J.D. from the Harvard Law School, where he studied as a Truman scholar; and a B.A. from Columbia University. Among other items in his new portfolio, Mr. Gorsuch will oversee terrorism-related litigation matters and advise the Associate Attorney General on all issues that reach the office for consideration.

Luis A. Reyes has been appointed Chief of Staff and Deputy Associate Attorney General. From 2003 to 2005, Mr. Reyes served as Counselor to the Assistant Attorney General for the Department's Civil Rights Division. As the Assistant Attorney General's senior legal counsel he was involved in a wide range of litigation, legislative, and policy-related matters. Mr. Reyes was heavily involved in the Department's efforts to combat human trafficking, appearing before state legislative bodies and civil rights groups to speak on the topic. Prior to joining the Civil Rights Division, Mr. Reyes served as Counsel to the Assistant Attorney General for the Civil Division where he advised on administrative and litigation related matters. Mr. Reyes joined the Department of Justice in 2001, after serving as an Assistant Attorney General for the State of Texas for three years under then state Attorney General John Cornyn. Mr. Reyes is a graduate of the University of Texas at Austin, and the University of Texas School of Law. In his new role, Mr. Reyes will work with the Department's Tax Division, the Community Relations Service, and will be involved in internal and organizational issues as assigned by the Associate Attorney General.

Lily Fu Swenson has been appointed Deputy Associate Attorney General. Ms. Swenson joins the OASG from the Washington office of Mayer, Brown, Rowe and Maw LLP where she served as hiring partner and a member of the firm's antitrust and litigation practice groups. Ms. Swenson's practice focused primarily on class action and appellate litigation, including antitrust, securities and professional liability matters. Ms. Swenson

graduated from the University of Minnesota School of Law in 1993 and the University of Wisconsin at Madison in 1990. Prior to joining Mayer, Brown, Rowe & Maw, she clerked for the Honorable Michael S. Kanne of the United States Court of Appeals for the Seventh Circuit. In her new post, Ms. Swenson will oversee antitrust as well as commercial, health care fraud and immigration litigation matters.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 4:08 PM
To: Reyes, Luis (SMO)
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Thanks. While the OPA knows best, I'd think that this would be safe by now.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, July 08, 2005 4:06 PM
To: Scolinos, Tasia; Madden, Kevin
Cc: Gorsuch, Neil M
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Know your swamped [redacted], but please let me know where we stand on this one way or the other. May be close to stale. If you recommend keeping Robert's name out we could change to the AG or the DOJ. Thanks.

<< File: OASG Press Release1.doc >>

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 29, 2005 6:25 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Tasia, Kevin:
Touching base with you on this. Let me get your thoughts on release or changes so I can get back to the Associate. Thanks as always..
<< File: OASG Press Release1.doc >>

Lou

Luis A. Reyes,
Chief of Staff and Deputy Associate Attorney General
Office of the Associate Attorney General
United States Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530
Phone: (202) 514-9500
Fax: (202) 514-0238
Email: Luis.A.Reyes@usdoj.gov

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 15, 2005 8:16 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: Proposed OASG Press Release (Re: New Deputies)

Attached is the proposed release. Query whether we should hold off on this or excise Robert's name from all of this and just do it from the "Department of Justice"?

<< File: OASG Press Release.doc >>

ASSOCIATE ATTORNEY GENERAL ROBERT D. MCCALLUM, JR. ANNOUNCES APPOINTMENT OF NEW DEPUTY ASSOCIATE ATTORNEYS GENERAL

WASHINGTON, D.C. - Associate Attorney General Robert D. McCallum, Jr. announced today the appointment of three new Deputy Associate Attorneys General in the Office of the Associate Attorney General (OASG).
In announcing the new appointments to his office, Associate Attorney General Robert D. McCallum, Jr. said, "Our new Deputy Associate Attorneys General bring considerable practical experience and legal skills of the highest caliber to the Associate Attorney General's Office. We are excited to have them aboard."

Neil M. Gorsuch has been appointed Principal Deputy Associate Attorney General. Prior to his appointment, Mr. Gorsuch was a partner at the Washington firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, where his practice focused on complex trial and appellate litigation, including antitrust and securities matters. Mr. Gorsuch served as a law clerk to the Honorable Byron R. White and the Honorable Anthony M. Kennedy of the U.S. Supreme Court, as well as to the Honorable David B. Sentelle of the U.S. Court of Appeals for the D.C. Circuit. Mr. Gorsuch holds a doctorate in legal philosophy from Oxford, where he was a Marshall scholar; a J.D. from the Harvard Law School, where he studied as a Truman scholar; and a B.A. from Columbia University. Among other items in his new portfolio, Mr. Gorsuch will oversee terrorism-related litigation matters and advise the Associate Attorney General on all issues that reach the office for consideration.

Luis A. Reyes has been appointed Chief of Staff and Deputy Associate Attorney General. From 2003 to 2005, Mr. Reyes served as Counselor to the Assistant Attorney General for the Department's Civil Rights Division. As the Assistant Attorney General's senior legal counsel he was involved in a wide range of litigation, legislative, and policy-related matters. Mr. Reyes was heavily involved in the Department's efforts to combat human trafficking, appearing before state legislative bodies and civil rights groups to speak on the topic. Prior to joining the Civil Rights Division, Mr. Reyes served as Counsel to the Assistant Attorney General for the Civil Division where he advised on administrative and litigation related matters. Mr. Reyes joined the Department of Justice in 2001, after serving as an Assistant Attorney General for the State of Texas for three years under then state Attorney General John Cornyn. Mr. Reyes is a graduate of the University of Texas at Austin, and the University of Texas School of Law. In his new role, Mr. Reyes will work with the Department's Tax Division, the Community Relations Service, and will be involved in internal and organizational issues as assigned by the Associate Attorney General.

Lily Fu Swenson has been appointed Deputy Associate Attorney General. Ms. Swenson joins the OASG from the Washington office of Mayer, Brown, Rowe and Maw LLP where she served as hiring partner and a member of the firm's antitrust and litigation practice groups. Ms. Swenson's practice focused primarily on class action and appellate litigation, including antitrust, securities and professional liability matters. Ms. Swenson graduated from the University of Minnesota School of Law in 1993 and the University of Wisconsin at Madison in 1990. Prior to

joining Mayer, Brown, Rowe & Maw, she clerked for the Honorable Michael S. Kanne of the United States Court of Appeals for the Seventh Circuit. In her new post, Ms. Swenson will oversee antitrust as well as commercial, health care fraud and immigration litigation matters.

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Friday, July 08, 2005 4:25 PM
To: Gorsuch, Neil M
Subject: RE: emails

wkelley@who.eop.gov
bgerry@who.eop.gov

Brett's last name spelled Gerry.

Currie

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 3:03 PM
To: Gunn, Currie (SMO)
Subject: emails

could you please dig up for me the email addresses for bill kelly and brett gary (sp?) at the white house counsel's office; also, it'd be nice to know how to spell brett's last name. thank you!

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Friday, July 08, 2005 4:50 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: What are your fax numbers?

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 5:11 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: What are your fax numbers?

Fax no below

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, July 08, 2005 4:50 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: What are your fax numbers?

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 5:11 PM
To: Gunn, Currie (SMO)
Subject: RE: emails

thanks!

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Friday, July 08, 2005 4:25 PM
To: Gorsuch, Neil M
Subject: RE: emails

wkelley@who.eop.gov
bgerry@who.eop.gov

Brett's last name spelled Gerry.

Currie

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 3:03 PM
To: Gunn, Currie (SMO)
Subject: emails

could you please dig up for me the email addresses for bill kelly and brett gary (sp?) at the white house counsel's office; also, it'd be nice to know how to spell brett's last name. thank you!

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Friday, July 8, 2005 5:41 PM
To: Gorsuch, Neil M
Subject: Re: What are your fax numbers?

Actually, fax no. not there . . .

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>
Sent: Fri Jul 08 17:11:10 2005
Subject: RE: What are your fax numbers?

Fax no below

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, July 08, 2005 4:50 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: What are your fax numbers?

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval

work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 08, 2005 5:51 PM
To: [redacted]@dodgc.osd.mil'
Subject: Re: What are your fax numbers?

Sorry. [redacted]

-----Original Message-----
From: [redacted]@dodgc.osd.mil [redacted]@dodgc.osd.mil>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 17:40:38 2005
Subject: Re: What are your fax numbers?

Actually, fax no. not there . . .

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To [redacted]@dodgc.osd.mil [redacted]@dodgc.osd.mil>
Sent: Fri Jul 08 17:11:10 2005
Subject: RE: What are your fax numbers?

Fax no below

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: jimenezf@dodgc.osd.mil [mailto:jimenezf@dodgc.osd.mil]

From: [redacted]@dodgc.osd.mil
Sent: Friday, July 08, 2005 4:50 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: What are your fax numbers?

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Friday, July 08, 2005 6:45 PM
To: Nowacki, John; Gorsuch, Neil M; Swenson, Lily F
Cc: Scolinos, Tasia
Subject: Re: Proposed OASG Press Release (Re: New Deputies)

Just curious, didn't we issue a release for the arrival of the Principal in the Deputy's Office? I believe there is value in announcing for Neil, the new Principal Deputy Associate, who just arrived in June. As to the other two folks on the release, there is a plus factor value, but no need to make exceptions to newly established procedures. Please let me and Neil know what you advise. Thanks.

-----Original Message-----
From: Nowacki, John <John.Nowacki@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
CC: Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 18:14:43 2005
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Luis,

I think you're right in that it's too late to put this out; we would have to include something in the release about the date of the appointments. Also, we've standardized our release criteria for all offices and components, and -- while there have been a few exceptions in the past -- we are now issuing releases for component head matters (resignations, for example; appointments are usually announced by the White House) only.

John

From: Scolinos, Tasia
Sent: Friday, July 08, 2005 4:07 PM
To: Nowacki, John
Subject: FW: Proposed OASG Press Release (Re: New Deputies)

can you handle this - thanks

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, July 08, 2005 4:06 PM
To: Scolinos, Tasia; Madden, Kevin
Cc: Gorsuch, Neil M
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Know your swamped and/or traveling, but please let me know where we stand on this one way or the other. May be close to stale. If you recommend keeping Robert's name out we could change to the AG or the DOJ. Thanks.

<< File: OASG Press Release1.doc >>
-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 29, 2005 6:25 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Tasia, Kevin:
Touching base with you on this. Let me get your thoughts on release or changes so I can get back to the Associate. Thanks as always..
<< File: OASG Press Release1.doc >>

Lou

Luis A. Reyes,
Chief of Staff and Deputy Associate Attorney General Office of the Associate Attorney General United States Department of Justice 950 Pennsylvania Ave. NW Washington, DC 20530 Phone: (202) 514-9500 Fax: (202) 514-0238 Email: Luis.A.Reyes@usdoj.gov

---

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 15, 2005 8:16 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: Proposed OASG Press Release (Re: New Deputies)

Attached is the proposed release. Query whether we should hold off on this or excise Robert's name from all of this and just do it from the "Department of Justice"?

<< File: OASG Press Release.doc >>

ASSOCIATE ATTORNEY GENERAL ROBERT D. MCCALLUM, JR. ANNOUNCES APPOINTMENT OF NEW DEPUTY ASSOCIATE ATTORNEYS GENERAL

WASHINGTON, D.C. - Associate Attorney General Robert D. McCallum, Jr. announced today the appointment of three new Deputy Associate Attorneys General in the Office of the Associate Attorney General (OASG).
In announcing the new appointments to his office, Associate Attorney General Robert D. McCallum, Jr. said, "Our new Deputy Associate Attorneys General bring considerable practical experience and legal skills of the highest caliber to the Associate Attorney General's Office. We are excited to have them aboard."

Neil M. Gorsuch has been appointed Principal Deputy Associate Attorney General. Prior to his

appointment, Mr. Gorsuch was a partner at the Washington firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, where his practice focused on complex trial and appellate litigation, including antitrust and securities matters. Mr. Gorsuch served as a law clerk to the Honorable Byron R. White and the Honorable Anthony M. Kennedy of the U.S. Supreme Court, as well as to the Honorable David B. Sentelle of the U.S. Court of Appeals for the D.C. Circuit. Mr. Gorsuch holds a doctorate in legal philosophy from Oxford, where he was a Marshall scholar; a J.D. from the Harvard Law School, where he studied as a Truman scholar; and a B.A. from Columbia University. Among other items in his new portfolio, Mr. Gorsuch will oversee terrorism-related litigation matters and advise the Associate Attorney General on all issues that reach the office for consideration.

Luis A. Reyes has been appointed Chief of Staff and Deputy Associate Attorney General. From 2003 to 2005, Mr. Reyes served as Counselor to the Assistant Attorney General for the Department's Civil Rights Division. As the Assistant Attorney General's senior legal counsel he was involved in a wide range of litigation, legislative, and policy-related matters. Mr. Reyes was heavily involved in the Department's efforts to combat human trafficking, appearing before state legislative bodies and civil rights groups to speak on the topic. Prior to joining the Civil Rights Division, Mr. Reyes served as Counsel to the Assistant Attorney General for the Civil Division where he advised on administrative and litigation related matters. Mr. Reyes joined the Department of Justice in 2001, after serving as an Assistant Attorney General for the State of Texas for three years under then state Attorney General John Cornyn. Mr. Reyes is a graduate of the University of Texas at Austin, and the University of Texas School of Law. In his new role, Mr. Reyes will work with the Department's Tax Division, the Community Relations Service, and will be involved in internal and organizational issues as assigned by the Associate Attorney General.

Lily Fu Swenson has been appointed Deputy Associate Attorney General. Ms. Swenson joins the OASG from the Washington office of Mayer, Brown, Rowe and Maw LLP where she served as hiring partner and a member of the firm's antitrust and litigation practice groups. Ms. Swenson's practice focused primarily on class action and appellate litigation, including antitrust, securities and professional liability matters. Ms. Swenson graduated from the University of Minnesota School of Law in 1993 and the University of Wisconsin at Madison in 1990. Prior to joining Mayer, Brown, Rowe & Maw, she clerked for the Honorable Michael S. Kanne of the United States Court of Appeals for the Seventh Circuit. In her new post, Ms. Swenson will oversee antitrust as well as commercial, health care fraud and immigration litigation matters.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 9:16 AM
To: [redacted] (E-mail)
Subject: legislation

When do you need our comments by? And is this bill something DOD actually wants to comment on or encourage?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 9:22 AM
To: Keisler, Peter D. (CIV); Philbin, Patrick (ODAG)
Cc: Yanes, Raul
Subject: Specter Bill

You should have (or will have shortly) draft legislation DoD sent over Friday evening. I'm checking with DoD on the timeline now, as well as on whether they really want to push this at this time.

Walker, Shelia M

Subject:	Meeting w/[redacted] (DOD)
Location:	Department of Defense
Start:	Tuesday, July 12, 2005 11:00 AM
End:	Tuesday, July 12, 2005 11:30 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Walker, Shelia M
Required Attendees:	Clement, Paul D; Keisler, Peter D. (CIV); Gorsuch, Neil M

When: Tuesday, July 12, 2005 11:00 AM-11:30 AM (GMT-05:00) Eastern Time (US & Canada).
Where: Department of Defense

~~*~*~*~*~*~*~*~*~*

POC - [redacted]

Gunn, Currie (SMO)

Subject:	Updated: Car en route to EEOB
Start:	Monday, July 11, 2005 1:40 PM
End:	Monday, July 11, 2005 1:45 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M

When: Monday, July 11, 2005 1:40 PM-1:45 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 10:35 AM
To: Keisler, Peter D. (CIV); Philbin, Patrick (ODAG)
Cc: Yanes, Raul
Subject: RE: Specter Bill

Frank would like our comments by cob today. If you could please forward them to me by, say, 4, I will compile all of the various thoughts. DoD is providing comments apparently also stressing that the Admin has yet to come to any conclusion on whether legislation is a good idea. They seem to think a Specter bill an inevitability or a near inevitability.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 9:22 AM
To: Keisler, Peter D. (CIV); Philbin, Patrick (ODAG)
Cc: Yanes, Raul
Subject: Specter Bill

You should have (or will have shortly) draft legislation DoD sent over Friday evening. I'm checking with DoD on the timeline now, as well as on whether they really want to push this at this time.

Philbin, Patrick (ODAG)

From: Philbin, Patrick (ODAG)
Sent: Monday, July 11, 2005 10:54 AM
To: Gorsuch, Neil M; Keisler, Peter D. (CIV)
Cc: Yanes, Raul
Subject: RE: Specter Bill

I don't have a copy of the legislation yet. Also, a few questions -- When did it come over? Is this a DoD draft or a Specter draft? Is the White House fully aware of what DoD is up to on this? Is OLC in the loop on this? OLC has to review any draft legislation dealing with detainees, habeas rights, military commissions, etc.

Patrick F. Philbin
Associate Deputy Attorney General
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C.
(202) 514-3744
fax: (202) 307-0097
[redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 10:35 AM
To: Keisler, Peter D. (CIV); Philbin, Patrick (ODAG)
Cc: Yanes, Raul
Subject: RE: Specter Bill

Frank would like our comments by cob today. If you could please forward them to me by, say, 4, I will compile all of the various thoughts. DoD is providing comments apparently also stressing that the Admin has yet to come to any conclusion on whether legislation is a good idea. They seem to think a Specter bill an inevitability or a near inevitability.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 9:22 AM
To: Keisler, Peter D. (CIV); Philbin, Patrick (ODAG)
Cc: Yanes, Raul
Subject: Specter Bill

You should have (or will have shortly) draft legislation DoD sent over Friday evening. I'm checking with DoD on the timeline now, as well as on whether they really want to push this at this time.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 10:59 AM
To: Philbin, Patrick (ODAG); Keisler, Peter D. (CIV)
Cc: Yanes, Raul
Subject: RE: Specter Bill

Pat, I had asked my assistant to walk a copy down to you. I will check on it. The legislation is a Specter draft, not a DoD draft. WH is aware. I will bring OLC into loop as well. NMG

-----Original Message-----
From: Philbin, Patrick (ODAG)
Sent: Monday, July 11, 2005 10:54 AM
To: Gorsuch, Neil M; Keisler, Peter D. (CIV)
Cc: Yanes, Raul
Subject: RE: Specter Bill

I don't have a copy of the legislation yet. Also, a few questions -- When did it come over? Is this a DoD draft or a Specter draft? Is the White House fully aware of what DoD is up to on this? Is OLC in the loop on this? OLC has to review any draft legislation dealing with detainees, habeas rights, military commissions, etc.

Patrick F. Philbin
Associate Deputy Attorney General
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C.
(202) 514-3744
fax: (202) 307-0097
[redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 10:35 AM
To: Keisler, Peter D. (CIV); Philbin, Patrick (ODAG)
Cc: Yanes, Raul
Subject: RE: Specter Bill

Frank would like our comments by cob today. If you could please forward them to me by, say, 4, I will compile all of the various thoughts. DoD is providing comments apparently also stressing that the Admin has yet to come to any conclusion on whether legislation is a good idea. They seem to think a Specter bill an inevitability or a near inevitability.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 9:22 AM
To: Keisler, Peter D. (CIV); Philbin, Patrick (ODAG)
Cc: Yanes, Raul
Subject: Specter Bill

You should have (or will have shortly) draft legislation DoD sent over Friday evening. I'm checking with DoD on the timeline now, as well as on whether they really want to push this at this time.

Gunn, Currie (SMO)

Subject:	Canceled: Civil Components Leadership Meeting Group I
Location:	5710
Start:	Monday, February 21, 2005 11:00 AM
End:	Monday, February 21, 2005 12:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Group I Leadership; O'Connor, Eileen J. (AAG/TAX); Swenson, Lily F; White, Clifford; Jezierski, Crystal; Barnett, Thomas O.; Cohen, Brian; Bounds, Ryan W (OLP); Oldham, Jeffrey L; Pacold, Martha M; Kim, Wan (CRT); McKeown, Matt (ENRD); Wooldridge, Sue Ellen (ENRD); Korn, Jennifer; Seidel, Rebecca; Wright, Paula N; Barnett, Thomas O.; Hertling, Richard; Katsas, Gregory (CIV)Group I Leadership ; O'Connor, Eileen J. (AAG/TAX); Swenson, Lily F; White, Clifford; Jezierski, Crystal; Barnett, Thomas O.; Cohen, Brian; Bounds, Ryan W (OLP); Oldham, Jeffrey L; Pacold, Martha M; Kim, Wan (CRT); McKeown, Matt (ENRD); Wooldridge, Sue Ellen (ENRD); Korn, Jennifer; Seidel, Rebecca; Wright, Paula N; Barnett, Thomas O.; Hertling, Richard; Katsas, Gregory (CIV)
Optional Attendees:	Alvarez, Michelle M. (TAX); O'Connor, Eileen J. (AAG/TAX); Bradbury, Steve; Moschella, William; Senger, Jeffrey M; Keisler, Peter D (CIV); Freeman, Sharee; Friedman, Lawrence A; Brand, Rachel; Catapano, Debbie; Boente, Dana J. (TAX); Martinson, WandaAlvarez, Michelle M. (TAX); O'Connor, Eileen J. (AAG/TAX); Bradbury, Steve; Moschella, William; Senger, Jeffrey M; Keisler, Peter D (CIV); Freeman, Sharee; Friedman, Lawrence A; Brand, Rachel; Catapano, Debbie; Boente, Dana J. (TAX); Martinson, Wanda
Importance:	High

Addition of Gregory Katsas - Principal Deputy Associate AG - Office of the Associate Attorney General

Attendees: OASG, OAG, CRTS, Tax, OLC, OLP, CRS, USTP, ATR, DAG, ENRD, OIPL, Civil, OPA, OLA

POC: Currie Gunn 4-9500

Walker, Shelia M

Subject:	Updated: Meeting w/ [redacted] (DOD)
Location:	Department of Defense
Start:	Tuesday, July 12, 2005 11:00 AM
End:	Tuesday, July 12, 2005 12:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Walker, Shelia M
Required Attendees:	Clement, Paul D; Keisler, Peter D. (CIV); Gorsuch, Neil M

When: Tuesday, July 12, 2005 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Department of Defense

~~*~*~*~*~*~*~*~*~*

Notice - Meeting changed from 1/2 hr to 1 hour

POC - [redacted]

Gunn, Currie (SMO)

Subject:	Car en route 810 7th Street
Start:	Tuesday, July 12, 2005 1:45 PM
End:	Tuesday, July 12, 2005 1:50 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M; Henke, Tracy (SMO); McCallum, Robert (SMO)

When: Tuesday, July 12, 2005 1:45 PM-1:50 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 11:49 AM
To: Keisler, Peter D. (CIV)
Subject: RE: Specter Bill

Good call. Thanks.

-----Original Message-----
From: Keisler, Peter D. (CIV)
Sent: Monday, July 11, 2005 11:32 AM
To: Gorsuch, Neil M
Subject: Re: Specter Bill

Neil: I'd suggest including OSG too. Peter

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Philbin, Patrick (ODAG) <Patrick.Philbin@SMOJMD.USDOJ.gov>; Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>
CC: Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Mon Jul 11 10:58:44 2005
Subject: RE: Specter Bill

Pat, I had asked my assistant to walk a copy down to you. I will check on it. The legislation is a Specter draft, not a DoD draft. WH is aware. I will bring OLC into loop as well. NMG

-----Original Message-----
From: Philbin, Patrick (ODAG)
Sent: Monday, July 11, 2005 10:54 AM
To: Gorsuch, Neil M; Keisler, Peter D. (CIV)
Cc: Yanes, Raul
Subject: RE: Specter Bill

I don't have a copy of the legislation yet. Also, a few questions -- When did it come over? Is this a DoD draft or a Specter draft? Is the White House fully aware of what DoD is up to on this? Is OLC in the loop on this? OLC has to review any draft legislation dealing with detainees, habeas rights, military commissions, etc.

Patrick F. Philbin
Associate Deputy Attorney General
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C.
(202) 514-3744
fax: (202) 307-0997

Fax: (202) 307-0997

[redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 10:35 AM
To: Keisler, Peter D. (CIV); Philbin, Patrick (ODAG)
Cc: Yanes, Raul
Subject: RE: Specter Bill

Frank would like our comments by cob today. If you could please forward them to me by, say, 4, I will compile all of the various thoughts. DoD is providing comments apparently also stressing that the Admin has yet to come to any conclusion on whether legislation is a good idea. They seem to think a Specter bill an inevitability or a near inevitability.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 9:22 AM
To: Keisler, Peter D. (CIV); Philbin, Patrick (ODAG)
Cc: Yanes, Raul
Subject: Specter Bill

You should have (or will have shortly) draft legislation DoD sent over Friday evening. I'm checking with DoD on the timeline now, as well as on whether they really want to push this at this time.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 12:12 PM
To: Swenson, Lily F
Subject: lunch?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 12:13 PM
To: Marshall, C. Kevin
Subject: RE: Specter bill

A hard copy should be in Steve's office. I do not have it electronically.

-----Original Message-----
From: Marshall, C. Kevin
Sent: Monday, July 11, 2005 12:12 PM
To: Gorsuch, Neil M
Subject: Specter bill

Neil,

Please copy me when you forward the Specter bill on detainees to Steve. Thanks.

C. Kevin Marshall
Office of Legal Counsel
U.S. Department of Justice
(202) 514-3713 (phone)
(202) 514-0539 (fax)
c.kevin.marshall@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 12:16 PM
To: Kessler, Elizabeth A
Subject: RE: Background/Talking Points Re Munitions Issue For Deputies Meeting (for ASG)

am i expected at this?

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Monday, July 11, 2005 12:15 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: FW: Background/Talking Points Re Munitions Issue For Deputies Meeting (for ASG)

Here is the background information and talking points that we will discuss with you, along with the readahead paper, when we meet today at 4:30. (I'll also forward the clean copy of the readahead paper, which I see Jeff has already forwarded an annotated copy.)

-----Original Message-----
From: Neumayr, Mary (ENRD)
Sent: Monday, July 11, 2005 11:00 AM
To: Kessler, Elizabeth A
Cc: Clark, Jeffrey B. (ENRD); Johnson, Kelly A. (ENRD)
Subject: Background/Talking Points Re Munitions Issue For Deputies Meeting (for ASG)

<< File: #35969-v1-Background_Talking_Points_Re_Munitions_Issue_For_Deputies_Meeting_(for_ASG).WPD >>

Liz,

Attached is a background on the Coast Guard's CWA munitions issue, followed by proposed talking points. Below is a list provided to me by DOD of the anticipated attendees for tomorrow's Deputies Meeting:

DOD: [redacted]
NSC: [redacted]
HSC: [redacted]
EPA: [redacted]
CEQ: [redacted]
DOJ: Robert D. McCallum, Jr., Associate Attorney General
USCG: [redacted]

Jeff and I will look forward to seeing you and Robert this afternoon at 4:30 pm.

Mary

Kessler, Elizabeth A

From:	Kessler, Elizabeth A
Sent:	Monday, July 11, 2005 12:17 PM
To:	Gorsuch, Neil M
Subject:	Read: Background/Talking Points Re Munitions Issue For Deputies Meeting (for ASG)

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Monday, July 11, 2005 12:19 PM
To: Gorsuch, Neil M
Subject: RE: Background/Talking Points Re Munitions Issue For Deputies Meeting (for ASG)

It is up to you. The meeting itself (tomorrow) is principals only, we're told.

You can feel free to attend the pre-meeting with Robert, which is today at 4:30, if you like. It's really up to you.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 12:16 PM
To: Kessler, Elizabeth A
Subject: RE: Background/Talking Points Re Munitions Issue For Deputies Meeting (for ASG)

am i expected at this?

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Monday, July 11, 2005 12:15 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: FW: Background/Talking Points Re Munitions Issue For Deputies Meeting (for ASG)

Here is the background information and talking points that we will discuss with you, along with the readahead paper, when we meet today at 4:30. (I'll also forward the clean copy of the readahead paper, which I see Jeff has already forwarded an annotated copy.)

-----Original Message-----
From: Neumayr, Mary (ENRD)
Sent: Monday, July 11, 2005 11:00 AM
To: Kessler, Elizabeth A
Cc: Clark, Jeffrey B. (ENRD); Johnson, Kelly A. (ENRD)
Subject: Background/Talking Points Re Munitions Issue For Deputies Meeting (for ASG)

<< File: #35969-v1-Background_Talking_Points_Re_Munitions_Issue_For_Deputies_Meeting_(for_ASG).WPD >>

Liz,

Attached is a background on the Coast Guard's CWA munitions issue, followed by proposed talking points. Below is a list provided to me by DOD of the anticipated attendees for tomorrow's Deputies Meeting:

DOD: Dr. David Chu, Undersecretary of Defense (Personnel & Readiness)
NSC: Dr. J.D. Crouch, Deputy National Security Advisor
HSC: Ken Rapuano, Deputy Assistant to the President for Homeland Security
EPA: Steve Johnson, EPA Administrator
CEQ: Jim Connaughton, Chairman of the council on Environmental Quality (CEQ)
DOJ: Robert D. McCallum, Jr., Associate Attorney General

USCG: Admiral Thomas H. Collins, Commandant, USCG

Jeff and I will look forward to seeing you and Robert this afternoon at 4:30 pm.

Mary

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 12:19 PM
To: Kessler, Elizabeth A
Subject: RE: Background/Talking Points Re Munitions Issue For Deputies Meeting (for ASG)

i will skip unless you think otherwise; thanks.

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Monday, July 11, 2005 12:19 PM
To: Gorsuch, Neil M
Subject: RE: Background/Talking Points Re Munitions Issue For Deputies Meeting (for ASG)

It is up to you. The meeting itself (tomorrow) is principals only, we're told.

You can feel free to attend the pre-meeting with Robert, which is today at 4:30, if you like. It's really up to you.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 12:16 PM
To: Kessler, Elizabeth A
Subject: RE: Background/Talking Points Re Munitions Issue For Deputies Meeting (for ASG)

am i expected at this?

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Monday, July 11, 2005 12:15 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: FW: Background/Talking Points Re Munitions Issue For Deputies Meeting (for ASG)

Here is the background information and talking points that we will discuss with you, along with the readahead paper, when we meet today at 4:30. (I'll also forward the clean copy of the readahead paper, which I see Jeff has already forwarded an annotated copy.)

-----Original Message-----
From: Neumayr, Mary (ENRD)
Sent: Monday, July 11, 2005 11:00 AM
To: Kessler, Elizabeth A
Cc: Clark, Jeffrey B. (ENRD); Johnson, Kelly A. (ENRD)
Subject: Background/Talking Points Re Munitions Issue For Deputies Meeting (for ASG)

<< File: #35969-v1-Background_Talking_Points_Re_Munitions_Issue_For_Deputies_Meeting_(for_ASG).WPD >>

Liz,

Attached is a background on the Coast Guard's CWA munitions issue, followed by proposed talking points. Below is a list provided to me by DOD of the anticipated attendees for tomorrow's Deputies Meeting:

DOD: Dr. David Chu, Undersecretary of Defense (Personnel & Readiness)
NSC: Dr. J.D. Crouch, Deputy National Security Advisor
HSC: Ken Rapuano, Deputy Assistant to the President for Homeland Security
EPA: Steve Johnson, EPA Administrator
CEQ: Jim Connaughton, Chairman of the council on Environmental Quality (CEQ)
DOJ: Robert D. McCallum, Jr., Associate Attorney General
USCG: Admiral Thomas H. Collins, Commandant, USCG

Jeff and I will look forward to seeing you and Robert this afternoon at 4:30 pm.

Mary

Walker, Shelia M

Subject:	Car @ River Entrance en route to DOJ
Start:	Tuesday, July 12, 2005 12:15 PM
End:	Tuesday, July 12, 2005 12:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Walker, Shelia M
Required Attendees:	Clement, Paul D; Keisler, Peter D. (CIV); Gorsuch, Neil M

When: Tuesday, July 12, 2005 12:15 PM-12:30 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

Walker, Shelia M

Subject:	Car @ 10th Street Gate en route to DOD
Location:	River Entrance
Start:	Tuesday, July 12, 2005 10:30 AM
End:	Tuesday, July 12, 2005 11:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Walker, Shelia M
Required Attendees:	Clement, Paul D; Keisler, Peter D. (CIV); Gorsuch, Neil M

When: Tuesday, July 12, 2005 10:30 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: River Entrance

~~*~*~*~*~*~*~*~*~*

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Monday, July 11, 2005 3:52 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: Just fyi - DOJ reps to the Marine Security Policy Coordinating Committee

have been Ted Cooperstein and James McAtamney.

Gunn, Currie (SMO)

Subject:	Updated: OASG Staff Meeting
Location:	Conference Room 5710
Start:	Tuesday, July 12, 2005 3:15 PM
End:	Tuesday, July 12, 2005 4:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Tuesday and Thursday from 5:00 PM to 6:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Kessler, Elizabeth A; Senger, Jeffrey M; Reyes, Luis (SMO); Henke, Tracy (SMO); Wiggins, Mike; Gunn, Currie (SMO); Swenson, Lily F; Wiggins, Mike; Gorsuch, Neil M
Optional Attendees:	Shaw, Aloma A

When: Tuesday, July 12, 2005 3:15 PM-4:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Conference Room 5710

~~*~*~*~*~*~*~*~*~*

Time change for staff mtg on 7/12/2005.

Attendees: ASG Robert McCallum, Elizabeth Kessler-OASG, Tracy Henke-OASG, Mike Wiggins-OASG, Jeff Senger-OASG, Luis Reyes-OASG, Lily Fu Swenson-OASG

POC: Currie Gunn x4-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 6:09 PM
To: Philbin, Patrick (ODAG)
Subject: RE: Specter Bill

Agreed, and thanks.

-----Original Message-----
From: Philbin, Patrick (ODAG)
Sent: Monday, July 11, 2005 5:51 PM
To: Gorsuch, Neil M
Subject: RE: Specter Bill

There are a LOT of problems with this bill. I will send you an e-mail in a while.

Patrick F. Philbin
Associate Deputy Attorney General
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C.
(202) 514-3744
fax: (202) 307-0097
[redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 10:59 AM
To: Philbin, Patrick (ODAG); Keisler, Peter D. (CIV)
Cc: Yanes, Raul
Subject: RE: Specter Bill

Pat, I had asked my assistant to walk a copy down to you. I will check on it. The legislation is a Specter draft, not a DoD draft. WH is aware. I will bring OLC into loop as well. NMG

-----Original Message-----
From: Philbin, Patrick (ODAG)
Sent: Monday, July 11, 2005 10:54 AM
To: Gorsuch, Neil M; Keisler, Peter D. (CIV)
Cc: Yanes, Raul
Subject: RE: Specter Bill

I don't have a copy of the legislation yet. Also, a few questions -- When did it come over? Is this a DoD draft or a Specter draft? Is the White House fully aware of what DoD is up to on this? Is OLC in the loop on this? OLC has to review any draft legislation dealing with detainees, habeas rights, military commissions, etc.

Patrick F. Philbin
Associate Deputy Attorney General
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C.
(202) 514-3744
fax: (202) 307-0097

[redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 10:35 AM
To: Keisler, Peter D. (CIV); Philbin, Patrick (ODAG)
Cc: Yanes, Raul
Subject: RE: Specter Bill

Frank would like our comments by cob today. If you could please forward them to me by, say, 4, I will compile all of the various thoughts. DoD is providing comments apparently also stressing that the Admin has yet to come to any conclusion on whether legislation is a good idea. They seem to think a Specter bill an inevitability or a near inevitability.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 9:22 AM
To: Keisler, Peter D. (CIV); Philbin, Patrick (ODAG)
Cc: Yanes, Raul
Subject: Specter Bill

You should have (or will have shortly) draft legislation DoD sent over Friday evening. I'm checking with DoD on the timeline now, as well as on whether they really want to push this at this time.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 6:13 PM
To: Clement, Paul D
Subject: Specter Bill

Paul, I shipped over to you earlier today a hard copy of a detainee bill that Specter is drafting. DoD has asked for our comments, but also asked that we hold this very close. I'd very much appreciate your input. OLC, ODAG, and CIV are also looking at it. It's unclear whether and when Specter will lodge the legislation.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 11, 2005 7:01 PM
To: Nichols, Carl (CIV)
Subject: RE: you still in the office?

y

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Monday, July 11, 2005 6:55 PM
To: Gorsuch, Neil M
Subject: you still in the office?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 12, 2005 8:41 AM
To: 'David.Javdan@sba.gov'
Subject: RE: 05-44 David Javdan Appointment.doc

Congratulations! Well deserved.

-----Original Message-----
From: David.Javdan@sba.gov [mailto:David.Javdan@sba.gov]
Sent: Monday, July 11, 2005 6:43 PM
To: Gorsuch, Neil M
Subject: FW: 05-44 David Javdan Appointment.doc

FYI, something to keep it interesting.

News Release

PRESS OFFICE

Release Date: July 11, 2005

Contact: Tiffani Clements (202) 401-0035

Release Number: 05-44

Internet Address: http://www.sba.gov/news

SBA General Counsel Selected to Serve on Critical

Acquisition Advisory Panel

WASHINGTON - U.S. Small Business Administration General Counsel David Javdan has been appointed to replace former Deputy Administrator Melanie Sabelhaus as a member of the Acquisition Advisory Panel, authorized under Section 1423 of the Services Acquisition Reform Act. The panel's statutory charter is to review and recommend any necessary changes to federal acquisition laws, regulations

charter is to review and recommend any necessary changes to federal acquisition laws, regulations and policies, including among other topics commercial practices, performance-based contracting, and interagency contracting.

David Safavian, Administrator of the Office of Federal Procurement Policy (OFPP) in the Office of Management and Budget (OMB) appointed 14 recognized experts in federal acquisition law and policy to serve as members of the nonpartisan panel. The panel members, which OMB formally announced on February 1, 2005, represent a wide variety of backgrounds from academia, government, and the private sector. In accordance with its statutory mandate, the panel will submit a report to OFPP and both houses of Congress by the end of the year.

"I am thrilled that OFPP Administrator Safavian has asked Mr. Javdan to serve on this critical panel of distinguished experts," said Administrator Barreto. "The panel is consistent with President Bush's strong support for government-wide management reform. Melanie Sabelhaus, who recently resigned from her position at SBA, remains a passionate advocate for small business interests. I am confident that Mr. Javdan will ensure that small business concerns are represented as the panel develops its recommendations and report."

The panel currently has six working groups consisting of Commercial Practices/Commercial Items; Performance-Based Contracting; Government-Wide Contracts and Interagency Contract Vehicles; Inherently Governmental Functions; and Cross-Cutting Issues - Federal Workforce and Small Business. The Small Business Working Group was established to consider small business issues that cut across the panel's statutory charter, such as access to fair competition. Panel Chair, Marcia Madsen, a partner at Mayer, Brown, Rowe, and Maw has asked Javdan to chair the Small Business Working Group.

For additional information concerning the panel, visit its official Web site located at http://www.acqnet.gov/aap/ <http://www.acqnet.gov/aap/> .

###

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, July 12, 2005 10:23 AM
To: Gorsuch, Neil M
Subject: Read: OPR

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 12, 2005 1:24 PM
To: Reyes, Luis (SMO); Swenson, Lily F
Subject: RE: Lunch anyone?

Sorry. I was stuck at DoD; mtg ran way over. Can we try tomorrow?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 12, 2005 11:57 AM
To: Swenson, Lily F; Gorsuch, Neil M
Subject: Lunch anyone?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 12, 2005 1:25 PM
To: Shaw, Aloma A
Subject: RE: Trip to Philly

i gave receipts to Currie that i had. thanks.

-----Original Message-----
From: Shaw, Aloma A
Sent: Tuesday, July 12, 2005 10:47 AM
To: Gorsuch, Neil M
Subject: Trip to Philly

Neil:

Do you have your ticket receipt for your train ride to Philadelphia to attend the Common Good Conference. I have to prepare a travel voucher and a reimbursement worksheet for the organization. Also, are you claiming expenses for ground transportation?

Aloma

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Tuesday, July 12, 2005 1:31 PM
To: Gorsuch, Neil M
Subject: Read: OPR

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, July 12, 2005 1:40 PM
To: Gorsuch, Neil M; Swenson, Lily F
Subject: Re: Lunch anyone?

How bout Thurs or Fri.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Tue Jul 12 13:24:30 2005
Subject: RE: Lunch anyone?

Sorry. I was stuck at DoD; mtg ran way over. Can we try tomorrow?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 12, 2005 11:57 AM
To: Swenson, Lily F; Gorsuch, Neil M
Subject: Lunch anyone?

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, July 12, 2005 1:56 PM
To: Gorsuch, Neil M
Subject: Call Raul 4-2291 or Courtney 4-2267

Sours, Raquel

Subject:	Detainee Issues
Start:	Thursday, July 21, 2005 5:15 PM
End:	Thursday, July 21, 2005 6:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Yanes, Raul; Clement, Paul D; Keisler, Peter D. (CIV); Bradbury, Steve; Philbin, Patrick (ODAG); Gorsuch, Neil M; Taylor, Jeffrey (OAG); Elwood, Courtney; Moschella, William

When: Thursday, July 21, 2005 5:15 PM-6:00 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Raul Yanes, Paul Clement, Peter Keisler, Steve Bradbury, Pat Philbin, Neil Gorsuch, Jeff Taylor, Courtney Elwood, Will Moschella

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, July 12, 2005 3:03 PM
To: Reyes, Luis (SMO); Nowacki, John; Gorsuch, Neil M
Cc: Scolinos, Tasia
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Tasia: Just following up on this. As per our brief conversation Friday afternoon, you mentioned that you wanted to discuss further with an eye towards setting some standards for these type of releases. As the office with departmental jurisdiction over civil litigation, the value of dissemination for us lies in apprising the myriad client agencies that we represent of new personnel in the Associate's office in one fell swoop. Likewise, a release would act to inform all those who interact with the Department, be it the legal community or other, of who the new relevant folks at Justice are, whether it be in the area of Civil, Civil Rights, Tax, ENRD, Anti-Trust, OJP, Bankruptcy, or other. I believe that these were some of the considerations behind putting these releases out in the recent past. (Last one was about a year ago). Please let me and Neil know when you are available to put our heads together discuss and resolve. Thanks as always. --Lou

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, July 08, 2005 6:45 PM
To: Nowacki, John; Gorsuch, Neil M; Swenson, Lily F
Cc: Scolinos, Tasia
Subject: Re: Proposed OASG Press Release (Re: New Deputies)

Just curious, didn't we issue a release for the arrival of the Principal in the Deputy's Office? I believe there is value in announcing for Neil, the new Principal Deputy Associate, who just arrived in June. As to the other two folks on the release, there is a plus factor value, but no need to make exceptions to newly established procedures. Please let me and Neil know what you advise. Thanks.

-----Original Message-----
From: Nowacki, John <John.Nowacki@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
CC: Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 18:14:43 2005
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Luis,

I think you're right in that it's too late to put this out; we would have to include something in the release about the date of the appointments. Also, we've standardized our release criteria for all offices and components, and -- while there have been a few exceptions in the past -- we are now issuing releases for component head matters (resignations, for example; appointments are usually announced by the White House) only.

John

From: Scolinos, Tasia
Sent: Friday, July 08, 2005 4:07 PM
To: Nowacki, John
Subject: FW: Proposed OASG Press Release (Re: New Deputies)

can you handle this - thanks

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, July 08, 2005 4:06 PM
To: Scolinos, Tasia; Madden, Kevin
Cc: Gorsuch, Neil M
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Know your swamped [redacted] but please let me know where we stand on this one way or the other. May be close to stale. If you recommend keeping Robert's name out we could change to the AG or the DOJ. Thanks.

<< File: OASG Press Release1.doc >>
-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 29, 2005 6:25 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Tasia, Kevin:
Touching base with you on this. Let me get your thoughts on release or changes so I can get back to the Associate. Thanks as always..
<< File: OASG Press Release1.doc >>

Lou

Luis A. Reyes,
Chief of Staff and Deputy Associate Attorney General Office of the Associate Attorney General United States Department of Justice 950 Pennsylvania Ave. NW Washington, DC 20530 Phone: (202) 514-9500 Fax: (202) 514-0238 Email: Luis.A.Reyes@usdoj.gov

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 15, 2005 8:16 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: Proposed OASG Press Release (Re: New Deputies)

Attached is the proposed release. Query whether we should hold off on this or excise Robert's name from all of this and just do it from the "Department of Justice"?

<< File: OASG Press Release.doc >>

ASSOCIATE ATTORNEY GENERAL ROBERT D. MCCALLUM, JR. ANNOUNCES APPOINTMENT OF NEW DEPUTY ASSOCIATE ATTORNEYS GENERAL

WASHINGTON, D.C. - Associate Attorney General Robert D. McCallum, Jr. announced today the appointment of three new Deputy Associate Attorneys General in the Office of the Associate Attorney General (OASG).
In announcing the new appointments to his office, Associate Attorney General Robert D. McCallum, Jr. said, "Our new Deputy Associate Attorneys General bring considerable practical experience and legal skills of the highest caliber to the Associate Attorney General's Office. We are excited to have them aboard."

Neil M. Gorsuch has been appointed Principal Deputy Associate Attorney General. Prior to his appointment, Mr. Gorsuch was a partner at the Washington firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, where his practice focused on complex trial and appellate litigation, including antitrust and securities matters. Mr. Gorsuch served as a law clerk to the Honorable Byron R. White and the Honorable Anthony M. Kennedy of the U.S. Supreme Court, as well as to the Honorable David B. Sentelle of the U.S. Court of Appeals for the D.C. Circuit. Mr. Gorsuch holds a doctorate in legal philosophy from Oxford, where he was a Marshall scholar; a J.D. from the Harvard Law School, where he studied as a Truman scholar; and a B.A. from Columbia University. Among other items in his new portfolio, Mr. Gorsuch will oversee terrorism-related litigation matters and advise the Associate Attorney General on all issues that reach the office for consideration.

Luis A. Reyes has been appointed Chief of Staff and Deputy Associate Attorney General. From 2003 to 2005, Mr. Reyes served as Counselor to the Assistant Attorney General for the Department's Civil Rights Division. As the Assistant Attorney General's senior legal counsel he was involved in a wide range of litigation, legislative, and policy-related matters. Mr. Reyes was heavily involved in the Department's efforts to combat human trafficking, appearing before state legislative bodies and civil rights groups to speak on the topic. Prior to joining the Civil Rights Division, Mr. Reyes served as Counsel to the Assistant Attorney General for the Civil Division where he advised on administrative and litigation related matters. Mr. Reyes joined the Department of Justice in 2001, after serving as an Assistant Attorney General for the State of Texas for three years under then state Attorney General John Cornyn. Mr. Reyes is a graduate of the University of Texas at Austin, and the University of Texas School of Law. In his new role, Mr. Reyes will work with the Department's Tax Division, the Community Relations Service, and will be involved in internal and organizational issues as assigned by the Associate Attorney General.

Lily Fu Swenson has been appointed Deputy Associate Attorney General. Ms. Swenson joins the OASG from the Washington office of Mayer, Brown, Rowe and Maw LLP where she served as hiring partner and a member of the firm's antitrust and litigation practice groups. Ms. Swenson's practice focused

primarily on class action and appellate litigation, including antitrust, securities and professional liability matters. Ms. Swenson graduated from the University of Minnesota School of Law in 1993 and the University of Wisconsin at Madison in 1990. Prior to joining Mayer, Brown, Rowe & Maw, she clerked for the Honorable Michael S. Kanne of the United States Court of Appeals for the Seventh Circuit. In her new post, Ms. Swenson will oversee antitrust as well as commercial, health care fraud and immigration litigation matters.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 12, 2005 5:41 PM
To: Schofield, Regina
Cc: Henke, Tracy (SMO); Daley, Cybele; McCallum, Robert (SMO)
Subject: RE: Many thanks

Regina, Thank you for setting up today's meeting. It was extremely helpful for me to put faces to names, and, as you very well know, I'm really looking forward to working together with you and your team. All the best, Neil

-----Original Message-----
From: Schofield, Regina
Sent: Tuesday, July 12, 2005 4:12 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M; Henke, Tracy (SMO); Daley, Cybele
Subject: Many thanks
Importance: High

For your presence today. I am really excited about your active participation and look forward to working with you, Neil and Tracy.

I was thrilled to hear that you will be participating in the Medal of Valor ceremony on Thursday. Should I work directly with Tracy to resolve the scheduling/briefing issues?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 12, 2005 6:46 PM
To: McCallum, Robert (SMO); Reyes, Luis (SMO)
Subject: RE: International Rule of Law Symposium

OK here. Happy to help if needed.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, July 12, 2005 6:40 PM
To: Reyes, Luis (SMO)
Cc: Gorsuch, Neil M
Subject: RE: International Rule of Law Symposium

With Mike likely departing soon to go to DHS, what think you two of tasking Jeff with this matter? Lou: Check to see what Mike has done, if anything, with this one. Robt.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, June 28, 2005 4:20 PM
To: Wiggins, Mike
Cc: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: FW: International Rule of Law Symposium

Mike: Can you assume responsibility to interface with [redacted] on this request. I am still not sure exactly what he would like for us to do. Robt.

-----Original Message-----
From: [redacted]
Sent: Friday, June 03, 2005 4:07 PM
To: McCallum, Robert (SMO)
Subject: RE: International Rule of Law Symposium

Fair questions. Sorry I wasn't clearer. The ABA is the major sponsor.
We have received funding commitments from GM, Pepsi and other such companies. We anticipate foundation funding. The goal is to bring a focus in the US on the important role that rule of law building should play in achieving world peace and a sustainable global society. Our invitees will be opinion leaders from the US government,CEOs, media, NGOs, foundations. We want prominent government leaders to speak(Justice O' Connor is helping us reach out to Secretary of State Rice).
Of equal importance, I would like to see an informal dialogue within State and DOJ on the ideas side. What are the right issues to discuss?
Who are the most knowledgeable speakers? Who should be invited. This will be a nonpolitical event. We need to find the most knowledgeable thinkers in the rule of law arena who also are very practical

We need to find the most knowledgeable thinkers in the rule of law arena who also are very practical in the real world sense, so we must have dialogue with key government leaders to make this exercise has the great impact that we are seeking.

Would it be helpful to discuss this further by phone or in person?
Thanks for your help. [redacted]

[redacted]

-----Original Message-----
From: Robert.McCallum@usdoj.gov [mailto:Robert.McCallum@usdoj.gov]
Sent: Wednesday, June 01, 2005 5:19 PM
To: [redacted]
Subject: RE: International Rule of Law Symposium

[redacted] I am not entirely clear on what you would like for me to do to help. Is it to provide a contact and entree with folks at State or elsewhere who might be participants in the Rule of Law Symposium scheduled for Nov.? Is it to provide a contact and entree to State Dept. policy makers regarding current or proposed Admin. foreign policy?
Is it to get you in contact with those at DOJ who are or have been in other countries trying to establish judicial/legal systems? Sorry to be confused but I am not clear on what I am to get the folks in the Admin familiar and involved with. Is this an ABA sponsored initiative or some other group? Robt.

-----Original Message-----
From: [redacted]
Sent: Wednesday, May 25, 2005 9:57 AM
To: McCallum, Robert (SMO)
Subject: International Rule of Law Symposium

Robert- Good talking with you today. Attached are the concept paper on rule of law as a part of the US foreign policy and a proposed agenda (plus white papers on 2 agenda items). I would very much like to get the right people in the Administration familiar with what this is and involved. Thanks for your willingness to discuss with [redacted] I would appreciate any other suggestions that you might have. Best [redacted]

[redacted]

[redacted]

CONFIDENTIALITY NOTICE:
This e-mail and any attachments contain information from the law firm of McKenna Long & Aldridge LLP, and are intended solely for the use of the named recipient or recipients. This e-mail may contain privileged attorney/client communications or work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

CONFIDENTIALITY NOTICE:
This e-mail and any attachments contain information from the law firm of McKenna Long & Aldridge LLP, and are intended solely for the use of the named recipient or recipients. This e-mail may contain privileged attorney/client communications or work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

CONFIDENTIALITY NOTICE:
This e-mail and any attachments contain information from the law firm of McKenna Long & Aldridge LLP, and are intended solely for the use of the named recipient or recipients. This e-mail may contain privileged attorney/client communications or work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

Moschella, William

From: Moschella, William
Sent: Wednesday, July 13, 2005 12:40 AM
To: Gorsuch, Neil M
Subject: FW:
Attachments: tmp.htm; Det78.pdf

got this from Specter's folks today.

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Tuesday, July 12, 2005 10:24 AM
To: Moschella, William
Cc: [redacted]@judiciary-rep.senate.gov
Subject:

Will,

This is a draft bill outlining procedures for the detainees being held at Gitmo. We are making changes as we are trying to work with DOD and are implementing their suggestions. I have attached a copy of the bill for your records.

[redacted]

109TH CONGRESS
1ST SESSION

S. _____

To provide comprehensive procedures for the adjudication of cases involving unprivileged combatants.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide comprehensive procedures for the adjudication of cases involving unprivileged combatants.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AUTHORITY; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Unprivileged Combatant Act of 2005''.

(b) AUTHORITY.—The requirements, conditions, and restrictions established by this Act are made under the authority of Congress under clauses 1, 10, 11, 12, 13, 14, and 18 of article I, section 8 of the Constitution of the United States.

(c) FINDINGS.—Congress finds the following:

(1) Article I, section 8, of the Constitution provides that the Congress has the power to ''constitute Tribunals inferior to the Supreme Court; ... define and punish ... Offenses against the Law of Nations; ... make Rules concerning Captures on Land and Water; ... make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof''.

(2) The Supreme Court has repeatedly recognized military tribunals, as stated in Madsen v. Kinsella 343 U.S. 341, 1952, ''[s]ince our nation's earliest days, such tribunals have been constitutionally recognized agencies for meeting many urgent governmental responsibilities related to war....They have taken many forms and borne many names. Neither their procedure nor their jurisdiction has been prescribed by statute. It has been adapted in each instance to the need that called it forth.'' Madsen, citing In re Yamashita, 327 U.S. 1 (1946).

(3) The President has inherent authority to convene military tribunals arising from his role as Commander and Chief of the Armed Forces under

article II of the Constitution and from title 10 of the United States Code. Due to the extraordinary circumstances of the ongoing war on terrorism, it is appropriate for Congress to provide additional and explicit authorization of and procedures for military tribunals to adjudicate and punish offenses relating to the war on terrorism.

(4) This Act is in direct response to the United State Supreme Court's ruling in Rasul v. Bush. With the passage of this Act, the 109th Congress will have addressed the concerns of the Supreme Court's Rasul majority, and there will no longer be any need for further cause or legal challenge by or concerning these detained individuals, excepting as allowed for by this Act.

SEC. 2. DEFINITIONS.

As used in this Act, the following definitions apply:

(1) CLASSIFICATION TRIBUNAL.—The term ''classification tribunal'' means any tribunal conducted under section 9 or any related proceeding.

(2) CLASSIFIED INFORMATION.—The term ''classified information'' has the same meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.).

(3) DESIGNEE.—The term ''designee'' means a person who has been in the custody of the Department of Defense for not less than 180 consecutive days after the date of enactment of this Act and who has not been charged with a criminal offense during that period.

(4) DESTRUCTIVE DEVICE.—The term ''destructive device'' means—

(A) any explosive, incendiary, or poison gas—

(i) bomb;

(ii) grenade;

(iii) rocket;

(iv) missile;

(v) mine; or

(vi) device similar to any of the devices described in the preceding clauses; and

(B) any type of weapon that will expel a projectile by the action of an explosive or other propellant.

(5) JUDGE.—The term ''Judge'' shall refer to a United States military judge designated by the Secretary of Defense to hear cases under this Act.

(6) UNPRIVILEGED COMBATANT.—The term ''unprivileged combatant'' means an individual—

(A) who has been designated as an enemy combatant by a Combatant Status Review Tribunal prior to the enactment of this Act;

(B) who a Field Tribunal conducted by the United States military as provided in this Act determines—

(i) is not entitled to the protections set out in the Convention Relative to the Treatment of Prisoners of War, done at Geneva, August 12, 1948 (6 UST 3516) (referred to in this Act as the ''Geneva Convention''); and

(ii) either—

(I) knowingly assists, conspires with, or solicits for a group or an individual hostile to the United States;

(II) knowingly attempts to assist others in taking up arms against the United States;

(III) conspires with or solicits others to take up arms against the United States; or

(IV) has taken up arms against, or intentionally assisted combat operations against, the United States.

(7) CRIMINAL PROSECUTION.—The term ''criminal prosecution'' means a prosecution for a violation of any criminal law, including subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice) or pursuant to the Department of Defenses Military Commission Instruction number two.

(8) FIREARM.—The term ''firearm'' has the same meaning given that term in section 921(a)(3) of title 18, United States Code.

(9) INTERNATIONAL TERRORISM.—The term ''international terrorism'' has the same meaning given that term in section 101(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(c)).

(10) PROTECTED INFORMATION.—The term ''protected information'' means information—

(A) that is classified information;

(B) protected by law or rule from unauthorized disclosure;

(C) the disclosure of which may endanger the physical safety of participants in Commis-

sion proceedings, including prospective witnesses;

(D) concerning intelligence and law enforcement sources, methods, or activities; or

(E) the disclosure of which would otherwise jeopardize national security interests.

(11) UNITED STATES PERSON.—The term ''United States person'' has the same meaning given that term in section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(c)).

(12) WEAPON.—The term ''weapon'' means a club, knife, or similar object that is used to injure, defeat, or destroy.

SEC. 3. AUTHORIZING MILITARY COMMISSIONS.

The President is authorized to establish military commissions for the trial of individuals for offenses as provided in this Act.

SEC. 4. COMMISSION JURISDICTION.

(a) UNPRIVILEGED COMBATANTS.—This Act establishes exclusive jurisdiction to hear any matter involving an unprivileged combatant who has been detained by the Department of Defense for not less than 180 consecutive days at Guantanamo Bay, Cuba, or any other location not

located within the theater of war, as defined by the Department of Defense.

(b) OFFENSES.—

(1) CRIMINAL PROSECUTIONS.—The Commission shall have jurisdiction to hear any criminal prosecution involving international terrorism, including any offense under chapter 113B of title 18, United States Code.

(2) OFFENSES AGAINST THE LAWS OF WAR.—The Commission shall have exclusive jurisdiction over violations of the laws of war committed by unprivileged combatants.

(3) OTHER OFFENSES.—The Commission shall have jurisdiction over other offenses traditionally triable by military commissions or pursuant to the Department of Defense's Military Commission Instruction number two.

SEC. 5. APPELLATE JURISDICTION.

(a) IN GENERAL.—

(1) FINAL DECISIONS.—The Military Commission Review Panel designated by the Secretary of Defense shall have exclusive jurisdiction of appeals from all final decisions of the Commission and other tribunals under this Act.

(2) INTERLOCUTORY APPEALS.—The Military Commission Review Panel shall have exclusive jurisdiction of appeals of the disapproval of a summary of classified information under section 10(d)(2)(C). Any appeal under this subsection shall be conducted as expeditiously as possible.

(b) REVIEW BY SUPREME COURT.—

(1) CERTIORARI.—The decisions of the Military Commission Review Panel are subject to review by the Supreme Court by writ of certiorari.

(2) EXEMPTION FROM CERTAIN PETITION REQUIREMENTS.—A person who files a petition for a writ of certiorari under paragraph (1) shall not be required to submit—

(A) prepayment of any fees and costs or security therefor; or

(B) the affidavit required by section 1915(a) of title 28, United States Code.

SEC. 6. THE COMMISSION.

(a) COMMISSION PERSONNEL.—

(1) MEMBERS.—

(A) APPOINTMENT.—The Secretary of Defense shall designate no less than 12 United States military judges to serve as members of

the Commission and to assume other duties assigned in this Act.

(B) NUMBER OF MEMBERS.—Each Commission shall consist of at least 3 military officers, at least one of whom shall be a military judges.

(C) ALTERNATE MEMBERS.—For each such Commission, there shall also be one or two alternate members. The alternate member or members shall attend all sessions of the Commission. In case of incapacity, resignation, or removal of any member, an alternate member shall take the place of that member.

(D) QUALIFICATIONS.—Each member and alternate member of the Commission shall be a military officer.

(E) PRESIDING OFFICER.—

(i) IN GENERAL.—From among the members of the Commission, the Secretary of Defense shall designate a Presiding Officer who is a military judge to preside over the proceedings of that Commission.

(ii) DUTIES.—The duties of the Presiding Officer shall be as follows:

(I) The Presiding Officer shall admit or exclude evidence at trial in accordance with the rules of this Act. The Presiding Officer shall have authority to close proceedings or portions of proceedings in accordance with this Act or for any other reason necessary for the conduct of a full and fair trial.

(II) The Presiding Officer shall ensure that the discipline, dignity, and decorum of the proceedings are maintained, shall exercise control over the proceedings to ensure proper implementation of the President's Military Order and this Act, and shall have authority to act upon any contempt or breach of Commission rules and procedures. Any attorney authorized to appear before a Commission who is thereafter found not to satisfy the requirements for eligibility or who fails to comply with laws, rules, regulations, or other orders applicable to the Commission proceedings or any other

individual who violates such laws, rules, regulations, or orders may be disciplined as the Presiding Officer deems appropriate, including revocation of eligibility to appear before that Commission. The Court may further revoke that attorney's or any other person's eligibility to appear before any other Commission convened under this Act.

(III) The Presiding Officer shall ensure the expeditious conduct of the trial. In no circumstance shall accommodation of counsel be allowed to delay proceedings unreasonably.

(IV) The Presiding Officer may certify interlocutory questions to the Military Commission Review Panel for the Armed Forces as the Presiding Officer deems appropriate.

(b) POWERS OF THE COMMISSION.—The Commission shall have the following powers:

(1) To summon witnesses to the trial and to require their attendance and testimony and to put questions to them.

(2) To require the production of documents and other evidentiary material.

(3) To administer oaths to witnesses.

(4) To appoint officers for the carrying out of any task designated by the Commission, including the power to have evidence taken on commission.

SEC. 7. PERSONS IN CUSTODY.

(a) GUANTANAMO BAY.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Defense shall file with the clerk of the Commission a complete listing of all persons who—

(A) are being detained by the Department of Defense at Guantanamo Bay, Cuba; and

(B) the Government wishes to continue to detain as an unprivileged combatant.

(2) UPDATED LIST.—The Secretary of Defense shall file an updated list of the persons identified under paragraph (1) with the clerk of the Commission at least once every 30 days after the date the list described in paragraph (1) was filed.

(b) STATUS OF NON-GUANTANAMO BAY DETAINEES.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Sec-

retary of Defense shall file with the clerk of the Commission a certification with respect to each designee, being detained either inside or outside of the theater of war as defined by the Department of Defense, indicating—

(A) where the designee was captured;

(B) the basis for asserting the designee is an unprivileged combatant;

(C) whether it is the judgment of the Department of Defense that the national security of the United States, including the security of the Armed Forces of the United States and its allies, requires that the designee must continue to be detained; and

(D) whether the designee is a United States citizen and, if not, has any lawful immigration status under the immigration laws of the United States.

(2) NEW DESIGNEES.—For any designee taken into custody by the United States after the date of enactment of this Act, the Secretary of Defense shall file with the clerk of the Commission a certification providing the information required under paragraph (1) not later than 180 days after the date on which

such designee is taken into custody by the United States.

SEC. 8. FIELD TRIBUNALS.

(a) IN GENERAL.—Not more than 30 days after a suspected unprivileged combatant has been detained by United States forces, the Department of Defense must conduct a field tribunal in order to determine whether the detainee is an unprivileged combatant and whether the detainee is entitled to the rights afforded under the Geneva Convention.

(b) PROCEDURES.—The procedures governing these field tribunals shall be promulgated by the Department of Defense

SEC. 9. CLASSIFICATION TRIBUNALS.

(a) IN GENERAL.—Any designee shall be released and repatriated to an appropriate country unless the classification tribunal finds by a preponderance of the evidence that—

(1)(A) the detainee is a threat to the national security interest of the United States; or

(B) there are reasonable grounds to believe that if released the person would take up arms against the United States;

(2) the detainee is not a privileged combatant entitled to provisions under the Geneva Convention; and

(3) the detainee is not a citizen of the United States of America.

(b) APPOINTMENT.—The classification tribunals shall be appointed by the Secretary of Defense and consist solely of line officers, one of whom shall be an attorney.

(c) DETERMINATION.—If the classification tribunal finds that a person meets the requirements of subsection (a), the Commission shall order that the designee shall continue to be detained by the Department of Defense, subject to periodic review under subsection (e). The time period for the detention of these detainees may not exceed the time period that United States forces are engaged in combat operations as defined by the Department of Defense in the nation or theater where a detainee was captured. At the conclusion of combat operations within a given theater or nation, all detainees that were captured in that area must be either indicted under this Act or repatriated to the appropriate country.

(d) CONSIDERATIONS.—

(1) IN GENERAL.—In making a determination under subsection (a), the classification tribunal shall consider any information brought to its attention re-

garding the need for continued detention, including—

(A) the designee's alleged position or rank in any hostile organization;

(B) the activities of that hostile organization;

(C) any statements made by the designee in response to interrogation; and

(D) the designee's history of violence or terrorist activity.

(2) PRIMA FACIE EVIDENCE.—If the Government represents that a designee was captured during a military engagement while taking up arms against, or supporting military operations against, the Armed Forces of the United States or its allies, there shall be prima facie evidence that, if released, the designee would take up arms against the United States.

(e) TIMING.—Any designee shall be afforded a classification tribunal as soon as is reasonably practicable. Said tribunal must be listed no later than 180 days after the designee's capture and must take place no later than 30 days after listing, unless continued.

(f) PERIODIC REVIEW.—

(1) IN GENERAL.—The Administrative Review Board designated by the Department of Defense

shall review an order authorizing the Government to continue to detain a person under subsection (b) annually to determine whether there are changed circumstances that warrant affording the person a new tribunal under subsection (a). Detainees apprehended during a military engagement while taking up arms against, or supporting military operations against, the Armed Forces of the United States or its allies may be detained until the cessation of armed hostilities in the nation or region in which they were captured.

(2) ARGUMENT.—The Government and the designee may be heard regarding the review under paragraph (1).

SEC. 10. CLASSIFICATION TRIBUNAL PROCEDURES.

(a) DESIGNEES.—

(1) IN GENERAL.—The designee shall not be required to testify or present any evidence at a classification tribunal.

(2) PRESENCE.—The designee shall be entitled to be present at the classification tribunal.

(b) COUNSEL.—

(1) IN GENERAL.—A designee is entitled to the assistance of counsel admitted to practice under this Act at every stage of the classification tribunal, in-

cluding the periodic review of orders under subsection (e).

(2) RIGHT TO APPOINTED COUNSEL.—A designee who is unable to obtain counsel is entitled to have counsel admitted to practice before the Commission.

(3) REFUSAL OF COUNSEL.—A designee may waive counsel.

(c) DISCOVERY.—

(1) GOVERNMENT'S DISCLOSURE.—Not later than 3 days prior to the classification tribunal, the Government shall make available for inspection by counsel for the designee any affidavit or affirmation the Government intends to offer in support of continuing to detain the designee. The Commission shall maintain a copy of any submissions made by the Government for inspection by the designee and for transmittal, if necessary, to the Commission.

(2) DESIGNEE'S DISCLOSURE.—If the designee chooses to submit any evidence, such evidence, including a list of any witnesses the designee intends to call, shall be made available to the Government for inspection not later than 3 days prior to the classification tribunal.

(d) EVIDENCE.—

(1) IN GENERAL.—The Rules of Evidence shall not apply to a classification tribunal.

(2) ADMISSIBILITY STANDARD.—Evidence shall be admitted if the Commission determines the evidence would have probative value to a reasonable person.

(3) AFFIDAVIT OR AFFIRMATION.—The Government may proceed by proffer and submit any relevant information by affidavit or affirmation, unless decided unreliable by the members of the tribunal.

(4) CROSS-EXAMINATION.—

(A) GOVERNMENT WITNESSES.—If the Government chooses to call witnesses, the designee may cross-examine those witnesses on all relevant facts.

(B) DESIGNEE WITNESSES.—If the designee calls any witnesses, they shall be subject to cross examination.

(C) DESIGNEE.—If the designee chooses to testify, the designee shall be subject to cross-examination.

(e) DEFENSES.—The designee may challenge whether the designee satisfies the elements required under subsection (a).

(f) PROCEEDINGS.—

(1) IN GENERAL.—All classification tribunals shall be closed to the public.

(2) SECURITY CLEARANCES.—Each person present at a classification tribunal, other than the designee, shall possess a security clearance appropriate to the level of any classified information being presented.

(3) PUBLIC INFORMATION REGARDING PROCEEDINGS.—After the Commission has ruled in the classification tribunal, the parties shall propose a nonclassified summary to the Commission. The Commission shall publicly release a summary, containing any information generated at the tribunal which can be disclosed in a manner consistent with the Classified Information Procedures Act (18 U.S.C. App.) and the national security of the United States.

(g) REINSTITUTING CLASSIFICATION PROCEEDINGS.—

(1) IN GENERAL.—If a matter involving the classification tribunal of a designee is dismissed without prejudice by the classification tribunal or withdrawn by the Government at, or prior to, the classification tribunal, the Government may re-

institute the matter with the tribunal that dismissed or permitted the withdrawal of the matter.

(2) TIME LIMIT.—A complaint reinstituting proceedings under paragraph (1) shall be filed not later than 10 days after the dismissal or withdrawal of the matter.

(3) NUMBER.—The Government may reinstitute proceedings under paragraph (1) not more than twice and only if approved by the ranking member on the Classification Tribunal.

SEC. 11. CONTINUANCE OF CLASSIFICATION TRIBUNALS.

(a) CONTINUANCES.—

(1) IN GENERAL.—The Commission may, for cause shown, grant a continuance of a classification tribunal.

(2) CLASSIFIED INFORMATION.—Upon motion of the Government, a classification tribunal shall grant a continuance under paragraph (1) if the Court determines the classification tribunal cannot proceed without an unacceptable disclosure of classified information or evidence. The tribunal shall review the purported classified information in compliance with This Act. If the Commission grants a continuance under this paragraph, the matter shall be continued until the sensitivity of the classified infor-

mation or evidence is diminished or alternative evidence is developed.

(3) CONTINUANCE.—Upon motion of the Government, the tribunal may grant a continuance for as long as necessary, but no longer than one year, under paragraph (1) if the tribunal determines that the individual being detained is a high level individual in the planning or financing of terrorist activities or the individual possess information vital to the safety of the United States or its citizens.

(4) EX PARTE APPLICATIONS.—The Government may move for a continuance under paragraph (1) ex parte and a designee is not entitled to representation by counsel in connection with any such ex parte motion, nor shall the deisgnee be given notice of said request for a hearing prior to the Commission's ruling on the Government's request for a continuance pursuant to paragraph (3).

(b) GRANT OF CONTINUANCE.—For each continuance granted under subsection (a), the court shall note on the record of the proceedings—

(1) the grounds for granting each such continuance;

(2) the identity of the party requesting the continuance;

(3) the new date and time for the tribunal hearing; and

(4) the reasons that the date under paragraph (3) was chosen.

SEC. 12. CRIMINAL PROSECUTION PROCEDURES GENERALLY.

(a) COUNSEL.—

(1) IN GENERAL.—A defendant in a criminal proceeding under this Act has a right to be represented by counsel admitted to practice before the Commission under this Act.

(2) APPOINTED COUNSEL.—

(A) IN GENERAL.—A defendant who is unable to obtain counsel is entitled to have counsel appointed and to be represented by such counsel at every stage of the proceeding subsequent to being indicted.

(B) APPOINTMENT PROCEDURE.—The Secretary of Defense shall determine the rules for appointing counsel to practice before the Commission.

(b) DISCOVERY.—

(1) CLASSIFIED DOCUMENTS AND OBJECTS.—

(A) SUMMARY OF CLASSIFIED INFORMATION.—

(i) IN GENERAL.—If the Government intends to offer classified information as evidence before the Commission or tribunal, the Government shall submit a summary of the information to the Presiding Officer and the defendant.

(ii) REVIEW.—

(I) IN GENERAL.—A Presiding Officer shall review any summary submitted under clause (i) to determine if the summary provides the substantially the same information that the classified information would tend to prove.

(II) DISAPPROVAL.—If a Presiding Officer determines the summary does not satisfy the requirements of subclause (I), the Commission shall notify the Government and the defendant and return the summary to the Government with the notification.

(iii) REVISED SUMMARY.—If the Presiding Officer does not approve a summary under clause (ii), the Government may

submit a revised summary of the classified information to the Commission and the defendant not later than 15 days after the date on which the prosecution receives the notification. A revised summary of classified information submitted under this clause shall be subject to review as provided under clause (ii).

(B) ADMISSION OF EVIDENCE.—The Commission may admit and consider classified information offered by the prosecution if a summary of the information was submitted and approved under subparagraph (A). The Commission shall receive and consider the classified information ex parte and in camera.

(C) INTERLOCUTORY APPEAL.—

(i) IN GENERAL.—The Government may appeal any disapproval of a summary or revised summary of classified information.

(ii) TIMELINESS.—Any appeal under this subparagraph shall be commenced not later than 15 days after the date on which the Government receives the notification of

disapproval from the judge under subparagraph (A)(ii)(II).

(iii) DOCUMENTATION.—If the Government files an appeal under this subparagraph, the filing by the Government shall include—

(I) the classified information;

(II) the summary and any revised summary of the classified information; and

(III) a summary of all other evidence intended to be offered by the Government.

(iv) ACTION BY COMMISSION.—The appellate court shall conduct a de novo review of the summary or summaries and issue a final ruling on the interlocutory appeal not later than 45 days after all submissions required by the Commission are filed.

(2) REGULATING DISCOVERY.—

(A) IN GENERAL.—The Commission may, for good cause, deny, restrict, or defer discovery or inspection, or grant other appropriate relief.

(B) EX PARTE REQUEST.—A party may make an ex parte request in writing that the Commission deny, restrict, or defer discovery or inspection under subparagraph (A). If the Commission grants a request under this subparagraph, the Commission shall preserve the entire text of the party's request under seal.

(C) FAILURE TO COMPLY.—If a party fails to comply with the rules of discovery applicable to the Commission, the court may—

(i) order that party to permit the discovery or inspection, specify its time, place, and manner, and prescribe other just terms and conditions; or

(ii) grant a continuance.

(c) CONTINUANCES.—In addition to any other basis for granting a continuance, upon motion of the Government, the Commission shall grant a continuance of a proceeding under section 3(c) if the Commission determines the trial cannot proceed without an unacceptable disclosure of classified information or evidence. If the Commission grants a continuance under this subsection, the matter shall be continued until the sensitivity of the classified information or evidence is diminished or alternative evidence is developed.

(d) OPEN PROCEEDINGS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a proceeding before the Commission shall be open to the public.

(2) CLASSIFIED INFORMATION.—Upon motion by the Government, a proceeding before the Commission shall be closed to the public if necessary to avoid disclosure of classified information.

(3) OTHER BASES.—The Commission may order that a hearing be held, in whole or in part, in camera, if the Commission determines—

(A) it is appropriate for the security of a witness or a Government employee or to protect public safety; or

(B) that an open hearing would deter a witness from testifying freely or prevent the witness from testifying at all.

(4) EXTRAJUDICIAL STATEMENTS.—At the discretion of the Commission, the Commission may issue an order limiting extrajudicial statements by the parties.

(e) PROTECTED INFORMATION.—

(1) IN GENERAL.—The Commission may issue protective orders as necessary to safeguard protected information in a proceeding before the Commission.

(2) NOTIFICATION.—As soon as practicable, a party shall notify the Commission of any intent to offer evidence including protected information .

(3) TRIAL RECORD.—

(A) IN GENERAL.—All exhibits admitted as evidence but containing protected information shall be sealed and annexed to the record of trial.

(B) PROTECTED INFORMATION NOT ADMITTED.—Any protected information not admitted as evidence, but reviewed by the Commission in camera and withheld from the defendant's counsel over objection shall be sealed and annexed to the record of the trial, with any associated motions and responses and any materials submitted in support thereof, as additional exhibits.

(f) RECORD OF TRIAL.—

(1) REQUIREMENT FOR RECORD.—A record of each proceeding by the Commission shall be prepared promptly after the conclusion of the trial.

(2) VERBATIM TRANSCRIPT.—The record of trial shall include a verbatim written transcript of all sessions of the trial.

(3) EXHIBITS AND OTHER EVIDENCE.—The record of trial shall also include all exhibits and other real or demonstrative evidence, except that photographs may be substituted for any large written or graphic exhibits and any other real or demonstrative evidence. If a photograph is substituted for an exhibit or other evidence, the Government shall retain the original exhibit or other evidence, respectively, until no further appeal of the results of the trial is authorized.

(4) CLASSIFIED INFORMATION.—In the case of a conviction of a charge on which classified information is admitted as evidence by the Commission, the copy of the record of trial submitted to the Commission shall include the classified information.

SEC. 13. TRIAL PROCEDURES FOR UNPRIVILEGED COMBATANTS.

(a) SPECIALIZED PROCEDURES.—

(1) STANDARD OF PROOF.—All three members of a Commission must agree that the defendant is guilty beyond a reasonable doubt.

(2) EVIDENCE.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the Rules of Mili-

tary Justice shall apply to proceedings under this subsection.

(B) STANDARD.—Evidence is admissible if the Commission determines that the evidence would have probative value to a reasonable person.

(C) CUSTODIAL STATEMENTS.—A statement made by a person who is not a United States person overseas is admissible, although the statement did not comply with the requirements for custodial statements under Miranda v. Arizona, 384 U.S. 436, and subsequent cases.

(3) FORM OF TRIAL.—Any trial under this subsection shall take place before two military officers or attorneys and at least one military judge.

(4) BAD ACTS.—Other bad acts may be considered if they would have fallen within the definition under this Act of either terrorism or terrorist activity and they are deemed to be relevant by the Commission including propensity.

(b) CUSTODY.—The Department of Defense shall retain custody of any person determined by Commission to be unlawful combatants after the person has been either convicted or sentenced in accordance with this Act, unless

the Department of Defense deems otherwise. Decisions made by a Commission in regards to a designee guilt or innocence may be considered by a tribunal when assessing the need to continue the detention of a designee.

SEC. 14. COMMUNICATION WITH PERSONS IN CUSTODY.

An individual detained, indicted, or convicted under this Act shall only be permitted to communicate with the interpreter assigned to the individual, the counsel representing the individual, prison personnel, and any other individual approved by the Secretary of Defense.

SEC. 15. COMMISSION COUNSEL.

(a) IN GENERAL.—A person shall be admitted to practice before the Commission if the person—

(1) is a United States citizen;

(2) has been admitted to the practice of law in a State, district, territory, or possession of the United States, or before a Federal court;

(3) has not been sanctioned or otherwise the subject of disciplinary action by any court, bar, or other competent governmental authority for misconduct;

(4) is eligible for access to information classified at the level of ''secret'' as defined by the Department of Defense; and

(5) signs a written agreement to comply with all applicable regulations or instructions for counsel, including any rules of court for conduct during the course of proceedings.

(b) CONSULTATION WITH COLLEAGUES.—Any person admitted under subsection (a) shall not confer with any colleague who does not have the appropriate clearance.

(c) SECURITY CLEARANCE.—

(1) EXPEDITED CONSIDERATION.—The Secretary of Defense shall ensure that a person seeking to be admitted under subsection (a) is timely processed for the security clearance required for access to materials necessary for providing a defendant with effective assistance of counsel.

(2) COUNSEL INELIGIBLE FOR CLEARANCE.—If the Secretary of Defense determines a person is not eligible for the necessary security clearance, the person shall not be permitted to represent an individual in any proceeding before the Commission. The determination of the Secretary of Defense shall be final and is not subject to appeal to, or other review by, any court of the United States.

(d) TRAVEL EXPENSES.—The Secretary of Defense shall reimburse any person not employed by the Government who is representing an individual before the Com-

mission for travel away from the home or regular place of business of the person in connection with such representation. The rates for the payment of travel expenses under this subsection shall be those authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code.

Will,

This is a draft bill outlining procedures for the detainees being held at Gitmo. We are making changes as we are trying to work with DOD and are implementing their suggestions. I have attached a copy of the bill for your records.

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 13, 2005 8:33 AM
To: Moschella, William
Subject: RE:

Thanks, Will.

-----Original Message-----
From: Moschella, William
Sent: Wednesday, July 13, 2005 12:40 AM
To: Gorsuch, Neil M
Subject: FW:

got this from Specter's folks today.

-----Original Message-----
From [redacted]@judiciary-rep.senate.gov
[mailto[redacted]@judiciary-rep.senate.gov]
Sent: Tuesday, July 12, 2005 10:24 AM
To: Moschella, William
Cc: [redacted]@judiciary-rep.senate.gov
Subject:

Will,

This is a draft bill outlining procedures for the detainees being held at Gitmo. We are making changes as we are trying to work with DOD and are implementing their suggestions. I have attached a copy of the bill for your records.

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 13, 2005 9:16 AM
To: Reyes, Luis (SMO)
Subject: DoD

Frank Jimenez just called and brought my attn to the fact that we have a meet/greet with Jim Haynes today. Frank wondered whether this was scheduled to introduce me. If so, we agreed that we can cancel it since I met Jim yesterday. Of course, if there's another purpose Robert had in mind we should proceed.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
e-mail: neil.gorsuch@usdoj.gov

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Wednesday, July 13, 2005 9:29 AM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: Fw: DoD

Robert, Neil over the course of the last few weeks has been working with Frank Jimenez and has met and conversed with DoD GC Jim Haynes. I think this largely defeats the purpose of a meet and greet. Nevertheless, there is some value of course to you meeting with them and we can still go if you deem it worthy. Otherwise, we take this off the schedule for today. (DoD would be fine with that). My rec would be to shelf this one.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Wed Jul 13 09:15:32 2005
Subject: DoD

Frank Jimenez just called and brought my attn to the fact that we have a meet/greet with Jim Haynes today. Frank wondered whether this was scheduled to introduce me. If so, we agreed that we can cancel it since I met Jim yesterday. Of course, if there's another purpose Robert had in mind we should proceed.

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W. Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
e-mail: neil.gorsuch@usdoj.gov

Gunn, Currie (SMO)

Subject:	OIP Issues
Location:	Conference Room 5710
Start:	Monday, July 18, 2005 3:00 PM
End:	Monday, July 18, 2005 4:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Kessler, Elizabeth A; Swenson, Lily F

When: Monday, July 18, 2005 3:00 PM-4:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Conference Room 5710

~~*~*~*~*~*~*~*~*~*

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Elizabeth Kessler-OASG, Lily Swenson-OASG

POC: Currie x4-9500

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Wednesday, July 13, 2005 2:59 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: RE: International Rule of Law Symposium

Checked with Mike. No action on his part yet. I think we tee this up for Jeff, starting with a reach out to [redacted]

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, July 12, 2005 6:40 PM
To: Reyes, Luis (SMO)
Cc: Gorsuch, Neil M
Subject: RE: International Rule of Law Symposium

With Mike likely departing soon to go to DHS, what think you two of tasking Jeff with this matter? Lou: Check to see what Mike has done, if anything, with this one. Robt.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, June 28, 2005 4:20 PM
To: Wiggins, Mike
Cc: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: FW: International Rule of Law Symposium

Mike: Can you assume responsibility to interface with [redacted] on this request. I am still not sure exactly what he would like for us to do. Robt.

-----Original Message-----
From: [redacted]
Sent: Friday, June 03, 2005 4:07 PM
To: McCallum, Robert (SMO)
Subject: RE: International Rule of Law Symposium

Fair questions. Sorry I wasn't clearer. The ABA is the major sponsor.
We have received funding commitments from GM, Pepsi and other such companies. We anticipate foundation funding. The goal is to bring a focus in the US on the important role that rule of law building should play in achieving world peace and a sustainable global society. Our invitees will be opinion leaders from the US government,CEOs, media, NGOs, foundations. We want prominent government leaders to speak(Justice O' Connor is helping us reach out to Secretary of State Rice).
Of equal importance, I would like to see an informal dialogue within State and DOJ on the ideas side.

What are the right issues to discuss?
Who are the most knowledgeable speakers? Who should be invited. This will be a nonpolitical event. We need to find the most knowledgeable thinkers in the rule of law arena who also are very practical in the real world sense, so we must have dialogue with key government leaders to make this exercise has the great impact that we are seeking.

Would it be helpful to discuss this further by phone or in person?
Thanks for your help. [redacted]

[redacted]

-----Original Message-----
From: Robert.McCallum@usdoj.gov [mailto:Robert.McCallum@usdoj.gov]
Sent: Wednesday, June 01, 2005 5:19 PM
To: [redacted]
Subject: RE: International Rule of Law Symposium

[redacted] I am not entirely clear on what you would like for me to do to help. Is it to provide a contact and entree with folks at State or elsewhere who might be participants in the Rule of Law Symposium scheduled for Nov.? Is it to provide a contact and entree to State Dept. policy makers regarding current or proposed Admin. foreign policy?
Is it to get you in contact with those at DOJ who are or have been in other countries trying to establish judicial/legal systems? Sorry to be confused but I am not clear on what I am to get the folks in the Admin familiar and involved with. Is this an ABA sponsored initiative or some other group? Robt.

-----Original Message-----
From: [redacted]
Sent: Wednesday, May 25, 2005 9:57 AM
To: McCallum, Robert (SMO)
Subject: International Rule of Law Symposium

Robert- Good talking with you today. Attached are the concept paper on rule of law as a part of the US foreign policy and a proposed agenda (plus white papers on 2 agenda items). I would very much like to get the right people in the Administration familiar with what this is and involved. Thanks for your willingness to discuss with [redacted] would appreciate any other suggestions that you might have. Best [redacted]

[redacted]

[redacted]

CONFIDENTIALITY NOTICE:
This e-mail and any attachments contain information from the law firm of McKenna Long & Aldridge LLP, and are intended solely for the use of the named recipient or recipients. This e-mail may contain privileged attorney/client communications or work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

CONFIDENTIALITY NOTICE:
This e-mail and any attachments contain information from the law firm of McKenna Long & Aldridge LLP, and are intended solely for the use of the named recipient or recipients. This e-mail may contain privileged attorney/client communications or work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

CONFIDENTIALITY NOTICE:
This e-mail and any attachments contain information from the law firm of McKenna Long & Aldridge LLP, and are intended solely for the use of the named recipient or recipients. This e-mail may contain privileged attorney/client communications or work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

Sours, Raquel

Subject:	Canceled: Component Coordination Meeting
Start:	Friday, July 22, 2005 9:20 AM
End:	Friday, July 22, 2005 9:40 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Rosenberg, Chuck; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)
Optional Attendees:	Rosenberg, Chuck (TXS)
Importance:	High

When: Friday, July 22, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

Sours, Raquel

Subject:	Canceled: Senior Management Meeting
Start:	Friday, July 22, 2005 9:00 AM
End:	Friday, July 22, 2005 9:20 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)
Importance:	High

When: Friday, July 22, 2005 9:00 AM-9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Shaw, Aloma A

From:	Shaw, Aloma A
Sent:	Wednesday, July 13, 2005 4:46 PM
To:	Currie Gunn; Deborah Davis; Elizabeth Kessler; Jeffrey Senger; Lily Swenson; Luis Reyes; Mike Wiggins; Neil Gorsuch; Robert McCallum
Subject:	Currie will be out of the office until Monday.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, July 13, 2005 4:49 PM
To: Gorsuch, Neil M
Subject: Call [redacted]

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Wednesday, July 13, 2005 5:03 PM
To: Fowler, Liane; Madan, Rafael A.; Cooley, Jason; Voris, Natalie; Bottner, Andrea; Pierce, Catherine; Davis, Margaret (CRM) (OCDETF)
Subject: announcement

With the reorganization, it will change to be Assistant Secretary instead of Executive Director. However, please see below.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release July 13, 2005

President George W. Bush today announced his intention to nominate two individuals and designate one individual to serve in his Administration:

The President intends to nominate Stewart A. Baker, of Virginia, to be an Assistant Secretary of Homeland Security (Policy). Mr. Baker is currently a Partner with Steptoe & Johnson, LLP in Washington, D.C. He previously served as General Counsel for the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction. Prior to that, Mr. Baker served as General Counsel for the National Security Agency. Earlier in his career, he was a law clerk for Justice John Paul Stevens, U.S. Supreme Court. Mr. Baker received his bachelor's degree from Brown University and his J.D. from the University of California, Los Angeles.

The President intends to nominate **Tracy A. Henke**, of Missouri, to be Executive Director of the Office of State and Local Government Coordination and Preparedness at the Department of Homeland Security. Ms. Henke currently serves as Deputy Associate Attorney General at the Department of Justice. She previously served as Principal Deputy Assistant Attorney General. Prior to joining the Department of Justice, Ms. Henke served as Senior Policy Advisor to Senator Christopher S. Bond. She received her bachelor's degree from the University of Missouri, Columbia.

The President intends to designate James Lambright, of Missouri, to be Acting President of the Export-Import Bank of the United States.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 14, 2005 11:47 AM
To: Kim, Wan (CRT)
Subject: RE: still on for lunch today?

Absolutely. What's your preference on when and where?

-----Original Message-----
From: Kim, Wan (CRT)
Sent: Thursday, July 14, 2005 11:34 AM
To: Gorsuch, Neil M
Subject: still on for lunch today?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 14, 2005 11:48 AM
To: Kim, Wan (CRT)
Subject: RE: still on for lunch today?

great

-----Original Message-----
From: Kim, Wan (CRT)
Sent: Thursday, July 14, 2005 11:47 AM
To: Gorsuch, Neil M
Subject: RE: still on for lunch today?

Noon. I'll walk down to your office.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 14, 2005 11:47 AM
To: Kim, Wan (CRT)
Subject: RE: still on for lunch today?

Absolutely. What's your preference on when and where?

-----Original Message-----
From: Kim, Wan (CRT)
Sent: Thursday, July 14, 2005 11:34 AM
To: Gorsuch, Neil M
Subject: still on for lunch today?

Garren, Timothy (CIV)

From: Garren, Timothy (CIV)
Sent: Thursday, July 14, 2005 2:12 PM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: DoD comments on [redacted]

I will be out of the office until 7/18. In my absence, please contact Vince Matanoski at 616-4124 regarding Vaccine matters, Jerry Fischer at 616-4090 as to RECA matters, and Andrea McCarthy at 616-4175 about Constitutional Tort matters.

Tim

Christian, Forrest (CIV)

From: Christian, Forrest (CIV)
Sent: Thursday, July 14, 2005 2:13 PM
To: Gorsuch, Neil M
Subject: Read: DoD comments on Ali MTD

Christian, Forrest (CIV)

From: Christian, Forrest (CIV)
Sent: Thursday, July 14, 2005 2:24 PM
To: Gorsuch, Neil M
Subject: Read: DoD comments on Ali MTD

From: USDOJ- Office of Public Affairs
Sent: Thursday, July 14, 2005 2:45 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER ENRON VICE PRESIDENT CHRISTOPHER CALGER PLEADS GUILTY TO CONSPIRACY AND AGREES TO COOPERATE

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, JULY 14, 2005
WWW.USDOJ.GOV

CRM
(202) 514-2007
TDD (202) 514-1888

FORMER ENRON VICE PRESIDENT CHRISTOPHER CALGER PLEADS GUILTY TO CONSPIRACY AND AGREES TO COOPERATE

WASHINGTON, D.C. - Christopher Calger, a former Enron vice president, has pleaded guilty to a charge of conspiracy to commit wire fraud, Acting Assistant Attorney General John Richter of the Criminal Division, Enron Task Force Director Andrew Weissmann, and Assistant Director Chris Swecker of the FBI announced today.

Calger, 39, of Westport, Connecticut, entered the guilty plea today before Judge Lynn Hughes at the U.S. District Court in Houston. As part of his plea, Calger has agreed to cooperate fully and truthfully with the Enron Task Force's ongoing criminal investigation into the collapse of Enron. Calger pleaded guilty to one count of conspiracy to commit wire fraud and faces a maximum sentence of five years in prison and a fine of $250,000 or twice the loss incurred.

The information and plea documents signed by Calger state that he was a vice president in charge of the West Power Origination group of Enron North America (ENA). In that capacity, he supervised employees who negotiated the sale of an ENA project known as Coyote Springs II (CS2) to a subsidiary of Avista Corp. The CS2 project consisted of an equity interest in a power plant, a construction contract to build the plant, and a turbine to be placed in the plant. Calger admitted that he and others engaged in a scheme to recognize earnings prematurely and improperly. Specifically, Enron's auditors would not allow Enron to recognize immediate gain on the turbine sale unless that sale occurred at least two weeks before the equity sale in the plant (the "equity interest") and the signing of the construction contract. The reason for the two-week separation was to demonstrate that the turbine sale was independent from the equity sale and the construction contract.

However, Avista was concerned that it would buy the turbine and then would not be able to buy the equity interest two weeks later. Enron therefore arranged for LJM2, a company managed by Enron Chief Financial Officer Andrew Fastow, to provide a "put" option to Avista for the turbine. Under the put agreement, Avista would have the right to require LJM2 to buy the turbine if Enron did not sell the equity interest to Avista two weeks after the turbine sale from Enron to Avista.

DOJ_NMG_ 0145338

Calger admitted that Enron, and not Avista, paid for the put by reducing the purchase price of the turbine that Enron sold Avista by the amount of the purchase price of the put, meaning that Avista was not paying any more than it would have if the deal had been consummated without the put. Calger also admitted that LJM2 orally agreed to refund approximately $3.1 million of the $3.54 million put payment to ENA if, as expected, the put agreement expired unexercised at the end of the 14-day put period. ENA also agreed that if Avista exercised the put, ENA would buy the turbine back from LJM2.

So as to avoid detection of the scheme, Calger admitted that ENA improperly hid LJM2's participation in this transaction, and the oral agreements referenced above, from Enron's outside auditor. Before the turbine sale closed, Calger admitted that he received a draft legal risk memorandum for the CS2 project, prepared by an internal Enron lawyer assigned to the deal. The legal risk memorandum spelled out LJM2's participation in the transaction, including the understanding that LJM2 would refund most of the put payment to ENA through other deals on a later date. The legal risk memorandum also stated in substance that this understanding between ENA and LJM2 could not be documented due to accounting concerns and was not reflected in the deal approval sheet for the turbine sale. Despite keeping this information from outside review, Calger admitted that Enron's internal lawyers and accountants agreed that the sale would go forward.

The put agreement between LJM2 and Avista expired unexercised and therefore, in accordance with the oral understanding, LJM2 owed $3.1 million to ENA for the put refund. Calger further admitted that Enron's Chief Accounting Officer agreed to "credit" ENA for this figure, since LJM2 had promised to make it up to Enron in future transactions.

Enron, at one time the seventh-ranked company in the United States with stock trading as high as $80 per share in August 1999, filed for bankruptcy protection on Dec. 2, 2001 and its stock became virtually worthless.

The investigation into Enron's collapse is being conducted by the Enron Task Force, a team of federal prosecutors within the Justice Department's Criminal Division, and agents from the FBI and the Internal Revenue Service Criminal Investigations Division. The Enron Task Force also has coordinated with the Securities and Exchange Commission. The Enron Task Force is part of the President's Corporate Fraud Task Force, created in July 2002 to investigate allegations of fraud and corruption at U.S. corporations.

To date, 34 defendants have been charged in connection with the work of the Enron Task Force, including 25 former Enron executives. With the plea today, 16 defendants have so far been convicted. The Enron Task Force has obtained more than $163 million in forfeiture for restitution to victims.

The Enron Task Force investigation is continuing.

# # #

05-372

DOJ_NMG_ 0145339

Image not available for this document, ID: 0.7.10316.77642-000001

Image not available for this document, ID: 0.7.10316.77642-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, July 14, 2005 3:16 PM
To: USDOJ- Office of Public Affairs
Subject: VICE PRESIDENT DICK CHENEY AND ATTORNEY GENERAL ALBERTO R. GONZALES HONOR MEDAL OF VALOR RECIPIENTS

Department of Justice

Office of Justice Programs

FOR IMMEDIATE RELEASE
THURSDAY, JULY 14, 2005

OJP Contact:
Joan LaRocca

(202) 307-0703

www.ojp.usdoj.gov

VICE PRESIDENT DICK CHENEY AND ATTORNEY GENERAL ALBERTO R. GONZALES HONOR MEDAL OF VALOR RECIPIENTS

WASHINGTON, D.C. - Vice President Dick Cheney and Attorney General Alberto R. Gonzales today honored the recipients of the Public Safety Officer Medal of Valor during a ceremony at the White House. The recipients of the award represent fire, law enforcement and emergency medical service providers from across the United States. The Medal of Valor is the highest national award for valor by a public safety officer, honoring outstanding heroic deeds performed above and beyond the call of duty.

"We are here today to honor Medal of Valor recipients who went above and beyond the call of duty -- putting their own lives at risk -- to earn this mark of heroism," said Attorney General Gonzales. "The commitment to service shown by these incredible public safety officers is indicative of the day-in and day-out dedication of police officers, sheriffs, emergency medical personnel, firefighters, and countless other first responders and public servants across our Nation."

The recipients of the 2003-2004 Public Safety Officer Medal of Valor are: Rodney Lee Chambers, Washington, D.C.; Jennifer Fulford-Salvano, Orange County, Fla.; Andrew J. Phillips, Marietta, Ga.; and Thomas D. Richards, Lexington, Ky. In addition, a team of six from Kansas City, Mo., includes Phillip Atwood, David Bradley, Marvin Donaldson, Stephen Johnson, Patrick Martin, and Sean McKarnin. A description of the acts of valor is attached.

The Medal of Valor, authorized by the Public Safety Medal of Valor Act of 2001, is awarded by the President of the United States to public safety officers cited by the Attorney General. Public safety officers are nominated by the chiefs or directors of their employing agencies and recommended by the Medal of Valor Review Board.

DOJ_NMG_ 0145342

Additional information about the award, the design and image of the Medal of Valor, the board members, and the application form can be found on the Office of Justice Programs website at www.ojp.usdoj.gov <http://www.ojp.usdoj.gov/medalofvalor/>.

The Office of Justice Programs provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice, and assist victims. OJP is headed by an Assistant Attorney General and comprises five component bureaus and two offices: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and Office for Victims of Crime, as well as the Office of the Police Corps and Law Enforcement Education and the Community Capacity Development Office, which incorporates the Weed and Seed strategy and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at <http://www.ojp.usdoj.gov>.

Public Safety Officer Medal of Valor
Synopses of Acts of Valor

Rodney Lee Chambers, Amtrak Police Department, Washington, D.C. On June 9, 2003, Officer Chambers was on patrol at Union Station when reports came in from dispatch regarding a man seen with a grenade. Officer Chambers located and stopped the man. Once stopped, the man pulled the pin on the grenade and attempted to drop it. Officer Chambers made a split- second decision and grabbed the grenade in the man's hand and squeezed it, not allowing it to detonate. Officer Chambers then wrestled the grenade from the suspect's control and moved away from bystanders and other public safety personnel. Officer Chambers held the grenade for 15-20 minutes waiting for the bomb disposal team to arrive. Bomb disposal officers arrived and took the device from Officer Chambers. The device was later determined to be inoperable, yet this was unknown to Chambers at the time of the incident.

Jennifer Fulford-Salvano, Orange County Sheriff's Office, Ocoee, Fla. On May 5, 2004, Deputy Fulford-Salvano responded to a burglary-in-progress call after an 8-year-old boy called to inform the police that "strange men" were in his home with weapons and that he and his sister were hiding inside a van in the garage. Deputy Fulford-Salvano, first on the scene, entered the garage to check on the child and his sister who were still hiding in the family van. As deputies took their positions, two men emerged from the house and fired upon the deputies. Deputy Fulford-Salvano became trapped in the garage between two vehicles and the assailants who were firing at her. Deputy Fulford-Salvano then returned fire. Although she was struck a total of ten times, including on her shooting hand, she was able to retrieve her weapon with her other hand and continue firing until both gunmen fell to the ground. The assailants were apprehended and the children were kept safe and unharmed throughout the incident.

Andrew J. Phillips, Marietta Police Department, Marietta, Ga. On March 11, 2004, while serving a warrant at a house to search for drugs, the team encountered four individuals. While securing the individuals, the team began taking fire from an unknown suspect. One agent was shot in the lower part of the body, and another was hit in his helmet. Agent Phillips witnessed the two agents going down and advanced through a blind hallway seeking the suspect and returning fire. Upon reaching the room where the suspect was hiding and armed with a rifle, Agent Phillips fired, causing the suspect to drop his weapon and surrender. Agent Phillips apprehended the suspect and protected his fellow agents from further harm. The wounded agent later recovered from his injuries.

Thomas D. Richards, Lexington-Fayette Urban County Division of Police, Lexington, Ky. On February 13, 2004, police, fire, and emergency services were dispatched to assist a woman with gunshot wounds to the head. The suspect, concealed inside the house, began to shoot at the team of public safety officers assembled. Six of the fire and emergency services team were pinned down by the suspect and two were shot, one fatally. Officer

DOJ_NMG_ 0145343

Richards noticed that the firefighters were unable to move to safe positions and drove his police cruiser directly into the line of fire in an attempt to shield the wounded firefighters from the assailant's shots. The suspect fired again, shattering the cruiser's window, narrowly missing Officer Richards. The suspect then stopped firing, but Officer Richards remained with the firefighters until they could be safely evacuated by a police extraction team.

Team Members: Kansas City Missouri Fire Department, Kansas City, Mo.
Fire Capt. Phillip Atwood
Fire Capt. Patrick Martin
Firefighter David Bradley
Firefighter Marvin Donaldson
Firefighter Stephen Johnson
Fire Apparatus Operator Sean McKarnin
On February 23, 2004, firefighters were called to a residential fire that resulted from an explosion in south Kansas City. Arriving firefighters came under heavy and rapid gunfire shortly after arriving on the scene. A paramedic suffered injuries from the gunfire, but was pulled to safety by team members. The firefighters then remained pinned down by 20-30 minutes of automatic weapon fire before a second explosion destroyed the building and the gunfire ceased.

###

05-373

DOJ_NMG_ 0145344

Image not available for this document, ID: 0.7.10316.77664-000001

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 14, 2005 4:13 PM
To: Yanes, Raul
Subject: RE: 515 Mtg

Yes

-----Original Message-----
From: Yanes, Raul
Sent: Thursday, July 14, 2005 4:13 PM
To: Gorsuch, Neil M
Subject: 515 Mtg

Could you be ready to give the ag an overview of our reaction to the Specter detainee legislation?

Sent from my BlackBerry Wireless Handheld

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 14, 2005 4:19 PM
To: Shaw, Aloma A
Subject: FW:
Attachments: tmp.htm; Det78.pdf

-----Original Message-----
From: Moschella, William
Sent: Wednesday, July 13, 2005 12:40 AM
To: Gorsuch, Neil M
Subject: FW:

got this from Specter's folks today.

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto[redacted]@judiciary-rep.senate.gov]
Sent: Tuesday, July 12, 2005 10:24 AM
To: Moschella, William
Cc: [redacted]@judiciary-rep.senate.gov
Subject:

Will,

This is a draft bill outlining procedures for the detainees being held at Gitmo. We are making changes as we are trying to work with DOD and are implementing their suggestions. I have attached a copy of the bill for your records.

[redacted]

109TH CONGRESS
1ST SESSION

S. _____

To provide comprehensive procedures for the adjudication of cases involving unprivileged combatants.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide comprehensive procedures for the adjudication of cases involving unprivileged combatants.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AUTHORITY; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Unprivileged Combatant Act of 2005''.

(b) AUTHORITY.—The requirements, conditions, and restrictions established by this Act are made under the authority of Congress under clauses 1, 10, 11, 12, 13, 14, and 18 of article I, section 8 of the Constitution of the United States.

(c) FINDINGS.—Congress finds the following:

(1) Article I, section 8, of the Constitution provides that the Congress has the power to ''constitute Tribunals inferior to the Supreme Court; ... define and punish ... Offenses against the Law of Nations; ... make Rules concerning Captures on Land and Water; ... make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof''.

(2) The Supreme Court has repeatedly recognized military tribunals, as stated in Madsen v. Kinsella 343 U.S. 341, 1952, ''[s]ince our nation's earliest days, such tribunals have been constitutionally recognized agencies for meeting many urgent governmental responsibilities related to war....They have taken many forms and borne many names. Neither their procedure nor their jurisdiction has been prescribed by statute. It has been adapted in each instance to the need that called it forth.'' Madsen, citing In re Yamashita, 327 U.S. 1 (1946).

(3) The President has inherent authority to convene military tribunals arising from his role as Commander and Chief of the Armed Forces under

article II of the Constitution and from title 10 of the United States Code. Due to the extraordinary circumstances of the ongoing war on terrorism, it is appropriate for Congress to provide additional and explicit authorization of and procedures for military tribunals to adjudicate and punish offenses relating to the war on terrorism.

(4) This Act is in direct response to the United State Supreme Court's ruling in Rasul v. Bush. With the passage of this Act, the 109th Congress will have addressed the concerns of the Supreme Court's Rasul majority, and there will no longer be any need for further cause or legal challenge by or concerning these detained individuals, excepting as allowed for by this Act.

SEC. 2. DEFINITIONS.

As used in this Act, the following definitions apply:

(1) CLASSIFICATION TRIBUNAL.—The term ''classification tribunal'' means any tribunal conducted under section 9 or any related proceeding.

(2) CLASSIFIED INFORMATION.—The term ''classified information'' has the same meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.).

(3) DESIGNEE.—The term ''designee'' means a person who has been in the custody of the Department of Defense for not less than 180 consecutive days after the date of enactment of this Act and who has not been charged with a criminal offense during that period.

(4) DESTRUCTIVE DEVICE.—The term ''destructive device'' means—

(A) any explosive, incendiary, or poison gas—

(i) bomb;

(ii) grenade;

(iii) rocket;

(iv) missile;

(v) mine; or

(vi) device similar to any of the devices described in the preceding clauses; and

(B) any type of weapon that will expel a projectile by the action of an explosive or other propellant.

(5) JUDGE.—The term ''Judge'' shall refer to a United States military judge designated by the Secretary of Defense to hear cases under this Act.

(6) UNPRIVILEGED COMBATANT.—The term ''unprivileged combatant'' means an individual—

(A) who has been designated as an enemy combatant by a Combatant Status Review Tribunal prior to the enactment of this Act;

(B) who a Field Tribunal conducted by the United States military as provided in this Act determines—

(i) is not entitled to the protections set out in the Convention Relative to the Treatment of Prisoners of War, done at Geneva, August 12, 1948 (6 UST 3516) (referred to in this Act as the ''Geneva Convention''); and

(ii) either—

(I) knowingly assists, conspires with, or solicits for a group or an individual hostile to the United States;

(II) knowingly attempts to assist others in taking up arms against the United States;

(III) conspires with or solicits others to take up arms against the United States; or

(IV) has taken up arms against, or intentionally assisted combat operations against, the United States.

(7) CRIMINAL PROSECUTION.—The term ''criminal prosecution'' means a prosecution for a violation of any criminal law, including subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice) or pursuant to the Department of Defenses Military Commission Instruction number two.

(8) FIREARM.—The term ''firearm'' has the same meaning given that term in section 921(a)(3) of title 18, United States Code.

(9) INTERNATIONAL TERRORISM.—The term ''international terrorism'' has the same meaning given that term in section 101(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(c)).

(10) PROTECTED INFORMATION.—The term ''protected information'' means information—

(A) that is classified information;

(B) protected by law or rule from unauthorized disclosure;

(C) the disclosure of which may endanger the physical safety of participants in Commis-

sion proceedings, including prospective witnesses;

(D) concerning intelligence and law enforcement sources, methods, or activities; or

(E) the disclosure of which would otherwise jeopardize national security interests.

(11) UNITED STATES PERSON.—The term ''United States person'' has the same meaning given that term in section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(c)).

(12) WEAPON.—The term ''weapon'' means a club, knife, or similar object that is used to injure, defeat, or destroy.

SEC. 3. AUTHORIZING MILITARY COMMISSIONS.

The President is authorized to establish military commissions for the trial of individuals for offenses as provided in this Act.

SEC. 4. COMMISSION JURISDICTION.

(a) UNPRIVILEGED COMBATANTS.—This Act establishes exclusive jurisdiction to hear any matter involving an unprivileged combatant who has been detained by the Department of Defense for not less than 180 consecutive days at Guantanamo Bay, Cuba, or any other location not

located within the theater of war, as defined by the Department of Defense.

(b) OFFENSES.—

(1) CRIMINAL PROSECUTIONS.—The Commission shall have jurisdiction to hear any criminal prosecution involving international terrorism, including any offense under chapter 113B of title 18, United States Code.

(2) OFFENSES AGAINST THE LAWS OF WAR.—The Commission shall have exclusive jurisdiction over violations of the laws of war committed by unprivileged combatants.

(3) OTHER OFFENSES.—The Commission shall have jurisdiction over other offenses traditionally triable by military commissions or pursuant to the Department of Defense's Military Commission Instruction number two.

SEC. 5. APPELLATE JURISDICTION.

(a) IN GENERAL.—

(1) FINAL DECISIONS.—The Military Commission Review Panel designated by the Secretary of Defense shall have exclusive jurisdiction of appeals from all final decisions of the Commission and other tribunals under this Act.

(2) INTERLOCUTORY APPEALS.—The Military Commission Review Panel shall have exclusive jurisdiction of appeals of the disapproval of a summary of classified information under section 10(d)(2)(C). Any appeal under this subsection shall be conducted as expeditiously as possible.

(b) REVIEW BY SUPREME COURT.—

(1) CERTIORARI.—The decisions of the Military Commission Review Panel are subject to review by the Supreme Court by writ of certiorari.

(2) EXEMPTION FROM CERTAIN PETITION REQUIREMENTS.—A person who files a petition for a writ of certiorari under paragraph (1) shall not be required to submit—

(A) prepayment of any fees and costs or security therefor; or

(B) the affidavit required by section 1915(a) of title 28, United States Code.

SEC. 6. THE COMMISSION.

(a) COMMISSION PERSONNEL.—

(1) MEMBERS.—

(A) APPOINTMENT.—The Secretary of Defense shall designate no less than 12 United States military judges to serve as members of

the Commission and to assume other duties assigned in this Act.

(B) NUMBER OF MEMBERS.—Each Commission shall consist of at least 3 military officers, at least one of whom shall be a military judges.

(C) ALTERNATE MEMBERS.—For each such Commission, there shall also be one or two alternate members. The alternate member or members shall attend all sessions of the Commission. In case of incapacity, resignation, or removal of any member, an alternate member shall take the place of that member.

(D) QUALIFICATIONS.—Each member and alternate member of the Commission shall be a military officer.

(E) PRESIDING OFFICER.—

(i) IN GENERAL.—From among the members of the Commission, the Secretary of Defense shall designate a Presiding Officer who is a military judge to preside over the proceedings of that Commission.

(ii) DUTIES.—The duties of the Presiding Officer shall be as follows:

(I) The Presiding Officer shall admit or exclude evidence at trial in accordance with the rules of this Act. The Presiding Officer shall have authority to close proceedings or portions of proceedings in accordance with this Act or for any other reason necessary for the conduct of a full and fair trial.

(II) The Presiding Officer shall ensure that the discipline, dignity, and decorum of the proceedings are maintained, shall exercise control over the proceedings to ensure proper implementation of the President's Military Order and this Act, and shall have authority to act upon any contempt or breach of Commission rules and procedures. Any attorney authorized to appear before a Commission who is thereafter found not to satisfy the requirements for eligibility or who fails to comply with laws, rules, regulations, or other orders applicable to the Commission proceedings or any other

individual who violates such laws, rules, regulations, or orders may be disciplined as the Presiding Officer deems appropriate, including revocation of eligibility to appear before that Commission. The Court may further revoke that attorney's or any other person's eligibility to appear before any other Commission convened under this Act.

(III) The Presiding Officer shall ensure the expeditious conduct of the trial. In no circumstance shall accommodation of counsel be allowed to delay proceedings unreasonably.

(IV) The Presiding Officer may certify interlocutory questions to the Military Commission Review Panel for the Armed Forces as the Presiding Officer deems appropriate.

(b) POWERS OF THE COMMISSION.—The Commission shall have the following powers:

(1) To summon witnesses to the trial and to require their attendance and testimony and to put questions to them.

(2) To require the production of documents and other evidentiary material.

(3) To administer oaths to witnesses.

(4) To appoint officers for the carrying out of any task designated by the Commission, including the power to have evidence taken on commission.

SEC. 7. PERSONS IN CUSTODY.

(a) GUANTANAMO BAY.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Defense shall file with the clerk of the Commission a complete listing of all persons who—

(A) are being detained by the Department of Defense at Guantanamo Bay, Cuba; and

(B) the Government wishes to continue to detain as an unprivileged combatant.

(2) UPDATED LIST.—The Secretary of Defense shall file an updated list of the persons identified under paragraph (1) with the clerk of the Commission at least once every 30 days after the date the list described in paragraph (1) was filed.

(b) STATUS OF NON-GUANTANAMO BAY DETAINEES.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Sec-

retary of Defense shall file with the clerk of the Commission a certification with respect to each designee, being detained either inside or outside of the theater of war as defined by the Department of Defense, indicating—

(A) where the designee was captured;

(B) the basis for asserting the designee is an unprivileged combatant;

(C) whether it is the judgment of the Department of Defense that the national security of the United States, including the security of the Armed Forces of the United States and its allies, requires that the designee must continue to be detained; and

(D) whether the designee is a United States citizen and, if not, has any lawful immigration status under the immigration laws of the United States.

(2) NEW DESIGNEES.—For any designee taken into custody by the United States after the date of enactment of this Act, the Secretary of Defense shall file with the clerk of the Commission a certification providing the information required under paragraph (1) not later than 180 days after the date on which

such designee is taken into custody by the United States.

SEC. 8. FIELD TRIBUNALS.

(a) IN GENERAL.—Not more than 30 days after a suspected unprivileged combatant has been detained by United States forces, the Department of Defense must conduct a field tribunal in order to determine whether the detainee is an unprivileged combatant and whether the detainee is entitled to the rights afforded under the Geneva Convention.

(b) PROCEDURES.—The procedures governing these field tribunals shall be promulgated by the Department of Defense

SEC. 9. CLASSIFICATION TRIBUNALS.

(a) IN GENERAL.—Any designee shall be released and repatriated to an appropriate country unless the classification tribunal finds by a preponderance of the evidence that—

(1)(A) the detainee is a threat to the national security interest of the United States; or

(B) there are reasonable grounds to believe that if released the person would take up arms against the United States;

(2) the detainee is not a privileged combatant entitled to provisions under the Geneva Convention; and

(3) the detainee is not a citizen of the United States of America.

(b) APPOINTMENT.—The classification tribunals shall be appointed by the Secretary of Defense and consist solely of line officers, one of whom shall be an attorney.

(c) DETERMINATION.—If the classification tribunal finds that a person meets the requirements of subsection (a), the Commission shall order that the designee shall continue to be detained by the Department of Defense, subject to periodic review under subsection (e). The time period for the detention of these detainees may not exceed the time period that United States forces are engaged in combat operations as defined by the Department of Defense in the nation or theater where a detainee was captured. At the conclusion of combat operations within a given theater or nation, all detainees that were captured in that area must be either indicted under this Act or repatriated to the appropriate country.

(d) CONSIDERATIONS.—

(1) IN GENERAL.—In making a determination under subsection (a), the classification tribunal shall consider any information brought to its attention re-

garding the need for continued detention, including—

(A) the designee's alleged position or rank in any hostile organization;

(B) the activities of that hostile organization;

(C) any statements made by the designee in response to interrogation; and

(D) the designee's history of violence or terrorist activity.

(2) PRIMA FACIE EVIDENCE.—If the Government represents that a designee was captured during a military engagement while taking up arms against, or supporting military operations against, the Armed Forces of the United States or its allies, there shall be prima facie evidence that, if released, the designee would take up arms against the United States.

(e) TIMING.—Any designee shall be afforded a classification tribunal as soon as is reasonably practicable. Said tribunal must be listed no later than 180 days after the designee's capture and must take place no later than 30 days after listing, unless continued.

(f) PERIODIC REVIEW.—

(1) IN GENERAL.—The Administrative Review Board designated by the Department of Defense

shall review an order authorizing the Government to continue to detain a person under subsection (b) annually to determine whether there are changed circumstances that warrant affording the person a new tribunal under subsection (a). Detainees apprehended during a military engagement while taking up arms against, or supporting military operations against, the Armed Forces of the United States or its allies may be detained until the cessation of armed hostilities in the nation or region in which they were captured.

(2) ARGUMENT.—The Government and the designee may be heard regarding the review under paragraph (1).

SEC. 10. CLASSIFICATION TRIBUNAL PROCEDURES.

(a) DESIGNEES.—

(1) IN GENERAL.—The designee shall not be required to testify or present any evidence at a classification tribunal.

(2) PRESENCE.—The designee shall be entitled to be present at the classification tribunal.

(b) COUNSEL.—

(1) IN GENERAL.—A designee is entitled to the assistance of counsel admitted to practice under this Act at every stage of the classification tribunal, in-

cluding the periodic review of orders under subsection (e).

(2) RIGHT TO APPOINTED COUNSEL.—A designee who is unable to obtain counsel is entitled to have counsel admitted to practice before the Commission.

(3) REFUSAL OF COUNSEL.—A designee may waive counsel.

(c) DISCOVERY.—

(1) GOVERNMENT'S DISCLOSURE.—Not later than 3 days prior to the classification tribunal, the Government shall make available for inspection by counsel for the designee any affidavit or affirmation the Government intends to offer in support of continuing to detain the designee. The Commission shall maintain a copy of any submissions made by the Government for inspection by the designee and for transmittal, if necessary, to the Commission.

(2) DESIGNEE'S DISCLOSURE.—If the designee chooses to submit any evidence, such evidence, including a list of any witnesses the designee intends to call, shall be made available to the Government for inspection not later than 3 days prior to the classification tribunal.

(d) EVIDENCE.—

(1) IN GENERAL.—The Rules of Evidence shall not apply to a classification tribunal.

(2) ADMISSIBILITY STANDARD.—Evidence shall be admitted if the Commission determines the evidence would have probative value to a reasonable person.

(3) AFFIDAVIT OR AFFIRMATION.—The Government may proceed by proffer and submit any relevant information by affidavit or affirmation, unless decided unreliable by the members of the tribunal.

(4) CROSS-EXAMINATION.—

(A) GOVERNMENT WITNESSES.—If the Government chooses to call witnesses, the designee may cross-examine those witnesses on all relevant facts.

(B) DESIGNEE WITNESSES.—If the designee calls any witnesses, they shall be subject to cross examination.

(C) DESIGNEE.—If the designee chooses to testify, the designee shall be subject to cross-examination.

(e) DEFENSES.—The designee may challenge whether the designee satisfies the elements required under subsection (a).

(f) PROCEEDINGS.—

(1) IN GENERAL.—All classification tribunals shall be closed to the public.

(2) SECURITY CLEARANCES.—Each person present at a classification tribunal, other than the designee, shall possess a security clearance appropriate to the level of any classified information being presented.

(3) PUBLIC INFORMATION REGARDING PROCEEDINGS.—After the Commission has ruled in the classification tribunal, the parties shall propose a nonclassified summary to the Commission. The Commission shall publicly release a summary, containing any information generated at the tribunal which can be disclosed in a manner consistent with the Classified Information Procedures Act (18 U.S.C. App.) and the national security of the United States.

(g) REINSTITUTING CLASSIFICATION PROCEEDINGS.—

(1) IN GENERAL.—If a matter involving the classification tribunal of a designee is dismissed without prejudice by the classification tribunal or withdrawn by the Government at, or prior to, the classification tribunal, the Government may re-

institute the matter with the tribunal that dismissed or permitted the withdrawal of the matter.

(2) TIME LIMIT.—A complaint reinstituting proceedings under paragraph (1) shall be filed not later than 10 days after the dismissal or withdrawal of the matter.

(3) NUMBER.—The Government may reinstitute proceedings under paragraph (1) not more than twice and only if approved by the ranking member on the Classification Tribunal.

SEC. 11. CONTINUANCE OF CLASSIFICATION TRIBUNALS.

(a) CONTINUANCES.—

(1) IN GENERAL.—The Commission may, for cause shown, grant a continuance of a classification tribunal.

(2) CLASSIFIED INFORMATION.—Upon motion of the Government, a classification tribunal shall grant a continuance under paragraph (1) if the Court determines the classification tribunal cannot proceed without an unacceptable disclosure of classified information or evidence. The tribunal shall review the purported classified information in compliance with This Act. If the Commission grants a continuance under this paragraph, the matter shall be continued until the sensitivity of the classified infor-

mation or evidence is diminished or alternative evidence is developed.

(3) CONTINUANCE.—Upon motion of the Government, the tribunal may grant a continuance for as long as necessary, but no longer than one year, under paragraph (1) if the tribunal determines that the individual being detained is a high level individual in the planning or financing of terrorist activities or the individual possess information vital to the safety of the United States or its citizens.

(4) EX PARTE APPLICATIONS.—The Government may move for a continuance under paragraph (1) ex parte and a designee is not entitled to representation by counsel in connection with any such ex parte motion, nor shall the deisgnee be given notice of said request for a hearing prior to the Commission's ruling on the Government's request for a continuance pursuant to paragraph (3).

(b) GRANT OF CONTINUANCE.—For each continuance granted under subsection (a), the court shall note on the record of the proceedings—

(1) the grounds for granting each such continuance;

(2) the identity of the party requesting the continuance;

(3) the new date and time for the tribunal hearing; and

(4) the reasons that the date under paragraph (3) was chosen.

SEC. 12. CRIMINAL PROSECUTION PROCEDURES GENERALLY.

(a) COUNSEL.—

(1) IN GENERAL.—A defendant in a criminal proceeding under this Act has a right to be represented by counsel admitted to practice before the Commission under this Act.

(2) APPOINTED COUNSEL.—

(A) IN GENERAL.—A defendant who is unable to obtain counsel is entitled to have counsel appointed and to be represented by such counsel at every stage of the proceeding subsequent to being indicted.

(B) APPOINTMENT PROCEDURE.—The Secretary of Defense shall determine the rules for appointing counsel to practice before the Commission.

(b) DISCOVERY.—

(1) CLASSIFIED DOCUMENTS AND OBJECTS.—

(A) SUMMARY OF CLASSIFIED INFORMATION.—

(i) IN GENERAL.—If the Government intends to offer classified information as evidence before the Commission or tribunal, the Government shall submit a summary of the information to the Presiding Officer and the defendant.

(ii) REVIEW.—

(I) IN GENERAL.—A Presiding Officer shall review any summary submitted under clause (i) to determine if the summary provides the substantially the same information that the classified information would tend to prove.

(II) DISAPPROVAL.—If a Presiding Officer determines the summary does not satisfy the requirements of subclause (I), the Commission shall notify the Government and the defendant and return the summary to the Government with the notification.

(iii) REVISED SUMMARY.—If the Presiding Officer does not approve a summary under clause (ii), the Government may

submit a revised summary of the classified information to the Commission and the defendant not later than 15 days after the date on which the prosecution receives the notification. A revised summary of classified information submitted under this clause shall be subject to review as provided under clause (ii).

(B) ADMISSION OF EVIDENCE.—The Commission may admit and consider classified information offered by the prosecution if a summary of the information was submitted and approved under subparagraph (A). The Commission shall receive and consider the classified information ex parte and in camera.

(C) INTERLOCUTORY APPEAL.—

(i) IN GENERAL.—The Government may appeal any disapproval of a summary or revised summary of classified information.

(ii) TIMELINESS.—Any appeal under this subparagraph shall be commenced not later than 15 days after the date on which the Government receives the notification of

disapproval from the judge under subparagraph (A)(ii)(II).

(iii) DOCUMENTATION.—If the Government files an appeal under this subparagraph, the filing by the Government shall include—

(I) the classified information;

(II) the summary and any revised summary of the classified information; and

(III) a summary of all other evidence intended to be offered by the Government.

(iv) ACTION BY COMMISSION.—The appellate court shall conduct a de novo review of the summary or summaries and issue a final ruling on the interlocutory appeal not later than 45 days after all submissions required by the Commission are filed.

(2) REGULATING DISCOVERY.—

(A) IN GENERAL.—The Commission may, for good cause, deny, restrict, or defer discovery or inspection, or grant other appropriate relief.

(B) EX PARTE REQUEST.—A party may make an ex parte request in writing that the Commission deny, restrict, or defer discovery or inspection under subparagraph (A). If the Commission grants a request under this subparagraph, the Commission shall preserve the entire text of the party's request under seal.

(C) FAILURE TO COMPLY.—If a party fails to comply with the rules of discovery applicable to the Commission, the court may—

(i) order that party to permit the discovery or inspection, specify its time, place, and manner, and prescribe other just terms and conditions; or

(ii) grant a continuance.

(c) CONTINUANCES.—In addition to any other basis for granting a continuance, upon motion of the Government, the Commission shall grant a continuance of a proceeding under section 3(c) if the Commission determines the trial cannot proceed without an unacceptable disclosure of classified information or evidence. If the Commission grants a continuance under this subsection, the matter shall be continued until the sensitivity of the classified information or evidence is diminished or alternative evidence is developed.

(d) OPEN PROCEEDINGS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a proceeding before the Commission shall be open to the public.

(2) CLASSIFIED INFORMATION.—Upon motion by the Government, a proceeding before the Commission shall be closed to the public if necessary to avoid disclosure of classified information.

(3) OTHER BASES.—The Commission may order that a hearing be held, in whole or in part, in camera, if the Commission determines—

(A) it is appropriate for the security of a witness or a Government employee or to protect public safety; or

(B) that an open hearing would deter a witness from testifying freely or prevent the witness from testifying at all.

(4) EXTRAJUDICIAL STATEMENTS.—At the discretion of the Commission, the Commission may issue an order limiting extrajudicial statements by the parties.

(e) PROTECTED INFORMATION.—

(1) IN GENERAL.—The Commission may issue protective orders as necessary to safeguard protected information in a proceeding before the Commission.

(2) NOTIFICATION.—As soon as practicable, a party shall notify the Commission of any intent to offer evidence including protected information .

(3) TRIAL RECORD.—

(A) IN GENERAL.—All exhibits admitted as evidence but containing protected information shall be sealed and annexed to the record of trial.

(B) PROTECTED INFORMATION NOT ADMITTED.—Any protected information not admitted as evidence, but reviewed by the Commission in camera and withheld from the defendant's counsel over objection shall be sealed and annexed to the record of the trial, with any associated motions and responses and any materials submitted in support thereof, as additional exhibits.

(f) RECORD OF TRIAL.—

(1) REQUIREMENT FOR RECORD.—A record of each proceeding by the Commission shall be prepared promptly after the conclusion of the trial.

(2) VERBATIM TRANSCRIPT.—The record of trial shall include a verbatim written transcript of all sessions of the trial.

(3) EXHIBITS AND OTHER EVIDENCE.—The record of trial shall also include all exhibits and other real or demonstrative evidence, except that photographs may be substituted for any large written or graphic exhibits and any other real or demonstrative evidence. If a photograph is substituted for an exhibit or other evidence, the Government shall retain the original exhibit or other evidence, respectively, until no further appeal of the results of the trial is authorized.

(4) CLASSIFIED INFORMATION.—In the case of a conviction of a charge on which classified information is admitted as evidence by the Commission, the copy of the record of trial submitted to the Commission shall include the classified information.

SEC. 13. TRIAL PROCEDURES FOR UNPRIVILEGED COMBATANTS.

(a) SPECIALIZED PROCEDURES.—

(1) STANDARD OF PROOF.—All three members of a Commission must agree that the defendant is guilty beyond a reasonable doubt.

(2) EVIDENCE.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the Rules of Mili-

tary Justice shall apply to proceedings under this subsection.

(B) STANDARD.—Evidence is admissible if the Commission determines that the evidence would have probative value to a reasonable person.

(C) CUSTODIAL STATEMENTS.—A statement made by a person who is not a United States person overseas is admissible, although the statement did not comply with the requirements for custodial statements under Miranda v. Arizona, 384 U.S. 436, and subsequent cases.

(3) FORM OF TRIAL.—Any trial under this subsection shall take place before two military officers or attorneys and at least one military judge.

(4) BAD ACTS.—Other bad acts may be considered if they would have fallen within the definition under this Act of either terrorism or terrorist activity and they are deemed to be relevant by the Commission including propensity.

(b) CUSTODY.—The Department of Defense shall retain custody of any person determined by Commission to be unlawful combatants after the person has been either convicted or sentenced in accordance with this Act, unless

the Department of Defense deems otherwise. Decisions made by a Commission in regards to a designee guilt or innocence may be considered by a tribunal when assessing the need to continue the detention of a designee.

SEC. 14. COMMUNICATION WITH PERSONS IN CUSTODY.

An individual detained, indicted, or convicted under this Act shall only be permitted to communicate with the interpreter assigned to the individual, the counsel representing the individual, prison personnel, and any other individual approved by the Secretary of Defense.

SEC. 15. COMMISSION COUNSEL.

(a) IN GENERAL.—A person shall be admitted to practice before the Commission if the person—

(1) is a United States citizen;

(2) has been admitted to the practice of law in a State, district, territory, or possession of the United States, or before a Federal court;

(3) has not been sanctioned or otherwise the subject of disciplinary action by any court, bar, or other competent governmental authority for misconduct;

(4) is eligible for access to information classified at the level of ''secret'' as defined by the Department of Defense; and

(5) signs a written agreement to comply with all applicable regulations or instructions for counsel, including any rules of court for conduct during the course of proceedings.

(b) CONSULTATION WITH COLLEAGUES.—Any person admitted under subsection (a) shall not confer with any colleague who does not have the appropriate clearance.

(c) SECURITY CLEARANCE.—

(1) EXPEDITED CONSIDERATION.—The Secretary of Defense shall ensure that a person seeking to be admitted under subsection (a) is timely processed for the security clearance required for access to materials necessary for providing a defendant with effective assistance of counsel.

(2) COUNSEL INELIGIBLE FOR CLEARANCE.—If the Secretary of Defense determines a person is not eligible for the necessary security clearance, the person shall not be permitted to represent an individual in any proceeding before the Commission. The determination of the Secretary of Defense shall be final and is not subject to appeal to, or other review by, any court of the United States.

(d) TRAVEL EXPENSES.—The Secretary of Defense shall reimburse any person not employed by the Government who is representing an individual before the Com-

mission for travel away from the home or regular place of business of the person in connection with such representation. The rates for the payment of travel expenses under this subsection shall be those authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code.

Will,

This is a draft bill outlining procedures for the detainees being held at Gitmo. We are making changes as we are trying to work with DOD and are implementing their suggestions. I have attached a copy of the bill for your records.

[redacted]

Shaw, Aloma A

Subject:	FW: OASG Staff Meeting
Location:	Conference Room 5710
Start:	Friday, July 15, 2005 10:30 AM
End:	Friday, July 15, 2005 11:30 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Tuesday and Thursday from 5:00 PM to 6:00 PM
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Wiggins, Mike; Kessler, Elizabeth A; Reyes, Luis (SMO); Senger, Jeffrey M; Henke, Tracy (SMO); Swenson, Lily F

-----Original Appointment-----

From:	
Sent:	Monday, June 13, 2005 4:41 PM
To:	McCallum, Robert (SMO); Kessler, Elizabeth A; Senger, Jeffrey M; Reyes, Luis (SMO); Henke, Tracy (SMO); Wiggins, Mike; Gunn, Currie (SMO); Swenson, Lily F; Wiggins, Mike; Gorsuch, Neil M
Cc:	Shaw, Aloma A
Subject:	Updated: OASG Staff Meeting
When:	Friday, July 15, 2005 10:30 AM-11:30 AM (GMT-05:00) Eastern Time (US & Canada).
Where:	Conference Room 5710

Today's meeting rescheduled for 7/15/05 - 10:30 am.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 14, 2005 6:14 PM
To: [redacted] (E-mail)
Subject: [redacted] Issue
Importance: High

Mercer is gone and cmd center is having hard time finding him. I did locate Pat Philbin and he should be calling you directly asap. If I can help further, don't hesitate to call.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Thursday, July 14, 2005 6:36 PM
To: Gorsuch, Neil M
Subject: RE: DIA Issue

Pat called and was very helpful. Your assistance is greatly appreciated.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, July 14, 2005 18:15
To: [redacted] (E-mail)
Subject: [redacted] Issue
Importance: High

Mercer is gone and cmd center is having hard time finding him. I did locate Pat Philbin and he should be calling you directly asap. If I can help further, don't hesitate to call.

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Burgess, Roy

From: Burgess, Roy
Sent: Thursday, July 14, 2005 9:11 PM
To: Gorsuch, Neil M
Subject: Mandatory SMO Computer Security Awareness Training

This is a post-only email, please do not reply!

You have been selected to receive your annual Computer Security Awareness Training (CSAT) to meet the Federal Information Security Management Act (FISMA) requirements. Please click on the link provided. If you have difficulty executing the link or cannot launch the training module, please contact the JMD Help Desk (202-616-7100). Good luck!

You have 30 days in which to complete this training from the time of this notification. You may review this training and take the exam as many times as required to feel comfortable with the course content within the next 30 days.

Click on https://imss.doj.gov:443/csat/training/index.cfm?fuseaction=main&view_mode=intro&User_ID=154530&module_id=147 to begin your SMO CSAT Training training.

Mercer, Bill (ODAG)

Subject:	Accepted: Meeting: Mercer and Gorsuch
Location:	Room 4208 RFK
Start:	Friday, July 15, 2005 3:30 PM
End:	Friday, July 15, 2005 4:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Mercer, Bill (ODAG)

Henderson, Charles V

Subject:	Updated: Meeting: Mercer and Gorsuch
Location:	Room 4208 RFK
Start:	Friday, July 15, 2005 4:00 PM
End:	Friday, July 15, 2005 4:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Henderson, Charles V
Required Attendees:	Gorsuch, Neil M

When: Friday, July 15, 2005 4:00 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 4208 RFK

~~*~*~*~*~*~*~*~*~*

Changing the time of the meeting to 4:00.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 15, 2005 9:40 AM
To: Senger, Jeffrey M
Subject: could you please give me a call?

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Friday, July 15, 2005 9:44 AM
To: Gorsuch, Neil M
Subject: Read: could you please give me a call?

Mercer, Bill (ODAG)

From: Mercer, Bill (ODAG)
Sent: Friday, July 15, 2005 10:08 AM
To: Gorsuch, Neil M
Cc: Henderson, Charles V
Subject: Re: Tentative: Meeting: Mercer and Gorsuch

Sure.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Shaw, Aloma A <Aloma.A.Shaw@SMOJMD.USDOJ.gov>
To: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
Sent: Fri Jul 15 08:23:29 2005
Subject: Tentative: Meeting: Mercer and Gorsuch

Neil has a background investigation at 3:00 that may run over a half hour. Can we schedule this meeting for 4:00?

JMD/SMO Help Desk

From: JMD/SMO Help Desk
Sent: Friday, July 15, 2005 10:16 AM
To: Gorsuch, Neil M
Subject: Case HD0000000078654 has been opened.

The JMD/SMO JCON Help Desk has opened a ticket in your name. Your ticket number is HD0000000078654. If you need further assistance, please call 616-7100.

Summary : User locked out of NT Account. [ngorsuch/jmd0080]

JMD/SMO Help Desk

From: JMD/SMO Help Desk
Sent: Friday, July 15, 2005 10:16 AM
To: Gorsuch, Neil M
Subject: Case HD0000000078654 has been closed.

The JMD/SMO JCON Help Desk has closed your ticket HD0000000078654. If you need further assistance, please call 616-7100.

Shaw, Aloma A

Subject:	Updated: OMB Biweekly w/ Jennifer Newstead
Location:	Room 254 EEOB
Start:	Friday, May 20, 2005 2:30 PM
End:	Friday, May 20, 2005 3:30 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Friday from 2:30 PM to 3:30 PM
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M

When: Occurs every 2 week(s) on Friday effective 5/20/05 from 2:30 PM to 3:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 254 EEOB

~~*~*~*~*~*~*~*~*~*

Addition of Neil Gorsuch

poc: Aloma

Jennifer's secy - Carla [redacted]

Shaw, Aloma A

Subject:	Canceled: OMB Biweekly w/ Jennifer Newstead
Location:	Room 254 EEOB
Start:	Friday, July 15, 2005 2:30 PM
End:	Friday, July 15, 2005 3:30 PM
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Friday from 2:30 PM to 3:30 PM
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Kessler, Elizabeth A; Wiggins, Mike; Gorsuch, Neil M
Importance:	High

When: Friday, July 15, 2005 2:30 PM-3:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 254 EEOB

~~*~*~*~*~*~*~*~*~*

Today's conference call is cancelled.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, July 15, 2005 12:53 PM
To: Gorsuch, Neil M
Subject: Call Jamil Jaffe[redacted]

Calvert, Chris (CIV)

Subject:	Updated: Policy Question Meeting
Location:	3601
Start:	Friday, July 15, 2005 4:30 PM
End:	Friday, July 15, 2005 5:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Calvert, Chris (CIV)
Required Attendees:	Calvert, Chris (CIV); Keisler, Peter D. (CIV); Katsas, Gregory (CIV); Letter, Douglas (CIV); Gorsuch, Neil M; Wiggins, Mike; Meron, Daniel (CIV)Keisler, Peter D. (CIV); Katsas, Gregory (CIV); Letter, Douglas (CIV)

When: Friday, July 15, 2005 4:30 PM-5:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 3601

~~*~*~*~*~*~*~*~*

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 15, 2005 2:28 PM
To: Yanes, Raul
Subject: Re:

Hope you have a great time.

-----Original Message-----
From: Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Bradbury, Steve <Steve.Bradbury@SMOJMD.USDOJ.gov>
CC: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Fri Jul 15 13:52:05 2005
Subject:

I am going to be out all next week on vacation. Courtney will cover for me. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 15, 2005 2:37 PM
To: Agarwal, Asheesh
Subject: RE: hello

I look forward to working together and let's definitely try to grab a bite soon.

-----Original Message-----
From: Agarwal, Asheesh
Sent: Friday, July 15, 2005 2:34 PM
To: Gorsuch, Neil M
Subject: hello

Neil,

Nice meeting you today. Look forward to working with you, and if you have time for lunch sometime, let me know. Have a great weekend.

AA

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, July 15, 2005 3:18 PM
To: Gorsuch, Neil M
Subject: Call [redacted]

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, July 15, 2005 5:25 PM
To: Gorsuch, Neil M
Subject: Phone Call



Wiggins, Mike

From: Wiggins, Mike
Sent: Friday, July 15, 2005 5:44 PM
To: Gorsuch, Neil M
Subject: AG on Ha. secession bill

http://www.townhall.com/columnists/GuestColumns/printMeeseGaziano20050715.shtml

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 15, 2005 5:44 PM
To: Taylor, Jeffrey (OAG)
Subject: RE: It will be a lovely

Have a great time. I'm curious what IPC will be like now - it's been a few years and a new owner since I visited. I'm free for lunch next week Tues and Weds. One of those work for you?

-----Original Message-----
From: Taylor, Jeffrey (OAG)
Sent: Friday, July 15, 2005 5:42 PM
To: Gorsuch, Neil M
Subject: It will be a lovely

long weekend at the Inn at Perry Cabin. Thanks for the help. How does you lunch schedule look for next week?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 15, 2005 5:50 PM
To: Taylor, Jeffrey (OAG)
Subject: RE: It will be a lovely

Noon Weds is fine; you name the spot

-----Original Message-----
From: Taylor, Jeffrey (OAG)
Sent: Friday, July 15, 2005 5:47 PM
To: Gorsuch, Neil M
Subject: RE: It will be a lovely

Wednesday works. Noon? Any place in particular?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 15, 2005 5:44 PM
To: Taylor, Jeffrey (OAG)
Subject: RE: It will be a lovely

Have a great time. I'm curious what IPC will be like now - it's been a few years and a new owner since I visited. I'm free for lunch next week Tues and Weds. One of those work for you?

-----Original Message-----
From: Taylor, Jeffrey (OAG)
Sent: Friday, July 15, 2005 5:42 PM
To: Gorsuch, Neil M
Subject: It will be a lovely

long weekend at the Inn at Perry Cabin. Thanks for the help. How does you lunch schedule look for next week?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 15, 2005 5:56 PM
To: Taylor, Jeffrey (OAG)
Subject: RE: It will be a lovely

good, i will stop by your office circa noon

-----Original Message-----
From: Taylor, Jeffrey (OAG)
Sent: Friday, July 15, 2005 5:53 PM
To: Gorsuch, Neil M
Subject: RE: It will be a lovely

Cosi?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 15, 2005 5:50 PM
To: Taylor, Jeffrey (OAG)
Subject: RE: It will be a lovely

Noon Weds is fine; you name the spot

-----Original Message-----
From: Taylor, Jeffrey (OAG)
Sent: Friday, July 15, 2005 5:47 PM
To: Gorsuch, Neil M
Subject: RE: It will be a lovely

Wednesday works. Noon? Any place in particular?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 15, 2005 5:44 PM
To: Taylor, Jeffrey (OAG)
Subject: RE: It will be a lovely

Have a great time. I'm curious what IPC will be like now - it's been a few years and a new owner since I visited. I'm free for lunch next week Tues and Weds. One of those work for you?

-----Original Message-----
From: Taylor, Jeffrey (OAG)
Sent: Friday, July 15, 2005 5:42 PM
To: Gorsuch, Neil M
Subject: It will be a lovely

long weekend at the Inn at Perry Cabin. Thanks for the help. How does you lunch schedule look for next week?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 15, 2005 6:10 PM
To: Wiggins, Mike
Subject: RE: AG on Ha. secession bill

good stuff

-----Original Message-----
From: Wiggins, Mike
Sent: Friday, July 15, 2005 5:44 PM
To: Gorsuch, Neil M
Subject: AG on Ha. secession bill

http://www.townhall.com/columnists/GuestColumns/printMeeseGaziano20050715.shtml

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 18, 2005 8:32 AM
To: Gorsuch, Neil M
Subject: Return Phone Call

7/15/05 5:57pm [redacted] returned your call
o [redacted]
c [redacted]

Schofield, Regina

From:	Schofield, Regina
Sent:	Monday, July 18, 2005 10:27 AM
To:	Gorsuch, Neil M
Subject:	FW: BJS Release---Federal Tort Trials and Verdicts, 2002-2003
Attachments:	fttv02-03.doc

-----Original Message-----
From: Greenfeld, Larry
Sent: Friday, July 15, 2005 3:17 PM
To: Schofield, Regina; Tzitzon, Nicholas; Daley, Cybele; Segerdahl-Ayers, Nancy; Hart, Sarah V.
Cc: Keith, Rhonda; Zawitz, Marianne; Hester, Tom
Subject: BJS Release---Federal Tort Trials and Verdicts, 2002-2003

Attached is the Q & A for the above-noted BJS report. The AG transmittal will be delivered to OJP's Exec Sec today. Please let me know if you have any questions.

Larry

Federal Tort Trials and Verdicts, 2002-03

Q. What is the significance of this report?

Federal Tort Trials and Verdicts, 2002-03 is released as part of the Bureau of Justice Statistics (BJS) ongoing program to examine statistics on civil justice litigation at the State and Federal levels. This particular report focuses primarily on tort cases terminated by bench or jury trial in U.S. district courts during fiscal years 2002-03 as well as trends in tort cases terminated in U.S. district courts since 1970. Although the vast majority of tort litigation occurs in State courts, it is also important to examine tort trials in the Federal district courts because this litigation affects individuals, corporations, and government officials across the United States and in different countries. In addition, the availability of Federal data from the 1970's allows for an examination of nearly 35 years of tort trial trends in the Federal court system. Tort cases terminated by trial also provide a venue for examining key case outcomes including plaintiff win rates, damage award amounts, and other outcomes related to this type of civil litigation. These types of case outcomes are generally unavailable for the majority of tort cases that settle before or during trial.

Q. What is the scope of this study?

The Bureau of Justice Statistics (BJS) tracked nearly 1,647 tort cases terminated by bench or jury trial in U.S. district courts during fiscal years 2002-03. This report is the third in a series of BJS studies examining tort trials in U.S. district courts. Earlier reports focused on tort trials terminated in U.S. district courts during fiscal years 1994-95 and 1996-97. The study excludes tort cases that were settled, dismissed, or terminated by summary judgment in the Federal district courts.

Q. What does this report say about tort litigation generally in U.S. district courts from 1970 to 2003?

The total number of tort cases – both trials and non-trials – terminated in U.S. district courts has been marked by sharp upward and downward swings throughout the 1990's and early 2000's. Asbestos and non-asbestos product liability cases contributed substantially to the fluctuations in tort caseloads in U.S. district courts during this period.

Q. What does this report tell us about tort bench and jury trials terminated in U.S. district courts from 1970 to 2003?

The number of tort cases terminated by bench or jury trial in U.S. district courts has declined by nearly 80% from its peak of 3,600 trials in 1985. In fiscal year 2003, U.S. district courts terminated fewer than 800 tort cases by trial. The growing use of alternative dispute resolution (ADR) along with the complexity and costs inherent in taking a case to trial have been identified as contributing factors to the decline of tort trials in U.S. district courts.

Q. What does this report say about tort trials terminated in U.S. district courts 2002–03?

Diversity of citizenship was the jurisdictional basis for nearly two–thirds of tort trials terminated in U.S. district courts. Motor vehicle accident, product liability, marine, and medical malpractice were some of the most frequent types of personal injury tort cases concluded by trial in U.S. district courts. Plaintiffs won in about half of all tort trials terminated in U.S. district courts; however, plaintiffs prevailed less frequently in medical malpractice (37%) and product liability (34%) trials.

Q. What were the estimated median damage awards for plaintiffs who prevailed in tort trials terminated in U.S. district courts 2002–03?

Plaintiffs who prevailed at trial received an estimated median damage award of $201,000. In medical malpractice trials, plaintiff winners received a median damage award of $600,000, and in product liability trials, the median damage awards were $350,000.

Q. What are the differences between tort judge and jury trials in U.S. district courts?

Juries decided about 71% of tort cases brought to trial in U.S. district courts, while judges adjudicated the remaining 29%. Plaintiffs prevailed more frequently in judge than in jury tort trials; however, the estimated median damage awards were higher in jury ($244,000) compared to judge ($150,000) trials.

Q. What does this report say about non-asbestos and asbestos product liability trials terminated in U.S. district courts from 1990 to 2003?

Non-asbestos product liability trials have declined by about two-thirds from 279 trials in 1990 to 87 trials in 2003. On average, plaintiffs prevailed in nearly a third of non-asbestos product liability trials during this period. Since 1991, about five asbestos cases per year have been terminated by bench or jury trial in U.S. district courts. Plaintiffs won in nearly 3 out of 4 asbestos trials during this period.

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, July 18, 2005 12:06 PM
To:	McCallum, Robert (SMO); Senger, Jeffrey M
Subject:	FW: BJS Release---Federal Tort Trials and Verdicts, 2002-2003
Attachments:	fttv02-03.doc

This just in from Regina. Some suprising conclusions. I think this raises at least as many questions as it purports to answer.

-----Original Message-----
From: Schofield, Regina
Sent: Monday, July 18, 2005 10:27 AM
To: Gorsuch, Neil M
Subject: FW: BJS Release---Federal Tort Trials and Verdicts, 2002-2003

-----Original Message-----
From: Greenfeld, Larry
Sent: Friday, July 15, 2005 3:17 PM
To: Schofield, Regina; Tzitzon, Nicholas; Daley, Cybele; Segerdahl-Ayers, Nancy; Hart, Sarah V.
Cc: Keith, Rhonda; Zawitz, Marianne; Hester, Tom
Subject: BJS Release---Federal Tort Trials and Verdicts, 2002-2003

Attached is the Q & A for the above-noted BJS report. The AG transmittal will be delivered to OJP's Exec Sec today. Please let me know if you have any questions.

Larry

Federal Tort Trials and Verdicts, 2002-03

Q. What is the significance of this report?

Federal Tort Trials and Verdicts, 2002-03 is released as part of the Bureau of Justice Statistics (BJS) ongoing program to examine statistics on civil justice litigation at the State and Federal levels. This particular report focuses primarily on tort cases terminated by bench or jury trial in U.S. district courts during fiscal years 2002-03 as well as trends in tort cases terminated in U.S. district courts since 1970. Although the vast majority of tort litigation occurs in State courts, it is also important to examine tort trials in the Federal district courts because this litigation affects individuals, corporations, and government officials across the United States and in different countries. In addition, the availability of Federal data from the 1970's allows for an examination of nearly 35 years of tort trial trends in the Federal court system. Tort cases terminated by trial also provide a venue for examining key case outcomes including plaintiff win rates, damage award amounts, and other outcomes related to this type of civil litigation. These types of case outcomes are generally unavailable for the majority of tort cases that settle before or during trial.

Q. What is the scope of this study?

The Bureau of Justice Statistics (BJS) tracked nearly 1,647 tort cases terminated by bench or jury trial in U.S. district courts during fiscal years 2002-03. This report is the third in a series of BJS studies examining tort trials in U.S. district courts. Earlier reports focused on tort trials terminated in U.S. district courts during fiscal years 1994-95 and 1996-97. The study excludes tort cases that were settled, dismissed, or terminated by summary judgment in the Federal district courts.

Q. What does this report say about tort litigation generally in U.S. district courts from 1970 to 2003?

The total number of tort cases – both trials and non-trials – terminated in U.S. district courts has been marked by sharp upward and downward swings throughout the 1990's and early 2000's. Asbestos and non-asbestos product liability cases contributed substantially to the fluctuations in tort caseloads in U.S. district courts during this period.

Q. What does this report tell us about tort bench and jury trials terminated in U.S. district courts from 1970 to 2003?

The number of tort cases terminated by bench or jury trial in U.S. district courts has declined by nearly 80% from its peak of 3,600 trials in 1985. In fiscal year 2003, U.S. district courts terminated fewer than 800 tort cases by trial. The growing use of alternative dispute resolution (ADR) along with the complexity and costs inherent in taking a case to trial have been identified as contributing factors to the decline of tort trials in U.S. district courts.

Q. What does this report say about tort trials terminated in U.S. district courts 2002–03?

Diversity of citizenship was the jurisdictional basis for nearly two–thirds of tort trials terminated in U.S. district courts. Motor vehicle accident, product liability, marine, and medical malpractice were some of the most frequent types of personal injury tort cases concluded by trial in U.S. district courts. Plaintiffs won in about half of all tort trials terminated in U.S. district courts; however, plaintiffs prevailed less frequently in medical malpractice (37%) and product liability (34%) trials.

Q. What were the estimated median damage awards for plaintiffs who prevailed in tort trials terminated in U.S. district courts 2002–03?

Plaintiffs who prevailed at trial received an estimated median damage award of $201,000. In medical malpractice trials, plaintiff winners received a median damage award of $600,000, and in product liability trials, the median damage awards were $350,000.

Q. What are the differences between tort judge and jury trials in U.S. district courts?

Juries decided about 71% of tort cases brought to trial in U.S. district courts, while judges adjudicated the remaining 29%. Plaintiffs prevailed more frequently in judge than in jury tort trials; however, the estimated median damage awards were higher in jury ($244,000) compared to judge ($150,000) trials.

Q. What does this report say about non-asbestos and asbestos product liability trials terminated in U.S. district courts from 1990 to 2003?

Non-asbestos product liability trials have declined by about two-thirds from 279 trials in 1990 to 87 trials in 2003. On average, plaintiffs prevailed in nearly a third of non-asbestos product liability trials during this period. Since 1991, about five asbestos cases per year have been terminated by bench or jury trial in U.S. district courts. Plaintiffs won in nearly 3 out of 4 asbestos trials during this period.

McCallum, Robert (SMO)

From:	McCallum, Robert (SMO)
Sent:	Monday, July 18, 2005 12:19 PM
To:	Henke, Tracy (SMO)
Cc:	Gorsuch, Neil M
Subject:	FW: BJS Release---Federal Tort Trials and Verdicts, 2002-2003
Attachments:	fttv02-03.doc

Tracy: FYI re civil justice stat report Q&As. Robt.
-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 18, 2005 12:06 PM
To: McCallum, Robert (SMO); Senger, Jeffrey M
Subject: FW: BJS Release---Federal Tort Trials and Verdicts, 2002-2003

This just in from Regina. Some suprising conclusions. I think this raises at least as many questions as it purports to answer.

-----Original Message-----
From: Schofield, Regina
Sent: Monday, July 18, 2005 10:27 AM
To: Gorsuch, Neil M
Subject: FW: BJS Release---Federal Tort Trials and Verdicts, 2002-2003

-----Original Message-----
From: Greenfeld, Larry
Sent: Friday, July 15, 2005 3:17 PM
To: Schofield, Regina; Tzitzon, Nicholas; Daley, Cybele; Segerdahl-Ayers, Nancy; Hart, Sarah V.
Cc: Keith, Rhonda; Zawitz, Marianne; Hester, Tom
Subject: BJS Release---Federal Tort Trials and Verdicts, 2002-2003

Attached is the Q & A for the above-noted BJS report. The AG transmittal will be delivered to OJP's Exec Sec today. Please let me know if you have any questions.

Larry

Federal Tort Trials and Verdicts, 2002-03

Q. What is the significance of this report?

Federal Tort Trials and Verdicts, 2002-03 is released as part of the Bureau of Justice Statistics (BJS) ongoing program to examine statistics on civil justice litigation at the State and Federal levels. This particular report focuses primarily on tort cases terminated by bench or jury trial in U.S. district courts during fiscal years 2002-03 as well as trends in tort cases terminated in U.S. district courts since 1970. Although the vast majority of tort litigation occurs in State courts, it is also important to examine tort trials in the Federal district courts because this litigation affects individuals, corporations, and government officials across the United States and in different countries. In addition, the availability of Federal data from the 1970's allows for an examination of nearly 35 years of tort trial trends in the Federal court system. Tort cases terminated by trial also provide a venue for examining key case outcomes including plaintiff win rates, damage award amounts, and other outcomes related to this type of civil litigation. These types of case outcomes are generally unavailable for the majority of tort cases that settle before or during trial.

Q. What is the scope of this study?

The Bureau of Justice Statistics (BJS) tracked nearly 1,647 tort cases terminated by bench or jury trial in U.S. district courts during fiscal years 2002-03. This report is the third in a series of BJS studies examining tort trials in U.S. district courts. Earlier reports focused on tort trials terminated in U.S. district courts during fiscal years 1994-95 and 1996-97. The study excludes tort cases that were settled, dismissed, or terminated by summary judgment in the Federal district courts.

Q. What does this report say about tort litigation generally in U.S. district courts from 1970 to 2003?

The total number of tort cases – both trials and non-trials – terminated in U.S. district courts has been marked by sharp upward and downward swings throughout the 1990's and early 2000's. Asbestos and non-asbestos product liability cases contributed substantially to the fluctuations in tort caseloads in U.S. district courts during this period.

Q. What does this report tell us about tort bench and jury trials terminated in U.S. district courts from 1970 to 2003?

The number of tort cases terminated by bench or jury trial in U.S. district courts has declined by nearly 80% from its peak of 3,600 trials in 1985. In fiscal year 2003, U.S. district courts terminated fewer than 800 tort cases by trial. The growing use of alternative dispute resolution (ADR) along with the complexity and costs inherent in taking a case to trial have been identified as contributing factors to the decline of tort trials in U.S. district courts.

Q. What does this report say about tort trials terminated in U.S. district courts 2002–03?

Diversity of citizenship was the jurisdictional basis for nearly two–thirds of tort trials terminated in U.S. district courts. Motor vehicle accident, product liability, marine, and medical malpractice were some of the most frequent types of personal injury tort cases concluded by trial in U.S. district courts. Plaintiffs won in about half of all tort trials terminated in U.S. district courts; however, plaintiffs prevailed less frequently in medical malpractice (37%) and product liability (34%) trials.

Q. What were the estimated median damage awards for plaintiffs who prevailed in tort trials terminated in U.S. district courts 2002–03?

Plaintiffs who prevailed at trial received an estimated median damage award of $201,000. In medical malpractice trials, plaintiff winners received a median damage award of $600,000, and in product liability trials, the median damage awards were $350,000.

Q. What are the differences between tort judge and jury trials in U.S. district courts?

Juries decided about 71% of tort cases brought to trial in U.S. district courts, while judges adjudicated the remaining 29%. Plaintiffs prevailed more frequently in judge than in jury tort trials; however, the estimated median damage awards were higher in jury ($244,000) compared to judge ($150,000) trials.

Q. What does this report say about non-asbestos and asbestos product liability trials terminated in U.S. district courts from 1990 to 2003?

Non-asbestos product liability trials have declined by about two-thirds from 279 trials in 1990 to 87 trials in 2003. On average, plaintiffs prevailed in nearly a third of non-asbestos product liability trials during this period. Since 1991, about five asbestos cases per year have been terminated by bench or jury trial in U.S. district courts. Plaintiffs won in nearly 3 out of 4 asbestos trials during this period.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 18, 2005 3:00 PM
To: Gorsuch, Neil M
Subject: Wiegmann Email

JWiegmann@nsc.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 18, 2005 3:32 PM
To: Shaw, Aloma A
Subject: RE: Wiegmann Email

Thansk!

-----Original Message-----
From: Shaw, Aloma A
Sent: Monday, July 18, 2005 3:00 PM
To: Gorsuch, Neil M
Subject: Wiegmann Email

JWiegmann@nsc.eop.gov

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Monday, July 18, 2005 4:56 PM
To: Yanes, Raul; Keisler, Peter D. (CIV); Philbin, Patrick (ODAG); Gorsuch, Neil M; Wiggins, Mike; Meron, Daniel (CIV); Nichols, Carl (CIV); [redacted]@dodgc.osd.mil; [redacted]@dodgc.osd.mil; [redacted]@osd.mil; Brett_C._Gerry@who.eop.gov [redacted]@dodgc.osd.mil; [redacted]@dodgc.osd.mil
Subject: Military commissions release
Attachments: tmp.htm

http://www.dod.gov/releases/2005/nr20050718-4063.html
<http://www.dod.gov/releases/2005/nr20050718-4063.html>

http://www.dod.gov/releases/2005/nr20050718-4063.html

Elwood, Courtney

From: Elwood, Courtney
Sent: Tuesday, July 19, 2005 9:55 AM
To: Gorsuch, Neil M
Cc: Yanes, Raul
Subject: FW: Did you alert WH (Kelley) about the release of La Raza?

Neil: You should give Bill a call to give him a head's up about La Raza's release on the 22nd. Greg Katsas has talked to Jenny Brosnahan (an Associate Counsel to the President) about not seeking further review and hence ultimately releasing the opinion. But there has been no discussion with the WH, as far as we know, about the timing of the release. Also, I don't know how much Jenny may have raised the issue with Bill and Harriet.

Let me know when you and Billhave connected.

Thanks.

-----Original Message-----
From: Yanes, Raul
Sent: Tuesday, July 19, 2005 9:25 AM
To: Elwood, Courtney
Subject: Re: Did you alert WH (Kelley) about the release of La Raza?

Pretty sure Greg Katsas has been talking to Jenny Brosnahan.
You should confirm.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Tue Jul 19 09:22:43 2005
Subject: Did you alert WH (Kelley) about the release of La Raza?

AG asked in am mtg.

Sent from my BlackBerry Wireless Handheld

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Tuesday, July 19, 2005 9:59 AM
To: Reyes, Luis (SMO); Gorsuch, Neil M; Kessler, Elizabeth A
Subject: RE: Revised OPR Memo
Attachments: opr memo v3.doc

Here is a revised version that strengthens the paragraph about the confidentiality order and notes that the document review covers materials through June 21, 2005, the date of the request.
Jeff

July 19, 2005

MEMORANDUM

TO: H. Marshall Jarrett
Counsel

FROM: Neil Gorsuch
Principal Deputy Associate Attorney General

SUBJECT: Allegations of Professional Misconduct arising in connection with *United States v. Philip Morris*

Enclosed herewith please find certain materials responsive to the requests outlined in your memorandum of June 21, 2005 to the Associate Attorney General, Robert D. McCallum, Jr.

This production represents the result of a good faith search for materials in the possession of Mr. McCallum that are responsive to your request. Specifically, our search included a review of the physical file Mr. McCallum retains regarding the *United States v. Philip Morris* lawsuit; a search of all e-mails received or sent by Mr. McCallum from February 4, 2005 through June 21, 2005 that were found on his computer hard drive; a good faith examination of other relevant electronic files stored on, or readily accessible from, Mr. McCallum's computer terminal; and a review, using numerous relevant search terms, of all e-mails that were received or sent by Mr. McCallum since October of 2001, and that had been retained on his computer hard drive. In all, we expended approximately 35 hours reviewing and compiling responsive materials.

Please be advised that many of the documents attached hereto are subject to Order No. 512 in *United States v. Philip Morris*, which prohibits their disclosure to outside parties. A copy of this Order has been provided to you, and we understand that relevant members of your office have read it and signed the Confidentiality Acknowledgment attached to it. These documents are also subject to the attorney-client and attorney work product privileges.

I hope the enclosed is of assistance to you in your inquiry. If I can be of further assistance in any way, please do not hesitate to contact me at (202) 514-9500.

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Tuesday, July 19, 2005 10:23 AM
To: Senger, Jeffrey M; Reyes, Luis (SMO); Gorsuch, Neil M
Subject: RE: Revised OPR Memo

I keep finding myself bothered by two phrases, but I defer to all of you. They may not bother anyone else. First, "certain materials responsive to the request" suggests to me that we have other materials responsive to the request that we are not turning over. Second, I'm not sure why we are characterizing our search as a "good faith" search. I'd be inclined to just call it a search and leave it at that. It sounds a little defensive to me.

Also, I suggest modifying the last sentence to something like the following: "If you would like further information concerning our search or if I can be of other assistance, please do not hesitate to contact me at . . ." Since we are not getting into details about what search terms we used, or how the paper search I conducted may have differed from the electronic searches Jeff and Luis conducted, I like the idea of sounding open to providing more information on this.

-----Original Message-----
From: Senger, Jeffrey M
Sent: Tuesday, July 19, 2005 9:59 AM
To: Reyes, Luis (SMO); Gorsuch, Neil M; Kessler, Elizabeth A
Subject: RE: Revised OPR Memo

Here is a revised version that strengthens the paragraph about the confidentiality order and notes that the document review covers materials through June 21, 2005, the date of the request.
Jeff

<< File: opr memo v3.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 19, 2005 11:24 AM
To: Reyes, Luis (SMO)
Subject: RE: Revised OPR Memo

ok. make whatever changes you think appropriate and i'll look at it one more time. when you have a chance, could you stop by so we can talk about the doc production itself?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 19, 2005 11:21 AM
To: Gorsuch, Neil M
Subject: RE: Revised OPR Memo

Neil, I think we can put this to bed shortly. I would lean toward starting off with simply saying "responsive materials", without the word "certain" and closing with an overture of further cooperation. Let me know if you feel strongly against. I will put together a final and we can get this out.

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Tuesday, July 19, 2005 10:23 AM
To: Senger, Jeffrey M; Reyes, Luis (SMO); Gorsuch, Neil M
Subject: RE: Revised OPR Memo

I keep finding myself bothered by two phrases, but I defer to all of you. They may not bother anyone else. First, "certain materials responsive to the request" suggests to me that we have other materials responsive to the request that we are not turning over. Second, I'm not sure why we are characterizing our search as a "good faith" search. I'd be inclined to just call it a search and leave it at that. It sounds a little defensive to me.

Also, I suggest modifying the last sentence to something like the following: "If you would like further information concerning our search or if I can be of other assistance, please do not hesitate to contact me at . . . " Since we are not getting into details about what search terms we used, or how the paper search I conducted may have differed from the electronic searches Jeff and Luis conducted, I like the idea of sounding open to providing more information on this.

-----Original Message-----
From: Senger, Jeffrey M
Sent: Tuesday, July 19, 2005 9:59 AM
To: Reyes, Luis (SMO); Gorsuch, Neil M; Kessler, Elizabeth A
Subject: RE: Revised OPR Memo

Here is a revised version that strengthens the paragraph about the confidentiality order and notes that the document review covers materials through June 21, 2005, the date of the request.
Jeff

<< File: opr memo v3.doc >>

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, July 19, 2005 11:54 AM
To: Gorsuch, Neil M
Subject: Latest Revised OPR Memo
Attachments: OPR MEMO v4.doc

Tell me what you think boss.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, July 19, 2005 11:25 AM
To: Reyes, Luis (SMO)
Subject: RE: Revised OPR Memo

ok. make whatever changes you think appropriate and i'll look at it one more time. when you have a chance, could you stop by so we can talk about the doc production itself?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 19, 2005 11:21 AM
To: Gorsuch, Neil M
Subject: RE: Revised OPR Memo

Neil, I think we can put this to bed shortly. I would lean toward starting off with simply saying "responsive materials", without the word "certain" and closing with an overture of further cooperation. Let me know if you feel strongly against. I will put together a final and we can get this out.

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Tuesday, July 19, 2005 10:23 AM
To: Senger, Jeffrey M; Reyes, Luis (SMO); Gorsuch, Neil M
Subject: RE: Revised OPR Memo

I keep finding myself bothered by two phrases, but I defer to all of you. They may not bother anyone else. First, "certain materials responsive to the request" suggests to me that we have other materials responsive to the request that we are not turning over. Second, I'm not sure why we are characterizing our search as a "good faith" search. I'd be inclined to just call it a search and leave it at that. It sounds a little defensive to me.

Also, I suggest modifying the last sentence to something like the following: "If you would like further information concerning our search or if I can be of other assistance, please do not hesitate to contact me at . . . " Since we are not getting into details about what search terms we used, or how the paper search I conducted may have differed from the electronic searches Jeff and Luis conducted, I like the idea of sounding open to providing more information on this.

-----Original Message-----
From: Senger, Jeffrey M
Sent: Tuesday, July 19, 2005 9:59 AM
To: Reyes, Luis (SMO); Gorsuch, Neil M; Kessler, Elizabeth A
Subject: RE: Revised OPR Memo

Here is a revised version that strengthens the paragraph about the confidentiality order and notes that the document review covers materials through June 21, 2005, the date of the request.

Jeff

<< File: opr memo v3.doc >>

July 19, 2005

MEMORANDUM

TO: H. Marshall Jarrett
Counsel

FROM: Neil Gorsuch
Principal Deputy Associate Attorney General

Luis A. Reyes
Chief of Staff and Deputy Associate Attorney General

SUBJECT: Allegations of Professional Misconduct arising in connection with *United States v. Philip Morris*

Enclosed herewith please find materials responsive to the requests outlined in your memorandum of June 21, 2005 to the Associate Attorney General, Robert D. McCallum, Jr.

This production represents the result of a good faith search for materials in the possession of Mr. McCallum that are responsive to your request. Specifically, our search included a review of the physical file Mr. McCallum retains regarding the *United States v. Philip Morris* lawsuit; a search of all e-mails received or sent by Mr. McCallum from February 4, 2005 through June 21, 2005 that were found on his computer hard drive; a good faith examination of other relevant electronic files stored on, or readily accessible from, Mr. McCallum's computer terminal; and a review, using numerous relevant search terms, of all e-mails that were received or sent by Mr. McCallum since October of 2001, and that had been retained on his computer hard drive. In all, we expended approximately 35 hours reviewing and compiling responsive materials.

Please be advised that many of the documents attached hereto are subject to Order No. 512 in *United States v. Philip Morris*, which prohibits their disclosure to outside parties. A copy of this Order has been provided to you, and we understand that relevant members of your office have read it and signed the Confidentiality Acknowledgment attached to it. These documents are also subject to the attorney-client and attorney work product privileges.

It is our hope that the enclosed is of assistance to you in your inquiry. If we can be of further assistance in any way, please do not hesitate to contact us at (202) 514-9500.

Newton, Cullen (ENRD)

Subject:	Updated: CAIR briefing
Location:	RFK 5706
Start:	Monday, August 8, 2005 3:00 PM
End:	Monday, August 8, 2005 4:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Newton, Cullen (ENRD)
Required Attendees:	Kessler, Elizabeth A; Grishaw, Letitia (ENRD); Vaden, Christopher (ENRD); Rave, Norman (ENRD); McCallum, Robert (SMO); Gorsuch, Neil MKessler, Elizabeth A; Grishaw, Letitia (ENRD); Vaden, Christopher (ENRD); Rave, Norman (ENRD)
Optional Attendees:	Lorenzen, Thomas (ENRD)Lorenzen, Thomas (ENRD)

When: Monday, August 08, 2005 3:00 PM-4:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: RFK 5706

~~*~*~*~*~*~*~*~*~*

POC ENRD: Cullen 4-2701
POC Assoc AG: Currie Gunn 4-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 19, 2005 1:48 PM
To: Reyes, Luis (SMO)
Subject: i see we have an oasg mtg scheduled today, but don't see any pt with robt gone. agree?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 19, 2005 1:52 PM
To: Shaw, Aloma A
Cc: Reyes, Luis (SMO)
Subject: today's 5pm oasg mtg

could you please cancel?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 19, 2005 2:12 PM
To: Elwood, Courtney
Cc: Yanes, Raul
Subject: RE: Did you alert WH (Kelley) about the release of La Raza?

Have had a call in to Bill since this am, but for some reason he seems busy today with other matters... I also placed a recent call to Brett Gerry. Will let you know as soon as I connect with them.

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, July 19, 2005 9:55 AM
To: Gorsuch, Neil M
Cc: Yanes, Raul
Subject: FW: Did you alert WH (Kelley) about the release of La Raza?

Neil: You should give Bill a call to give him a head's up about La Raza's release on the 22nd. Greg Katsas has talked to Jenny Brosnahan (an Associate Counsel to the President) about not seeking further review and hence ultimately releasing the opinion. But there has been no discussion with the WH, as far as we know, about the timing of the release. Also, I don't know how much Jenny may have raised the issue with Bill and Harriet.

Let me know when you and Billhave connected.

Thanks.

-----Original Message-----
From: Yanes, Raul
Sent: Tuesday, July 19, 2005 9:25 AM
To: Elwood, Courtney
Subject: Re: Did you alert WH (Kelley) about the release of La Raza?

Pretty sure Greg Katsas has been talking to Jenny Brosnahan.
You should confirm.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Tue Jul 19 09:22:43 2005

Subject: Did you alert WH (Kelley) about the release of La Raza?

AG asked in am mtg.

Sent from my BlackBerry Wireless Handheld

Wiggins, Mike

From: Wiggins, Mike
Sent: Tuesday, July 19, 2005 2:48 PM
To: Gorsuch, Neil M
Subject: vital stats

http://www.dkosopedia.com/index.php/Edith_Brown_Clement

Burgess, Roy

From: Burgess, Roy
Sent: Tuesday, July 19, 2005 2:55 PM
To: Gorsuch, Neil M
Subject: Successful SMO CSAT Training completion

This is a post-only email, please do not reply!

Neil Gorsuch (Login ID:
Neil.Gorsuch) has achieved a passing score of 90.9091% on the SMO CSAT Training exam.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 19, 2005 3:01 PM
To: Wiggins, Mike
Subject: RE: vital stats

not much there

-----Original Message-----
From: Wiggins, Mike
Sent: Tuesday, July 19, 2005 2:48 PM
To: Gorsuch, Neil M
Subject: vital stats

http://www.dkosopedia.com/index.php/Edith_Brown_Clement

Beach, Andrew

Subject:	Canceled: Component Coordination Meeting
Start:	Monday, July 25, 2005 9:20 AM
End:	Monday, July 25, 2005 9:40 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)
Importance:	High

When: Monday, July 25, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

Beach, Andrew

Subject:	Canceled: Senior Management Meeting
Start:	Monday, July 25, 2005 9:00 AM
End:	Monday, July 25, 2005 9:20 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)
Importance:	High

When: Monday, July 25, 2005 9:00 AM-9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 19, 2005 3:52 PM
To: Schofield, Regina
Subject: RE: BJS Release---Federal Tort Trials and Verdicts, 2002-2003

Thanks for this. Can I get a copy of the full underlying report?
-----Original Message-----
From: Schofield, Regina
Sent: Monday, July 18, 2005 10:27 AM
To: Gorsuch, Neil M
Subject: FW: BJS Release---Federal Tort Trials and Verdicts, 2002-2003

-----Original Message-----
From: Greenfeld, Larry
Sent: Friday, July 15, 2005 3:17 PM
To: Schofield, Regina; Tzitzon, Nicholas; Daley, Cybele; Segerdahl-Ayers, Nancy; Hart, Sarah V.
Cc: Keith, Rhonda; Zawitz, Marianne; Hester, Tom
Subject: BJS Release---Federal Tort Trials and Verdicts, 2002-2003

Attached is the Q & A for the above-noted BJS report. The AG transmittal will be delivered to OJP's Exec Sec today. Please let me know if you have any questions.

Larry

Letter, Douglas (CIV)

From: Letter, Douglas (CIV)
Sent: Tuesday, July 19, 2005 4:29 PM
To: Elwood, Courtney; Gorsuch, Neil M; Keisler, Peter D. (CIV); Katsas, Gregory (CIV); Kopp, Robert (CIV)
Subject: RE [redacted]

Courtney:

This wonderful for the AG to do! Fortunately, [redacted] was released from the hospital a short time ago and should be at home now. I will get that phone number right away for you.

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, July 19, 2005 4:26 PM
To: Letter, Douglas (CIV); Gorsuch, Neil M; Keisler, Peter D. (CIV)
Subject: [redacted]

The AG tried to call [redacted] at the hospital, using a phone number that was given to us yesterday. Unfortunately that number is no longer good. Do any of you have a new number? Can you help us find one?

Sent from my BlackBerry Wireless Handheld

Katsas, Gregory (CIV)

From:	Katsas, Gregory (CIV)
Sent:	Tuesday, July 19, 2005 4:32 PM
To:	Letter, Douglas (CIV); Elwood, Courtney; Gorsuch, Neil M; Keisler, Peter D. (CIV); Kopp, Robert (CIV)
Subject:	RE: [redacted]

[redacted]

-----Original Message-----
From: Letter, Douglas (CIV)
Sent: Tuesday, July 19, 2005 4:29 PM
To: Elwood, Courtney; Gorsuch, Neil M; Keisler, Peter D. (CIV); Katsas, Gregory (CIV); Kopp, Robert (CIV)
Subject: RE: [redacted]

Courtney:

This wonderful for the AG to do! Fortunately [redacted] was released from the hospital a short time [redacted] I will get that phone number right away for you.

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, July 19, 2005 4:26 PM
To: Letter, Douglas (CIV); Gorsuch, Neil M; Keisler, Peter D. (CIV)
Subject: [redacted]

The AG tried to call [redacted] at the hospital, using a phone number that was given to us yesterday. Unfortunately that number is no longer good. Do any of you have a new number? Can you help us find one?

Sent from my BlackBerry Wireless Handheld

Schofield, Regina

From: Schofield, Regina
Sent: Tuesday, July 19, 2005 4:57 PM
To: Gorsuch, Neil M
Subject: RE: BJS Release---Federal Tort Trials and Verdicts, 2002-2003

yes.let me check where it is in the process. would you like to sit in on the "grilling" session where you get to ask the stats team difficult questions and challenge the research methods and findings?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, July 19, 2005 3:56 PM
To: Schofield, Regina
Subject: RE: BJS Release---Federal Tort Trials and Verdicts, 2002-2003

Thanks for this. Can I get a copy of the full underlying report?
-----Original Message-----
From: Schofield, Regina
Sent: Monday, July 18, 2005 10:27 AM
To: Gorsuch, Neil M
Subject: FW: BJS Release---Federal Tort Trials and Verdicts, 2002-2003

-----Original Message-----
From: Greenfeld, Larry
Sent: Friday, July 15, 2005 3:17 PM
To: Schofield, Regina; Tzitzon, Nicholas; Daley, Cybele; Segerdahl-Ayers, Nancy; Hart, Sarah V.
Cc: Keith, Rhonda; Zawitz, Marianne; Hester, Tom
Subject: BJS Release---Federal Tort Trials and Verdicts, 2002-2003

Attached is the Q & A for the above-noted BJS report. The AG transmittal will be delivered to OJP's Exec Sec today. Please let me know if you have any questions.

Larry

Gunn, Currie (SMO)

Subject:	Canceled: Tax Bi-Weekly Meeting
Location:	5710
Start:	Thursday, July 21, 2005 10:00 AM
End:	Thursday, July 21, 2005 11:00 AM
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Thursday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); O'Connor, Eileen J. (AAG/TAX); Fallon, Claire (TAX); Morrison, Richard T. (TAX); Hofer, Patrick F. (TAX); Reyes, Luis (SMO); Gorsuch, Neil M; Cimino, Ronald A. (TAX)
Optional Attendees:	Shaw, Aloma A
Importance:	High

When: Thursday, July 21, 2005 10:00 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Addition of Rod Cimino

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Jeff Senger-OASG, Eileen O'Connor-AAG Tax, Claire Fallon-Tax, Rod Cimino-Tax, Patrick Hoffer-Tax

POC: Currie Gunn x4-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 19, 2005 9:30 PM
To: Gorsuch, Neil M
Subject: Bruce black

Meron, Daniel (CIV)

From: Meron, Daniel (CIV)
Sent: Wednesday, July 20, 2005 9:23 AM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: civil weekly

Robt and Neil,

I have an appointment [redacted] and will not be able to make our weekly meeting.

With apologies,

Dan

Daniel Meron
Principal Deputy Assistant Attorney General
Civil Division
U.S. Department of Justice
RFK Main Justice Bldg.
950 Pennsylvania Ave., N.W.
Room 3605
Washington, D.C. 20530-0001
(202) 353-2793
Fax (202) 514-8071

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 20, 2005 9:28 AM
To: Meron, Daniel (CIV); McCallum, Robert (SMO)
Subject: RE: civil weekly

No worries.

-----Original Message-----
From: Meron, Daniel (CIV)
Sent: Wednesday, July 20, 2005 9:23 AM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: civil weekly

Robt and Neil,

I have an appointment [redacted] and will not be able to make our weekly meeting.

With apologies,

Dan

Daniel Meron
Principal Deputy Assistant Attorney General
Civil Division
U.S. Department of Justice
RFK Main Justice Bldg.
950 Pennsylvania Ave., N.W.
Room 3605
Washington, D.C. 20530-0001
(202) 353-2793
Fax (202) 514-8071

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 20, 2005 9:52 AM
To: [redacted]@georgewbush.com'
Subject: Roberts is a superb choice! And

well done Sunday!

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
e-mail: neil.gorsuch@usdoj.gov

[redacted]@georgewbush.com

From: [redacted]@georgewbush.com
Sent: Wednesday, July 20, 2005 10:03 AM
To: Gorsuch, Neil M
Subject: Re: Roberts is a superb choice! And

Based on great advice!

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted] - Chairman's Office <[redacted]@georgewbush.com>
Sent: Wed Jul 20 09:53:14 2005
Subject: Roberts is a superb choice! And

well done Sunday!

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
e-mail: neil.gorsuch@usdoj.gov

Tyler, Joyce Y (CRT)

Subject:	Mtg re Voting Rights
Location:	Room 5710
Start:	Thursday, July 28, 2005 2:00 PM
End:	Thursday, July 28, 2005 3:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Tyler, Joyce Y (CRT)
Required Attendees:	Gorsuch, Neil M; Shaw, Aloma A; Hillman, Noel; Delp, Leslie; Schlozman, Brad (CRT); Gamble, Nathaniel (CRT); Saull, Bradley (CRT)

When: Thursday, July 28, 2005 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 5710

~~*~*~*~*~*~*~*~*

Bradbury, Steve

From: Bradbury, Steve
Sent: Wednesday, July 20, 2005 12:33 PM
To: Ullyot, Theodore; Sampson, Kyle; Yanes, Raul; Elwood, Courtney; Gorsuch, Neil M; Clement, Paul D; Keisler, Peter D. (CIV); Meron, Daniel (CIV); Katsas, Gregory (CIV); Philbin, Patrick (ODAG); Hertling, Richard; Cohn, Jonathan (CIV); Wiggins, Mike; Brand, Rachel; Williams, Jan
Subject: Howard Nielson

FYI.

-----Original Message-----
From: Bradbury, Steve
Sent: Wednesday, July 20, 2005 12:25 PM
To: OLC_All
Subject: Howard

Because his shield has begun to circulate, I am finally bound to inform everyone officially (though I could not be more reluctant to do so) that Howard will be leaving us in August (exact date yet to be determined). [redacted]. It will be an enormous, impossible-for-me-to-contemplate loss for the Office, but a great new opportunity for Howard and a wonderful new chapter [redacted]. He has been engaged intensively in serving the Government since the very beginning of this Administration, and the time is now best (for him, but alas not for us) for Howard to make the move that he has long wished for. Please join me in wishing him all the best for the future, and, of course, we will arrange a suitable send-off.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 20, 2005 2:10 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: Specter Legislation

Any major differences btwn this and the last draft?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Wednesday, July 20, 2005 7:04 AM
To: Yanes, Raul; Philbin, Patrick (ODAG); Gorsuch, Neil M;
[redacted]@dodgc.osd.mil; [redacted]@dodgc.osd.mil;
Brett_C._Gerry@who.eop.gov
Subject: Fw: Specter Legislation

Not yet filed. Word is that he's waiting to let Graham and McCain go first before countering with this piece.

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted] CIV, OSD-LA <[redacted]@osd.mil>
To: [redacted] CIV, OSD [redacted]@osd.pentagon.mil>; [redacted] CIV,
OSD-LA <[redacted]@osd.mil>; [redacted] OSD-LA
[redacted]@osd.mil>; [redacted] CIV, OSD-POLICY
[redacted]@osd.mil> [redacted] DoD OGC
[redacted]@dodgc.osd.mil>; [redacted] (OARDEC)'
[redacted]@navy.mil> [redacted] OARDEC
[redacted]@navy.mil> [redacted] DoD OGC
[redacted]@dodgc.osd.mil> [redacted] DoD OGC
[redacted]@dodgc.osd.mil> [redacted] DoD OGC <[redacted]@dodgc.osd.mil>;
[redacted] DoD OGC [redacted]@dodgc.osd.mil> [redacted] DoD
OGC [redacted]@dodgc.osd.mil> [redacted] CIV, OSD-OASD-PA
[redacted]@osd.mil>; [redacted] CIV, OSD-POLICY <[redacted]@osd.mil>;
[redacted] JCS VDJS [redacted]@js.pentagon.mil>; [redacted]
[redacted] OSD-CIO [redacted]@osd.mil> [redacted] DoD OGC
[redacted]@dodgc.osd.mil>; [redacted] DoD OGC
[redacted] Peter.B.Owen@usdoj.gov <Peter.B.Owen@usdoj.gov>

[redacted] Peter.B.Owen@usdoj.gov <Peter.B.Owen@usdoj.gov>
Sent: Wed Jul 20 06:33:41 2005
Subject: Specter Legislation

<<Finalfinalbill.doc>> Attached is the final version of Senator Specter's proposed legislation on detainees.

Respectfully,

[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Wednesday, July 20, 2005 2:15 PM
To: Gorsuch, Neil M
Subject: RE: Specter Legislation

Some signficant ones, yes. The one at the bottom of the first page (change tracked) may particularly interest you.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, July 20, 2005 14:12
To: [redacted]@dodgc.osd.mil
Subject: RE: Specter Legislation

Any major differences btwn this and the last draft?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Wednesday, July 20, 2005 7:04 AM
To: Yanes, Raul; Philbin, Patrick (ODAG); Gorsuch, Neil M;
[redacted]@dodgc.osd.mil; [redacted]@dodgc.osd.mil; Brett_C._Gerry@who.eop.gov
Subject: Fw: Specter Legislation

Not yet filed. Word is that he's waiting to let Graham and McCain go first before countering with this piece.

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted] CIV, OSD-LA [redacted]@osd.mil>
To: [redacted] CIV, OSD [redacted]@osd.pentagon.mil>; [redacted] CIV, [redacted]@osd.mil>; [redacted] OSD-LA [redacted]@osd.mil>; [redacted] OSD-POLICY [redacted]@osd.mil>; [redacted] DoD OGC [redacted]@dodgc.osd.mil>; [redacted] (OARDEC)' [redacted]@navy.mil>; [redacted] OARDEC [redacted] DoD OGC

[redacted]@navy.mil>; [redacted] DoD OGC
[redacted]@dodgc.osd.mil>; [redacted] DoD OGC
[redacted]@dodgc.osd.mil> [redacted] DoD OGC [redacted]@dodgc.osd.mil>;
[redacted] DoD OGC [redacted]@dodgc.osd.mil>; [redacted] DoD
[redacted]@dodgc.osd.mil> [redacted] CIV, OSD-OASD-PA
[redacted]@osd.mil>; [redacted] CIV, OSD-POLICY [redacted]@osd.mil>;
[redacted] JCS VDJS [redacted]@js.pentagon.mil>; [redacted]
[redacted] OSD-CIO [redacted]@osd.mil>; [redacted] DoD OGC
[redacted]@dodgc.osd.mil> [redacted] DoD OGC
[redacted]@dodgc.osd.mil>; Peter.B.Owen@usdoj.gov <Peter.B.Owen@usdoj.gov>
Sent: Wed Jul 20 06:33:41 2005
Subject: Specter Legislation

<<Finalfinalbill.doc>> Attached is the final version of Senator Specter's proposed legislation on detainees.

Respectfully,

[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 20, 2005 2:22 PM
To: Bradbury, Steve
Subject: RE: Howard Nielson

Knew this was on the horizon, but I am very sorry to hear that this is a done deal. A grievous loss indeed. NMG

-----Original Message-----
From: Bradbury, Steve
Sent: Wednesday, July 20, 2005 12:33 PM
To: Ullyot, Theodore; Sampson, Kyle; Yanes, Raul; Elwood, Courtney; Gorsuch, Neil M; Clement, Paul D; Keisler, Peter D. (CIV); Meron, Daniel (CIV); Katsas, Gregory (CIV); Philbin, Patrick (ODAG); Hertling, Richard; Cohn, Jonathan (CIV); Wiggins, Mike; Brand, Rachel; Williams, Jan
Subject: Howard Nielson

FYI.

-----Original Message-----
From: Bradbury, Steve
Sent: Wednesday, July 20, 2005 12:25 PM
To: OLC_All
Subject: Howard

Because his shield has begun to circulate, I am finally bound to inform everyone officially (though I could not be more reluctant to do so) that Howard will be leaving us in August (exact date yet to be determined). [redacted] It will be an enormous, impossible-for-me-to-contemplate loss for the Office, but a great new opportunity for Howard and a wonderful new chapter [redacted]. He has been engaged intensively in serving the Government since the very beginning of this Administration, and the time is now best (for him, but alas not for us) for Howard to make the move that he has long wished for. Please join me in wishing him all the best for the future, and, of course, we will arrange a suitable send-off.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 20, 2005 2:28 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: Specter Legislation

Sorry, I opened this using quickview and didn't see the tracked changes. On first glance, seems that most of the problems remain. And the language change at the bottom of the first page simply isn't enough to divest courts of habeas jurisdiction. It remains hortatory rather than instructive. But thanks for passing this along.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Wednesday, July 20, 2005 2:15 PM
To: Gorsuch, Neil M
Subject: RE: Specter Legislation

Some signficant ones, yes. The one at the bottom of the first page (change tracked) may particularly interest you.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, July 20, 2005 14:12
To: [redacted]@dodgc.osd.mil
Subject: RE: Specter Legislation

Any major differences btwn this and the last draft?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Wednesday, July 20, 2005 7:04 AM
To: Yanes, Raul; Philbin, Patrick (ODAG); Gorsuch, Neil M; [redacted]@dodgc.osd.mil; [redacted]@dodgc.osd.mil; Brett_C._Gerry@who.eop.gov
Subject: Fw: Specter Legislation

Not yet filed. Word is that he's waiting to let Graham and McCain go first before countering with this piece.

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted] CIV, OSD-LA [redacted] @osd.mil>
To: [redacted] CIV, OSD [redacted] @osd.pentagon.mil>; [redacted] CIV, [redacted] @osd.mil> [redacted] OSD-LA [redacted] @osd.mil>; [redacted] CIV, OSD-POLICY [redacted] @osd.mil> [redacted] DoD OGC [redacted] @dodgc.osd.mil>; [redacted] OARDEC)' [redacted] @navy.mil>; [redacted] OARDEC [redacted] @navy.mil>; [redacted] DoD OGC [redacted] @dodgc.osd.mil>; [redacted] DoD OGC [redacted] @dodgc.osd.mil>; [redacted] DoD OGC [redacted] @dodgc.osd.mil>; [redacted] DoD OGC [redacted] @dodgc.osd.mil> [redacted] DoD [redacted] @dodgc.osd.mil> [redacted] CIV, OSD-OASD-PA [redacted] @osd.mil> [redacted] CIV, OSD-POLICY [redacted] @osd.mil>; [redacted] JCS VDJS [redacted] @js.pentagon.mil>; [redacted] OSD-CIO [redacted] @osd.mil>; [redacted] DoD OGC [redacted] @dodgc.osd.mil> [redacted] DoD OGC [redacted] @dodgc.osd.mil>; Peter.B.Owen@usdoj.gov <Peter.B.Owen@usdoj.gov>
Sent: Wed Jul 20 06:33:41 2005
Subject: Specter Legislation

<<Finalfinalbill.doc>> Attached is the final version of Senator Specter's proposed legislation on detainees.

Respectfully,

[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 20, 2005 2:34 PM
To: Elwood, Courtney
Subject: RE: Did you alert WH (Kelley) about the release of La Raza?

Bill was hard to reach yesterday (wonder why...). I was speaking with Brett Gerry anyway, though, on another matter and asked him to pass the message about La Raza at an opportune moment. He kindly agreed to do so and to let us know if any follow up is needed.

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, July 19, 2005 9:55 AM
To: Gorsuch, Neil M
Cc: Yanes, Raul
Subject: FW: Did you alert WH (Kelley) about the release of La Raza?

Neil: You should give Bill a call to give him a head's up about La Raza's release on the 22nd. Greg Katsas has talked to Jenny Brosnahan (an Associate Counsel to the President) about not seeking further review and hence ultimately releasing the opinion. But there has been no discussion with the WH, as far as we know, about the timing of the release. Also, I don't know how much Jenny may have raised the issue with Bill and Harriet.

Let me know when you and Billhave connected.

Thanks.

-----Original Message-----
From: Yanes, Raul
Sent: Tuesday, July 19, 2005 9:25 AM
To: Elwood, Courtney
Subject: Re: Did you alert WH (Kelley) about the release of La Raza?

Pretty sure Greg Katsas has been talking to Jenny Brosnahan.
You should confirm.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Tue Jul 19 09:22:43 2005
Subject: Did you alert WH (Kelley) about the release of La Raza?

Subject: Did you alert WH (Kelley) about the release of La Raza?

AG asked in am mtg.

Sent from my BlackBerry Wireless Handheld

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Wednesday, July 20, 2005 2:50 PM
To: Keisler, Peter D. (CIV); Gorsuch, Neil M
Cc: Meron, Daniel (CIV)
Subject: R-Calf/Mad Cow

Judge has cancelled SJ hearing for next week. Wants to see CA9 decision before holding hearing (if any).

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 20, 2005 2:53 PM
To: Nichols, Carl (CIV)
Subject: RE: R-Calf/Mad Cow

Prudent move.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Wednesday, July 20, 2005 2:50 PM
To: Keisler, Peter D. (CIV); Gorsuch, Neil M
Cc: Meron, Daniel (CIV)
Subject: R-Calf/Mad Cow

Judge has cancelled SJ hearing for next week. Wants to see CA9 decision before holding hearing (if any).

Bradbury, Steve

From:	Bradbury, Steve
Sent:	Wednesday, July 20, 2005 2:53 PM
To:	Elwood, Courtney; Brand, Rachel; Hertling, Richard; Seidel, Rebecca; Gorsuch, Neil M
Cc:	Colborn, Paul P
Subject:	RE: Coordination on La Raza release

I forwarded talking points last week. Pls let me know if there's anything further for OLC to do on this. Thx

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, July 20, 2005 2:52 PM
To: Bradbury, Steve; Brand, Rachel; Hertling, Richard; Seidel, Rebecca; Gorsuch, Neil M
Subject: Coordination on La Raza release

In his absence, Raul asked me to follow-up with each of you to make sure we are ready for the La Raza release on Friday. Who prepared talking points? Have they been sent to OPA? Are things coordinated with OLA to ensure that Members receive it before the press?

Just want to make sure the ducks are in order. Thx.

Sent from my BlackBerry Wireless Handheld

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 20, 2005 2:57 PM
To: Elwood, Courtney
Subject: RE: Coordination on La Raza release

If there's anything we can or should be doing here, please let me know; am happy to help in any way. To date, I hadn't been in the loop on this one so don't really know what has or hasn't been done.

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, July 20, 2005 2:52 PM
To: Bradbury, Steve; Brand, Rachel; Hertling, Richard; Seidel, Rebecca; Gorsuch, Neil M
Subject: Coordination on La Raza release

In his absence, Raul asked me to follow-up with each of you to make sure we are ready for the La Raza release on Friday. Who prepared talking points? Have they been sent to OPA? Are things coordinated with OLA to ensure that Members receive it before the press?

Just want to make sure the ducks are in order. Thx.

Sent from my BlackBerry Wireless Handheld

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Wednesday, July 20, 2005 3:13 PM
To: Gorsuch, Neil M
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

[redacted] Maybe we should propose being put up on our webpage? The problem with that is that it would beg the question as to why the other leadership offices don't have their folks up, etc.

As a matter of a principle, though, I am hesitant to let this lie.....

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 12, 2005 3:03 PM
To: Reyes, Luis (SMO); Nowacki, John; Gorsuch, Neil M
Cc: Scolinos, Tasia
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Tasia: Just following up on this. As per our brief conversation Friday afternoon, you mentioned that you wanted to discuss further with an eye towards setting some standards for these type of releases. As the office with departmental jurisdiction over civil litigation, the value of dissemination for us lies in apprising the myriad client agencies that we represent of new personnel in the Associate's office in one fell swoop. Likewise, a release would act to inform all those who interact with the Department, be it the legal community or other, of who the new relevant folks at Justice are, whether it be in the area of Civil, Civil Rights, Tax, ENRD, Anti-Trust, OJP, Bankruptcy, or other. I believe that these were some of the considerations behind putting these releases out in the recent past. (Last one was about a year ago). Please let me and Neil know when you are available to put our heads together discuss and resolve. Thanks as always. --Lou

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, July 08, 2005 6:45 PM
To: Nowacki, John; Gorsuch, Neil M; Swenson, Lily F
Cc: Scolinos, Tasia
Subject: Re: Proposed OASG Press Release (Re: New Deputies)

Just curious, didn't we issue a release for the arrival of the Principal in the Deputy's Office? I believe there is value in announcing for Neil, the new Principal Deputy Associate, who just arrived in June. As to the other two folks on the release, there is a plus factor value, but no need to make exceptions to newly established procedures. Please let me and Neil know what you advise. Thanks

newly established procedures. Please let me and Neil know what you advise. Thanks.

-----Original Message-----
From: Nowacki, John <John.Nowacki@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
CC: Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 18:14:43 2005
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Luis,

I think you're right in that it's too late to put this out; we would have to include something in the release about the date of the appointments. Also, we've standardized our release criteria for all offices and components, and -- while there have been a few exceptions in the past -- we are now issuing releases for component head matters (resignations, for example; appointments are usually announced by the White House) only.

John

From: Scolinos, Tasia
Sent: Friday, July 08, 2005 4:07 PM
To: Nowacki, John
Subject: FW: Proposed OASG Press Release (Re: New Deputies)

can you handle this - thanks

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, July 08, 2005 4:06 PM
To: Scolinos, Tasia; Madden, Kevin
Cc: Gorsuch, Neil M
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Know your swamped [redacted] but please let me know where we stand on this one way or the other. May be close to stale. If you recommend keeping Robert's name out we could change to the AG or the DOJ. Thanks.

<< File: OASG Press Release1.doc >>
-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 29, 2005 6:25 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Tasia, Kevin:
Touching base with you on this. Let me get your thoughts on release or changes so I can get back to the Associate. Thanks as always..
<< File: OASG Press Release1.doc >>

Lou

Luis A. Reyes,
Chief of Staff and Deputy Associate Attorney General Office of the Associate Attorney General United States Department of Justice 950 Pennsylvania Ave. NW Washington, DC 20530 Phone: (202) 514-9500 Fax: (202) 514-0238 Email: Luis.A.Reyes@usdoj.gov

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 15, 2005 8:16 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: Proposed OASG Press Release (Re: New Deputies)

Attached is the proposed release. Query whether we should hold off on this or excise Robert's name from all of this and just do it from the "Department of Justice"?

<< File: OASG Press Release.doc >>

ASSOCIATE ATTORNEY GENERAL ROBERT D. MCCALLUM, JR. ANNOUNCES APPOINTMENT OF NEW DEPUTY ASSOCIATE ATTORNEYS GENERAL

WASHINGTON, D.C. - Associate Attorney General Robert D. McCallum, Jr. announced today the appointment of three new Deputy Associate Attorneys General in the Office of the Associate Attorney General (OASG).
In announcing the new appointments to his office, Associate Attorney General Robert D. McCallum, Jr. said, "Our new Deputy Associate Attorneys General bring considerable practical experience and legal skills of the highest caliber to the Associate Attorney General's Office. We are excited to have them aboard."

Neil M. Gorsuch has been appointed Principal Deputy Associate Attorney General. Prior to his appointment, Mr. Gorsuch was a partner at the Washington firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, where his practice focused on complex trial and appellate litigation, including antitrust and securities matters. Mr. Gorsuch served as a law clerk to the Honorable Byron R. White and the Honorable Anthony M. Kennedy of the U.S. Supreme Court, as well as to the Honorable David B. Sentelle of the U.S. Court of Appeals for the D.C. Circuit. Mr. Gorsuch holds a doctorate in legal philosophy from Oxford, where he was a Marshall scholar; a J.D. from the Harvard Law School, where he studied as a Truman scholar; and a B.A. from Columbia University. Among other items in his new portfolio, Mr. Gorsuch will oversee terrorism-related litigation matters and advise the Associate Attorney General on all issues that reach the office for consideration.

Luis A. Reyes has been appointed Chief of Staff and Deputy Associate Attorney General. From 2003 to 2005, Mr. Reyes served as Counselor to the Assistant Attorney General for the Department's Civil Rights Division. As the Assistant Attorney General's senior legal counsel he was involved in a wide range of litigation, legislative, and policy-related matters. Mr. Reyes was heavily involved in the Department's efforts to combat human trafficking, appearing before state legislative bodies and civil

Department's efforts to combat human trafficking, appearing before state legislative bodies and civil rights groups to speak on the topic. Prior to joining the Civil Rights Division, Mr. Reyes served as Counsel to the Assistant Attorney General for the Civil Division where he advised on administrative and litigation related matters. Mr. Reyes joined the Department of Justice in 2001, after serving as an Assistant Attorney General for the State of Texas for three years under then state Attorney General John Cornyn. Mr. Reyes is a graduate of the University of Texas at Austin, and the University of Texas School of Law. In his new role, Mr. Reyes will work with the Department's Tax Division, the Community Relations Service, and will be involved in internal and organizational issues as assigned by the Associate Attorney General.

Lily Fu Swenson has been appointed Deputy Associate Attorney General. Ms. Swenson joins the OASG from the Washington office of Mayer, Brown, Rowe and Maw LLP where she served as hiring partner and a member of the firm's antitrust and litigation practice groups. Ms. Swenson's practice focused primarily on class action and appellate litigation, including antitrust, securities and professional liability matters. Ms. Swenson graduated from the University of Minnesota School of Law in 1993 and the University of Wisconsin at Madison in 1990. Prior to joining Mayer, Brown, Rowe & Maw, she clerked for the Honorable Michael S. Kanne of the United States Court of Appeals for the Seventh Circuit. In her new post, Ms. Swenson will oversee antitrust as well as commercial, health care fraud and immigration litigation matters.

Bradbury, Steve

From:	Bradbury, Steve
Sent:	Wednesday, July 20, 2005 3:22 PM
To:	Seidel, Rebecca; Elwood, Courtney; Brand, Rachel; Hertling, Richard; Gorsuch, Neil M
Cc:	Colborn, Paul P
Subject:	RE: Coordination on La Raza release
Attachments:	State and Local Assistance (2).doc

Attached are the most recent talking points on this subject, prepared for the DAG in connection with a congressional hearing. These are not specifically styled for OPA purposes, but should give Tasia and OLA what you need. Pls let me know if anything further is required. Thx.

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, July 20, 2005 3:14 PM
To: Bradbury, Steve; Elwood, Courtney; Brand, Rachel; Hertling, Richard; Gorsuch, Neil M
Cc: Colborn, Paul P
Subject: RE: Coordination on La Raza release

thank you for telling me release is Friday - unless I missed an email - CIV never got back to me on that point. We do have cover letters to appropriate Hill offices prepared. I just need to get Will to sign them!

Again - in the craziness that is OLA right now, I may have missed the email with the talking points, Paul, would you please send to me? thank you all.

-----Original Message-----
From: Bradbury, Steve
Sent: Wednesday, July 20, 2005 2:53 PM
To: Elwood, Courtney; Brand, Rachel; Hertling, Richard; Seidel, Rebecca; Gorsuch, Neil M
Cc: Colborn, Paul P
Subject: RE: Coordination on La Raza release

I forwarded talking points last week. Pls let me know if there's anything further for OLC to do on this. Thx

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, July 20, 2005 2:52 PM
To: Bradbury, Steve; Brand, Rachel; Hertling, Richard; Seidel, Rebecca; Gorsuch, Neil M

Subject: Coordination on La Raza release

In his absence, Raul asked me to follow-up with each of you to make sure we are ready for the La Raza release on Friday. Who prepared talking points? Have they been sent to OPA? Are things coordinated with OLA to ensure that Members receive it before the press?

Just want to make sure the ducks are in order. Thx.

Sent from my BlackBerry Wireless Handheld

STATE AND LOCAL ASSISTANCE IN ENFORCING IMMIGRATION LAWS

Issue: As Deputy Attorney General, would you support the utilization of state and local law enforcement resources to enforce immigration laws?

Talking Points:

- Because state and local law enforcement officers may have interaction with illegal immigrants with criminal propensities, I support the Department of Justice's position that these officers have the inherent authority to arrest or detain these aliens based on any violation of immigration laws.

- I am not endorsing the idea of creating separate units in state or local police departments whose sole function would be the enforcement of immigration laws. But I believe that state and local officers who encounter illegal aliens in the course of their normal duties have the authority to arrest or detain aliens who have violated immigration laws, and that by doing so they perform a valuable service to our Nation.

- Any assistance that local law enforcement provides is entirely voluntary. If a state or municipality does not wish to assist in making arrests of immigration law violators, it retains the prerogative to do absolutely nothing.

- The Department of Justice has facilitated this voluntary cooperation by placing the names of certain aliens subject to removal in the FBI's National Crime Information Center (NCIC) database, which is used by virtually every law enforcement agency to ascertain and individual's criminal history and whether an arrest warrant exists for him.

Background:

- On June 6, 2002, the Attorney General announced a policy initiative to place the names of aliens of concern into the FBI's National Crime Information Center (NCIC) database. The legal basis for the initiative was advice from the Office of Legal Counsel in 2002 that States have inherent authority to arrest aliens whose names have been placed in the NCIC because they are removable from the country on the basis of either a civil or criminal violation of immigration law.

- The 2002 OLC opinion withdrew part of a published 1996 opinion that had concluded, on the ground of preemption, that state and local agencies had authority to arrest aliens only for suspected violations of the *criminal* immigration laws, not for civil violations. The published version of the 1996 opinion notes the fact of this partial withdrawal in an editor's note.

- In a Freedom of Information Act case, *National Council of La Raza v. Ashcroft*, Judge Kaplan (S.D.N.Y.) ordered the Department to produce part of the 2002 OLC opinion on the ground that the Department had publicly "adopted" the opinion as the official Justice

Department position in connection with announcing that aliens who violate registration requirements or visa terms will be entered into the NCIC database. The Second Circuit affirmed on May 31, 2005, agreeing with the district court that the Department had publicly adopted and embraced the OLC opinion as official departmental policy.

- Neither court questioned that OLC opinions are subject to the deliberative-process privilege. The district court in fact found that the 2002 OLC opinion at issue met the requirements of the privilege.

- The 2002 OLC opinion has not been published or otherwise released. It therefore remains an internal advice document within the Department at least until the *La Raza* litigation concludes.

- Some have criticized using state and local law enforcement for immigration matters, arguing that this will breed more crime by making illegal immigrants afraid of local police and therefore unwilling to report crime.

- Two states—Oregon and Virginia—and various municipalities have statutes that expressly prohibit their police from arresting violators of immigration laws.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 20, 2005 3:38 PM
To: Reyes, Luis (SMO)
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

let's talk at your convenience. im around

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, July 20, 2005 3:13 PM
To: Gorsuch, Neil M
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

[redacted] Maybe we should propose being put up on our webpage? The problem with that is that it would beg the question as to why the other leadership offices don't have their folks up, etc.

As a matter of a principle, though, I am hesitant to let this lie.....

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 12, 2005 3:03 PM
To: Reyes, Luis (SMO); Nowacki, John; Gorsuch, Neil M
Cc: Scolinos, Tasia
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Tasia: Just following up on this. As per our brief conversation Friday afternoon, you mentioned that you wanted to discuss further with an eye towards setting some standards for these type of releases. As the office with departmental jurisdiction over civil litigation, the value of dissemination for us lies in apprising the myriad client agencies that we represent of new personnel in the Associate's office in one fell swoop. Likewise, a release would act to inform all those who interact with the Department, be it the legal community or other, of who the new relevant folks at Justice are, whether it be in the area of Civil, Civil Rights, Tax, ENRD, Anti-Trust, OJP, Bankruptcy, or other. I believe that these were some of the considerations behind putting these releases out in the recent past. (Last one was about a year ago). Please let me and Neil know when you are available to put our heads together discuss and resolve. Thanks as always. --Lou

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, July 08, 2005 6:45 PM

Sent: Friday, July 08, 2005 6:45 PM
To: Nowacki, John; Gorsuch, Neil M; Swenson, Lily F
Cc: Scolinos, Tasia
Subject: Re: Proposed OASG Press Release (Re: New Deputies)

Just curious, didn't we issue a release for the arrival of the Principal in the Deputy's Office? I believe there is value in announcing for Neil, the new Principal Deputy Associate, who just arrived in June. As to the other two folks on the release, there is a plus factor value, but no need to make exceptions to newly established procedures. Please let me and Neil know what you advise. Thanks.

-----Original Message-----
From: Nowacki, John <John.Nowacki@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
CC: Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 18:14:43 2005
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Luis,

I think you're right in that it's too late to put this out; we would have to include something in the release about the date of the appointments. Also, we've standardized our release criteria for all offices and components, and -- while there have been a few exceptions in the past -- we are now issuing releases for component head matters (resignations, for example; appointments are usually announced by the White House) only.

John

From: Scolinos, Tasia
Sent: Friday, July 08, 2005 4:07 PM
To: Nowacki, John
Subject: FW: Proposed OASG Press Release (Re: New Deputies)

can you handle this - thanks

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, July 08, 2005 4:06 PM
To: Scolinos, Tasia; Madden, Kevin
Cc: Gorsuch, Neil M
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Know your swamped [redacted] but please let me know where we stand on this one way or the other. May be close to stale. If you recommend keeping Robert's name out we could change to the AG or the DOJ. Thanks.

<< File: OASG Press Release1.doc >>
-----Original Message-----

From: Reyes, Luis (SMO)
Sent: Wednesday, June 29, 2005 6:25 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Tasia, Kevin:
Touching base with you on this. Let me get your thoughts on release or changes so I can get back to the Associate. Thanks as always..
<< File: OASG Press Release1.doc >>

Lou

Luis A. Reyes,
Chief of Staff and Deputy Associate Attorney General Office of the Associate Attorney General United States Department of Justice 950 Pennsylvania Ave. NW Washington, DC 20530 Phone: (202) 514-9500 Fax: (202) 514-0238 Email: Luis.A.Reyes@usdoj.gov

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 15, 2005 8:16 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: Proposed OASG Press Release (Re: New Deputies)

Attached is the proposed release. Query whether we should hold off on this or excise Robert's name from all of this and just do it from the "Department of Justice"?

<< File: OASG Press Release.doc >>

ASSOCIATE ATTORNEY GENERAL ROBERT D. MCCALLUM, JR. ANNOUNCES APPOINTMENT OF NEW DEPUTY ASSOCIATE ATTORNEYS GENERAL

WASHINGTON, D.C. - Associate Attorney General Robert D. McCallum, Jr. announced today the appointment of three new Deputy Associate Attorneys General in the Office of the Associate Attorney General (OASG).
In announcing the new appointments to his office, Associate Attorney General Robert D. McCallum, Jr. said, "Our new Deputy Associate Attorneys General bring considerable practical experience and legal skills of the highest caliber to the Associate Attorney General's Office. We are excited to have them aboard."

Neil M. Gorsuch has been appointed Principal Deputy Associate Attorney General. Prior to his appointment, Mr. Gorsuch was a partner at the Washington firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, where his practice focused on complex trial and appellate litigation, including antitrust and securities matters. Mr. Gorsuch served as a law clerk to the Honorable Byron R. White and the Honorable Anthony M. Kennedy of the U.S. Supreme Court, as well as to the Honorable David B. Sentelle of the U.S. Court of Appeals for the D.C. Circuit. Mr. Gorsuch holds a doctorate in legal philosophy from Oxford, where he was a Marshall scholar; a J.D. from the Harvard Law School, where

philosophy from Oxford, where he was a Marshall scholar, a J.D. from the Harvard Law School, where he studied as a Truman scholar; and a B.A. from Columbia University. Among other items in his new portfolio, Mr. Gorsuch will oversee terrorism-related litigation matters and advise the Associate Attorney General on all issues that reach the office for consideration.

Luis A. Reyes has been appointed Chief of Staff and Deputy Associate Attorney General. From 2003 to 2005, Mr. Reyes served as Counselor to the Assistant Attorney General for the Department's Civil Rights Division. As the Assistant Attorney General's senior legal counsel he was involved in a wide range of litigation, legislative, and policy-related matters. Mr. Reyes was heavily involved in the Department's efforts to combat human trafficking, appearing before state legislative bodies and civil rights groups to speak on the topic. Prior to joining the Civil Rights Division, Mr. Reyes served as Counsel to the Assistant Attorney General for the Civil Division where he advised on administrative and litigation related matters. Mr. Reyes joined the Department of Justice in 2001, after serving as an Assistant Attorney General for the State of Texas for three years under then state Attorney General John Cornyn. Mr. Reyes is a graduate of the University of Texas at Austin, and the University of Texas School of Law. In his new role, Mr. Reyes will work with the Department's Tax Division, the Community Relations Service, and will be involved in internal and organizational issues as assigned by the Associate Attorney General.

Lily Fu Swenson has been appointed Deputy Associate Attorney General. Ms. Swenson joins the OASG from the Washington office of Mayer, Brown, Rowe and Maw LLP where she served as hiring partner and a member of the firm's antitrust and litigation practice groups. Ms. Swenson's practice focused primarily on class action and appellate litigation, including antitrust, securities and professional liability matters. Ms. Swenson graduated from the University of Minnesota School of Law in 1993 and the University of Wisconsin at Madison in 1990. Prior to joining Mayer, Brown, Rowe & Maw, she clerked for the Honorable Michael S. Kanne of the United States Court of Appeals for the Seventh Circuit. In her new post, Ms. Swenson will oversee antitrust as well as commercial, health care fraud and immigration litigation matters.

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Wednesday, July 20, 2005 3:41 PM
To: Gorsuch, Neil M
Subject: RE: R-Calf/Mad Cow

yes

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, July 20, 2005 2:53 PM
To: Nichols, Carl (CIV)
Subject: RE: R-Calf/Mad Cow

Prudent move.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Wednesday, July 20, 2005 2:50 PM
To: Keisler, Peter D. (CIV); Gorsuch, Neil M
Cc: Meron, Daniel (CIV)
Subject: R-Calf/Mad Cow

Judge has cancelled SJ hearing for next week. Wants to see CA9 decision before holding hearing (if any).

Gunn, Currie (SMO)

Subject:	Bi-weekly OJP Meeting
Location:	Main Room 5710
Start:	Tuesday, August 02, 2005 2:00 PM
End:	Tuesday, August 02, 2005 3:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Tuesday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Henke, Tracy (SMO); Schofield, Regina; Tzitzon, Nicholas; Daley, Cybele; Gorsuch, Neil M
Optional Attendees:	Stokely, Tangent

When: Occurs every 2 week(s) on Tuesday effective 8/2/05 from 2:00 PM to 3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

~~*~*~*~*~*~*~*~*~*

Attendees: ASG Robert McCallum, Jr., Tracy Henke-OASG, Neil Gorsuch-OASG, Regina Schofield-AAG-OJP, Nicholas Tziton-OJP, Cybele Daley-OJP

POC: Currie Gunn x4-9500
OJP POC: Tangent Stokely x7-0571

Gunn, Currie (SMO)

Subject:	Summons Matter
Location:	Main Room 5710
Start:	Monday, July 25, 2005 10:30 AM
End:	Monday, July 25, 2005 11:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Reyes, Luis (SMO); O'Connor, Eileen J. (AAG/TAX); Gorsuch, Neil M

When: Monday, July 25, 2005 10:30 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

~~*~*~*~*~*~*~*~*~*

Attendees: ASG Robert McCallum, Jr., Neil Gorsuch-OASG, Luis Reyes-OASG, Eileen O'Connor-Tax

POC: Currie Gunn x4-9500

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Wednesday, July 20, 2005 8:23 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: FYI --- NDAA Bill Up Soon ...
Attachments: tmp.htm

Bottom half of article discusses detainee legislation.

> -----Original Message-----
> From: [redacted] DoD OGC
> Sent: Wednesday, July 20, 2005 13:58
> To: [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD
> OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted]
> [redacted] DoD OGC
> Cc: [redacted] DoD OGC; [redacted] DoD OGC
> Subject: FYI --- NDAA Bill Up Soon ...
>
>
> CQ TODAY
> July 20, 2005 - 1:36 p.m.
> Defense Authorization Bill Next Up in Senate
> By Anne Plummer and Jonathan Allen, CQ Staff > The fiscal 2006 defense authorization bill is expected to reach the Senate > floor as early as Wednesday afternoon, according to a senior leadership > aide.
> The decision to proceed with the measure halted speculation that Majority > Leader Bill Frist, R-Tenn., would block consideration to stave off a > potentially bitter fight among Republicans on the rights of enemy > combatants and base closures.
> Frist's green light for the bill (S 1042 > <javascript:simplePopup('displaybillcard.do?billNumber=S1042&congress=109' > ,'billCard',680,430);> - S Rept 109-69) means that the measure would be > called up as soon as the Senate finishes work on the fiscal 2006 Foreign > Operations bill (HR 3057 > <javascript:simplePopup('displaybillcard.do?billNumber=HR3057&congress=109
> ','billCard',680,430);>).
> A spokesman for Frist said there is no telling how long debate might last, > leaving open the possibility the bill might not be finished before the > August recess begins at the end of next week.
> The status of the defense authorization bill had been in flux this week as > it became clear several contentious amendments are likely to be offered to > the measure.
> Armed Services Committee Chairman John W. Warner, R-Va., has been drafting > legislation that would outline the legal rights of military detainees and > codify the interrogation procedures that could be used. Warner, who is > working with Republican Sens. John McCain of Arizona and Lindsey Graham of > South Carolina, said he thinks Congress should step in to clarify how the > military should handle detainees.
> Other Republicans remain opposed to that approach, contending that no new > laws are needed and that the Bush administration cannot be blamed for > allegations of abuse at military prisons.
> While Warner said he is not sure whether his detainee legislation would be > done in time to offer it

as an amendment to the defense authorization > bill, the topic remains a likely one for floor debate. McCain, for > example, said he plans to offer his own detainee proposal. And Carl Levin > of Michigan, the top Democrat on the Armed Services Committee, said he > planned to introduce an amendment that would call for an independent > commission to investigate the Bush administration's policy and the abuse > allegations.
> As though in a response to the amendments to come, the Senate Republican > Policy Committee, chaired by Jon Kyl, R-Ariz., on Wednesday issued a > "policy paper" with talking points that defended Bush's treatment of > detainees at the military prison at Guantánamo Bay in Cuba.
> Also likely to spur debate among senators is the upcoming round of > military base closures. Viewed by some lawmakers as a necessary - albeit > painful - cost-cutting move, the Base Realignment and Closure process is > seen by others as misguided. Amendments to delay or block the BRAC review > were considered likely.
> Source: CQ Today
> Round-the-clock coverage of news from Capitol Hill.
> © 2005 Congressional Quarterly Inc. All Rights Reserved.
>
> [redacted]
> [redacted] > 1300 Defense Pentagon, Pentagon [redacted] > Washington, DC 20301 > [redacted]
>
> CAUTION: This message may contain information protected by the > attorney-client, attorney work product, deliberative process, > or other privilege. Do not disseminate without the approval of the DoD > Office of General Counsel.
>

Bottom half of article discusses detainee legislation.

-----Original Message-----
From: [redacted] DoD OGC
Sent: Wednesday, July 20, 2005 13:58
To: [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC
Cc: [redacted] DoD OGC; [redacted] DoD OGC
Subject: FYI --- NDAA Bill Up Soon ...

CQ TODAY
July 20, 2005 - 1:36 p.m.

Defense Authorization Bill Next Up in Senate

By Anne Plummer and Jonathan Allen, CQ Staff

The fiscal 2006 defense authorization bill is expected to reach the Senate floor as early as Wednesday afternoon, according to a senior leadership aide.

The decision to proceed with the measure halted speculation that Majority Leader Bill Frist, R-Tenn., would block consideration to stave off a potentially bitter fight among Republicans on the rights of enemy combatants and base closures.

Frist's green light for the bill (S 1042 - S Rept 109-69) means that the measure would be called up as soon as the Senate finishes work on the fiscal 2006 Foreign Operations bill (HR 3057).

A spokesman for Frist said there is no telling how long debate might last, leaving open the possibility the bill might not be finished before the August recess begins at the end of next week.

The status of the defense authorization bill had been in flux this week as it became clear several contentious amendments are likely to be offered to the measure.

Armed Services Committee Chairman John W. Warner, R-Va., has been drafting legislation that would outline the legal rights of military detainees and codify the interrogation procedures that could be used. Warner, who is working with Republican Sens. John McCain of Arizona and Lindsey Graham of South Carolina, said he thinks Congress should step in to clarify how the military should handle detainees.

Other Republicans remain opposed to that approach, contending that no new laws are needed and that the Bush administration cannot be blamed for allegations of abuse at military prisons.

While Warner said he is not sure whether his detainee legislation would be done in time to offer it as an amendment to the defense authorization bill, the topic remains a likely one for floor debate. McCain, for example, said he plans to offer his own detainee proposal. And Carl Levin of Michigan, the top Democrat on the Armed Services Committee, said he planned to introduce an amendment that would call for an independent commission to investigate the Bush administration's policy and the abuse allegations.

As though in a response to the amendments to come, the Senate Republican Policy Committee, chaired by Jon Kyl, R-Ariz., on Wednesday issued a "policy paper" with talking points that defended Bush's treatment of detainees at the military prison at Guantánamo Bay in Cuba.

Also likely to spur debate among senators is the upcoming round of military base closures. Viewed by some lawmakers as a necessary - albeit painful - cost-cutting move, the Base Realignment and Closure process is seen by others as misguided. Amendments to delay or block the BRAC review were considered likely.

Source: **CQ Today**
Round-the-clock coverage of news from Capitol Hill.
© 2005 Congressional Quarterly Inc. All Rights Reserved.

[redacted]
[redacted]
[redacted]
1300 Defense Pentagon, Pentagon[redacted]
Washington, DC 20301
[redacted]

CAUTION: This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without the approval of the DoD Office of General Counsel.

Davis, John S (ODAG)

From: Davis, John S (ODAG)
Sent: Wednesday, July 20, 2005 8:49 PM
To: Taylor, Wendell L; Burton, Dawn (ODAG)
Cc: Mercer, Bill (ODAG); Gorsuch, Neil M
Subject: RE: appendix forms for Fed. Rules of Civ. Pro.

I have left in my out box with a note to Wendell. I would send these right away to Peter Keisler for review; another good contact in Civil Division re Rules is Elizabeth "Betsy" Shapiro, who attended the Standing Committee meeting in Boston in June. Note the 8/1/05 response date. This should not be particularly controversial.

John

-----Original Message-----
From: Taylor, Wendell L
Sent: Wednesday, July 20, 2005 2:51 PM
To: Davis, John S (ODAG)
Subject: RE: appendix forms for Fed. Rules of Civ. Pro.

I think you handle Rules for ODAG, correct? I took the liberty of reviewing the appendix and putting it in your inbox. Let me know if it should go elswhere. Thanks.

-----Original Message-----
From: Burton, Dawn (ODAG)
Sent: Wednesday, July 20, 2005 2:29 PM
To: Davis, John S (ODAG); Taylor, Wendell L
Subject: appendix forms for Fed. Rules of Civ. Pro.

We just rec'd revised appendix forms for the Fed Rules from the AOUSC to the Standing Rules Committee members. Who should this go to? Should anyone in ODAG review, or should this go to the Associate first, Civil, etc.?

thanks, dawn.

Dawn M. Burton
Counsel to the Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
phone: (202) 305-0091
fax: (202) 514-6897

Taylor, Wendell L

From: Taylor, Wendell L
Sent: Thursday, July 21, 2005 7:24 AM
To: Davis, John S (ODAG); Burton, Dawn (ODAG)
Cc: Mercer, Bill (ODAG); Gorsuch, Neil M
Subject: RE: appendix forms for Fed. Rules of Civ. Pro.

Thanks John. I misread the original email and was thinking that Civ and the Associate's office were already getting copies. I'll lash up with Peter.

-----Original Message-----
From: Davis, John S (ODAG)
Sent: Wednesday, July 20, 2005 8:49 PM
To: Taylor, Wendell L; Burton, Dawn (ODAG)
Cc: Mercer, Bill (ODAG); Gorsuch, Neil M
Subject: RE: appendix forms for Fed. Rules of Civ. Pro.

I have left in my out box with a note to Wendell. I would send these right away to Peter Keisler for review; another good contact in Civil Division re Rules is Elizabeth "Betsy" Shapiro, who attended the Standing Committee meeting in Boston in June. Note the 8/1/05 response date. This should not be particularly controversial.

John

-----Original Message-----
From: Taylor, Wendell L
Sent: Wednesday, July 20, 2005 2:51 PM
To: Davis, John S (ODAG)
Subject: RE: appendix forms for Fed. Rules of Civ. Pro.

I think you handle Rules for ODAG, correct? I took the liberty of reviewing the appendix and putting it in your inbox. Let me know if it should go elswhere. Thanks.

-----Original Message-----
From: Burton, Dawn (ODAG)
Sent: Wednesday, July 20, 2005 2:29 PM
To: Davis, John S (ODAG); Taylor, Wendell L
Subject: appendix forms for Fed. Rules of Civ. Pro.

We just rec'd revised appendix forms for the Fed Rules from the AOUSC to the Standing Rules Committee members. Who should this go to? Should anyone in ODAG review, or should this go to the Associate first, Civil, etc.?

thanks, dawn.

Dawn M. Burton
Counsel to the Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
phone: (202) 305-0091
fax: (202) 514-6897

Davis, John S (ODAG)

From: Davis, John S (ODAG)
Sent: Thursday, July 21, 2005 8:58 AM
To: Yanes, Raul
Cc: Gorsuch, Neil M; Mercer, Bill (ODAG)
Subject: Privacy and Privacy Impact Assessments

Raul, we have met with the DAG and he agrees that some delegation to the components of the authority to approve Privacy Impact Assessments is appropriate. Can you please schedule a meeting with the AG, if possible for the week of August 8 (I am leaving today on an extravagantly long vacation), if that is the appropriate next step? The meeting should cover at the least the subject of PIA delegation, and should include Paul Corts, Van Hitch, Stu Frisch, and Dan Metcalfe or Dick Huff from OIP, as well as Neil Gorsuch, yours truly, and Bill Mercer. We should also do a briefing on the Department's current privacy set up and the issues we face, which could be part of the PIA meeting or conducted during a separate meeting soon afterwards.

Thanks.

John

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 21, 2005 9:34 AM
To: Davis, John S (ODAG)
Subject: RE: appendix forms for Fed. Rules of Civ. Pro.

Would you mind sending a copy to this shop?

-----Original Message-----
From: Davis, John S (ODAG)
Sent: Wednesday, July 20, 2005 8:49 PM
To: Taylor, Wendell L; Burton, Dawn (ODAG)
Cc: Mercer, Bill (ODAG); Gorsuch, Neil M
Subject: RE: appendix forms for Fed. Rules of Civ. Pro.

I have left in my out box with a note to Wendell. I would send these right away to Peter Keisler for review; another good contact in Civil Division re Rules is Elizabeth "Betsy" Shapiro, who attended the Standing Committee meeting in Boston in June. Note the 8/1/05 response date. This should not be particularly controversial.

John

-----Original Message-----
From: Taylor, Wendell L
Sent: Wednesday, July 20, 2005 2:51 PM
To: Davis, John S (ODAG)
Subject: RE: appendix forms for Fed. Rules of Civ. Pro.

I think you handle Rules for ODAG, correct? I took the liberty of reviewing the appendix and putting it in your inbox. Let me know if it should go elswhere. Thanks.

-----Original Message-----
From: Burton, Dawn (ODAG)
Sent: Wednesday, July 20, 2005 2:29 PM
To: Davis, John S (ODAG); Taylor, Wendell L
Subject: appendix forms for Fed. Rules of Civ. Pro.

We just rec'd revised appendix forms for the Fed Rules from the AOUSC to the Standing Rules Committee members. Who should this go to? Should anyone in ODAG review, or should this go to the Associate first, Civil, etc.?

thanks, dawn.

Dawn M. Burton
Counsel to the Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
phone: (202) 305-0091
fax: (202) 514-6897

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 21, 2005 9:40 AM
To: Davis, John S (ODAG); Yanes, Raul; Swenson, Lily F
Cc: Mercer, Bill (ODAG)
Subject: RE: Privacy and Privacy Impact Assessments

The PIA delegation issue is relatively straightforward but if we plan to discuss privacy issues writ large with the AG, I think we first badly need to get our ducks in a row regarding what we are recommending. I would hope that some small group could get together for discussions before inviting many others. I'd recommend a meeting just as soon as John and Raul are back in town; Lily is, I believe, trying to set something up.

-----Original Message-----
From: Davis, John S (ODAG)
Sent: Thursday, July 21, 2005 8:58 AM
To: Yanes, Raul
Cc: Gorsuch, Neil M; Mercer, Bill (ODAG)
Subject: Privacy and Privacy Impact Assessments

Raul, we have met with the DAG and he agrees that some delegation to the components of the authority to approve Privacy Impact Assessments is appropriate. Can you please schedule a meeting with the AG, if possible for the week of August 8 (I am leaving today on an extravagantly long vacation), if that is the appropriate next step? The meeting should cover at the least the subject of PIA delegation, and should include Paul Corts, Van Hitch, Stu Frisch, and Dan Metcalfe or Dick Huff from OIP, as well as Neil Gorsuch, yours truly, and Bill Mercer. We should also do a briefing on the Department's current privacy set up and the issues we face, which could be part of the PIA meeting or conducted during a separate meeting soon afterwards.

Thanks.

John

Full Name: [redacted]
Last Name: [redacted]
First Name: [redacted]

Business Address: [redacted]

Business: [redacted]
Mobile: [redacted]

E-mail: [redacted]
E-mail Display As: [redacted]

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 21, 2005 9:52 AM
To: [redacted]@dodgc.osd.mil'
Subject: RE: FYI --- NDAA Bill Up Soon ...

thanks for heads up

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Wednesday, July 20, 2005 8:23 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: FYI --- NDAA Bill Up Soon ...

Bottom half of article discusses detainee legislation.

> -----Original Message-----
> From: [redacted]DoD OGC
> Sent: Wednesday, July 20, 2005 13:58
> To: [redacted]DoD OGC; [redacted]DoD OGC; [redacted]DoD OGC; [redacted]DoD OGC; [redacted]DoD OGC; [redacted]DoD OGC; [redacted]DoD OGC; [redacted]DoD OGC
> Cc: [redacted]DoD OGC; [redacted]DoD OGC
> Subject: FYI --- NDAA Bill Up Soon ...
>
>
> CQ TODAY
> July 20, 2005 - 1:36 p.m.
> Defense Authorization Bill Next Up in Senate
> By Anne Plummer and Jonathan Allen, CQ Staff > The fiscal 2006 defense authorization bill is expected to reach the Senate > floor as early as Wednesday afternoon, according to a senior leadership > aide.
> The decision to proceed with the measure halted speculation that Majority > Leader Bill Frist, R-Tenn., would block consideration to stave off a > potentially bitter fight among Republicans on the rights of enemy > combatants and base closures.
> Frist's green light for the bill (S 1042 > <javascript:simplePopup('displaybillcard.do?billNumber=S1042&congress=109' > ,'billCard',680,430);> - S Rept 109-69) means that the measure would be > called up as soon as the Senate finishes work on the fiscal 2006 Foreign > Operations bill (HR 3057 > <javascript:simplePopup('displaybillcard.do?billNumber=HR3057&congress=109
> ','billCard',680,430);>).
> A spokesman for Frist said there is no telling how long debate might last, > leaving open the possibility the bill might not be finished before the > August recess begins at the end of next week.
> The status of the defense authorization bill had been in flux this week as > it became clear several contentious amendments are likely to be offered to > the measure.
> Armed Services Committee Chairman John W. Warner, R-Va., has been drafting > legislation that

> Armed Services Committee Chairman John W. Warner, R-Va., has been drafting > legislation that would outline the legal rights of military detainees and > codify the interrogation procedures that could be used. Warner, who is > working with Republican Sens. John McCain of Arizona and Lindsey Graham of > South Carolina, said he thinks Congress should step in to clarify how the > military should handle detainees.
> Other Republicans remain opposed to that approach, contending that no new > laws are needed and that the Bush administration cannot be blamed for > allegations of abuse at military prisons.
> While Warner said he is not sure whether his detainee legislation would be > done in time to offer it as an amendment to the defense authorization > bill, the topic remains a likely one for floor debate. McCain, for > example, said he plans to offer his own detainee proposal. And Carl Levin > of Michigan, the top Democrat on the Armed Services Committee, said he > planned to introduce an amendment that would call for an independent > commission to investigate the Bush administration's policy and the abuse > allegations.
> As though in a response to the amendments to come, the Senate Republican > Policy Committee, chaired by Jon Kyl, R-Ariz., on Wednesday issued a > "policy paper" with talking points that defended Bush's treatment of > detainees at the military prison at Guantánamo Bay in Cuba.
> Also likely to spur debate among senators is the upcoming round of > military base closures. Viewed by some lawmakers as a necessary - albeit > painful - cost-cutting move, the Base Realignment and Closure process is > seen by others as misguided. Amendments to delay or block the BRAC review > were considered likely.
> Source: CQ Today
> Round-the-clock coverage of news from Capitol Hill.
> © 2005 Congressional Quarterly Inc. All Rights Reserved.
>
> [redacted]
> [redacted] > 1300 Defense Pentagon, Pentagon [redacted] >
Washington, DC 20301 > [redacted]
>
> CAUTION: This message may contain information protected by the > attorney-client, attorney work product, deliberative process, > or other privilege. Do not disseminate without the approval of the DoD > Office of General Counsel.
>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 21, 2005 9:53 AM
To: Elwood, Courtney; Yanes, Raul
Subject: FW: FYI --- NDAA Bill Up Soon ...
Attachments: tmp.htm

FYI

-----Original Message-----
From [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Wednesday, July 20, 2005 8:23 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: FYI --- NDAA Bill Up Soon ...

Bottom half of article discusses detainee legislation.

> -----Original Message-----
> From: [redacted] DoD OGC
> Sent: Wednesday, July 20, 2005 13:58
> To: [redacted] DoD OGC; [redacted] DoD OGC; [redacted]
> [redacted] DoD OGC; [redacted] DoD OGC [redacted] DoD
> OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted]
> [redacted] DoD OGC
> Cc: [redacted] DoD OGC; [redacted] DoD OGC
> Subject: FYI --- NDAA Bill Up Soon ...
>
>
> CQ TODAY
> July 20, 2005 - 1:36 p.m.
> Defense Authorization Bill Next Up in Senate
> By Anne Plummer and Jonathan Allen, CQ Staff > The fiscal 2006 defense authorization bill is expected to reach the Senate > floor as early as Wednesday afternoon, according to a senior leadership > aide.
> The decision to proceed with the measure halted speculation that Majority > Leader Bill Frist, R-Tenn., would block consideration to stave off a > potentially bitter fight among Republicans on the rights of enemy > combatants and base closures.
> Frist's green light for the bill (S 1042 > <javascript:simplePopup('displaybillcard.do?billNumber=S1042&congress=109' > ,'billCard',680,430);> - S Rept 109-69) means that the measure would be > called up as soon as the Senate finishes work on the fiscal 2006 Foreign > Operations bill (HR 3057 > <javascript:simplePopup('displaybillcard.do?billNumber=HR3057&congress=109
> ','billCard',680,430);>).
> A spokesman for Frist said there is no telling how long debate might last, > leaving open the possibility the bill might not be finished before the > August recess begins at the end of next week.
> The status of the defense authorization bill had been in flux this week as > it became clear several

contentious amendments are likely to be offered to > the measure.
> Armed Services Committee Chairman John W. Warner, R-Va., has been drafting > legislation that would outline the legal rights of military detainees and > codify the interrogation procedures that could be used. Warner, who is > working with Republican Sens. John McCain of Arizona and Lindsey Graham of > South Carolina, said he thinks Congress should step in to clarify how the > military should handle detainees.
> Other Republicans remain opposed to that approach, contending that no new > laws are needed and that the Bush administration cannot be blamed for > allegations of abuse at military prisons.
> While Warner said he is not sure whether his detainee legislation would be > done in time to offer it as an amendment to the defense authorization > bill, the topic remains a likely one for floor debate. McCain, for > example, said he plans to offer his own detainee proposal. And Carl Levin > of Michigan, the top Democrat on the Armed Services Committee, said he > planned to introduce an amendment that would call for an independent > commission to investigate the Bush administration's policy and the abuse > allegations.
> As though in a response to the amendments to come, the Senate Republican > Policy Committee, chaired by Jon Kyl, R-Ariz., on Wednesday issued a > "policy paper" with talking points that defended Bush's treatment of > detainees at the military prison at Guantánamo Bay in Cuba.
> Also likely to spur debate among senators is the upcoming round of > military base closures. Viewed by some lawmakers as a necessary - albeit > painful - cost-cutting move, the Base Realignment and Closure process is > seen by others as misguided. Amendments to delay or block the BRAC review > were considered likely.
> Source: CQ Today
> Round-the-clock coverage of news from Capitol Hill.
> © 2005 Congressional Quarterly Inc. All Rights Reserved.
>
> [redacted]
>
> [redacted] > 1300 Defense Pentagon, Pentagon [redacted] Washington, DC 20301 > [redacted]
>
> CAUTION: This message may contain information protected by the > attorney-client, attorney work product, deliberative process, > or other privilege. Do not disseminate without the approval of the DoD > Office of General Counsel.
>

Bottom half of article discusses detainee legislation.

-----Original Message-----

From: Fucci, Michael, Mr, DoD OGC

Sent: Wednesday, July 20, 2005 13:58

To: Van Ness, James, Mr, DoD OGC; Allen, Charles, Mr, DoD OGC; Castle, Scott, Mr, DoD OGC; Epstein, Stephen, Mr, DoD OGC; Jimenez, Frank, Mr, DoD OGC; Koffsky, Paul, Mr, DoD OGC; Larsen, Douglas, Mr, DoD OGC; Smith, John, Mr, DoD OGC

Cc: Dell'Orto, Dan, Mr, DoD OGC; Haynes, WJ, Hon, DoD OGC

Subject: FYI --- NDAA Bill Up Soon ...

CQ TODAY
July 20, 2005 - 1:36 p.m.

Defense Authorization Bill Next Up in Senate

By Anne Plummer and Jonathan Allen, CQ Staff

The fiscal 2006 defense authorization bill is expected to reach the Senate floor as early as Wednesday afternoon, according to a senior leadership aide.

The decision to proceed with the measure halted speculation that Majority Leader Bill Frist, R-Tenn., would block consideration to stave off a potentially bitter fight among Republicans on the rights of enemy combatants and base closures.

Frist's green light for the bill (S 1042 - S Rept 109-69) means that the measure would be called up as soon as the Senate finishes work on the fiscal 2006 Foreign Operations bill (HR 3057).

A spokesman for Frist said there is no telling how long debate might last, leaving open the possibility the bill might not be finished before the August recess begins at the end of next week.

The status of the defense authorization bill had been in flux this week as it became clear several contentious amendments are likely to be offered to the measure.

Armed Services Committee Chairman John W. Warner, R-Va., has been drafting legislation that would outline the legal rights of military detainees and codify the interrogation procedures that could be used. Warner, who is working with Republican Sens. John McCain of Arizona and Lindsey Graham of South Carolina, said he thinks Congress should step in to clarify how the military should handle detainees.

Other Republicans remain opposed to that approach, contending that no new laws are needed and that the Bush administration cannot be blamed for allegations of abuse at military prisons.

While Warner said he is not sure whether his detainee legislation would be done in time to offer it as an amendment to the defense authorization bill, the topic remains a likely one for floor debate. McCain, for example, said he plans to offer his own detainee proposal. And Carl Levin of Michigan, the top Democrat on the Armed Services Committee, said he planned to introduce an amendment that would call for an independent commission to investigate the Bush administration's policy and the abuse allegations.

As though in a response to the amendments to come, the Senate Republican Policy Committee, chaired by Jon Kyl, R-Ariz., on Wednesday issued a "policy paper" with talking points that defended Bush's treatment of detainees at the military prison at Guantánamo Bay in Cuba.

Also likely to spur debate among senators is the upcoming round of military base closures. Viewed by some lawmakers as a necessary - albeit painful - cost-cutting move, the Base Realignment and Closure process is seen by others as misguided. Amendments to delay or block the BRAC review were considered likely.

Source: **CQ Today**
Round-the-clock coverage of news from Capitol Hill.
© 2005 Congressional Quarterly Inc. All Rights Reserved.

Michael J. Fucci

Department of Defense General Counsel

Director, Office of Legislative Counsel (Acting)

1300 Defense Pentagon, Pentagon Rm 3D282

Washington, DC 20301

(703) 697-1305

CAUTION: This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without the approval of the DoD Office of General Counsel.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 21, 2005 10:18 AM
To: McCallum, Robert (SMO)
Subject: If you'd like a quick report on happenings in your absence, just let me know. Sorry I was stuck on the phone earlier.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 21, 2005 11:28 AM
To: McCallum, Robert (SMO)
Subject: Detainee legis
Attachments: FW: House Passed Detainee Amendment to Foreign Relations Bill.msg; FW: FYI --- NDAA Bill Up Soon ....msg

FYI.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

jimenezf@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Wednesday, July 20, 2005 8:23 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: FYI --- NDAA Bill Up Soon ...
Attachments: tmp.htm

Bottom half of article discusses detainee legislation.

> -----Original Message-----
> From: [redacted]DoD OGC
> Sent: Wednesday, July 20, 2005 13:58
> To: [redacted]DoD OGC; [redacted]DoD OGC; [redacted]
> [redacted]DoD OGC; [redacted]DoD OGC; [redacted]DoD
> OGC; [redacted]DoD OGC; [redacted]DoD OGC; [redacted]
> [redacted]DoD OGC
> Cc: [redacted]DoD OGC; [redacted]DoD OGC
> Subject: FYI --- NDAA Bill Up Soon ...
>
>
> CQ TODAY
> July 20, 2005 - 1:36 p.m.
> Defense Authorization Bill Next Up in Senate
> By Anne Plummer and Jonathan Allen, CQ Staff > The fiscal 2006 defense authorization bill is expected to reach the Senate > floor as early as Wednesday afternoon, according to a senior leadership > aide.
> The decision to proceed with the measure halted speculation that Majority > Leader Bill Frist, R-Tenn., would block consideration to stave off a > potentially bitter fight among Republicans on the rights of enemy > combatants and base closures.
> Frist's green light for the bill (S 1042 > <javascript:simplePopup('displaybillcard.do?billNumber=S1042&congress=109' > ,'billCard',680,430);> - S Rept 109-69) means that the measure would be > called up as soon as the Senate finishes work on the fiscal 2006 Foreign > Operations bill (HR 3057 > <javascript:simplePopup('displaybillcard.do?billNumber=HR3057&congress=109
> ','billCard',680,430);>).
> A spokesman for Frist said there is no telling how long debate might last, > leaving open the possibility the bill might not be finished before the > August recess begins at the end of next week.
> The status of the defense authorization bill had been in flux this week as > it became clear several contentious amendments are likely to be offered to > the measure.
> Armed Services Committee Chairman John W. Warner, R-Va., has been drafting > legislation that would outline the legal rights of military detainees and > codify the interrogation procedures that could be used. Warner, who is > working with Republican Sens. John McCain of Arizona and Lindsey Graham of > South Carolina, said he thinks Congress should step in to clarify how the > military should handle detainees.
> Other Republicans remain opposed to that approach, contending that no new > laws are needed and that the Bush administration cannot be blamed for > allegations of abuse at military prisons.
> While Warner said he is not sure whether his detainee legislation would be > done in time to offer it

as an amendment to the defense authorization > bill, the topic remains a likely one for floor debate. McCain, for > example, said he plans to offer his own detainee proposal. And Carl Levin > of Michigan, the top Democrat on the Armed Services Committee, said he > planned to introduce an amendment that would call for an independent > commission to investigate the Bush administration's policy and the abuse > allegations.
> As though in a response to the amendments to come, the Senate Republican > Policy Committee, chaired by Jon Kyl, R-Ariz., on Wednesday issued a > "policy paper" with talking points that defended Bush's treatment of > detainees at the military prison at Guantánamo Bay in Cuba.
> Also likely to spur debate among senators is the upcoming round of > military base closures. Viewed by some lawmakers as a necessary - albeit > painful - cost-cutting move, the Base Realignment and Closure process is > seen by others as misguided. Amendments to delay or block the BRAC review > were considered likely.
> Source: CQ Today
> Round-the-clock coverage of news from Capitol Hill.
> © 2005 Congressional Quarterly Inc. All Rights Reserved.
>
> [redacted]
> Department of Defense General Counsel
> [redacted] > 1300 Defense Pentagon, Pentagon [redacted] > Washington, DC 20301 > [redacted]
>
> CAUTION: This message may contain information protected by the > attorney-client, attorney work product, deliberative process, > or other privilege. Do not disseminate without the approval of the DoD > Office of General Counsel.
>

Bottom half of article discusses detainee legislation.

-----Original Message-----
From: [redacted] DoD OGC
Sent: Wednesday, July 20, 2005 13:58
To: [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC
Cc: [redacted] DoD OGC; [redacted] DoD OGC
Subject: FYI --- NDAA Bill Up Soon ...

CQ TODAY
July 20, 2005 - 1:36 p.m.

Defense Authorization Bill Next Up in Senate

By Anne Plummer and Jonathan Allen, CQ Staff
The fiscal 2006 defense authorization bill is expected to reach the Senate floor as early as Wednesday afternoon, according to a senior leadership aide.

The decision to proceed with the measure halted speculation that Majority Leader Bill Frist, R-Tenn., would block consideration to stave off a potentially bitter fight among Republicans on the rights of enemy combatants and base closures.

Frist's green light for the bill (S 1042 - S Rept 109-69) means that the measure would be called up as soon as the Senate finishes work on the fiscal 2006 Foreign Operations bill (HR 3057).

A spokesman for Frist said there is no telling how long debate might last, leaving open the possibility the bill might not be finished before the August recess begins at the end of next week.

The status of the defense authorization bill had been in flux this week as it became clear several contentious amendments are likely to be offered to the measure.

Armed Services Committee Chairman John W. Warner, R-Va., has been drafting legislation that would outline the legal rights of military detainees and codify the interrogation procedures that could be used. Warner, who is working with Republican Sens. John McCain of Arizona and Lindsey Graham of South Carolina, said he thinks Congress should step in to clarify how the military should handle detainees.

Other Republicans remain opposed to that approach, contending that no new laws are needed and that the Bush administration cannot be blamed for allegations of abuse at military prisons.

While Warner said he is not sure whether his detainee legislation would be done in time to offer it as an amendment to the defense authorization bill, the topic remains a likely one for floor debate. McCain, for example, said he plans to offer his own detainee proposal. And Carl Levin of Michigan, the top Democrat on the Armed Services Committee, said he planned to introduce an amendment that would call for an independent commission to investigate the Bush administration's policy and the abuse allegations.

As though in a response to the amendments to come, the Senate Republican Policy Committee, chaired by Jon Kyl, R-Ariz., on Wednesday issued a "policy paper" with talking points that defended Bush's treatment of detainees at the military prison at Guantánamo Bay in Cuba.

Also likely to spur debate among senators is the upcoming round of military base closures. Viewed by some lawmakers as a necessary - albeit painful - cost-cutting move, the Base Realignment and Closure process is seen by others as misguided. Amendments to delay or block the BRAC review were considered likely.

Source: **CQ Today**
Round-the-clock coverage of news from Capitol Hill.
© 2005 Congressional Quarterly Inc. All Rights Reserved.

[redacted]

Department of Defense General Counsel

[redacted]

1300 Defense Pentagon, Pentagon [redacted]

Washington, DC 20301

[redacted]

CAUTION: This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without the approval of the DoD Office of General Counsel.

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Thursday, July 21, 2005 9:48 AM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: House Passed Detainee Amendment to Foreign Relations Bill
Attachments: tmp.htm; 109hr2601_rohr55.pdf

> -----Original Message-----
> From: [redacted] DoD OGC
> Sent: Thursday, July 21, 2005 09:42
> To: [redacted] DoD OGC
> Cc: [redacted] DoD OGC
> Subject: FW: House Passed Detainee Amendment to Foreign Relations
> Bill
>
> FYI, yesterday, the House adopted the below-referenced Rohrabacher > Amendment 304-124.
>
>
> [redacted]
> Department of Defense General Counsel
> [redacted] > 1300 Defense Pentagon, Pentagon [redacted] >
Washington, DC 20301 > [redacted]
>
> CAUTION: This message may contain information protected by the > attorney-client, attorney work product, deliberative process, > or other privilege. Do not disseminate without the approval of the DoD > Office of General Counsel.
>
>
>
> REP. DANA ROHRABACHER, R-Calif., will offer an amendment (#37) that > expresses the sense of Congress that the capture, detention and > interrogation of international terrorists is essential to the successful > prosecution of the global war on terrorism and to the defense of the > United States, its citizens, and coalition partners from future terrorist > attacks; and that the detention and lawful, humane interrogation by the > U.S. military of detainees at Guantanamo Bay, Cuba, is essential to the > defense of the United States and its coalition partners and to the > successful prosecution of the war on terrorism. Debate time: 60 minutes.
> (Staff Contact: [redacted]
> <<109hr2601_rohr55.pdf>>
>
>

37. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ROHRABACHER OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES:

DOJ_NMG_ 0145503

55

AMENDMENT TO H.R. 2601, AS REPORTED

OFFERED BY MR. ROHRABACHER

At the end of subtitle B of title XI, add the following new section:

SEC. 1127. CAPTURE, DETENTION, AND INTERROGATION OF TERRORISTS AT GUANTANAMO BAY, CUBA.

(a) FINDINGS.—Congress finds the following:

(1) Usama bin Laden declared war on the United States in 1996.

(2) International terrorists, including al Qaida and its affiliated terrorists, have repeatedly attacked the United States and its coalition partners throughout the world and have killed and wounded thousands of innocent United States citizens and citizens from these coalition partners.

(3) The United States is exercising its rights to self-defense and to protect United States citizens both at home and abroad by waging war alongside its coalition partners against al Qaida and affiliated terrorists.

(4) International terrorists continue to pose an extraordinary threat to the national security and for-

DOJ_NMG_ 0145504

eign policy of the United States and its coalition partners.

(5) International terrorists continue to commit and plan terrorist attacks around the world against the United States and its coalition partners;.

(6) In order to protect the United States and its citizens, the United States must identify terrorists and those individuals who support them, disrupt their activities, and eliminate their ability to conduct or support attacks against the United States, its citizens, and its coalition partners.

(7) Identifying, disrupting, and eliminating terrorist threats against the United States requires effective gathering, dissemination, and analysis of timely intelligence.

(8) The collection of information from detainees at Guantanamo Bay, Cuba, by the United States has improved the security of the United States and its coalition partners and is essential in fighting the Global War on Terrorism.

(9) The loss of interrogation-derived information would have a disastrous effect on the United States' intelligence collection and counterterrorism efforts and would constitute a damaging reversal in the Global War on Terrorism.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the capture, detention, and interrogation of international terrorists are essential to the successful prosecution of the Global War on Terrorism and to the defense of the United States, its citizens, and its coalition partners from future terrorist attacks;

(2) the detention and lawful, humane interrogation by the United States of detainees at Guantanamo Bay, Cuba, is essential to the defense of the United States and its coalition partners and to the successful prosecution of the Global War on Terrorism;

(3) the detention facilities and interrogations at Guantanamo Bay, Cuba, play an essential role in the security of the United States and should not be closed or ended while the United States is waging the Global War of Terrorism.

-----Original Message-----

From: [redacted] DoD OGC

Sent: Thursday, July 21, 2005 09:42

To: [redacted] DoD OGC

Cc: [redacted] DoD OGC

Subject: FW: House Passed Detainee Amendment to Foreign Relations Bill

FYI, yesterday, the House adopted the below-referenced Rohrabacher Amendment 304-124.

[redacted]

Department of Defense General Counsel

[redacted]

1300 Defense Pentagon, Pentagon [redacted]

Washington, DC 20301

[redacted]

CAUTION: This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without the approval of the DoD Office of General Counsel.

REP. DANA ROHRABACHER, R-Calif., will offer an amendment (#37) that expresses the sense of Congress that the capture, detention and interrogation of international terrorists is essential to the successful prosecution of the global war on terrorism and to the defense of the United States, its citizens, and coalition partners from future terrorist attacks; and that the detention and lawful, humane interrogation by the U.S. military of detainees at Guantanamo Bay, Cuba, is essential to the defense of the United States and its coalition partners and to the successful prosecution of the war on terrorism. Debate time: 60 minutes. (Staff Contact [redacted])

<<109hr2601_rohr55.pdf>>

Gunn, Currie (SMO)

Subject:	Canceled: Group II ASG Leadership Meeting
Location:	5710
Start:	Friday, July 22, 2005 10:30 AM
End:	Friday, July 22, 2005 11:30 AM
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Friday from 10:30 AM to 11:30 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Dhillon, Uttam; Kessler, Elizabeth A; Reyes, Luis (SMO); Hertling, Richard; Henke, Tracy (SMO); Gorsuch, Neil M; Schofield, Regina; Stokely, Tangent; Stuart, Diane
Optional Attendees:	Tamargo, Mauricio J; Wiggins, Mike; Cinciotta, Linda A; Matthews, Laurel; Shaw, Aloma A; Metcalfe, Daniel J; Fowler, Liane (SMO); Huff, Richard L; Williams, Dionne; Baker, Sharon; Schauder, Andrew; Moschella, William; Stuart, Diane; Henke, Tracy (SMO)
Importance:	High

When: Friday, July 22, 2005 10:30 AM-11:30 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Addition of Regina Schofield (AAG-OJP)

Attendees: Robert McCallum, Neil Gorsuch, Tracy Henke, Elizabeth Kessler, Mike Wiggins, Deborah Daniels, Diane Stuart, Carl Peed, Richard Huff, Daniel Metcalfe, Linda Cinciotta and Mauricio Tamargo, Uttam Dhillon, Richard Hertling, Dan Bryant, Regina Schofield, Luis Reyes

POC: Currie Gunn x-49500

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Thursday, July 21, 2005 1:26 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: Fw: detainee legislation

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]
To: [redacted] DoD OGC [redacted]@dodgc.osd.mil>;
[redacted]@dodgc.osd.mil [redacted]@dodgc.osd.mil>; [redacted] DoD OGC
[redacted]@dodgc.osd.mil>
Sent: Thu Jul 21 12:06:16 2005
Subject: detainee legislation

For what it's worth, just heard that McCain is introducing an amendment re:
treatment of detainees and interrogation techniques. Graham/Warner are doing one on procedures for tribunals/commissions.

Don't know the timing.

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 21, 2005 1:31 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: detainee legislation

thanks. i'm distributing the info you send to appropriate folks through dept here

-----Original Message-----
From [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Thursday, July 21, 2005 1:26 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: Fw: detainee legislation

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From [redacted]
To [redacted]DoD OGC <[redacted]@dodgc.osd.mil>;
[redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>; [redacted]DoD OGC
[redacted]@dodgc.osd.mil>
Sent: Thu Jul 21 12:06:16 2005
Subject: detainee legislation

For what it's worth, just heard that McCain is introducing an amendment re:
treatment of detainees and interrogation techniques. Graham/Warner are doing one on procedures for tribunals/commissions.

Don't know the timing.

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 21, 2005 1:32 PM
To: Elwood, Courtney; Yanes, Raul
Subject: FW: detainee legislation

fyi

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Thursday, July 21, 2005 1:26 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: Fw: detainee legislation

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]
To: [redacted]DoD OGC [redacted]@dodgc.osd.mil>;
[redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>; [redacted]DoD OGC
[redacted]@dodgc.osd.mil>
Sent: Thu Jul 21 12:06:16 2005
Subject: detainee legislation

For what it's worth, just heard that McCain is introducing an amendment re:
treatment of detainees and interrogation techniques. Graham/Warner are doing one on procedures for tribunals/commissions.

Don't know the timing.

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 21, 2005 1:32 PM
To: McCallum, Robert (SMO)
Subject: FW: detainee legislation

fyi

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Thursday, July 21, 2005 1:26 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: Fw: detainee legislation

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]
To: [redacted]DoD OGC [redacted]@dodgc.osd.mil>;
[redacted]@dodgc.osd.mil [redacted]@dodgc.osd.mil> [redacted]DoD OGC
[redacted]@dodgc.osd.mil>
Sent: Thu Jul 21 12:06:16 2005
Subject: detainee legislation

For what it's worth, just heard that McCain is introducing an amendment re:
treatment of detainees and interrogation techniques. Graham/Warner are doing one on procedures for tribunals/commissions.

Don't know the timing.

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 21, 2005 2:07 PM
To: Reyes, Luis (SMO)
Subject: could you please give me a ring when you have a minute?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 21, 2005 2:07 PM
To: Gunn, Currie (SMO)
Subject: RE: Please let me know if you have any leave to report for pp14 7/10 thru 7/23

N

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Thursday, July 21, 2005 2:06 PM
To: Kessler, Elizabeth A; Gorsuch, Neil M; Swenson, Lily F; Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: Please let me know if you have any leave to report for pp14 7/10 thru 7/23

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 21, 2005 3:17 PM
To: Wiggins, Mike
Subject: could you ring or stop by when you have chance? thanks

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 21, 2005 5:41 PM
To: McCallum, Robert (SMO)
Subject: Org

You asked me to talk with Mike and noodle on how to reassign his matters when he leaves. I've done so and spoke with others in the office and have a couple ideas to share at your convenience.

jimenezf@dodgc.osd.mil

From:	jimenezf@dodgc.osd.mil
Sent:	Thursday, July 21, 2005 6:52 PM
To:	Gorsuch, Neil M
Subject:	FW:
Attachments:	tmp.htm

Your talk about the war effort prompted me to give you your patriotism boost for the day . . .

-----Original Message-----
From: Halaska, Terrell [mailto:Terrell.Halaska@ed.gov]
Sent: Thursday, July 21, 2005 18:15
To: Frank Jimenez (E-mail)
Subject:

JOHN HOWARD [K. J. Lopez <mailto:klopez@nationalreview.com <mailto:klopez@nationalreview.com> >] This quickie transcript was just sent to me by someone who described it as "a direct, devastating bitch-slap to the nonsense that the U.S., Britain and Australia brought this on themselves from any other leader":

PRIME MIN. HOWARD: Could I start by saying the prime minister and I were having a discussion when we heard about it. My first reaction was to get some more information. And I really don't want to add to what the prime minister has said. It's a matter for the police and a matter for the British authorities to talk in detail about what has happened here.

Can I just say very directly, Paul, on the issue of the policies of my government and indeed the policies of the British and American governments on Iraq, that the first point of reference is that once a country allows its foreign policy to be determined by terrorism, it's given the game away, to use the vernacular. And no Australian government that I lead will ever have policies determined by terrorism or terrorist threats, and no self-respecting government of any political stripe in Australia would allow that to happen.

Can I remind you that the murder of 88 Australians in Bali took place before the operation in Iraq.

And I remind you that the 11th of September occurred before the operation in Iraq.

Can I also remind you that the very first occasion that bin Laden specifically referred to Australia was in the context of Australia's involvement in liberating the people of East Timor. Are people by implication suggesting we shouldn't have done that?

When a group claimed responsibility on the website for the attacks on the 7th of July, they talked about British policy not just in Iraq, but in Afghanistan. Are people suggesting we shouldn't be in Afghanistan?

When Sergio de Mello was murdered in Iraq -- a brave man, a distinguished international diplomat, a person immensely respected for his work in the United Nations -- when al Qaeda gloated about that, they referred specifically to the role that de Mello had carried out in East Timor because he was the United Nations administrator in East Timor.

Now I don't know the mind of the terrorists. By definition, you can't put yourself in the mind of a successful suicide bomber. I can only look at objective facts, and the objective facts are as I've cited. The objective evidence is that Australia was a terrorist target long before the operation in Iraq. And indeed, all the evidence, as distinct from the suppositions, suggests to me that this is about hatred of a way of life, this is about the perverted use of principles of the great world religion that, at its root, preaches peace and cooperation. And I think we lose sight of the challenge we have if we allow ourselves to see these attacks in the context of particular circumstances rather than the abuse through a perverted ideology of people and their murder.

Your talk about the war effort prompted me to give you your patriotism boost for the day . . .

-----Original Message-----
From: Halaska, Terrell [mailto:Terrell.Halaska@ed.gov]
Sent: Thursday, July 21, 2005 18:15
To: Frank Jimenez (E-mail)
Subject:

JOHN HOWARD [K. J. Lopez <mailto:klopez@nationalreview.com>]
This quickie transcript was just sent to me by someone who described it as "a direct, devastating bitch-slap to the nonsense that the U.S., Britain and Australia brought this on themselves from any other leader":

> PRIME MIN. HOWARD: Could I start by saying the prime minister and I were having a discussion when we heard about it. My first reaction was to get some more information. And I really don't want to add to what the prime minister has said. It's a matter for the police and a matter for the British authorities to talk in detail about what has happened here.
>
> Can I just say very directly, Paul, on the issue of the policies of my government and indeed the policies of the British and American governments on Iraq, that the first point of reference is that once a country allows its foreign policy to be determined by terrorism, it's given the game away, to use the vernacular. And no Australian government that I lead will ever have policies determined by terrorism or terrorist threats, and no self-respecting government of any political stripe in Australia would allow that to happen.
>
> Can I remind you that the murder of 88 Australians in Bali took place before the operation in Iraq.
>
> And I remind you that the 11th of September occurred before the operation in Iraq.
>
> Can I also remind you that the very first occasion that bin Laden specifically referred to Australia was in the context of Australia's involvement in liberating the people of East Timor. Are people by implication suggesting we shouldn't have done that?
>
> When a group claimed responsibility on the website for the attacks on the 7th of July, they talked about British policy not just in Iraq, but in Afghanistan. Are people suggesting we shouldn't be in Afghanistan?
>
> When Sergio de Mello was murdered in Iraq -- a brave man, a distinguished international diplomat, a person immensely respected for his work in the United Nations -- when al Qaeda gloated about that, they referred specifically to the role that de Mello had carried out in East Timor because he was the United Nations administrator in East Timor.
>
> Now I don't know the mind of the terrorists. By definition, you can't put yourself in the mind of a successful suicide bomber. I can only look at objective facts, and the objective facts are as I've cited. The objective evidence is that Australia was a terrorist target long before the operation in Iraq. And indeed, all the evidence, as distinct from the suppositions, suggests to me that this is about hatred of a way of life, this is about the perverted use of principles of the great world religion that, at its root, preaches peace and cooperation. And I think we lose sight of the challenge we have if we allow ourselves to see these attacks in the context of particular circumstances rather than the abuse through a perverted ideology of people and their murder.

From: Smith, Kimberly A
Sent: Thursday, July 21, 2005 9:46 PM
To: Smith, Kimberly A
Subject: STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON PASSAGE OF H.R. 3199, THE USA PATRIOT ACT REAUTHORIZATION

Department of Justice

FOR IMMEDIATE RELEASE
AG
THURSDAY, JULY 21, 2005

(202) 514-2008

WWW.USDOJ.GOV

TDD (202) 514-1888

STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON PASSAGE OF H.R. 3199, THE USA PATRIOT ACT REAUTHORIZATION:

"I am pleased that the House of Representatives has decided to renew the vital provisions of the USA PATRIOT Act. After measured deliberation and a public debate, the House has again provided the brave men and women of law enforcement with critical tools in their efforts to combat terrorism and protect the American people. Given the strong bipartisan support reflected in today's vote, I look forward with great optimism to the Senate's consideration of the USA PATRIOT Act and its ultimate renewal."

###

05-384

DOJ_NMG_ 0145523

Image not available for this document, ID: 0.7.10316.76204-000001

Image not available for this document, ID: 0.7.10316.76204-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 22, 2005 10:03 AM
To: [redacted]@dodgc.osd.mil'
Subject: RE:

Bravo. Good stuff.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Thursday, July 21, 2005 6:52 PM
To: Gorsuch, Neil M
Subject: FW:

Your talk about the war effort prompted me to give you your patriotism boost for the day . . .

-----Original Message-----
From: [redacted][mailto[redacted]@ed.gov]
Sent: Thursday, July 21, 2005 18:15
To: [redacted](E-mail)
Subject:

JOHN HOWARD [[redacted]<mailt[redacted]
>] This quickie transcript was just sent to me by someone who described it as "a direct, devastating bitch-slap to the nonsense that the U.S., Britain and Australia brought this on themselves from any other leader":

PRIME MIN. HOWARD: Could I start by saying the prime minister and I were having a discussion when we heard about it. My first reaction was to get some more information. And I really don't want to add to what the prime minister has said. It's a matter for the police and a matter for the British authorities to talk in detail about what has happened here.

Can I just say very directly [redacted] on the issue of the policies of my government and indeed the policies of the British and American governments on Iraq, that the first point of reference is that once a country allows its foreign policy to be determined by terrorism, it's given the game away, to use the vernacular. And no Australian government that I lead will ever have policies determined by terrorism or terrorist threats, and no self-respecting government of any political stripe in Australia would allow that to happen.

Can I remind you that the murder of 88 Australians in Bali took place before the operation in Iraq.

And I remind you that the 11th of September occurred before the operation in Iraq.

Can I also remind you that the very first occasion that bin Laden specifically referred to Australia was

Can I also remind you that the very first occasion that bin Laden specifically referred to Australia was in the context of Australia's involvement in liberating the people of East Timor. Are people by implication suggesting we shouldn't have done that?

When a group claimed responsibility on the website for the attacks on the 7th of July, they talked about British policy not just in Iraq, but in Afghanistan. Are people suggesting we shouldn't be in Afghanistan?

When Sergio de Mello was murdered in Iraq -- a brave man, a distinguished international diplomat, a person immensely respected for his work in the United Nations -- when al Qaeda gloated about that, they referred specifically to the role that de Mello had carried out in East Timor because he was the United Nations administrator in East Timor.

Now I don't know the mind of the terrorists. By definition, you can't put yourself in the mind of a successful suicide bomber. I can only look at objective facts, and the objective facts are as I've cited. The objective evidence is that Australia was a terrorist target long before the operation in Iraq. And indeed, all the evidence, as distinct from the suppositions, suggests to me that this is about hatred of a way of life, this is about the perverted use of principles of the great world religion that, at its root, preaches peace and cooperation. And I think we lose sight of the challenge we have if we allow ourselves to see these attacks in the context of particular circumstances rather than the abuse through a perverted ideology of people and their murder.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 22, 2005 11:35 AM
To: Reyes, Luis (SMO)
Subject: RE: Fyi

Have fun

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, July 22, 2005 10:24 AM
To: Gorsuch, Neil M
Subject: Fyi

Am headed out to Chicago today. Will have bberry and cell. Flight leaves at around noon.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 22, 2005 11:37 AM
To: Merkle, Phillip
Subject: RE: Welcome

Phil,

Thanks so much for the note. I'm glad my message "got through" and would very much enjoy catching up. How would Thurs work for lunch? Any venue is fine by me.

All the best,

Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: Merkle, Phillip
Sent: Friday, July 22, 2005 10:33 AM
To: Gorsuch, Neil M
Subject: Welcome

Neil,

Until Nick told me yesterday that you were now with the Department, I had no idea that you were on board, so please let me extend to you a hearty welcome to DOJ. He passed along your "hello," which was much appreciated. I hope that all has been going well, and you have had a chance to settle in. I know that there is a lot going on, but I also know from my past experience that the folks in the Associate's Office are top notch. Tracy, in particular, has been great to work with and I have every confidence she will do great things at DHS. Should you have the opportunity to be up here at OJP, please feel free to stop by and say hello. In the alternative, and this may not be much of one given what is no doubt a ruthless schedule, we could grab a quick bite of lunch as well at your convenience. I could fill you in on the latest gyrations at Prep, or, as many would prefer, not talk about Prep at all and just catch up in general. Regardless, I wish you the only the best of luck and continued success.

Phil

Phillip K. Merkle
Attorney Advisor
Office of the General Counsel
Office of Justice Programs
U.S. Department of Justice
810 7th Street, NW
Washington, DC 20531
(202) 305-2550
(202) 307-1419 (fax)
phillip.merkle@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 22, 2005 12:52 PM
To: McCallum, Robert (SMO)
Subject: AG Barr

My contact just called back to soften and modify some of his prior comments. Can share details at your convenience if it's helpful.

Merkle, Phillip

From: Merkle, Phillip
Sent: Friday, July 22, 2005 1:43 PM
To: Gorsuch, Neil M
Subject: RE: Welcome

Neil,

Thursday works out well. How about noon in front of the Pennsylvania Ave entrance? We can walk over to the Old Post Office, or someplace else close. Just let me know if you need to move the time/day. It's not a problem. Have a good weekend and look forward to catching up.

Thanks,
Phil

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 22, 2005 11:39 AM
To: Merkle, Phillip
Subject: RE: Welcome

Phil,

Thanks so much for the note. I'm glad my message "got through" and would very much enjoy catching up. How would Thurs work for lunch? Any venue is fine by me.

All the best,

Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: Merkle, Phillip
Sent: Friday, July 22, 2005 10:33 AM
To: Gorsuch, Neil M
Subject: Welcome

Neil,

Until Nick told me yesterday that you were now with the Department, I had no idea that you were on board, so please let me extend to you a hearty welcome to DOJ. He passed along your "hello," which was much appreciated. I hope that all has been going well, and you have had a chance to settle in. I know that there is a lot going on, but I also know from my past experience that the folks in the Associate's Office are top notch. Tracy, in particular, has been great to work with and I have every confidence she will do great things at DHS. Should you have the opportunity to be up here at OJP, please feel free to stop by and say hello. In the alternative, and this may not be much of one given what is no doubt a ruthless schedule, we could grab a quick bite of lunch as well at your convenience. I could fill you in on the latest gyrations at Prep, or, as many would prefer, not talk about Prep at all and just catch up in general. Regardless, I wish you the only the best of luck and continued success.

Phil

Phillip K. Merkle
Attorney Advisor
Office of the General Counsel
Office of Justice Programs
U.S. Department of Justice
810 7th Street, NW
Washington, DC 20531
(202) 305-2550
(202) 307-1419 (fax)
phillip.merkle@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 22, 2005 2:02 PM
To: Merkle, Phillip
Subject: RE: Welcome

Great! See you then and there.
-----Original Message-----
From: Merkle, Phillip
Sent: Friday, July 22, 2005 1:43 PM
To: Gorsuch, Neil M
Subject: RE: Welcome

Neil,

Thursday works out well. How about noon in front of the Pennsylvania Ave entrance? We can walk over to the Old Post Office, or someplace else close. Just let me know if you need to move the time/day. It's not a problem. Have a good weekend and look forward to catching up.

Thanks,
Phil

> -----Original Message-----
> **From:** Gorsuch, Neil M
> **Sent:** Friday, July 22, 2005 11:39 AM
> **To:** Merkle, Phillip
> **Subject:** RE: Welcome
>
> Phil,
>
> Thanks so much for the note. I'm glad my message "got through" and would very much enjoy catching up. How would Thurs work for lunch? Any venue is fine by me.
>
> All the best,
>
> Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----

From: Merkle, Phillip

Sent: Friday, July 22, 2005 10:33 AM

To: Gorsuch, Neil M

Subject: Welcome

Neil,

Until Nick told me yesterday that you were now with the Department, I had no idea that you were on board, so please let me extend to you a hearty welcome to DOJ. He passed along your "hello," which was much appreciated. I hope that all has been going well, and you have had a chance to settle in. I know that there is a lot going on, but I also know from my past experience that the folks in the Associate's Office are top notch. Tracy, in particular, has been great to work with and I have every confidence she will do great things at DHS. Should you have the opportunity to be up here at OJP, please feel free to stop by and say hello. In the alternative, and this may not be much of one given what is no doubt a ruthless schedule, we could grab a quick bite of lunch as well at your convenience. I could fill you in on the latest gyrations at Prep, or, as many would prefer, not talk about Prep at all and just catch up in general. Regardless, I wish you the only the best of luck and continued success.

Phil

Phillip K. Merkle
Attorney Advisor
Office of the General Counsel
Office of Justice Programs
U.S. Department of Justice
810 7th Street, NW
Washington, DC 20531
(202) 305-2550
(202) 307-1419 (fax)
phillip.merkle@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 22, 2005 2:51 PM
To: Nichols, Carl (CIV)
Subject: DHS HR Regulation challenge

I was asked who is handling this matter and whether we have the "A team" on the field. Can you fill me in?

Johnson, Kelly A. (ENRD)

From: Johnson, Kelly A. (ENRD)
Sent: Friday, July 22, 2005 4:18 PM
To: Gorsuch, Neil M
Subject: Read: Devils Lake

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Friday, July 22, 2005 5:07 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act fo r Fiscal Year 2006
Attachments: tmp.htm; SAP on S 1042.pdf

Sure you've already seen - contains discussion of possible detainee legislation.

-----Original Message-----
From: [redacted]
Sent: Thursday, July 21, 2005 14:52
[redacted]
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act for Fiscal Year 2006

Attached is the Statement of Administration Policy on the Senate version of our NDAA bill.

[redacted]

CAUTION: This message may contain information protected by the attorney-client, attorney work product, deliberative process,

or other privilege. Do not disseminate without the approval of the DoD Office of General Counsel.

-----Original Message-----
From: Fitter, E. Holly [mailto:E._Holly_Fitter@omb.eop.gov]
Sent: Thursday, July 21, 2005 14:44
To: [redacted]
Peroff, Kathleen; Smith, Bryan R.
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act for Fiscal Year 2006

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

July 21, 2005
(Senate)

STATEMENT OF ADMINISTRATION POLICY

S. 1042 - National Defense Authorization Act for Fiscal Year 2006

(Sen. Warner (R) VA)

The Administration commends the Senate Armed Services Committee for its continued support of our national defense and supports passage of S. 1042. The Committee's strong support for the President's priorities is critical to the continued successful prosecution of the Global War on Terror.

The Administration appreciates the Committee's support of the President's overall Budget level for defense activities. Any significant reductions from this overall level of $419 billion, such as the levels proposed by the Senate Appropriations Committee's current 302(b) allocation for defense, would be strongly opposed. The Administration thanks the Committee for providing the requested 3.1 percent military pay raise, the authorized increase to the death gratuity and life insurance benefits, and the reauthorization of needed special pays and bonuses. We appreciate the Committee's support for many programs, especially acquisition programs critical to ensuring America's future military dominance – such as the DD(X) destroyer and other next-generation ships, Joint Strike Fighter, Heavy Lift Replacement Helicopter, and Future Combat Systems programs. We also appreciate the Committee's support for Defense Health, Cooperative Threat Reduction, and the Energy Conservation Investment Program.

The Administration also thanks Congress for providing the vital funds in the recently enacted FY 2005 Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief. The Administration appreciates Congress' strong commitment to our troops and the Global War on Terror and notes that the supplemental funding will be sufficient to pay for our efforts through the end of the current fiscal year. While the $50 billion bridge fund included in this bill is not needed for the remainder of FY 2005, the Administration looks forward to working with Congress to ensure that there is no interruption of resources for the Global War on Terror in FY 2006 and that funding is allocated in the most effective way to meet the needs of commanders in the field.

The Administration encourages the Senate to include the requested Administration priorities, including:

Security Partnerships with Other Nations: We strongly urge Congress to provide the Administration with the full set of authorities requested to build security partnerships to fight the Global War on Terror. The requested authorities include the Commander's Emergency Response Program (CERP) Fund, authority to train and equip foreign military or security forces, reimbursement for coalition support forces, logistics support to other nations, and support for emergency stabilization and reconstruction activities. Flexible authorities provided by Congress have proven critical in responding to needs in Afghanistan and Iraq. The requested authorities build upon this success but also would enable a broader range of responses to address the Global War on Terror, including new tools to ensure that foreign states do not become terrorist havens. While the Administration appreciates the Committee's authorization of $500 million in the CERP for Iraq and Afghanistan, we urge Congress to extend the CERP authority for use

anywhere it is needed, make it permanent, and include the concurrence of the Secretary of State, as the Administration has requested.

Stabilization and Reconstruction Support: The Administration strongly urges the inclusion of its proposal to temporarily authorize the Department of Defense (DOD), at the request of the Secretary of State, to transfer funds, goods, and services to other U.S. departments and agencies, such as the new Office of the Coordinator for Reconstruction and Stabilization (S/CRS), for the purpose of restoring or maintaining peace and security in a foreign country. This authority would be used for unforeseen emergencies requiring immediate stabilization and reconstruction assistance where a response is in the U.S. national interest. At a time of increasing instability in many parts of the world, it is important that the U.S. Government has the ability to respond quickly to such situations. This emergency authority would enable DOD, the State Department, and other Federal agencies to work together during stabilization, security, and reconstruction operations and eliminate delays in deploying S/CRS and other U.S. Government elements in the critical stages of stabilization, security, and reconstruction efforts.

Robust Nuclear Earth Penetrator: The Administration urges the Senate to approve the Administration's request to fund an integrated DOD and Department of Energy program to study the feasibility of adapting an existing warhead to a new precision penetrator casing and bomber platform integration.

Purchase and Destruction of Weapons Overseas: The Administration thanks the Committee for authorizing funds to purchase weapons abroad for force protection and to destroy them, but urges Congress to modify section 324 to include the concurrence of the Secretary of State, as the Administration had requested.

Protection of Sensitive Information: The Administration supports section 922, which would protect sensitive operational information of the Defense Intelligence Agency, and recommends that access by the space control advisory committee to Federal agency information under section 911(d)(1), apply only "to the extent permitted by law," in order to preserve existing protections for sensitive information, including personal information, intelligence sources and methods, and trade secrets.

Military Construction/Family Housing: The Administration supports the $12.1 billion authorized for military construction and family housing, which will help meet the Nation's military construction priorities for our forces at home and abroad. The Administration is concerned, however, that the bill does not provide the flexibility to use operation and maintenance funds for emergency construction requirements outside the United States.

The Administration has a number of concerns, including:

Amendments Interfering with Effective Conduct of War on Terror: The Administration understands that amendments may be offered to establish a national commission on the detainee operations or to regulate the detention, treatment or trial of terrorists captured in the war on terror. The Administration strongly opposes such amendments, which would interfere with the protection of Americans from terrorism by diverting resources from the war to answer unnecessary or duplicative inquiry or by restricting the President's ability to conduct the war effectively under existing law. The Constitution and the Authorization for Use of Military Force Joint Resolution (Public Law 107-40, September 18, 2001) provide the authority the President

DOJ_NMG_ 0145541

needs to conduct the war effectively and protect the American people. If legislation is presented that would restrict the President's authority to protect Americans effectively from terrorist attack and bring terrorists to justice, the President's senior advisers would recommend that he veto the bill.

Aircraft Carrier Force Structure: The Administration strongly opposes any further delay in the retirement of the carrier *U.S.S. John F. Kennedy*. The Senate is urged to eliminate section 321, which prohibits retirement of the carrier for at least another 180 days beyond currently imposed restrictions and perhaps longer. We would oppose any requirement to spend funds to maintain a ship that the Navy believes is no longer essential. In configuring the fleet for 11 carriers, the Navy will ensure that it makes effective use of existing carrier ports.

Base Realignment and Closure: The Administration strongly opposes the $376 million funding reduction for implementing recommendations of the 2005 Base Realignment and Closure (BRAC) Commission. This reduction would slow BRAC implementation and thus delay achievement of the mission improvements provided by BRAC changes, costing the DOD more money over the long term. Delaying the completion of base closures and realignments also would hinder community efforts to quickly reuse DOD facilities and mitigate the economic impact of BRAC actions.

The Administration would strongly oppose any amendment to weaken, delay, or repeal the authority for the 2005 BRAC round. If the President is presented a bill that weakens, delays, or repeals the BRAC authority, the Secretary of Defense, joining with other senior advisors, will recommend that the President veto the bill.

Buy American Act Amendments: The Administration would strongly oppose any amendment that would limit our flexibility in applying the Buy American Act or that would undermine the longstanding U.S. policy -- repeatedly affirmed by Congress -- to open U.S. procurement markets to suppliers from foreign countries that open their procurement markets to U.S. suppliers. Such amendments would harm U.S. companies and workers, as foreign governments would likely respond by restricting U.S. suppliers' access to their procurement markets. Such amendments also would decrease competition, increase costs for U.S. taxpayers, and unnecessarily add red tape to the procurement process. In the case of defense-related amendments, such legislation also could jeopardize our military readiness, when our objective should be to enhance our ability to get the best capability for the warfighter at the best value for the taxpayer. If the President is presented a bill that includes such an amendment, his senior advisors will recommend that he veto the bill.

End-Strength: The Administration strongly opposes increases in minimum Army and Marine Corps end-strength (sections 401 and 402). The President has sufficient authority to adjust the size of the Army and Marine Corps as necessary for the current national emergency. No changes to end-strength authorizations are needed at this time.

Acquisition Restrictions: The Administration is concerned with section 122, which would incrementally fund the Navy's future nuclear aircraft carrier, CVN 21, over four years. This marks a substantial move away from the Administration's full funding policy, and we urge the Senate to remove this provision. The Administration also opposes sections 132, 134, and 135, which would prohibit the retirement of any KC-135E tanker aircraft, F-117 fighter aircraft, or C-130E/H tactical airlift aircraft in FY 2006, because these prohibitions would unnecessarily limit

DOJ_NMG_ 0145542

DOD's flexibility to manage its assets and meet combatant commander requirements in the most efficient manner.

Unrequested Additions: The Committee's bill would authorize increased funding for a large number of weapon systems and programs, including an additional $400 million for Science and Technology programs, $49 million for homeland defense initiatives, and $80 million for additional chemical and biological weapons defenses. Although some of these increases, in isolation, might seem to benefit U.S. defense capabilities, the Administration is concerned that the Committee reduced Service Operations and Maintenance funds to carry out these authorized increases. The Administration also objects to section 137, which would require the Air Force to procure up to two aircraft dedicated solely to aeromedical evacuation. This requirement is not only unnecessary, since the Air Force no longer needs dedicated aeromedical evacuation aircraft, but would restrict DOD's ability to effectively manage its resources. The Administration is especially troubled by the $1.3 billion general cut in section 1004 (based on unrealistic inflation projections) and reductions to transformational programs used to pay for these unrequested additions.

Reductions to Transformational Programs: The Administration is concerned by the Committee's reduction of the Joint Tactical Radio System by $308.3 million. Although the program has experienced difficulties and is being restructured this year, the full request will be needed in FY 2006 to avoid a delay of up to two years in fielding this transformational, networked tactical communication system, which is vital to our future coalition warfare operations. In addition, the Administration opposes the deep cuts in the Transformational Satellite Program and Space Radar, which have the potential to revolutionize future military operations.

Fissile Material Disposition Program: The Administration is concerned that the $200 million reduction in the Fissile Material Disposition program would prevent the start of construction of a mixed oxide (MOX) fuel-fabrication facility in South Carolina in FY 2006, and result in a two- to three-year delay in the project. While there were delays in reaching an agreement with the Russian government, agreement has now been reached on these protections, allowing the Fissile Material Disposition program to proceed. Reduction of funding for the U.S. facility could undermine Russian confidence in the MOX approach and put at risk international support and funding for the Russian MOX facility.

Capital Security Cost Sharing: The Administration strongly opposes section 1008 because it could prevent DOD from contributing to overseas cost sharing for critical security improvements under the Capital Security Cost Sharing program administered by the Department of State. This program requires all Federal agencies with authorized positions overseas to budget for and contribute to the construction of new secure embassy compounds for those positions.

Contract Support Acquisition Centers: The Administration strongly opposes Section 802, which would require DOD to establish a contract support acquisition center at the Defense Logistics Agency and each of the Military Departments, as premature and potentially inefficient. DOD continues to take active measures to improve the procurement of services, which include instituting management structure improvements. Currently, DOD is reviewing the implementation and effect of those improvements, which should be considered before statutorily mandating a new organizational structure for acquiring services. By mandating a new organization structure, section 802 would eliminate the flexibility that DOD needs to acquire services in the most efficient manner.

DOJ_NMG_ 0145543

DOD Financial Improvements: The Administration supports the Committee's requirement that DOD have a comprehensive and integrated financial management improvement plan to guide expenditure of resources on improvement activities. However, the Administration is concerned that the Committee's expenditure restrictions and $200 million funding reduction contained in Sec. 328 would disrupt the Department's ongoing improvements. The Administration looks forward to working with Congress toward a successful implementation of DOD's financial improvement plan.

Competitive Sourcing: The Administration would strongly oppose any amendment that would unnecessarily subject private-sector bidders to intrusive data requirements concerning the provision of health benefits to their employees. While well-intentioned, such an amendment would ultimately undermine the efficiencies in private health plans and provide a disincentive for the private sector to participate in DOD's competitions. Further, by discouraging private-sector interest in competitive sourcing, it would place at risk significant savings -- $6 billion estimated to be generated from DOD competitions completed between FY 2001 and 2006 -- from the Competitive Sourcing initiative of the President's Management Agenda. Small business participation in competitions will be severely hampered since this provision makes it particularly burdensome to assemble competitive offers. The Administration urges the Senate to permit DOD to take advantage of government-wide OMB Circular A-76 policies to achieve the best value for the taxpayer.

Personnel Issues: While grateful that the Committee's bill provides support for our military and their families, the Administration is concerned about the following personnel issues:

Thrift Savings Plan Pilot: The Administration opposes section 652, which would establish a new pilot program to pay first-term enlistees matching Government contributions to their Thrift Savings Plan contributions. The unparalleled retirement benefits which service members already receive serve as a powerful retention tool. Any significant changes to retirement benefits should be part of a comprehensive review of compensation policy. Moreover, if this pilot program is intended primarily as a recruitment tool, the Department already has more cost-effective tools at its disposal.

Reservist Medical Exams: The new requirement in section 531 for yearly physical exams for non-activated reserve members would not enhance readiness, but would entail costs to the services of approximately $600 million over five years. Reservists currently receive a physical at least once every five years, with the Secretary of Defense ordering reservists to receive physicals more often if necessary. When activated, reservists already must undergo a physical to ensure they can deploy.

Acquisition Workforce Restriction: The Administration opposes section 832's mandated 15 percent increase in the DOD acquisition workforce over the next three fiscal years and section 572's restrictions on converting military to civilian positions in medical care. These provisions would impede the Secretary of Defense's ability to manage the workforce effectively.

Military-Civilian Conversion: The $285 million reduction in military-civilian conversion funds will eliminate the flexibility of the Secretary of Defense to use those converted positions to enhance the strength of operating units. This reduction in military-civilian conversions would have an adverse impact on all the services, especially Army transformation.

DOJ_NMG_ 0145544

Hardship Duty Pay: The Administration is concerned that the Committee has not authorized an increase in the ceiling on Hardship Duty Pay. This flexible pay is a valuable tool for enhancing retention of some of our most critical service members in a timely manner.

Promotion Board Information Credibility: Because promotion board consideration of adverse information that is not credible would be unfairly prejudicial to a military officer, section 504 should be amended to require submission to a board only of "credible" information of an adverse nature.

Finally, the Administration encourages the Senate not to adopt unrequested benefits. New or major expansion of benefits should await the results of the comprehensive review undertaken by the Secretary of Defense's Advisory Committee on Military Compensation and the results of the statutorily required Quadrennial Review of Military Compensation.

Defense Intelligence SES Positions: The Administration is disappointed the Committee did not include the Administration's proposal to increase the number of Defense Intelligence Senior Executive Service positions. These additional positions are essential to meeting the increased demands for intelligence support.

Unmanned Aerial Vehicle (UAV) Reconnaissance to Detect and Monitor Border Traffic: The Administration opposes section 1031, which would authorize DOD to conduct UAV reconnaissance to detect and monitor suspicious air, sea, and surface traffic along the U.S. border. This authority could imply a continuous mission requirement for DOD, which would place even greater demands on already heavily used UAV assets. Also, under Title 10, Section 374, the Department already is authorized to provide aerial reconnaissance support to civilian law enforcement agencies who request DOD support using the established Request for Assistance (RFA) process. Section 1031 could lead to a recurring border security mission for DOD outside the scope of Title 10, Section 374. The Administration would support express statutory authority for DOD to use UAVs in support of civilian law enforcement, but would not support a potentially continuous mission requirement directing DOD employment of these UAV assets in any particular way.

Support for Critical White House Communications Activities: The Administration strongly urges Congress to support the Administration's request to amend section 912 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201) to enable the White House Communications Agency (WHCA) to provide critical audiovisual support services for the President and the White House. These services help the President and senior White House staff in communicating with the American people and the world in executing his official duties during times of peace and national crisis by audio and visual means. The proposed change will enable the WHCA to streamline its operations and manage its personnel and resources more effectively and efficiently and eliminate a cumbersome process for requesting and billing for support provided. Accordingly, the Administration has determined that it would be most effective to fund these activities directly through WHCA, and the FY 2006 Budget submission for WHCA reflects this decision. Without this amendment, the WHCA will lack authority to expend FY 2006 funds expressly requested for this purpose.

Small Business Innovation Research Programs: The Administration is concerned about the intent of section 814, which would require that DOD maintain lists of Small Business Innovation

DOJ_NMG_ 0145545

Research (SBIR) programs that have completed the research and development phase of the program (Phase II) and have the potential for rapid transition to an openly competitive commercial phase (Phase III). We are concerned that the intent to establish lists of Phase II projects will lead to expectations that DOD will fund Phase III projects, which are outside the scope of the SBIR program.

Grades of the Judge Advocates General: The Administration opposes section 505, which would elevate the Judge Advocates General to 3-star grade. This provision would: (1) undermine the flexibility of the President to determine what positions of importance and responsibility merit grades above the major general or rear admiral (upper half); (2) add unnecessary and rank-heavy bureaucracy; and (3) create unique selection procedures for one class of 3-star officers by imposing selection board procedures rather than permitting the Secretary of Defense to use his discretion. The Judge Advocates General, as 2-star officers, already participate fully in the legal affairs of their respective Military Departments and the entire DOD and would enjoy no greater access to senior officials as a result of their elevation to 3-star status.

Legal Services in DOD: To protect individuals receiving military legal assistance, section 1044(e)(1) of title 10, United States Code, as contained in section 553 of the bill – which grants the right to practice law anywhere in the United States to judge advocates or civilian attorneys authorized to provide military legal assistance – should be amended to provide that a judge advocate or civilian attorney must be a "member of the bar of the highest court in at least one State or Territory or the District of Columbia." In addition, section 923 should be stricken in order to preserve the authority of the Secretary of the Air Force to determine the appropriate functions and duties of his subordinates who provide legal services consistent with applicable law.

Classified Programs: The Administration opposes section 1002, which would incorporate the classified annex into the bill. The Administration discourages the practice of enacting secret laws and encourages instead appropriate non-binding uses of classified annexes to committee reports and the joint statements of managers that accompany final legislation, and therefore recommends striking section 1002(a).

The Administration looks forward to working with the Congress to address other concerns, including constitutional ones, such as concern with sections 212(d)(3), 537(e)(3), 591(d)(3), 902(c)(3)(C), and 1042(c), which seek submission of legislative recommendations by Executive Branch officials. These sections should be modified to require submission only of such recommendations "as the President judges necessary and expedient," in order to be consistent with the President's constitutional authority to supervise the unitary Executive Branch and the Recommendations Clause of the Constitution. The Administration also will work with Congress to eliminate the unintended and potentially discriminatory effects of section 581, so as to ensure the eligibility of U.S. citizen children of non-citizen DOD employees living abroad to enroll in DOD schools.

Budget Estimates and Enforcement

This bill would affect direct spending and receipts. To sustain the economy's expansion, it is critical to exercise responsible restraint over Federal spending. The Budget Enforcement Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002. The President's FY 2006 Budget includes a proposal to extend the discretionary caps through 2010, a pay-as-you-go requirement for direct spending, and a new mechanism to control the

DOJ_NMG_ 0145546

expansion of long-term unfunded obligations. OMB's cost estimate of this bill is currently under development.

* * * * *

DOJ_NMG_ 0145547

Sure you've already seen - contains discussion of possible detainee legislation.

-----Original Message-----
From: [redacted]
Sent: Thursday, July 21, 2005 14:52
[redacted]
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act for Fiscal Year 2006

Attached is the Statement of Administration Policy on the Senate version of our NDAA bill.

[redacted]

CAUTION: This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without the approval of the DoD Office of General Counsel.

-----Original Message-----
From: Fitter, E. Holly [mailto:E._Holly_Fitter@omb.eop.gov]
Sent: Thursday, July 21, 2005 14:44
To: [redacted]
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act for Fiscal Year 2006

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Friday, July 22, 2005 6:13 PM
To:	Yanes, Raul; Elwood, Courtney
Subject:	FW: SAP RELEASE - S. 1042 - National Defense Authorization Act fo r Fiscal Year 2006
Attachments:	tmp.htm; SAP on S 1042.pdf

One more from DOD

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, July 22, 2005 5:07 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act
fo r Fiscal Year 2006

Sure you've already seen - contains discussion of possible detainee legislation.

-----Original Message-----
From: [redacted]
Sent: Thursday, July 21, 2005 14:52
[redacted]
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act for
Fiscal Year 2006

Attached is the Statement of Administration Policy on the Senate version of our NDAA bill.

[redacted]

1300 Defense Pentagon, Pentagon Rm 3D282

Washington, DC 20301

[redacted]

CAUTION: This message may contain information protected by the attorney-client, attorney work product, deliberative process,

or other privilege. Do not disseminate without the approval of the DoD Office of General Counsel.

-----Original Message-----
From: Fitter, E. Holly [mailto:E._Holly_Fitter@omb.eop.gov]
Sent: Thursday, July 21, 2005 14:44
[redacted]
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act for Fiscal Year 2006

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

July 21, 2005
(Senate)

STATEMENT OF ADMINISTRATION POLICY

S. 1042 - National Defense Authorization Act for Fiscal Year 2006

(Sen. Warner (R) VA)

The Administration commends the Senate Armed Services Committee for its continued support of our national defense and supports passage of S. 1042. The Committee's strong support for the President's priorities is critical to the continued successful prosecution of the Global War on Terror.

The Administration appreciates the Committee's support of the President's overall Budget level for defense activities. Any significant reductions from this overall level of $419 billion, such as the levels proposed by the Senate Appropriations Committee's current 302(b) allocation for defense, would be strongly opposed. The Administration thanks the Committee for providing the requested 3.1 percent military pay raise, the authorized increase to the death gratuity and life insurance benefits, and the reauthorization of needed special pays and bonuses. We appreciate the Committee's support for many programs, especially acquisition programs critical to ensuring America's future military dominance – such as the DD(X) destroyer and other next-generation ships, Joint Strike Fighter, Heavy Lift Replacement Helicopter, and Future Combat Systems programs. We also appreciate the Committee's support for Defense Health, Cooperative Threat Reduction, and the Energy Conservation Investment Program.

The Administration also thanks Congress for providing the vital funds in the recently enacted FY 2005 Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief. The Administration appreciates Congress' strong commitment to our troops and the Global War on Terror and notes that the supplemental funding will be sufficient to pay for our efforts through the end of the current fiscal year. While the $50 billion bridge fund included in this bill is not needed for the remainder of FY 2005, the Administration looks forward to working with Congress to ensure that there is no interruption of resources for the Global War on Terror in FY 2006 and that funding is allocated in the most effective way to meet the needs of commanders in the field.

The Administration encourages the Senate to include the requested Administration priorities, including:

Security Partnerships with Other Nations: We strongly urge Congress to provide the Administration with the full set of authorities requested to build security partnerships to fight the Global War on Terror. The requested authorities include the Commander's Emergency Response Program (CERP) Fund, authority to train and equip foreign military or security forces, reimbursement for coalition support forces, logistics support to other nations, and support for emergency stabilization and reconstruction activities. Flexible authorities provided by Congress have proven critical in responding to needs in Afghanistan and Iraq. The requested authorities build upon this success but also would enable a broader range of responses to address the Global War on Terror, including new tools to ensure that foreign states do not become terrorist havens. While the Administration appreciates the Committee's authorization of $500 million in the CERP for Iraq and Afghanistan, we urge Congress to extend the CERP authority for use

anywhere it is needed, make it permanent, and include the concurrence of the Secretary of State, as the Administration has requested.

Stabilization and Reconstruction Support: The Administration strongly urges the inclusion of its proposal to temporarily authorize the Department of Defense (DOD), at the request of the Secretary of State, to transfer funds, goods, and services to other U.S. departments and agencies, such as the new Office of the Coordinator for Reconstruction and Stabilization (S/CRS), for the purpose of restoring or maintaining peace and security in a foreign country. This authority would be used for unforeseen emergencies requiring immediate stabilization and reconstruction assistance where a response is in the U.S. national interest. At a time of increasing instability in many parts of the world, it is important that the U.S. Government has the ability to respond quickly to such situations. This emergency authority would enable DOD, the State Department, and other Federal agencies to work together during stabilization, security, and reconstruction operations and eliminate delays in deploying S/CRS and other U.S. Government elements in the critical stages of stabilization, security, and reconstruction efforts.

Robust Nuclear Earth Penetrator: The Administration urges the Senate to approve the Administration's request to fund an integrated DOD and Department of Energy program to study the feasibility of adapting an existing warhead to a new precision penetrator casing and bomber platform integration.

Purchase and Destruction of Weapons Overseas: The Administration thanks the Committee for authorizing funds to purchase weapons abroad for force protection and to destroy them, but urges Congress to modify section 324 to include the concurrence of the Secretary of State, as the Administration had requested.

Protection of Sensitive Information: The Administration supports section 922, which would protect sensitive operational information of the Defense Intelligence Agency, and recommends that access by the space control advisory committee to Federal agency information under section 911(d)(1), apply only "to the extent permitted by law," in order to preserve existing protections for sensitive information, including personal information, intelligence sources and methods, and trade secrets.

Military Construction/Family Housing: The Administration supports the $12.1 billion authorized for military construction and family housing, which will help meet the Nation's military construction priorities for our forces at home and abroad. The Administration is concerned, however, that the bill does not provide the flexibility to use operation and maintenance funds for emergency construction requirements outside the United States.

The Administration has a number of concerns, including:

Amendments Interfering with Effective Conduct of War on Terror: The Administration understands that amendments may be offered to establish a national commission on the detainee operations or to regulate the detention, treatment or trial of terrorists captured in the war on terror. The Administration strongly opposes such amendments, which would interfere with the protection of Americans from terrorism by diverting resources from the war to answer unnecessary or duplicative inquiry or by restricting the President's ability to conduct the war effectively under existing law. The Constitution and the Authorization for Use of Military Force Joint Resolution (Public Law 107-40, September 18, 2001) provide the authority the President

DOJ_NMG_ 0145552

needs to conduct the war effectively and protect the American people. If legislation is presented that would restrict the President's authority to protect Americans effectively from terrorist attack and bring terrorists to justice, the President's senior advisers would recommend that he veto the bill.

Aircraft Carrier Force Structure: The Administration strongly opposes any further delay in the retirement of the carrier *U.S.S. John F. Kennedy*. The Senate is urged to eliminate section 321, which prohibits retirement of the carrier for at least another 180 days beyond currently imposed restrictions and perhaps longer. We would oppose any requirement to spend funds to maintain a ship that the Navy believes is no longer essential. In configuring the fleet for 11 carriers, the Navy will ensure that it makes effective use of existing carrier ports.

Base Realignment and Closure: The Administration strongly opposes the $376 million funding reduction for implementing recommendations of the 2005 Base Realignment and Closure (BRAC) Commission. This reduction would slow BRAC implementation and thus delay achievement of the mission improvements provided by BRAC changes, costing the DOD more money over the long term. Delaying the completion of base closures and realignments also would hinder community efforts to quickly reuse DOD facilities and mitigate the economic impact of BRAC actions.

The Administration would strongly oppose any amendment to weaken, delay, or repeal the authority for the 2005 BRAC round. If the President is presented a bill that weakens, delays, or repeals the BRAC authority, the Secretary of Defense, joining with other senior advisors, will recommend that the President veto the bill.

Buy American Act Amendments: The Administration would strongly oppose any amendment that would limit our flexibility in applying the Buy American Act or that would undermine the longstanding U.S. policy -- repeatedly affirmed by Congress -- to open U.S. procurement markets to suppliers from foreign countries that open their procurement markets to U.S. suppliers. Such amendments would harm U.S. companies and workers, as foreign governments would likely respond by restricting U.S. suppliers' access to their procurement markets. Such amendments also would decrease competition, increase costs for U.S. taxpayers, and unnecessarily add red tape to the procurement process. In the case of defense-related amendments, such legislation also could jeopardize our military readiness, when our objective should be to enhance our ability to get the best capability for the warfighter at the best value for the taxpayer. If the President is presented a bill that includes such an amendment, his senior advisors will recommend that he veto the bill.

End-Strength: The Administration strongly opposes increases in minimum Army and Marine Corps end-strength (sections 401 and 402). The President has sufficient authority to adjust the size of the Army and Marine Corps as necessary for the current national emergency. No changes to end-strength authorizations are needed at this time.

Acquisition Restrictions: The Administration is concerned with section 122, which would incrementally fund the Navy's future nuclear aircraft carrier, CVN 21, over four years. This marks a substantial move away from the Administration's full funding policy, and we urge the Senate to remove this provision. The Administration also opposes sections 132, 134, and 135, which would prohibit the retirement of any KC-135E tanker aircraft, F-117 fighter aircraft, or C-130E/H tactical airlift aircraft in FY 2006, because these prohibitions would unnecessarily limit

DOJ_NMG_ 0145553

DOD's flexibility to manage its assets and meet combatant commander requirements in the most efficient manner.

Unrequested Additions: The Committee's bill would authorize increased funding for a large number of weapon systems and programs, including an additional $400 million for Science and Technology programs, $49 million for homeland defense initiatives, and $80 million for additional chemical and biological weapons defenses. Although some of these increases, in isolation, might seem to benefit U.S. defense capabilities, the Administration is concerned that the Committee reduced Service Operations and Maintenance funds to carry out these authorized increases. The Administration also objects to section 137, which would require the Air Force to procure up to two aircraft dedicated solely to aeromedical evacuation. This requirement is not only unnecessary, since the Air Force no longer needs dedicated aeromedical evacuation aircraft, but would restrict DOD's ability to effectively manage its resources. The Administration is especially troubled by the $1.3 billion general cut in section 1004 (based on unrealistic inflation projections) and reductions to transformational programs used to pay for these unrequested additions.

Reductions to Transformational Programs: The Administration is concerned by the Committee's reduction of the Joint Tactical Radio System by $308.3 million. Although the program has experienced difficulties and is being restructured this year, the full request will be needed in FY 2006 to avoid a delay of up to two years in fielding this transformational, networked tactical communication system, which is vital to our future coalition warfare operations. In addition, the Administration opposes the deep cuts in the Transformational Satellite Program and Space Radar, which have the potential to revolutionize future military operations.

Fissile Material Disposition Program: The Administration is concerned that the $200 million reduction in the Fissile Material Disposition program would prevent the start of construction of a mixed oxide (MOX) fuel-fabrication facility in South Carolina in FY 2006, and result in a two- to three-year delay in the project. While there were delays in reaching an agreement with the Russian government, agreement has now been reached on these protections, allowing the Fissile Material Disposition program to proceed. Reduction of funding for the U.S. facility could undermine Russian confidence in the MOX approach and put at risk international support and funding for the Russian MOX facility.

Capital Security Cost Sharing: The Administration strongly opposes section 1008 because it could prevent DOD from contributing to overseas cost sharing for critical security improvements under the Capital Security Cost Sharing program administered by the Department of State. This program requires all Federal agencies with authorized positions overseas to budget for and contribute to the construction of new secure embassy compounds for those positions.

Contract Support Acquisition Centers: The Administration strongly opposes Section 802, which would require DOD to establish a contract support acquisition center at the Defense Logistics Agency and each of the Military Departments, as premature and potentially inefficient. DOD continues to take active measures to improve the procurement of services, which include instituting management structure improvements. Currently, DOD is reviewing the implementation and effect of those improvements, which should be considered before statutorily mandating a new organizational structure for acquiring services. By mandating a new organization structure, section 802 would eliminate the flexibility that DOD needs to acquire services in the most efficient manner.

DOJ_NMG_ 0145554

DOD Financial Improvements: The Administration supports the Committee's requirement that DOD have a comprehensive and integrated financial management improvement plan to guide expenditure of resources on improvement activities. However, the Administration is concerned that the Committee's expenditure restrictions and $200 million funding reduction contained in Sec. 328 would disrupt the Department's ongoing improvements. The Administration looks forward to working with Congress toward a successful implementation of DOD's financial improvement plan.

Competitive Sourcing: The Administration would strongly oppose any amendment that would unnecessarily subject private-sector bidders to intrusive data requirements concerning the provision of health benefits to their employees. While well-intentioned, such an amendment would ultimately undermine the efficiencies in private health plans and provide a disincentive for the private sector to participate in DOD's competitions. Further, by discouraging private-sector interest in competitive sourcing, it would place at risk significant savings -- $6 billion estimated to be generated from DOD competitions completed between FY 2001 and 2006 -- from the Competitive Sourcing initiative of the President's Management Agenda. Small business participation in competitions will be severely hampered since this provision makes it particularly burdensome to assemble competitive offers. The Administration urges the Senate to permit DOD to take advantage of government-wide OMB Circular A-76 policies to achieve the best value for the taxpayer.

Personnel Issues: While grateful that the Committee's bill provides support for our military and their families, the Administration is concerned about the following personnel issues:

Thrift Savings Plan Pilot: The Administration opposes section 652, which would establish a new pilot program to pay first-term enlistees matching Government contributions to their Thrift Savings Plan contributions. The unparalleled retirement benefits which service members already receive serve as a powerful retention tool. Any significant changes to retirement benefits should be part of a comprehensive review of compensation policy. Moreover, if this pilot program is intended primarily as a recruitment tool, the Department already has more cost-effective tools at its disposal.

Reservist Medical Exams: The new requirement in section 531 for yearly physical exams for non-activated reserve members would not enhance readiness, but would entail costs to the services of approximately $600 million over five years. Reservists currently receive a physical at least once every five years, with the Secretary of Defense ordering reservists to receive physicals more often if necessary. When activated, reservists already must undergo a physical to ensure they can deploy.

Acquisition Workforce Restriction: The Administration opposes section 832's mandated 15 percent increase in the DOD acquisition workforce over the next three fiscal years and section 572's restrictions on converting military to civilian positions in medical care. These provisions would impede the Secretary of Defense's ability to manage the workforce effectively.

Military-Civilian Conversion: The $285 million reduction in military-civilian conversion funds will eliminate the flexibility of the Secretary of Defense to use those converted positions to enhance the strength of operating units. This reduction in military-civilian conversions would have an adverse impact on all the services, especially Army transformation.

DOJ_NMG_ 0145555

Hardship Duty Pay: The Administration is concerned that the Committee has not authorized an increase in the ceiling on Hardship Duty Pay. This flexible pay is a valuable tool for enhancing retention of some of our most critical service members in a timely manner.

Promotion Board Information Credibility: Because promotion board consideration of adverse information that is not credible would be unfairly prejudicial to a military officer, section 504 should be amended to require submission to a board only of "credible" information of an adverse nature.

Finally, the Administration encourages the Senate not to adopt unrequested benefits. New or major expansion of benefits should await the results of the comprehensive review undertaken by the Secretary of Defense's Advisory Committee on Military Compensation and the results of the statutorily required Quadrennial Review of Military Compensation.

Defense Intelligence SES Positions: The Administration is disappointed the Committee did not include the Administration's proposal to increase the number of Defense Intelligence Senior Executive Service positions. These additional positions are essential to meeting the increased demands for intelligence support.

Unmanned Aerial Vehicle (UAV) Reconnaissance to Detect and Monitor Border Traffic: The Administration opposes section 1031, which would authorize DOD to conduct UAV reconnaissance to detect and monitor suspicious air, sea, and surface traffic along the U.S. border. This authority could imply a continuous mission requirement for DOD, which would place even greater demands on already heavily used UAV assets. Also, under Title 10, Section 374, the Department already is authorized to provide aerial reconnaissance support to civilian law enforcement agencies who request DOD support using the established Request for Assistance (RFA) process. Section 1031 could lead to a recurring border security mission for DOD outside the scope of Title 10, Section 374. The Administration would support express statutory authority for DOD to use UAVs in support of civilian law enforcement, but would not support a potentially continuous mission requirement directing DOD employment of these UAV assets in any particular way.

Support for Critical White House Communications Activities: The Administration strongly urges Congress to support the Administration's request to amend section 912 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201) to enable the White House Communications Agency (WHCA) to provide critical audiovisual support services for the President and the White House. These services help the President and senior White House staff in communicating with the American people and the world in executing his official duties during times of peace and national crisis by audio and visual means. The proposed change will enable the WHCA to streamline its operations and manage its personnel and resources more effectively and efficiently and eliminate a cumbersome process for requesting and billing for support provided. Accordingly, the Administration has determined that it would be most effective to fund these activities directly through WHCA, and the FY 2006 Budget submission for WHCA reflects this decision. Without this amendment, the WHCA will lack authority to expend FY 2006 funds expressly requested for this purpose.

Small Business Innovation Research Programs: The Administration is concerned about the intent of section 814, which would require that DOD maintain lists of Small Business Innovation

DOJ_NMG_ 0145556

Research (SBIR) programs that have completed the research and development phase of the program (Phase II) and have the potential for rapid transition to an openly competitive commercial phase (Phase III). We are concerned that the intent to establish lists of Phase II projects will lead to expectations that DOD will fund Phase III projects, which are outside the scope of the SBIR program.

Grades of the Judge Advocates General: The Administration opposes section 505, which would elevate the Judge Advocates General to 3-star grade. This provision would: (1) undermine the flexibility of the President to determine what positions of importance and responsibility merit grades above the major general or rear admiral (upper half); (2) add unnecessary and rank-heavy bureaucracy; and (3) create unique selection procedures for one class of 3-star officers by imposing selection board procedures rather than permitting the Secretary of Defense to use his discretion. The Judge Advocates General, as 2-star officers, already participate fully in the legal affairs of their respective Military Departments and the entire DOD and would enjoy no greater access to senior officials as a result of their elevation to 3-star status.

Legal Services in DOD: To protect individuals receiving military legal assistance, section 1044(e)(1) of title 10, United States Code, as contained in section 553 of the bill – which grants the right to practice law anywhere in the United States to judge advocates or civilian attorneys authorized to provide military legal assistance – should be amended to provide that a judge advocate or civilian attorney must be a "member of the bar of the highest court in at least one State or Territory or the District of Columbia." In addition, section 923 should be stricken in order to preserve the authority of the Secretary of the Air Force to determine the appropriate functions and duties of his subordinates who provide legal services consistent with applicable law.

Classified Programs: The Administration opposes section 1002, which would incorporate the classified annex into the bill. The Administration discourages the practice of enacting secret laws and encourages instead appropriate non-binding uses of classified annexes to committee reports and the joint statements of managers that accompany final legislation, and therefore recommends striking section 1002(a).

The Administration looks forward to working with the Congress to address other concerns, including constitutional ones, such as concern with sections 212(d)(3), 537(e)(3), 591(d)(3), 902(c)(3)(C), and 1042(c), which seek submission of legislative recommendations by Executive Branch officials. These sections should be modified to require submission only of such recommendations "as the President judges necessary and expedient," in order to be consistent with the President's constitutional authority to supervise the unitary Executive Branch and the Recommendations Clause of the Constitution. The Administration also will work with Congress to eliminate the unintended and potentially discriminatory effects of section 581, so as to ensure the eligibility of U.S. citizen children of non-citizen DOD employees living abroad to enroll in DOD schools.

Budget Estimates and Enforcement

This bill would affect direct spending and receipts. To sustain the economy's expansion, it is critical to exercise responsible restraint over Federal spending. The Budget Enforcement Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002. The President's FY 2006 Budget includes a proposal to extend the discretionary caps through 2010, a pay-as-you-go requirement for direct spending, and a new mechanism to control the

DOJ_NMG_ 0145557

expansion of long-term unfunded obligations. OMB's cost estimate of this bill is currently under development.

* * * * *

DOJ_NMG_ 0145558

Sure you've already seen - contains discussion of possible detainee legislation.

-----Original Message-----
From: [redacted]
Sent: Thursday, July 21, 2005 14:52
[redacted]
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act for Fiscal Year 2006

Attached is the Statement of Administration Policy on the Senate version of our NDAA bill.

[redacted]

Washington, DC 20301

[redacted]

CAUTION: This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without the approval of the DoD Office of General Counsel.

-----Original Message-----
From: Fitter, E. Holly [mailto:E._Holly_Fitter@omb.eop.gov]
Sent: Thursday, July 21, 2005 14:44
To: [redacted]
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act for Fiscal Year 2006

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 22, 2005 6:15 PM
To: McCallum, Robert (SMO)
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act fo r Fiscal Year 2006
Attachments: tmp.htm; SAP on S 1042.pdf

One more from DoD. If the President plans to veto this, I suppose we don't have any issue. But if there's any chance he'd sign something stuck to an approp rider or otherwise, I wonder whether we ought to start thinking about the contours of what we'd want, as well as how to tee that issue up internally.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, July 22, 2005 5:07 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act fo r Fiscal Year 2006

Sure you've already seen - contains discussion of possible detainee legislation.

-----Original Message-----
From: [redacted]
Sent: Thursday, July 21, 2005 14:52
[redacted]
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act for Fiscal Year 2006

Attached is the Statement of Administration Policy on the Senate version of our NDAA bill.

[redacted]

Director, Office of Legislative Counsel (Acting)

1300 Defense Pentagon, Pentagon Rm 3D282

Washington, DC 20301

[redacted]

CAUTION: This message may contain information protected by the attorney-client, attorney work product, deliberative process,

or other privilege. Do not disseminate without the approval of the DoD Office of General Counsel.

-----Original Message-----
From: Fitter, E. Holly [mailto:E._Holly_Fitter@omb.eop.gov]
Sent: Thursday, July 21, 2005 14:44
[redacted]
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act for Fiscal Year 2006

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

July 21, 2005
(Senate)

STATEMENT OF ADMINISTRATION POLICY

S. 1042 - National Defense Authorization Act for Fiscal Year 2006

(Sen. Warner (R) VA)

The Administration commends the Senate Armed Services Committee for its continued support of our national defense and supports passage of S. 1042. The Committee's strong support for the President's priorities is critical to the continued successful prosecution of the Global War on Terror.

The Administration appreciates the Committee's support of the President's overall Budget level for defense activities. Any significant reductions from this overall level of $419 billion, such as the levels proposed by the Senate Appropriations Committee's current 302(b) allocation for defense, would be strongly opposed. The Administration thanks the Committee for providing the requested 3.1 percent military pay raise, the authorized increase to the death gratuity and life insurance benefits, and the reauthorization of needed special pays and bonuses. We appreciate the Committee's support for many programs, especially acquisition programs critical to ensuring America's future military dominance – such as the DD(X) destroyer and other next-generation ships, Joint Strike Fighter, Heavy Lift Replacement Helicopter, and Future Combat Systems programs. We also appreciate the Committee's support for Defense Health, Cooperative Threat Reduction, and the Energy Conservation Investment Program.

The Administration also thanks Congress for providing the vital funds in the recently enacted FY 2005 Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief. The Administration appreciates Congress' strong commitment to our troops and the Global War on Terror and notes that the supplemental funding will be sufficient to pay for our efforts through the end of the current fiscal year. While the $50 billion bridge fund included in this bill is not needed for the remainder of FY 2005, the Administration looks forward to working with Congress to ensure that there is no interruption of resources for the Global War on Terror in FY 2006 and that funding is allocated in the most effective way to meet the needs of commanders in the field.

The Administration encourages the Senate to include the requested Administration priorities, including:

Security Partnerships with Other Nations: We strongly urge Congress to provide the Administration with the full set of authorities requested to build security partnerships to fight the Global War on Terror. The requested authorities include the Commander's Emergency Response Program (CERP) Fund, authority to train and equip foreign military or security forces, reimbursement for coalition support forces, logistics support to other nations, and support for emergency stabilization and reconstruction activities. Flexible authorities provided by Congress have proven critical in responding to needs in Afghanistan and Iraq. The requested authorities build upon this success but also would enable a broader range of responses to address the Global War on Terror, including new tools to ensure that foreign states do not become terrorist havens. While the Administration appreciates the Committee's authorization of $500 million in the CERP for Iraq and Afghanistan, we urge Congress to extend the CERP authority for use

anywhere it is needed, make it permanent, and include the concurrence of the Secretary of State, as the Administration has requested.

Stabilization and Reconstruction Support: The Administration strongly urges the inclusion of its proposal to temporarily authorize the Department of Defense (DOD), at the request of the Secretary of State, to transfer funds, goods, and services to other U.S. departments and agencies, such as the new Office of the Coordinator for Reconstruction and Stabilization (S/CRS), for the purpose of restoring or maintaining peace and security in a foreign country. This authority would be used for unforeseen emergencies requiring immediate stabilization and reconstruction assistance where a response is in the U.S. national interest. At a time of increasing instability in many parts of the world, it is important that the U.S. Government has the ability to respond quickly to such situations. This emergency authority would enable DOD, the State Department, and other Federal agencies to work together during stabilization, security, and reconstruction operations and eliminate delays in deploying S/CRS and other U.S. Government elements in the critical stages of stabilization, security, and reconstruction efforts.

Robust Nuclear Earth Penetrator: The Administration urges the Senate to approve the Administration's request to fund an integrated DOD and Department of Energy program to study the feasibility of adapting an existing warhead to a new precision penetrator casing and bomber platform integration.

Purchase and Destruction of Weapons Overseas: The Administration thanks the Committee for authorizing funds to purchase weapons abroad for force protection and to destroy them, but urges Congress to modify section 324 to include the concurrence of the Secretary of State, as the Administration had requested.

Protection of Sensitive Information: The Administration supports section 922, which would protect sensitive operational information of the Defense Intelligence Agency, and recommends that access by the space control advisory committee to Federal agency information under section 911(d)(1), apply only "to the extent permitted by law," in order to preserve existing protections for sensitive information, including personal information, intelligence sources and methods, and trade secrets.

Military Construction/Family Housing: The Administration supports the $12.1 billion authorized for military construction and family housing, which will help meet the Nation's military construction priorities for our forces at home and abroad. The Administration is concerned, however, that the bill does not provide the flexibility to use operation and maintenance funds for emergency construction requirements outside the United States.

The Administration has a number of concerns, including:

Amendments Interfering with Effective Conduct of War on Terror: The Administration understands that amendments may be offered to establish a national commission on the detainee operations or to regulate the detention, treatment or trial of terrorists captured in the war on terror. The Administration strongly opposes such amendments, which would interfere with the protection of Americans from terrorism by diverting resources from the war to answer unnecessary or duplicative inquiry or by restricting the President's ability to conduct the war effectively under existing law. The Constitution and the Authorization for Use of Military Force Joint Resolution (Public Law 107-40, September 18, 2001) provide the authority the President

DOJ_NMG_ 0145563

needs to conduct the war effectively and protect the American people. If legislation is presented that would restrict the President's authority to protect Americans effectively from terrorist attack and bring terrorists to justice, the President's senior advisers would recommend that he veto the bill.

Aircraft Carrier Force Structure: The Administration strongly opposes any further delay in the retirement of the carrier *U.S.S. John F. Kennedy*. The Senate is urged to eliminate section 321, which prohibits retirement of the carrier for at least another 180 days beyond currently imposed restrictions and perhaps longer. We would oppose any requirement to spend funds to maintain a ship that the Navy believes is no longer essential. In configuring the fleet for 11 carriers, the Navy will ensure that it makes effective use of existing carrier ports.

Base Realignment and Closure: The Administration strongly opposes the $376 million funding reduction for implementing recommendations of the 2005 Base Realignment and Closure (BRAC) Commission. This reduction would slow BRAC implementation and thus delay achievement of the mission improvements provided by BRAC changes, costing the DOD more money over the long term. Delaying the completion of base closures and realignments also would hinder community efforts to quickly reuse DOD facilities and mitigate the economic impact of BRAC actions.

The Administration would strongly oppose any amendment to weaken, delay, or repeal the authority for the 2005 BRAC round. If the President is presented a bill that weakens, delays, or repeals the BRAC authority, the Secretary of Defense, joining with other senior advisors, will recommend that the President veto the bill.

Buy American Act Amendments: The Administration would strongly oppose any amendment that would limit our flexibility in applying the Buy American Act or that would undermine the longstanding U.S. policy -- repeatedly affirmed by Congress -- to open U.S. procurement markets to suppliers from foreign countries that open their procurement markets to U.S. suppliers. Such amendments would harm U.S. companies and workers, as foreign governments would likely respond by restricting U.S. suppliers' access to their procurement markets. Such amendments also would decrease competition, increase costs for U.S. taxpayers, and unnecessarily add red tape to the procurement process. In the case of defense-related amendments, such legislation also could jeopardize our military readiness, when our objective should be to enhance our ability to get the best capability for the warfighter at the best value for the taxpayer. If the President is presented a bill that includes such an amendment, his senior advisors will recommend that he veto the bill.

End-Strength: The Administration strongly opposes increases in minimum Army and Marine Corps end-strength (sections 401 and 402). The President has sufficient authority to adjust the size of the Army and Marine Corps as necessary for the current national emergency. No changes to end-strength authorizations are needed at this time.

Acquisition Restrictions: The Administration is concerned with section 122, which would incrementally fund the Navy's future nuclear aircraft carrier, CVN 21, over four years. This marks a substantial move away from the Administration's full funding policy, and we urge the Senate to remove this provision. The Administration also opposes sections 132, 134, and 135, which would prohibit the retirement of any KC-135E tanker aircraft, F-117 fighter aircraft, or C-130E/H tactical airlift aircraft in FY 2006, because these prohibitions would unnecessarily limit

DOJ_NMG_ 0145564

DOD's flexibility to manage its assets and meet combatant commander requirements in the most efficient manner.

Unrequested Additions: The Committee's bill would authorize increased funding for a large number of weapon systems and programs, including an additional $400 million for Science and Technology programs, $49 million for homeland defense initiatives, and $80 million for additional chemical and biological weapons defenses. Although some of these increases, in isolation, might seem to benefit U.S. defense capabilities, the Administration is concerned that the Committee reduced Service Operations and Maintenance funds to carry out these authorized increases. The Administration also objects to section 137, which would require the Air Force to procure up to two aircraft dedicated solely to aeromedical evacuation. This requirement is not only unnecessary, since the Air Force no longer needs dedicated aeromedical evacuation aircraft, but would restrict DOD's ability to effectively manage its resources. The Administration is especially troubled by the $1.3 billion general cut in section 1004 (based on unrealistic inflation projections) and reductions to transformational programs used to pay for these unrequested additions.

Reductions to Transformational Programs: The Administration is concerned by the Committee's reduction of the Joint Tactical Radio System by $308.3 million. Although the program has experienced difficulties and is being restructured this year, the full request will be needed in FY 2006 to avoid a delay of up to two years in fielding this transformational, networked tactical communication system, which is vital to our future coalition warfare operations. In addition, the Administration opposes the deep cuts in the Transformational Satellite Program and Space Radar, which have the potential to revolutionize future military operations.

Fissile Material Disposition Program: The Administration is concerned that the $200 million reduction in the Fissile Material Disposition program would prevent the start of construction of a mixed oxide (MOX) fuel-fabrication facility in South Carolina in FY 2006, and result in a two- to three-year delay in the project. While there were delays in reaching an agreement with the Russian government, agreement has now been reached on these protections, allowing the Fissile Material Disposition program to proceed. Reduction of funding for the U.S. facility could undermine Russian confidence in the MOX approach and put at risk international support and funding for the Russian MOX facility.

Capital Security Cost Sharing: The Administration strongly opposes section 1008 because it could prevent DOD from contributing to overseas cost sharing for critical security improvements under the Capital Security Cost Sharing program administered by the Department of State. This program requires all Federal agencies with authorized positions overseas to budget for and contribute to the construction of new secure embassy compounds for those positions.

Contract Support Acquisition Centers: The Administration strongly opposes Section 802, which would require DOD to establish a contract support acquisition center at the Defense Logistics Agency and each of the Military Departments, as premature and potentially inefficient. DOD continues to take active measures to improve the procurement of services, which include instituting management structure improvements. Currently, DOD is reviewing the implementation and effect of those improvements, which should be considered before statutorily mandating a new organizational structure for acquiring services. By mandating a new organization structure, section 802 would eliminate the flexibility that DOD needs to acquire services in the most efficient manner.

DOJ_NMG_ 0145565

DOD Financial Improvements: The Administration supports the Committee's requirement that DOD have a comprehensive and integrated financial management improvement plan to guide expenditure of resources on improvement activities. However, the Administration is concerned that the Committee's expenditure restrictions and $200 million funding reduction contained in Sec. 328 would disrupt the Department's ongoing improvements. The Administration looks forward to working with Congress toward a successful implementation of DOD's financial improvement plan.

Competitive Sourcing: The Administration would strongly oppose any amendment that would unnecessarily subject private-sector bidders to intrusive data requirements concerning the provision of health benefits to their employees. While well-intentioned, such an amendment would ultimately undermine the efficiencies in private health plans and provide a disincentive for the private sector to participate in DOD's competitions. Further, by discouraging private-sector interest in competitive sourcing, it would place at risk significant savings -- $6 billion estimated to be generated from DOD competitions completed between FY 2001 and 2006 -- from the Competitive Sourcing initiative of the President's Management Agenda. Small business participation in competitions will be severely hampered since this provision makes it particularly burdensome to assemble competitive offers. The Administration urges the Senate to permit DOD to take advantage of government-wide OMB Circular A-76 policies to achieve the best value for the taxpayer.

Personnel Issues: While grateful that the Committee's bill provides support for our military and their families, the Administration is concerned about the following personnel issues:

Thrift Savings Plan Pilot: The Administration opposes section 652, which would establish a new pilot program to pay first-term enlistees matching Government contributions to their Thrift Savings Plan contributions. The unparalleled retirement benefits which service members already receive serve as a powerful retention tool. Any significant changes to retirement benefits should be part of a comprehensive review of compensation policy. Moreover, if this pilot program is intended primarily as a recruitment tool, the Department already has more cost-effective tools at its disposal.

Reservist Medical Exams: The new requirement in section 531 for yearly physical exams for non-activated reserve members would not enhance readiness, but would entail costs to the services of approximately $600 million over five years. Reservists currently receive a physical at least once every five years, with the Secretary of Defense ordering reservists to receive physicals more often if necessary. When activated, reservists already must undergo a physical to ensure they can deploy.

Acquisition Workforce Restriction: The Administration opposes section 832's mandated 15 percent increase in the DOD acquisition workforce over the next three fiscal years and section 572's restrictions on converting military to civilian positions in medical care. These provisions would impede the Secretary of Defense's ability to manage the workforce effectively.

Military-Civilian Conversion: The $285 million reduction in military-civilian conversion funds will eliminate the flexibility of the Secretary of Defense to use those converted positions to enhance the strength of operating units. This reduction in military-civilian conversions would have an adverse impact on all the services, especially Army transformation.

DOJ_NMG_ 0145566

Hardship Duty Pay: The Administration is concerned that the Committee has not authorized an increase in the ceiling on Hardship Duty Pay. This flexible pay is a valuable tool for enhancing retention of some of our most critical service members in a timely manner.

Promotion Board Information Credibility: Because promotion board consideration of adverse information that is not credible would be unfairly prejudicial to a military officer, section 504 should be amended to require submission to a board only of "credible" information of an adverse nature.

Finally, the Administration encourages the Senate not to adopt unrequested benefits. New or major expansion of benefits should await the results of the comprehensive review undertaken by the Secretary of Defense's Advisory Committee on Military Compensation and the results of the statutorily required Quadrennial Review of Military Compensation.

Defense Intelligence SES Positions: The Administration is disappointed the Committee did not include the Administration's proposal to increase the number of Defense Intelligence Senior Executive Service positions. These additional positions are essential to meeting the increased demands for intelligence support.

Unmanned Aerial Vehicle (UAV) Reconnaissance to Detect and Monitor Border Traffic: The Administration opposes section 1031, which would authorize DOD to conduct UAV reconnaissance to detect and monitor suspicious air, sea, and surface traffic along the U.S. border. This authority could imply a continuous mission requirement for DOD, which would place even greater demands on already heavily used UAV assets. Also, under Title 10, Section 374, the Department already is authorized to provide aerial reconnaissance support to civilian law enforcement agencies who request DOD support using the established Request for Assistance (RFA) process. Section 1031 could lead to a recurring border security mission for DOD outside the scope of Title 10, Section 374. The Administration would support express statutory authority for DOD to use UAVs in support of civilian law enforcement, but would not support a potentially continuous mission requirement directing DOD employment of these UAV assets in any particular way.

Support for Critical White House Communications Activities: The Administration strongly urges Congress to support the Administration's request to amend section 912 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201) to enable the White House Communications Agency (WHCA) to provide critical audiovisual support services for the President and the White House. These services help the President and senior White House staff in communicating with the American people and the world in executing his official duties during times of peace and national crisis by audio and visual means. The proposed change will enable the WHCA to streamline its operations and manage its personnel and resources more effectively and efficiently and eliminate a cumbersome process for requesting and billing for support provided. Accordingly, the Administration has determined that it would be most effective to fund these activities directly through WHCA, and the FY 2006 Budget submission for WHCA reflects this decision. Without this amendment, the WHCA will lack authority to expend FY 2006 funds expressly requested for this purpose.

Small Business Innovation Research Programs: The Administration is concerned about the intent of section 814, which would require that DOD maintain lists of Small Business Innovation

DOJ_NMG_ 0145567

Research (SBIR) programs that have completed the research and development phase of the program (Phase II) and have the potential for rapid transition to an openly competitive commercial phase (Phase III). We are concerned that the intent to establish lists of Phase II projects will lead to expectations that DOD will fund Phase III projects, which are outside the scope of the SBIR program.

Grades of the Judge Advocates General: The Administration opposes section 505, which would elevate the Judge Advocates General to 3-star grade. This provision would: (1) undermine the flexibility of the President to determine what positions of importance and responsibility merit grades above the major general or rear admiral (upper half); (2) add unnecessary and rank-heavy bureaucracy; and (3) create unique selection procedures for one class of 3-star officers by imposing selection board procedures rather than permitting the Secretary of Defense to use his discretion. The Judge Advocates General, as 2-star officers, already participate fully in the legal affairs of their respective Military Departments and the entire DOD and would enjoy no greater access to senior officials as a result of their elevation to 3-star status.

Legal Services in DOD: To protect individuals receiving military legal assistance, section 1044(e)(1) of title 10, United States Code, as contained in section 553 of the bill – which grants the right to practice law anywhere in the United States to judge advocates or civilian attorneys authorized to provide military legal assistance – should be amended to provide that a judge advocate or civilian attorney must be a "member of the bar of the highest court in at least one State or Territory or the District of Columbia." In addition, section 923 should be stricken in order to preserve the authority of the Secretary of the Air Force to determine the appropriate functions and duties of his subordinates who provide legal services consistent with applicable law.

Classified Programs: The Administration opposes section 1002, which would incorporate the classified annex into the bill. The Administration discourages the practice of enacting secret laws and encourages instead appropriate non-binding uses of classified annexes to committee reports and the joint statements of managers that accompany final legislation, and therefore recommends striking section 1002(a).

The Administration looks forward to working with the Congress to address other concerns, including constitutional ones, such as concern with sections 212(d)(3), 537(e)(3), 591(d)(3), 902(c)(3)(C), and 1042(c), which seek submission of legislative recommendations by Executive Branch officials. These sections should be modified to require submission only of such recommendations "as the President judges necessary and expedient," in order to be consistent with the President's constitutional authority to supervise the unitary Executive Branch and the Recommendations Clause of the Constitution. The Administration also will work with Congress to eliminate the unintended and potentially discriminatory effects of section 581, so as to ensure the eligibility of U.S. citizen children of non-citizen DOD employees living abroad to enroll in DOD schools.

Budget Estimates and Enforcement

This bill would affect direct spending and receipts. To sustain the economy's expansion, it is critical to exercise responsible restraint over Federal spending. The Budget Enforcement Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002. The President's FY 2006 Budget includes a proposal to extend the discretionary caps through 2010, a pay-as-you-go requirement for direct spending, and a new mechanism to control the

DOJ_NMG_ 0145568

expansion of long-term unfunded obligations. OMB's cost estimate of this bill is currently under development.

* * * * *

DOJ_NMG_ 0145569

Sure you've already seen - contains discussion of possible detainee legislation.

-----Original Message-----
From: [redacted]
Sent: Thursday, July 21, 2005 14:52
[redacted]
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act for Fiscal Year 2006

Attached is the Statement of Administration Policy on the Senate version of our NDAA bill.

[redacted]
1300 Defense Pentagon, Pentagon Rm 3D282
Washington, DC 20301
[redacted]

CAUTION: This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without the approval of the DoD Office of General Counsel.

-----Original Message-----
From: Fitter, E. Holly [mailto:E._Holly_Fitter@omb.eop.gov]
Sent: Thursday, July 21, 2005 14:44
To: [redacted]
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act for Fiscal Year 2006

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Friday, July 22, 2005 10:07 PM
To: Gorsuch, Neil M
Subject: Re: DHS HR Regulation challenge

Let's discuss.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Fri Jul 22 14:50:51 2005
Subject: DHS HR Regulation challenge

I was asked who is handling this matter and whether we have the "A team" on the field. Can you fill me in?

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Monday, July 25, 2005 8:29 AM
To: Gorsuch, Neil M; Gunn, Currie (SMO)
Subject: Morning

I have to deal with the DMV this morning. Will be in as soon as I can.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Monday, July 25, 2005 8:51 AM
To: McCallum, Robert (SMO); Wiggins, Mike; Gunn, Currie (SMO); Gorsuch, Neil M
Subject: Delayed in Windy City

As luck has it, looks like I am stuck in Chicago until plane leaves near 10 a.m. Means I arrive in DC near 1 pm.
Forwarded a backgrounder on PCA event yesterday.
If you need to reach me, please do not hesitate to call me or email. [redacted] or DOJ Cell [redacted]. -Lou

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Wiggins, Mike <Mike.Wiggins@SMOJMD.USDOJ.gov>
Sent: Sun Jul 24 14:56:13 2005
Subject: Fw: Backgrounder for Project Civic Access Event

Fyi, attached below is a 1 page backgrounder for the Project Civic Access event tomorrow. Hope all is well. - Lou

-----Original Message-----
From: [redacted]
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; [redacted]
Sent: Sun Jul 24 14:44:55 2005
Subject: Backgrounder for Project Civic Access Event

<html> <DIV class=RTE>Backgrounder ATTACHED</DIV> </html>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 9:35 AM
To: Henke, Tracy (SMO)
Subject: RE: Morning

could you stop by or give me a ring when you arrive? no rush.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, July 25, 2005 8:29 AM
To: Gorsuch, Neil M; Gunn, Currie (SMO)
Subject: Morning

I have to deal with the DMV this morning. Will be in as soon as I can.

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Monday, July 25, 2005 9:41 AM
To: Gorsuch, Neil M
Subject: Re: Morning

Of course. Body armor I assume?

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Jul 25 09:35:11 2005
Subject: RE: Morning

could you stop by or give me a ring when you arrive? no rush.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, July 25, 2005 8:29 AM
To: Gorsuch, Neil M; Gunn, Currie (SMO)
Subject: Morning

I have to deal with the DMV this morning. Will be in as soon as I can.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 9:56 AM
To: Henke, Tracy (SMO)
Subject: RE: Morning

Y

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, July 25, 2005 9:41 AM
To: Gorsuch, Neil M
Subject: Re: Morning

Of course. Body armor I assume?

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Jul 25 09:35:11 2005
Subject: RE: Morning

could you stop by or give me a ring when you arrive? no rush.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, July 25, 2005 8:29 AM
To: Gorsuch, Neil M; Gunn, Currie (SMO)
Subject: Morning

I have to deal with the DMV this morning. Will be in as soon as I can.

autoreply@cod.uscourts.gov

From: autoreply@cod.uscourts.gov
Sent: Monday, July 25, 2005 10:06 AM
To: Gorsuch, Neil M
Subject: U.S. District Court ECF Quality Control Update

Good Morning,

Thank you for registering for the District of Colorado's Electronic Case Filing (ECF) system. As an ECF User you will be sent periodic e-mail updates from the court regarding ECF issues we consider important.

Attorneys and staff will receive courtesy Notices of Electronic Filing on criminal cases if they are registered for ECF. The NEF is not official notice from the court on criminal cases until the criminal implementation date, which will be in the late fall of 2005. A paper notice will continue to be sent on criminal documents.

The United States District Court for the District of Colorado began allowing electronic filing on civil documents on June 20, 2005. To date, the court has registered 4232 attorneys for electronic filing. Since our live date, 1135 attorneys have filed 3041 documents electronically. There has been 1 application by an attorney to file in paper. Listed below are some of the issues the court would like to bring to your attention that will help improve the quality of work being submitted:

New Cases

(1) If a new case has been submitted to the court and you have received an e-mail reply or voicemail from the court about a problem, it is CRITICAL you respond as quickly as possible. A delay in the respose means a delay in the filing of your new case.

(2) Attorneys are strongly encouraged to sign up for the court's credit card system. The credit card information is securely held by our financial department and is not available otherwise. Cases e-mailed to the court that do not have payment authorization within the e-mail will get filed with the date of the receipt of payment per D.C.COLO.LCivR 3.3(A). If the check is not received until the next day, an attorney may miss a deadline. You may get more information on credit card payment here: http://www.co.uscourts.gov/forms/credit.pdf

(3) The PDF's sent in a new case e-mail must comply with the size and legibility requirements of the ECF Procedures. If a PDF is over 2 mb's then the court will not be able to file it. The state court record in actions removed to this court must be broken out by document filed in the state court and must comply with the PDF size requirements. PDF versions of any proposed orders must also be submitted. A WordPerfect copy of the proposed order is preferred and should be submitted attached to the e-mail so the clerk's office can forward that to the judicial officer.

(4) If a new case e-mail has over 5 PDF's attached, please index the documents in the body of the e-mail. This will allow the clerk's office to more efficiently process your case.

Data Quality

Data Quality

(1) If an attorney is attempting the second filing of one document, either at the direction of the clerk's office or because the attorney has noticed the original document was not complete, the document should be named "Amended" by using the drop down box on the text entry screen. For example, Amended Motion for Summary Judgment. Attorneys do not need to amend a document to add a certificate of service. They may file the certificate as a separate filing.

(2) When selecting multiple parties or multiple motion reliefs hold down the control key and left click on the second choice. This will allow multiple choices to be completed in the system.

(3) Though there is an opportunity to add text when document, there is no requirement to do so. For example, if you are filing an Answer to Complaint the standard text will not need to be enhanced.

(4) Please choose the correct filing event. For example, an objection to the ruling of a magistrate judge under Rule 72 is an Appeal of Magistrate Judge Decision to District Court. A response, opposition, objection, etc... to a motion should only use the Response to Motion event. A Proposed Bill of Costs should use that event, not motion and not a proposed order. Attorneys may find a report that lists all choices at Reports/Civil Events List. No PACER charges will be incurred for this report. If you cannot find a good fit for the document you are filing, call the court's help desk. Do not guess!

(5) Many document being filed must be linked to the document they are referring to. Some examples are Notices of Appeal, Responses to Motions, Replies to Motions, and Motions to Amend/Modify/Correct.

(6) On Service of Process, a Rule 4 waiver of service should use the Waiver of Service Executed event. If served by publication, use the Service by Publication event. All other returns, affidavits of service, etc... should use the Summons Returned Executed and Summons Returned Executed as to USA events. If you have any questions as to how to reflect service, call the court's help desk.

(7) An attorney's password will be the one submitted to the court as part of the registration process. The court will not e-mail attorneys their password. When the initial login screen appears for ECF/PACER use your ECF login and password first. If the screen comes up a second time, enter your PACER login and password.

(8) Documents should be filed using the case numbering protocol described in recently revised D.C.COLO.LCivR 10.1. (e.g. 05-cv-00123-LTB-OES) Documents that do not use this case numbering protocol are in violation of the local rules.

(9) Attorneys who wish for their electronic notice to be turned off on a case, either because an order to withdraw has been signed or the party represented is no longer active on the case, should send an e-mail to the court's help desk requesting the termination of notice.

Please contact the court's ECF Help Desk toll free at 1-866-365-6381 or 303-335-2050 with any questions or concerns. You may also e-mail the court at cod_cmecf@cod.uscourts.gov

Thanks,

[redacted]
ECF Project Manager
United States District Court

District of Colorado

Taylor, Wendell L

From: Taylor, Wendell L
Sent: Monday, July 25, 2005 10:18 AM
To: Gorsuch, Neil M
Cc: Burton, Dawn (ODAG); Davis, John S (ODAG)
Subject: RE: appendix forms for Fed. Rules of Civ. Pro.

FYI -
Civil has signed off on the appendix forms.

-----Original Message-----
From: Davis, John S (ODAG)
Sent: Wednesday, July 20, 2005 8:49 PM
To: Taylor, Wendell L; Burton, Dawn (ODAG)
Cc: Mercer, Bill (ODAG); Gorsuch, Neil M
Subject: RE: appendix forms for Fed. Rules of Civ. Pro.

I have left in my out box with a note to Wendell. I would send these right away to Peter Keisler for review; another good contact in Civil Division re Rules is Elizabeth "Betsy" Shapiro, who attended the Standing Committee meeting in Boston in June. Note the 8/1/05 response date. This should not be particularly controversial.

John

-----Original Message-----
From: Taylor, Wendell L
Sent: Wednesday, July 20, 2005 2:51 PM
To: Davis, John S (ODAG)
Subject: RE: appendix forms for Fed. Rules of Civ. Pro.

I think you handle Rules for ODAG, correct? I took the liberty of reviewing the appendix and putting it in your inbox. Let me know if it should go elswhere. Thanks.

-----Original Message-----
From: Burton, Dawn (ODAG)
Sent: Wednesday, July 20, 2005 2:29 PM
To: Davis, John S (ODAG); Taylor, Wendell L
Subject: appendix forms for Fed. Rules of Civ. Pro.

We just rec'd revised appendix forms for the Fed Rules from the AOUSC to the Standing Rules Committee members. Who should this go to? Should anyone in ODAG review, or should this go to the Associate first, Civil, etc.?

thanks, dawn.

Dawn M. Burton
Counsel to the Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
phone: (202) 305-0091
fax: (202) 514-6897

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 10:19 AM
To: Taylor, Wendell L
Cc: Burton, Dawn (ODAG); Davis, John S (ODAG)
Subject: RE: appendix forms for Fed. Rules of Civ. Pro.

Thank you for sending them my way. Look unobjectionable here as well.

-----Original Message-----
From: Taylor, Wendell L
Sent: Monday, July 25, 2005 10:18 AM
To: Gorsuch, Neil M
Cc: Burton, Dawn (ODAG); Davis, John S (ODAG)
Subject: RE: appendix forms for Fed. Rules of Civ. Pro.

FYI -
Civil has signed off on the appendix forms.

-----Original Message-----
From: Davis, John S (ODAG)
Sent: Wednesday, July 20, 2005 8:49 PM
To: Taylor, Wendell L; Burton, Dawn (ODAG)
Cc: Mercer, Bill (ODAG); Gorsuch, Neil M
Subject: RE: appendix forms for Fed. Rules of Civ. Pro.

I have left in my out box with a note to Wendell. I would send these right away to Peter Keisler for review; another good contact in Civil Division re Rules is Elizabeth "Betsy" Shapiro, who attended the Standing Committee meeting in Boston in June. Note the 8/1/05 response date. This should not be particularly controversial.

John

-----Original Message-----
From: Taylor, Wendell L
Sent: Wednesday, July 20, 2005 2:51 PM
To: Davis, John S (ODAG)
Subject: RE: appendix forms for Fed. Rules of Civ. Pro.

I think you handle Rules for ODAG, correct? I took the liberty of reviewing the appendix and putting it in your inbox. Let me know if it should go elswhere. Thanks.

-----Original Message-----
From: Burton, Dawn (ODAG)
Sent: Wednesday, July 20, 2005 2:29 PM
To: Davis, John S (ODAG); Taylor, Wendell L
Subject: appendix forms for Fed. Rules of Civ. Pro.

We just rec'd revised appendix forms for the Fed Rules from the AOUSC to the Standing Rules Committee members. Who should this go to? Should anyone in ODAG review, or should this go to the Associate first, Civil, etc.?

thanks, dawn.

Dawn M. Burton
Counsel to the Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
phone: (202) 305-0091
fax: (202) 514-6897

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 11:44 AM
To: Nichols, Carl (CIV)
Subject: RE: DHS HR Regulation challenge

ok; give me a ring at your convenience

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Friday, July 22, 2005 10:07 PM
To: Gorsuch, Neil M
Subject: Re: DHS HR Regulation challenge

Let's discuss.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Fri Jul 22 14:50:51 2005
Subject: DHS HR Regulation challenge

I was asked who is handling this matter and whether we have the "A team" on the field. Can you fill me in?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 11:53 AM
To: Shaw, Aloma A
Subject: RE: Call Greg Katsas - 4-4015

thanks. Can you find out for me what's my lexis number?

-----Original Message-----
From: Shaw, Aloma A
Sent: Monday, July 25, 2005 11:52 AM
To: Gorsuch, Neil M
Subject: Call Greg Katsas - 4-4015

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 25, 2005 12:15 PM
To: Gorsuch, Neil M
Subject: RE: Call Greg Katsas - 4-4015

Neil:

There are two references in your file to passwords. Both are addressed to [redacted]. One notes your Westlaw password and the other notes a password, however, it doesn't state the account. I am assuming it may be your Lexis number. I've placed a call to the [redacted] responsible for handling this account. Also, you should have received a card with this information on it. Why don't you check this password until I hear back from her. [redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 11:53 AM
To: Shaw, Aloma A
Subject: RE: Call Greg Katsas - 4-4015

thanks. Can you find out for me what's my lexis number?

-----Original Message-----
From: Shaw, Aloma A
Sent: Monday, July 25, 2005 11:52 AM
To: Gorsuch, Neil M
Subject: Call Greg Katsas - 4-4015

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, July 25, 2005 1:31 PM
To: Gorsuch, Neil M
Subject: RE: SAP RELEASE - S. 1042 - National Defense Authorization Act fo r Fiscal Year 2006

Let's alert both OLP and OLA of these matters as well as Courtney so that we can determine what DOJ needs to be doing about prep for an unwanted leg package or two or three. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 22, 2005 6:15 PM
To: McCallum, Robert (SMO)
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act fo r Fiscal Year 2006

One more from DoD. If the President plans to veto this, I suppose we don't have any issue. But if there's any chance he'd sign something stuck to an approp rider or otherwise, I wonder whether we ought to start thinking about the contours of what we'd want, as well as how to tee that issue up internally.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, July 22, 2005 5:07 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act fo r Fiscal Year 2006

Sure you've already seen - contains discussion of possible detainee legislation.

-----Original Message-----
From: [redacted]DoD OGC
Sent: Thursday, July 21, 2005 14:52
To: [redacted]
Cc: [redacted]'Scott_Stucky (Scott_Stucky@armed-services.senate.gov); [redacted]
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act for Fiscal Year 2006

Fiscal Year 2006

Attached is the Statement of Administration Policy on the Senate version of our NDAA bill.

[redacted]

Director, Office of Legislative Counsel (Acting)

1300 Defense Pentagon, Pentagon Rm 3D282

Washington, DC 20301

[redacted]

CAUTION: This message may contain information protected by the attorney-client, attorney work product, deliberative process,

or other privilege. Do not disseminate without the approval of the DoD Office of General Counsel.

-----Original Message-----
From: Fitter, E. Holly [mailto:E._Holly_Fitter@omb.eop.gov]
Sent: Thursday, July 21, 2005 14:44
To: [redacted]
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act for Fiscal Year 2006

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 1:33 PM
To: Katsas, Gregory (CIV)
Subject: RE: Geary

Brett Gerry -- bgerry@who.eop.gov

-----Original Message-----
From: Katsas, Gregory (CIV)
Sent: Monday, July 25, 2005 1:31 PM
To: Gorsuch, Neil M
Subject: Geary

Do you have an e-mail address? (I could guess, except I don't know his middle initial.)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 1:39 PM
To: McCallum, Robert (SMO)
Subject: RE: SAP RELEASE - S. 1042 - National Defense Authorization Act fo r Fiscal Year 2006

I've kept Courtney and Raul in the loop. Will make sure OLA and OLP get the info as well.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, July 25, 2005 1:31 PM
To: Gorsuch, Neil M
Subject: RE: SAP RELEASE - S. 1042 - National Defense Authorization Act
fo r Fiscal Year 2006

Let's alert both OLP and OLA of these matters as well as Courtney so that we can determine what DOJ needs to be doing about prep for an unwanted leg package or two or three. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 22, 2005 6:15 PM
To: McCallum, Robert (SMO)
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act
fo r Fiscal Year 2006

One more from DoD. If the President plans to veto this, I suppose we don't have any issue. But if there's any chance he'd sign something stuck to an approp rider or otherwise, I wonder whether we ought to start thinking about the contours of what we'd want, as well as how to tee that issue up internally.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, July 22, 2005 5:07 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act
fo r Fiscal Year 2006

Sure you've already seen - contains discussion of possible detainee legislation.

-----Original Message-----
From: Fucci, Michael, Mr, DoD OGC
Sent: Thursday, July 21, 2005 14:52
To: Haynes, WJ, Hon, DoD OGC; Goren, Pete, CIV, OSD; Stanley, Daniel, CIV

To: Haynes, WJ, Hon, DoD OGC; Geren, Pete, CIV, OSD; Stanley, Daniel, CIV, [redacted] Norquist, David, OSD-COMPT; Nadaner, Jeffrey, CIV, OSD-POLICY; Spruill, Nancy, Dr, OSD-ATL; Richman-Loo, Nina, CIV, OSD-P&R; Marchi, Gina A., CIV, OSD-P&R
Cc: Marrone, Christian, CIV, OSD-LA; 'Scott_Stucky (Scott_Stucky@armed-services.senate.gov); [redacted]
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act for Fiscal Year 2006

Attached is the Statement of Administration Policy on the Senate version of our NDAA bill.

[redacted]

1300 Defense Pentagon, Pentagon Rm 3D282

Washington, DC 20301

[redacted]

CAUTION: This message may contain information protected by the attorney-client, attorney work product, deliberative process,

or other privilege. Do not disseminate without the approval of the DoD Office of General Counsel.

-----Original Message-----
From: Fitter, E. Holly [mailto:E._Holly_Fitter@omb.eop.gov]
Sent: Thursday, July 21, 2005 14:44
To: [redacted] Sturbitts, Charlene; Maxwell, Kathryn; Peroff, Kathleen; Smith, Bryan R.
Subject: FW: SAP RELEASE - S. 1042 - National Defense Authorization Act for Fiscal Year 2006

Elwood, Courtney

From: Elwood, Courtney
Sent: Monday, July 25, 2005 1:45 PM
To: Gorsuch, Neil M
Subject: Read: FYI

Stokely, Tangent

Subject:	Bullet Proof Vests
Location:	Main Justice (Associates office) #5706
Start:	Tuesday, July 26, 2005 10:00 AM
End:	Tuesday, July 26, 2005 10:30 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Stokely, Tangent
Required Attendees:	Henke, Tracy (SMO); Gorsuch, Neil M; Daley, Cybele; Madan, Rafael A.; Hart, Sarah V.; Morgan, John; Rowe, Kiri; Elwood, Courtney; Warren, Julie; Seidel, Rebecca; Roberts, Crystal
Importance:	High

When: Tuesday, July 26, 2005 10:00 AM-10:30 AM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Justice (Associates office) #5706

~~*~*~*~*~*~*~*~*~*

For further information, please contact the AAG's office on 7-5933.

Thank you.

Stokely, Tangent

Subject:	Updated: Bullet Proof Vests
Location:	Main Justice (Associates office) #5706
Start:	Tuesday, July 26, 2005 10:00 AM
End:	Tuesday, July 26, 2005 11:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Stokely, Tangent
Required Attendees:	Henke, Tracy (SMO); Gorsuch, Neil M; Daley, Cybele; Madan, Rafael A.; Hart, Sarah V.; Morgan, John; Rowe, Kiri; Elwood, Courtney; Warren, Julie; Seidel, Rebecca; Roberts, Crystal
Importance:	High

When: Tuesday, July 26, 2005 10:00 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Justice (Associates office) #5706

~~*~*~*~*~*~*~*~*~*

For further information, please contact the AAG's office on 7-5933.

Thank you.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 5:21 PM
To: McCallum, Robert (SMO)
Subject: NAACP_and_IRS.doc
Attachments: NAACP_and_IRS.doc

Article from Lee. Note the claim that Gordon wishes to "repair relations" with the Administration.

Copyright 2005 The Baltimore Sun Company
The Baltimore Sun
July 11, 2005 Monday
FINAL EDITION

SECTION: TELEGRAPH; Pg. 1A
LENGTH: 724 words
HEADLINE:

Despite IRS audit, NAACP chairman criticizes Bush in speech opening the group's convention

BYLINE: Kelly Brewington, SUN NATIONAL STAFF
DATELINE: MILWAUKEE

BODY:

MILWAUKEE - Appearing unfazed by a pending IRS audit spurred by his stinging criticism of the Bush administration, NAACP Chairman Julian Bond continued to assault the president's policies in a speech last night opening the civil rights organization's 96th annual convention.

Calling the Bush administration's approach to civil rights "deceptive," Bond suggested that the White House has "tried an aggressive campaign to seduce black clergy" to support the administration through its faith-based grant campaign.

"The president likes to talk the talk, but he doesn't walk the walk," Bond told a crowd of about 3,000 gathered at Milwaukee's Midwest Airlines Center to hear his introduction to the annual convention.

Bond said the administration "at best has neglected civil rights issues, and at worst has been aggressively hostile to them" - buttressing that remark with mention of a recent U.S. Commission on Civil Rights report that was critical of the administration.

Bond landed the Baltimore-based National Association for the Advancement of Colored People in hot water with the Internal Revenue Service after a speech last summer, in which he attacked President Bush on the Iraq war and for being the first sitting president since Herbert Hoover not to address the group.

Bush declined an invitation to this year's convention as well - a point Bond underscored early in his speech.

The IRS has said its investigation is limited to whether Bond stepped over the line into partisan politics in his critique of Bush, which could cost the NAACP its tax-exempt status. But the NAACP is continuing to fight the federal investigation, and Bond - unapologetic for his remarks - has denounced the audit as partisan bullying.

Bond also gave a much-anticipated introduction of NAACP President-elect Bruce S. Gordon, a retired Verizon executive who has made repairing relations with the Bush administration one of his top goals.

Bond, known for his fiery addresses, didn't level criticism at Bush alone.

Bond named and condemned eight U.S. senators who he said dodged an apology for the federal government's failure to pass anti-lynching laws as the Senate - on a voice vote rather than a roll call - passed a nonbinding resolution of apology last month.

Judicial nominees

Bond also criticized Democrats for not blocking Bush's judicial nominees. He called confirmed U.S. Court of Appeals Judge Janice Rogers Brown the "female Clarence Thomas."

Bond accused black conservatives and blamed foundations that finance conservative groups for rolling back gains for which civil rights leaders have fought.

"Having stolen our vocabulary, they also want to steal the just spoils of our righteous war," he said. "They've had a collection of black hustlers and hucksters on their payrolls for more than 20 years, promoting them as a new generation of black leaders."

Reiterating comments from his keynote convention address two years ago about Bush and his black supporters, Bond said, "Like ventriloquists' dummies, they speak in the puppet master's voice, but we can see his lips moving, and we can hear his money talk."

Court replacement

Bond also called for a replacement for retiring Supreme Court Justice Sandra Day O'Connor who will hold civil rights as a priority.

The seat being vacated by O'Connor is emerging as a big issue at this week's convention. Among others to be addressed by the more than 8,000 attendees are voting rights, health, juvenile justice and education.

Bond's address wasn't the only one to focus on politics. Most notably, Rep. F. James Sensenbrenner Jr., a Wisconsin Republican, received raucous applause when he promised to lead federal lawmakers in extending provisions of the voting rights act that are to expire in 2007.

Civil rights

Bond ended his speech by encouraging people of all backgrounds to fight for today's civil rights issues, including economic justice.

"Anyone who shares our mission and values is welcome," he said. "Our values are American values. We believe in tolerance, inclusion, equality, celebrating the worth of every human being."

Portia Johnson, vice president of the NAACP branch in Duluth, Minn., said Bond's speech is always the highlight of the convention.

"I think it's great; it's energizing," she said. "It encourages us to go home and do the work that needs to be done. He tells it like it is and how it should be told."

LOAD-DATE: July 11, 2005

Marshall, C. Kevin

From: Marshall, C. Kevin
Sent: Monday, July 25, 2005 5:50 PM
To: Gorsuch, Neil M
Cc: Eisenberg, John
Subject: detainee leg

Neil,

We just received from [redacted] at NSC a copy of proposed amendment (no 1557) of section 1076 to the DOD appropr. bill. As amended, the section would limit interrogation of persons in the custody or control of DOD, or in DOD facilities, to interrogation authorized by and listed in the Field Manual. Have you seen this and are you already working on it? [redacted] wants talking points, and we want to avoid duplication.

C. Kevin Marshall
Office of Legal Counsel
U.S. Department of Justice
(202) 514-3713 (phone)
(202) 514-0539 (fax)
c.kevin.marshall@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 6:06 PM
To: Marshall, C. Kevin; Elwood, Courtney; Yanes, Raul; Moschella, William
Cc: Eisenberg, John; McCallum, Robert (SMO)
Subject: RE: detainee leg

Kevin - I've received a copy of the proposed amendment and forwarded to Will for his advice. I am also forwarding this email to Courtney and Raul with respect to the request from NSC for talking points. I'm somewhat surprised NSC is asking us for talking points given that the White House has made abundantly clear that we don't want legislation, period, end of discussion. Courtney/Raul, do you want to speak with [redacted], or have me or Will do so, to find out what the thinking is there?

-----Original Message-----
From: Marshall, C. Kevin
Sent: Monday, July 25, 2005 5:50 PM
To: Gorsuch, Neil M
Cc: Eisenberg, John
Subject: detainee leg

Neil,

We just received from [redacted] at NSC a copy of proposed amendment (no 1557) of section 1076 to the DOD appropr. bill. As amended, the section would limit interrogation of persons in the custody or control of DOD, or in DOD facilities, to interrogation authorized by and listed in the Field Manual. Have you seen this and are you already working on it? [redacted] wants talking points, and we want to avoid duplication.

C. Kevin Marshall
Office of Legal Counsel
U.S. Department of Justice
(202) 514-3713 (phone)
(202) 514-0539 (fax)
c.kevin.marshall@usdoj.gov

Yanes, Raul

From: Yanes, Raul
Sent: Monday, July 25, 2005 6:17 PM
To: Gorsuch, Neil M
Subject: Read: fyi, from the national review media blog

Yanes, Raul

From: Yanes, Raul
Sent: Monday, July 25, 2005 6:18 PM
To: Gorsuch, Neil M
Cc: Elwood, Courtney
Subject: RE: detainee leg

why don't you call [redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 6:06 PM
To: Marshall, C. Kevin; Elwood, Courtney; Yanes, Raul; Moschella, William
Cc: Eisenberg, John; McCallum, Robert (SMO)
Subject: RE: detainee leg

Kevin - I've received a copy of the proposed amendment and forwarded to Will for his advice. I am also forwarding this email to Courtney and Raul with respect to the request from NSC for talking points. I'm somewhat surprised NSC is asking us for talking points given that the White House has made abundantly clear that we don't want legislation, period, end of discussion. Courtney/Raul, do you want to speak with [redacted] or have me or Will do so, to find out what the thinking is there?

-----Original Message-----
From: Marshall, C. Kevin
Sent: Monday, July 25, 2005 5:50 PM
To: Gorsuch, Neil M
Cc: Eisenberg, John
Subject: detainee leg

Neil,

We just received from [redacted] at NSC a copy of proposed amendment (no 1557) of section 1076 to the DOD appropr. bill. As amended, the section would limit interrogation of persons in the custody or control of DOD, or in DOD facilities, to interrogation authorized by and listed in the Field Manual. Have you seen this and are you already working on it? [redacted] wants talking points, and we want to avoid duplication.

C. Kevin Marshall
Office of Legal Counsel
U.S. Department of Justice
(202) 514-3713 (phone)
(202) 514-0539 (fax)
c.kevin.marshall@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 6:24 PM
To: Yanes, Raul
Cc: Elwood, Courtney
Subject: RE: detainee leg

will do

-----Original Message-----
From: Yanes, Raul
Sent: Monday, July 25, 2005 6:19 PM
To: Gorsuch, Neil M
Cc: Elwood, Courtney
Subject: RE: detainee leg

why don't you call [redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 6:06 PM
To: Marshall, C. Kevin; Elwood, Courtney; Yanes, Raul; Moschella, William
Cc: Eisenberg, John; McCallum, Robert (SMO)
Subject: RE: detainee leg

Kevin - I've received a copy of the proposed amendment and forwarded to Will for his advice. I am also forwarding this email to Courtney and Raul with respect to the request from NSC for talking points. I'm somewhat surprised NSC is asking us for talking points given that the White House has made abundantly clear that we don't want legislation, period, end of discussion. Courtney/Raul, do you want to speak with [redacted], or have me or Will do so, to find out what the thinking is there?

-----Original Message-----
From: Marshall, C. Kevin
Sent: Monday, July 25, 2005 5:50 PM
To: Gorsuch, Neil M
Cc: Eisenberg, John
Subject: detainee leg

Neil,

We just received from [redacted] [redacted] at NSC a copy of proposed amendment (no 1557) of section 1076 to the DOD appropr. bill. As amended, the section would limit interrogation of persons in the custody or control of DOD, or in DOD facilities, to interrogation authorized by and listed in the Field Manual. Have you seen this and are you already working on it? [redacted] wants talking points, and we want to avoid duplication.

C. Kevin Marshall
Office of Legal Counsel
U.S. Department of Justice
(202) 514-3713 (phone)
(202) 514-0539 (fax)
c.kevin.marshall@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 6:53 PM
To: Gorsuch, Neil M
Subject: Sharee

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Tuesday, July 26, 2005 8:34 AM
To: Gorsuch, Neil M
Subject: OVC opportunity

OVC will be advertising the "social science program specialist" position. Might be of interest. Let me know if she applies.

It will be advertised as a GS 101-09/11/12 with potential to the GS 13 level. The duties are:

Develops, reviews, and analyzes data related to grant-funded victim assistance programs in order to make improvements to program guidelines and policies that will maximize program effectiveness

Reviews activities of grantees and contractors to ensure compliance with guidelines and implementation plans, and/or to identify and act on significant issues, and to identify successful activities for replication in other areas

Plans and manages special studies and projects.

Prepares a variety of descriptive and background reports, memoranda, and written materials on subjects or public policy issues within the employees area of professional knowledge.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 26, 2005 9:38 AM
To: Henke, Tracy (SMO)
Subject: RE: OVC opportunity

Is this the writer/editor job we discussed or something else?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Tuesday, July 26, 2005 8:34 AM
To: Gorsuch, Neil M
Subject: OVC opportunity

OVC will be advertising the "social science program specialist" position. Might be of interest. Let me know if she applies.

It will be advertised as a GS 101-09/11/12 with potential to the GS 13 level. The duties are:

Develops, reviews, and analyzes data related to grant-funded victim assistance programs in order to make improvements to program guidelines and policies that will maximize program effectiveness

Reviews activities of grantees and contractors to ensure compliance with guidelines and implementation plans, and/or to identify and act on significant issues, and to identify successful activities for replication in other areas

Plans and manages special studies and projects.

Prepares a variety of descriptive and background reports, memoranda, and written materials on subjects or public policy issues within the employees area of professional knowledge.

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Tuesday, July 26, 2005 9:41 AM
To: Gorsuch, Neil M
Subject: Re: OVC opportunity

No. This is the other job I mentioned that I was told would become available.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Tue Jul 26 09:37:31 2005
Subject: RE: OVC opportunity

Is this the writer/editor job we discussed or something else?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Tuesday, July 26, 2005 8:34 AM
To: Gorsuch, Neil M
Subject: OVC opportunity

OVC will be advertising the "social science program specialist" position. Might be of interest. Let me know if she applies.

It will be advertised as a GS 101-09/11/12 with potential to the GS 13 level. The duties are:

Develops, reviews, and analyzes data related to grant-funded victim assistance programs in order to make improvements to program guidelines and policies that will maximize program effectiveness

Reviews activities of grantees and contractors to ensure compliance with guidelines and implementation plans, and/or to identify and act on significant issues, and to identify successful activities for replication in other areas

Plans and manages special studies and projects.

Prepares a variety of descriptive and background reports, memoranda, and written materials on subjects or public policy issues within the employees area of professional knowledge.

Melnick, Mark (CIV)

From: Melnick, Mark (CIV)
Sent: Tuesday, July 26, 2005 11:18 AM
To: Kessler, Elizabeth A; Rubin, Jim (ENRD); Smith, Justin (ENRD-LPS); Larm, Richard; Chemtob, Stuart; Roth, Monique
Cc: Gorsuch, Neil M
Subject: Re: Trade Working Group Meeting Tomorrow?

Not I.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>
To: Rubin, Jim (ENRD) <Jim.Rubin@usdoj.gov>; Smith, Justin (ENRD-LPS) <JuSmith@ENRD.USDOJ.GOV>
; Melnick, Mark (CIV) <MMelnick@CIV.USDOJ.GOV>; Larm, Richard <Richard.Larm@ATR.USDOJ.gov>;
Chemtob, Stuart <Stuart.Chemtob@ATR.USDOJ.gov>; Roth, Monique <Monique.Roth@usdoj.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Jul 26 10:30:01 2005
Subject: Trade Working Group Meeting Tomorrow?

While we're scheduled for a trade working group meeting tomorrow, I understand from Jim that ENRD has nothing to report and that ENRD will not be able to make the meeting. Please let me know if anyone else has anything to report or has a particular reason we should go ahead with the meeting this week. Thanks. - Liz

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, July 26, 2005 12:27 PM
To: Gorsuch, Neil M
Subject: RE: NAACP_and_IRS.doc

like I said to Lee, there is nothing wrong in an individual voicing political opinion but it only becomes a problem if it is intervening by a 501(c)(3) organiz. in prohibited campaign activities which this is clearly not. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 5:21 PM
To: McCallum, Robert (SMO)
Subject: NAACP_and_IRS.doc

Article from Lee. Note the claim that Gordon wishes to "repair relations" with the Administration.

<< File: NAACP_and_IRS.doc >>

Full Name: [redacted]
Last Name: [redacted]
First Name: [redacted]

Business: [redacted]
Mobile: [redacted]

E-mail: [redacted]
E-mail Display As: [redacted]

Non-secure phone:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 26, 2005 1:32 PM
To: Ben Powell (E-mail)
Cc: Monheim, Thomas
Subject: Lunch

Tom and I thought it might be a good idea to celebrate your success in traversing the U.S. Senate. You name the date!

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 26, 2005 1:53 PM
To: Elwood, Courtney
Subject: Body Armor

I know you had to dash, but I wanted to check in when you have a minute to make sure we are on the same page re: next steps.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 26, 2005 4:01 PM
To: McCallum, Robert (SMO)
Subject: Aloma said you were looking for me; I'm back in my office now and available at your convenience (dropped by but you were out)

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, July 26, 2005 4:51 PM
To: Gorsuch, Neil M
Subject: Phone Call

Rafael Madan
OJP
4-0488
re: matters you raised during today's meeting

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Tuesday, July 26, 2005 4:53 PM
To: Williams, Jan
Cc: Gorsuch, Neil M
Subject: RE: resumes

I am going to ask that he respond to you.

-----Original Message-----
From: Williams, Jan
Sent: Tuesday, July 26, 2005 4:52 PM
To: Henke, Tracy (SMO)
Cc: Gorsuch, Neil M
Subject: RE: resumes

after reviewing the resumes, what qualities is he looking for in candidates?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Tuesday, July 26, 2005 4:22 PM
To: Williams, Jan
Cc: Gorsuch, Neil M
Subject: resumes

Jan:
Robert reviewed the resumes you sent over and he wants to keep looking. Do you have some additional resumes that he can review and consider? Please send to both Neil and myself. Thanks.
Tracy

Williams, Jan

From: Williams, Jan
Sent: Tuesday, July 26, 2005 5:02 PM
To: Henke, Tracy (SMO)
Cc: Gorsuch, Neil M
Subject: RE: resumes

great, then i can get you more of what he wants the second round.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Tuesday, July 26, 2005 4:53 PM
To: Williams, Jan
Cc: Gorsuch, Neil M
Subject: RE: resumes

I am going to ask that he respond to you.

-----Original Message-----
From: Williams, Jan
Sent: Tuesday, July 26, 2005 4:52 PM
To: Henke, Tracy (SMO)
Cc: Gorsuch, Neil M
Subject: RE: resumes

after reviewing the resumes, what qualities is he looking for in candidates?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Tuesday, July 26, 2005 4:22 PM
To: Williams, Jan
Cc: Gorsuch, Neil M
Subject: resumes

Jan:
Robert reviewed the resumes you sent over and he wants to keep looking. Do you have some additional resumes that he can review and consider? Please send to both Neil and myself. Thanks.
Tracy

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, July 26, 2005 5:05 PM
To: Gorsuch, Neil M
Subject: Call Mark Metcafe - 7-1289

Elwood, Courtney

From: Elwood, Courtney
Sent: Tuesday, July 26, 2005 6:30 PM
To: Gorsuch, Neil M
Cc: Henke, Tracy (SMO)
Subject: Re: DRAFT Transmittal Package for Body Armor

Makes sense to me.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Tue Jul 26 18:23:36 2005
Subject: FW: DRAFT Transmittal Package for Body Armor

Tracy, Robert, and I are going to review these materials tonight. I wonder whether it might make sense for us to chat tomorrow pm after we've had a chance to digest them and before we get back to OJP so we are all on the same page. What think you?

-----Original Message-----
From: White, Jana
Sent: Tuesday, July 26, 2005 4:52 PM
To: Elwood, Courtney; Gorsuch, Neil M
Cc: Henke, Tracy (SMO); Schofield, Regina; Daley, Cybele; Tzitzon, Nicholas; Madan, Rafael A.
Subject: DRAFT Transmittal Package for Body Armor
Importance: High

Neil,

Regina asked that I send you the attached Memorandum to the Attorney General and other relevant documents. Please contact Rafe or Cybele if you have any questions.

Thank you in advance.

Jana Sinclair White
Senior Policy Advisor
Office of the Assistant Attorney General
Office of Justice Programs
U.S. Department of Justice
Office: [redacted]

Fax: [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 26, 2005 6:32 PM
To: Elwood, Courtney; Henke, Tracy (SMO)
Subject: RE: DRAFT Transmittal Package for Body Armor

How about 2pm? Alternatively, I can do anytime after 4 that works for you.

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, July 26, 2005 6:30 PM
To: Gorsuch, Neil M
Cc: Henke, Tracy (SMO)
Subject: Re: DRAFT Transmittal Package for Body Armor

Makes sense to me.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Tue Jul 26 18:23:36 2005
Subject: FW: DRAFT Transmittal Package for Body Armor

Tracy, Robert, and I are going to review these materials tonight. I wonder whether it might make sense for us to chat tomorrow pm after we've had a chance to digest them and before we get back to OJP so we are all on the same page. What think you?

-----Original Message-----
From: White, Jana
Sent: Tuesday, July 26, 2005 4:52 PM
To: Elwood, Courtney; Gorsuch, Neil M
Cc: Henke, Tracy (SMO); Schofield, Regina; Daley, Cybele; Tzitzon, Nicholas; Madan, Rafael A.
Subject: DRAFT Transmittal Package for Body Armor
Importance: High

Neil,

Regina asked that I send you the attached Memorandum to the Attorney General and other relevant documents. Please contact Rafe or Cybele if you have any questions.

Thank you in advance.

Jana Sinclair White
Senior Policy Advisor
Office of the Assistant Attorney General
Office of Justice Programs
U.S. Department of Justice
Office: (202) 353-4343
Fax: (202) 514-7805

Elwood, Courtney

From: Elwood, Courtney
Sent: Tuesday, July 26, 2005 6:59 PM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject: Re: DRAFT Transmittal Package for Body Armor

If you don't mind me calling in, I'd prefer 2.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Tue Jul 26 18:32:11 2005
Subject: RE: DRAFT Transmittal Package for Body Armor

How about 2pm? Alternatively, I can do anytime after 4 that works for you.

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, July 26, 2005 6:30 PM
To: Gorsuch, Neil M
Cc: Henke, Tracy (SMO)
Subject: Re: DRAFT Transmittal Package for Body Armor

Makes sense to me.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Tue Jul 26 18:23:36 2005
Subject: FW: DRAFT Transmittal Package for Body Armor

Tracy, Robert, and I are going to review these materials tonight. I wonder whether it might make sense for us to chat tomorrow pm after we've had a chance to digest them and before we get back to OJP so we are all on the same page. What think you?

-----Original Message-----
From: White, Jana
Sent: Tuesday, July 26, 2005 4:52 PM

Sent: Tuesday, July 26, 2005 4:52 PM
To: Elwood, Courtney; Gorsuch, Neil M
Cc: Henke, Tracy (SMO); Schofield, Regina; Daley, Cybele; Tzitzon, Nicholas; Madan, Rafael A.
Subject: DRAFT Transmittal Package for Body Armor
Importance: High

Neil,

Regina asked that I send you the attached Memorandum to the Attorney General and other relevant documents. Please contact Rafe or Cybele if you have any questions.

Thank you in advance.

Jana Sinclair White
Senior Policy Advisor
Office of the Assistant Attorney General
Office of Justice Programs
U.S. Department of Justice
Office: (202) 353-4343
Fax: (202) 514-7805

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 26, 2005 7:00 PM
To: Elwood, Courtney; Henke, Tracy (SMO)
Subject: RE: DRAFT Transmittal Package for Body Armor

Perfect. Tracy and I can gather in my office (direct dial is 305-1434).

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, July 26, 2005 6:59 PM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject: Re: DRAFT Transmittal Package for Body Armor

If you don't mind me calling in, I'd prefer 2.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Tue Jul 26 18:32:11 2005
Subject: RE: DRAFT Transmittal Package for Body Armor

How about 2pm? Alternatively, I can do anytime after 4 that works for you.

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, July 26, 2005 6:30 PM
To: Gorsuch, Neil M
Cc: Henke, Tracy (SMO)
Subject: Re: DRAFT Transmittal Package for Body Armor

Makes sense to me.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Tue Jul 26 18:23:36 2005

Sent: Tue Jul 26 18:25:56 2005
Subject: FW: DRAFT Transmittal Package for Body Armor

Tracy, Robert, and I are going to review these materials tonight. I wonder whether it might make sense for us to chat tomorrow pm after we've had a chance to digest them and before we get back to OJP so we are all on the same page. What think you?

-----Original Message-----
From: White, Jana
Sent: Tuesday, July 26, 2005 4:52 PM
To: Elwood, Courtney; Gorsuch, Neil M
Cc: Henke, Tracy (SMO); Schofield, Regina; Daley, Cybele; Tzitzon, Nicholas; Madan, Rafael A.
Subject: DRAFT Transmittal Package for Body Armor
Importance: High

Neil,

Regina asked that I send you the attached Memorandum to the Attorney General and other relevant documents. Please contact Rafe or Cybele if you have any questions.

Thank you in advance.

Jana Sinclair White
Senior Policy Advisor
Office of the Assistant Attorney General
Office of Justice Programs
U.S. Department of Justice
Office: (202) 353-4343
Fax: (202) 514-7805

McDowell, Cynthia

From: McDowell, Cynthia
Sent: Wednesday, July 27, 2005 11:02 AM
To: Henke, Tracy (SMO); Gorsuch, Neil M; Wiggins, Mike; Swenson, Lily F; Reyes, Luis (SMO); Kessler, Elizabeth A
Subject: Your BIO info is needed TODAY. Thanks. C
Importance: High

Dear Politicals in OAAG,

It's your turn to be featured in The DOJ News where thumbnail bio sketches are printed for DOJ appointees to get to know each other better. I received Robert McCallum's info this morning and just need yours to finish out the current edition, slated to go out tomorrow.

Please send me the info below - either by forwarding your resume and giving me the personal info (Married? Kids? Pets? Hobbies? Native state?) or by phoning me at 4-9376. I NEED THIS TODAY (no pressure...).

Please call if you have any questions. Thanks.
Cynthia

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317
Washington, D.C. 20530
Tel: (202) 514-9376, Fax: (202) 514-3546

~~

Full Name
Title
Current Office
Prior service/positions
Alma maters
Native State
Married
Children
Pets
Hobbies

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 11:48 AM
To: McDowell, Cynthia
Subject: RE: Your BIO info is needed TODAY. Thanks. C

Cynthia - Here are the answers to your questions. If you need anything further, just let me know. Thanks! NMG

name -Neil M. Gorsuch
title - Principal Deputy Associate Attorney General
prior work - Was a partner at the Washington, D.C. firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, where I specialized in complex trial and appellate litigation. Also, I clerked for Justice Byron R. White and Justice Anthony M. Kennedy on the U.S. Supreme Court, and for Judge David B. Sentelle on the U.S. Court of Appeals for the D.C. Circuit.
alma maters - I hold a doctorate from Oxford University, where I studied as a Marshall Scholar, a law degree from Harvard Law School, and an undergraduate from Columbia University.
Native State - [redacted] Coloradoan.

[redacted]

-----Original Message-----
From: McDowell, Cynthia
Sent: Wednesday, July 27, 2005 11:02 AM
To: Henke, Tracy (SMO); Gorsuch, Neil M; Wiggins, Mike; Swenson, Lily F; Reyes, Luis (SMO); Kessler, Elizabeth A
Subject: Your BIO info is needed TODAY. Thanks. C
Importance: High

Dear Politicals in OAAG,

It's your turn to be featured in The DOJ News where thumbnail bio sketches are printed for DOJ appointees to get to know each other better. I received Robert McCallum's info this morning and just need yours to finish out the current edition, slated to go out tomorrow.

Please send me the info below - either by forwarding your resume and giving me the personal info (Married? Kids? Pets? Hobbies? Native state?) or by phoning me at 4-9376. I NEED THIS TODAY (no pressure...).

Please call if you have any questions. Thanks.
Cynthia

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317
Washington, D.C. 20530
Tel: [redacted], Fax: (202) 514-3546

~~

Full Name
Title
Current Office
Prior service/positions
Alma maters
Native State
Married
Children
Pets
Hobbies

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 11:51 AM
To: [redacted] (E-mail)
Cc: Nichols, Carl (CIV)
Subject: Amicus support

I had an idea this morning about potential amici for our ACLU case. Could you give me a ring at your convenience? I will rope in Carl when you call. Thanks.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: [redacted]
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Beach, Andrew

Subject:	PREP: Fraternal Order of Police event (8/1/05 in New Orleans)
Start:	Friday, July 29, 2005 10:55 AM
End:	Friday, July 29, 2005 11:15 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Elwood, Courtney; Roberts, Crystal; Scolinos, Tasia; Gorsuch, Neil M; Ullyot, Theodore

When: Friday, July 29, 2005 10:55 AM-11:15 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ/AO: Courtney Elwood, Crystal Roberts, Tasia Scolinos, Neil Gorsuch, Ted Ullyot

McDowell, Cynthia

From: McDowell, Cynthia
Sent: Wednesday, July 27, 2005 1:42 PM
To: Gorsuch, Neil M
Subject: RE: Your BIO info is needed TODAY. Thanks. C

Neil,
It all looks terrific, Neil. Many thanks for the quick turnaround.
Your wife sounds like a doll! Like the comment about the "usual dog and cat"... Welcome to the U.S. Department of Justice!
C

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317
Washington, D.C. 20530
Tel: [redacted], Fax: (202) 514-3546

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 11:48 AM
To: McDowell, Cynthia
Subject: RE: Your BIO info is needed TODAY. Thanks. C

Cynthia - Here are the answers to your questions. If you need anything further, just let me know. Thanks! NMG

name -Neil M. Gorsuch
title - Principal Deputy Associate Attorney General
prior work - Was a partner at the Washington, D.C. firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, where I specialized in complex trial and appellate litigation. Also, I clerked for Justice Byron R. White and Justice Anthony M. Kennedy on the U.S. Supreme Court, and for Judge David B. Sentelle on the U.S. Court of Appeals for the D.C. Circuit.
alma maters - I hold a doctorate from Oxford University, where I studied as a Marshall Scholar, a law degree from Harvard Law School, and an undergraduate from Columbia University.
Native State - [redacted] Coloradoan.
[redacted]

-----Original Message-----
From: McDowell, Cynthia
Sent: Wednesday, July 27, 2005 11:02 AM
To: Henke, Tracy (SMO); Gorsuch, Neil M; Wiggins, Mike; Swenson, Lily F; Reyes, Luis (SMO); Kessler, Elizabeth A
Subject: Your BIO info is needed TODAY. Thanks. C
Importance: High

Dear Politicals in OAAG,

It's your turn to be featured in The DOJ News where thumbnail bio sketches are printed for DOJ appointees to get to know each other better. I received Robert McCallum's info this morning and just need yours to finish out the current edition, slated to go out tomorrow.

Please send me the info below - either by forwarding your resume and giving me the personal info (Married? Kids? Pets? Hobbies? Native state?) or by phoning me at 4-9376. I NEED THIS TODAY (no pressure…).

Please call if you have any questions. Thanks.
Cynthia

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317
Washington, D.C. 20530
Tel: [redacted], Fax: (202) 514-3546

~~

Full Name
Title
Current Office
Prior service/positions
Alma maters
Native State
Married
Children
Pets
Hobbies

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Wednesday, July 27, 2005 2:48 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: RE: RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Don't know if you have had any feedback from ODAG on this, but if this is going to happen time is of the essence, as Jim is effectively gone in less than 3 weeks. Me or Neil can approach Bill and/or Jeff if we want to tee this back up.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, July 05, 2005 12:30 PM
To: Taylor, Jeffrey (OAG); Mercer, Bill (ODAG)
Cc: Gorsuch, Neil M; Buchanan, MaryBeth; Reyes, Luis (SMO)
Subject: RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Bill and Jeff: Here is the draft memo from me and Mary Beth regarding attny/client priv and work/product waivers which I mentioned this am. I have previously mentioned it to Jim. Mary Beth and I would like to discuss it with you and, if you think the memo has merit or that some additional guidance in this area is warranted, get input regarding it from the Corp Fraud Task Force and the subcomm of the AGAC. Robt.

RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 3:17 PM
To: Reyes, Luis (SMO); McCallum, Robert (SMO)
Subject: Re: RDM revision 4 Memorandum Regarding Waiver Requests.wpd

When talking w Bill last week I inquired about this. He said he had sent the doc to eousa and white collar grp for cmt and thought that process could take a week or so. It would make sense to check in again about now and I will do so.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Jul 27 14:47:57 2005
Subject: RE: RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Don't know if you have had any feedback from ODAG on this, but if this is going to happen time is of the essence, as Jim is effectively gone in less than 3 weeks. Me or Neil can approach Bill and/or Jeff if we want to tee this back up.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, July 05, 2005 12:30 PM
To: Taylor, Jeffrey (OAG); Mercer, Bill (ODAG)
Cc: Gorsuch, Neil M; Buchanan, MaryBeth; Reyes, Luis (SMO)
Subject: RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Bill and Jeff: Here is the draft memo from me and Mary Beth regarding attny/client priv and work/product waivers which I mentioned this am. I have previously mentioned it to Jim. Mary Beth and I would like to discuss it with you and, if you think the memo has merit or that some additional guidance in this area is warranted, get input regarding it from the Corp Fraud Task Force and the subcomm of the AGAC. Robt.

RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 3:22 PM
To: Mercer, Bill (ODAG)
Bcc: McCallum, Robert (SMO); Reyes, Luis (SMO)
Subject: Thompson Memo

Have you had any further word on Robert's proposed clarification of the Thompson memo from eousa and the corp fraud folks? For reasons we've discussed, it may be a good idea to get this out sooner rather than later. Thanks again for your help and don't hesitate to let me know if and how I can help. Best, NMG

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Wednesday, July 27, 2005 3:22 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: RE: RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Okay. AGAC will be meeting again in early to mid August. Possible that this would be a good time to roll out (although it is probably optimistic to think we would be good to go by then).

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 3:17 PM
To: Reyes, Luis (SMO); McCallum, Robert (SMO)
Subject: Re: RDM revision 4 Memorandum Regarding Waiver Requests.wpd

When talking w Bill last week I inquired about this. He said he had sent the doc to eousa and white collar grp for cmt and thought that process could take a week or so. It would make sense to check in again about now and I will do so.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Jul 27 14:47:57 2005
Subject: RE: RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Don't know if you have had any feedback from ODAG on this, but if this is going to happen time is of the essence, as Jim is effectively gone in less than 3 weeks. Me or Neil can approach Bill and/or Jeff if we want to tee this back up.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, July 05, 2005 12:30 PM
To: Taylor, Jeffrey (OAG); Mercer, Bill (ODAG)
Cc: Gorsuch, Neil M; Buchanan, MaryBeth; Reyes, Luis (SMO)
Subject: RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Bill and Jeff: Here is the draft memo from me and Mary Beth regarding attny/client priv and work/product waivers which I mentioned this am. I have previously mentioned it to Jim. Mary Beth and I would like to discuss it with you and, if you think the memo has merit or that some additional guidance in this area is warranted, get input regarding it from the Corp Fraud Task Force and the subcomm of the AGAC. Robt.

RDM revision 4 Memorandum Regarding Waiver Requests.wpd

von Spakovsky, Hans (CRT)

From:	von Spakovsky, Hans (CRT)
Sent:	Wednesday, July 27, 2005 3:48 PM
To:	Donsanto, Craig; Lemelle, Stan; Laurenzi, Larry; Kurimai, Cal; Kohnen, Ralph; Knauss, Darilynn; Jordan, Steve (TNM); Jahn, Ray; Hoff, David; Higdon, Bobby; Haycock, Jack; Hailman, John; Goolsby, Richard; Daniels, Donald; Varner, Christopher; Stevens, Elizabethanne; Atchley, Charles; Ellis, Larry (USAWVS); Mandel, Robert (USASD); McCarthy, James (USAME); Murphy, Rick (USAME); Rice, John; scott.polk@usdoj.gov; Elieson, Dayle; Zerhusen, Jim; White, John Ray; White, Ben; Whitaker, Barbara; Volk, Rick; Vandewetering, Josh; Van Wormer, Bernie; Valenzuela, Cynthia; Tvedt, Dan; Toliver, William; Tenorio, Christopher; Tangvald, Rolf; Storm, Arlen; Storch, Robert; Stewart, Dan; Steele, Susan; Stark, Leonard; Spartis, Gary; Smith, Deborah (Alaska); Shogren, Gregory; Schwartz, Michael; Schilling, Andrew; Savage, Mike (USANCW); Salsbury, Alan; Ross, Trini E; Rochlin, Karen; Register, Len; Prillaman, Debra; Plumlee, Christopher; Petersen, Janet; Perez, Ruben; Patton, Leon; Papps, Peter; O'Rourke, Thomas; Morrison, Tim; Gonzalez, Irene; Goldsmith, Hal; Gilmore, Greg; Gillis, James P; Gerson, Jonathon; Frohling, Richard; Fox, Harry; Flanagan, William; Ferguson, Gillum; Enoki, Elliot; Englade, Michelle; Ehlke, Steve; Edwards, Richard; Dyke, Tom; Dopf, Robert; Donnelly, Terrence; Dettelbach, Steven; Dember, Andrew; Davis, Vicki; David, Marivic; Morgan, Shawn; Daniel, Kim; Damm, Camille; Cook, Nancy; Conroy, John; Chen, Pamela; Chema, Richard; Burris, Dean; Burnham, Sharon; Burkhalter, Don; Burch, Ben; Bunnell, Steve; Brunson, Kent; Breitsameter, George; Boeshart, Paul; Bodenhausen, John; Bauer, David (Toledo, OH); Armijo, Rumaldo; Andrews, Alphonso; Anderson, James; Meadows, Pat; McLoughlin, Charles; McLean, A. Elliot; Martin, James (USA-MOE); Luther, Debora; Lopez, Ernesto; Lewis, Robert (USAMN)
Cc:	Simmons, Abraham; /DDV=\/O=CRM\/OU=WASH\/CN=RECIPIENTS\/CN=PIN/DDT=EX/O=CRM2K/P=GOV+DOJ/A=TELEMAIL/C=US/; Simmons, Nancy; Elieson, Dayle; Mitchell, Cynthia; Wedge, James; Schlozman, Brad (CRT); Kim, Wan (CRT); Gantt, Angela N (CRT); Tanner, John K (CRT); Coates, Christopher (CRT); Dhillon, Uttam; Gorsuch, Neil M; Parent, Steve (USAEO); Barrett, Richard
Subject:	RE: 2005 Ballot Access and Voting integrity Conference

To all District Election Officers,

Following up on Craig Donsanto's earlier email to you, our slot has been confirmed for the October 4 though October 5, 2005 Ballot Access and Voting Integrity Conference.

The host hotel information is as follows:

The Georgetown University Conference Center
Marriott Conference Center
3800 Reservoir Road, NW
Washington, DC 20057
Reservation Line 800-228-9290
Main Hotel Line 202-687-3200
website: http://Marriott.com/property/propertypage/WASGU

Participants must register for our block of rooms by Midnight, September 12, 2005
There are a limited number of rooms available (12) for West Coast guests to maintain the $153 per night conference rate, should they decide to stay the night of October 5th.

Also, we are working the the NAC to find out about offering CLE credits again this year.

We are slated to have a meet & greet reception on Tuesday, October 4th from 5:30 to 7:pm.

Please make your reservations and plans to attend. Also, we would appreciate it if you would send a copy of this notice to your USA. Otherwise, if you have any questions, you are welcome to call me or Craig Donsanto.

Hans A. von Spakovsky
Counsel to the Assistant Attorney General
Civil Rights Division - Room 5539
U.S. Department of Justice
950 Pennsylvania Avenue
Washington, D.C. 20530

Telephone (202) 305-9750
Facsimile (202) 307-2839

-----Original Message-----
From: Donsanto, Craig
Sent: Monday, July 11, 2005 2:00 PM
To: Lemelle, Stan; Laurenzi, Larry; Kurimai, Cal; Kohnen, Ralph; Knauss, Darilynn; Jordan, Steve (TNM); Jahn, Ray; Hoff, David; Higdon, Bobby; Haycock, Jack; Hailman, John; Goolsby, Richard; Daniels, Donald; Varner, Christopher; Stevens, Elizabethanne; Atchley, Charles; Ellis, Larry (USAWVS); Mandel, Robert (USASD); McCarthy, James (USAME); Murphy, Rick (USAME); Rice, John; scott.polk@usdoj.gov; Elieson, Dayle; Zerhusen, Jim; White, John Ray; White, Ben; Whitaker, Barbara; Volk, Rick; Vandewetering, Josh; Van Wormer, Bernie; Valenzuela, Cynthia; Tvedt, Dan; Toliver, William; Tenorio, Christopher; Tangvald, Rolf; Storm, Arlen; Storch, Robert; Stewart, Dan; Steele, Susan; Stark, Leonard; Spartis, Gary; Smith, Deborah (Alaska); Shogren, Gregory; Schwartz, Michael; Schilling, Andrew; Savage, Mike (USANCW); Salsbury, Alan; Ross, Trini E; Rochlin, Karen; Register, Len; Prillaman, Debra; Plumlee, Christopher; Petersen, Janet; Perez, Ruben; Patton, Leon; Papps, Peter; O'Rourke, Thomas; Morrison, Tim; Gonzalez, Irene; Goldsmith, Hal; Gilmore, Greg; Gillis, James P; Gerson, Jonathon; Frohling, Richard; Fox, Harry; Flanagan, William; Ferguson, Gillum; Enoki, Elliot; Englade, Michelle; Ehlke, Steve; Edwards, Richard; Dyke, Tom; Dopf, Robert; Donnelly, Terrence; Dettelbach, Steven; Dember, Andrew; Davis, Vicki; David, Marivic; Morgan, Shawn; Daniel, Kim; Damm, Camille; Cook, Nancy; Conroy, John; Chen, Pamela; Chema, Richard; Burris, Dean; Burnham, Sharon; Burkhalter, Don; Burch, Ben; Bunnell, Steve; Brunson, Kent; Breitsameter, George; Boeshart, Paul; Bodenhausen, John; Bauer, David (Toledo, OH); Armijo, Rumaldo; Andrews, Alphonso; Anderson, James; Meadows, Pat; McLoughlin, Charles; McLean, A. Elliot; Martin, James (USA-MOE); Luther, Debora; Lopez, Ernesto; Lewis, Robert (USAMN)
Cc: Simmons, Abraham; von Spakovsky, Hans (CRT); /DDV=\/O=CRM\/OU=WASH\/CN=RECIPIENTS\/CN=PIN/DDT=EX/O=CRM2K/P=GOV+DOJ/A=TELEMAIL/C=US/; Simmons, Nancy; Elieson, Dayle; Mitchell, Cynthia; Wedge, James
Subject: 2005 Ballot Access and Voting integrity Conference

To all District Election Officers:

[This message is being sent to those whom our records reflect are currently serving as the district election Officers for their respective Districts. If you are not the DEO for your District and believe you received this message in error, please forward it to the proper person and notify Cynthia Mitchell of the Public Integrity section of the change.]

This is a heads-up!

The 2005 Ballots Access and Voting Integrity Symposium will take place in Washington, D.C. on October 4

The 2005 Ballots Access and Voting Integrity Symposium will take place in Washington, D.C. on October, 4 and 5, 2005. This is a Tuesday and a Wednesday. This year' event will be held at the Georgetown Conference Center on 3800 Reservoir Road, NW. Washington, D.C.

Monday October 3rd will presumably be a travel day, However, you will all be receiving formal notice of this from EOUSA in the coming weeks.

So: please mark your calendars and plan to join your colleagues here in Washington for what we are planning to be a most worthwhile event.

From: USDOJ- Office of Public Affairs
Sent: Wednesday, July 27, 2005 4:23 PM
To: USDOJ- Office of Public Affairs
Subject: DENVER MAN SENTENCED FOR ROLE IN SCHEME TO ENCOURAGE FOREIGN NATIONALS TO OBTAIN FRAUDULENT STUDENT VISAS

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, JUNE 27, 2005
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

DENVER MAN SENTENCED FOR ROLE IN SCHEME TO ENCOURAGE FOREIGN NATIONALS TO OBTAIN FRAUDULENT STUDENT VISAS

WASHINGTON, D.C. - Gaylon Dahn, the former president of Education Management Services of Denver, Colorado, has been sentenced to 48 months in prison for his role in a scheme that encouraged foreign nationals to acquire fraudulent student visas, the Department of Justice and U.S. Immigration and Customs Enforcement announced today.

Dahn was sentenced this afternoon by the Honorable David A. Faber, Chief U.S. District Judge for the Southern District of West Virginia.

Dahn pleaded guilty on Jan. 6, 2005 to two counts of encouraging between 25 and 99 foreign students to reside in the United States, knowing that the presence of those students in the United States would be illegal. Dahn admitted that he took money from Middle Eastern students to register them at Mountain State University in Beckley, West Virginia. Dahn and unidentified associates then sold to the students school credits the students needed to maintain their F-1 student visas, even though they did little or no course work.

The criminal charges arose out of a contractual relationship between Dahn and Mountain State University which began in late 1999. Dahn, through his Denver business, Educational Management Services, recruited Middle Eastern students nationwide to enroll in correspondence courses at the West Virginia school. Although no school work was actually graded, Dahn hired instructors for the Mountain State University classes who were supposed to grade the correspondence students' assignments and then forward the final grades to Mountain State University. Dahn admitted that he took money from the foreign students and allowed the transfer of Mountain State credits to other universities, thereby allowing the students to remain in the United States fraudulently on student visas.

"Those who abuse our immigration laws for personal gain do so at the potential expense of our nation's security," said Acting Assistant Attorney General John C. Richter of the Criminal Division. "Rest assured that this Department will vigorously enforce our laws against those who facilitate the illegal entry of foreign nationals through fraud."

DOJ_NMG_ 0145640

"Fraudulent documents can be provided to terrorists and other criminals, posing a major homeland security vulnerability," said John P. Clark, Homeland Security Deputy Assistant Secretary for Immigration and Customs Enforcement. "ICE will continue working to restore integrity to our nation's immigration system by identifying and shutting down these vulnerabilities."

The sentencing is the culmination of an investigation initiated in 2001 by U.S. Immigration and Customs Enforcement agents into allegations that Dahn was involved in a scheme to illegally bring Chinese students to a school in Denver. ICE agents investigating the activities of Dahn in Denver developed information that Dahn was also illegally selling grades to students registered at the West Virginia school. Dahn was convicted in October 2003 by a federal jury in Denver on federal criminal charges arising from the investigation into Chinese students.

###

05-394

DOJ_NMG_ 0145641

Image not available for this document, ID: 0.7.10316.74304-000001

Image not available for this document, ID: 0.7.10316.74304-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 6:05 PM
To: von Spakovsky, Hans (CRT)
Subject: RE: 2005 Ballot Access and Voting integrity Conference

Sounds interesting. Glad to see you're doing this. I may tray to attend some of it.

-----Original Message-----
From: von Spakovsky, Hans (CRT)
Sent: Wednesday, July 27, 2005 3:48 PM
To: Donsanto, Craig; Lemelle, Stan; Laurenzi, Larry; Kurimai, Cal; Kohnen, Ralph; Knauss, Darilynn; Jordan, Steve (TNM); Jahn, Ray; Hoff, David; Higdon, Bobby; Haycock, Jack; Hailman, John; Goolsby, Richard; Daniels, Donald; Varner, Christopher; Stevens, Elizabethanne; Atchley, Charles; Ellis, Larry (USAWVS); Mandel, Robert (USASD); McCarthy, James (USAME); Murphy, Rick (USAME); Rice, John; scott.polk@usdoj.gov; Elieson, Dayle; Zerhusen, Jim; White, John Ray; White, Ben; Whitaker, Barbara; Volk, Rick; Vandewetering, Josh; Van Wormer, Bernie; Valenzuela, Cynthia; Tvedt, Dan; Toliver, William; Tenorio, Christopher; Tangvald, Rolf; Storm, Arlen; Storch, Robert; Stewart, Dan; Steele, Susan; Stark, Leonard; Spartis, Gary; Smith, Deborah (Alaska); Shogren, Gregory; Schwartz, Michael; Schilling, Andrew; Savage, Mike (USANCW); Salsbury, Alan; Ross, Trini E; Rochlin, Karen; Register, Len; Prillaman, Debra; Plumlee, Christopher; Petersen, Janet; Perez, Ruben; Patton, Leon; Papps, Peter; O'Rourke, Thomas; Morrison, Tim; Gonzalez, Irene; Goldsmith, Hal; Gilmore, Greg; Gillis, James P; Gerson, Jonathon; Frohling, Richard; Fox, Harry; Flanagan, William; Ferguson, Gillum; Enoki, Elliot; Englade, Michelle; Ehlke, Steve; Edwards, Richard; Dyke, Tom; Dopf, Robert; Donnelly, Terrence; Dettelbach, Steven; Dember, Andrew; Davis, Vicki; David, Marivic; Morgan, Shawn; Daniel, Kim; Damm, Camille; Cook, Nancy; Conroy, John; Chen, Pamela; Chema, Richard; Burris, Dean; Burnham, Sharon; Burkhalter, Don; Burch, Ben; Bunnell, Steve; Brunson, Kent; Breitsameter, George; Boeshart, Paul; Bodenhausen, John; Bauer, David (Toledo, OH); Armijo, Rumaldo; Andrews, Alphonso; Anderson, James; Meadows, Pat; McLoughlin, Charles; McLean, A. Elliot; Martin, James (USA-MOE); Luther, Debora; Lopez, Ernesto; Lewis, Robert (USAMN)
Cc: Simmons, Abraham; /DDV=\/O=CRM\/OU=WASH\/CN=RECIPIENTS\/CN=PIN/DDT=EX/O=CRM2K/P=GOV+DOJ/A=TELEMAIL/C=US/; Simmons, Nancy; Elieson, Dayle; Mitchell, Cynthia; Wedge, James; Schlozman, Brad (CRT); Kim, Wan (CRT); Gantt, Angela N (CRT); Tanner, John K (CRT); Coates, Christopher (CRT); Dhillon, Uttam; Gorsuch, Neil M; Parent, Steve (USAEO); Barrett, Richard
Subject: RE: 2005 Ballot Access and Voting integrity Conference

To all District Election Officers,

Following up on Craig Donsanto's earlier email to you, our slot has been confirmed for the October 4 though October 5, 2005 Ballot Access and Voting Integrity Conference.

The host hotel information is as follows:

The Georgetown University Conference Center
Marriott Conference Center
3800 Reservoir Road, NW
Washington, DC 20057
Reservation Line 800-228-9290
Main Hotel Line 202-687-3200
website: http://Marriott.com/property/propertypage/WASGU

Participants must register for our block of rooms by Midnight, September 12, 2005
There are a limited number of rooms available (12) for West Coast guests to maintain the $153 per night conference rate, should they decide to stay the night of October 5th.

Also, we are working the the NAC to find out about offering CLE credits again this year.

We are slated to have a meet & greet reception on Tuesday, October 4th from 5:30 to 7:pm.

Please make your reservations and plans to attend. Also, we would appreciate it if you would send a copy of this notice to your USA. Otherwise, if you have any questions, you are welcome to call me or Craig Donsanto.

Hans A. von Spakovsky
Counsel to the Assistant Attorney General
Civil Rights Division - Room 5539
U.S. Department of Justice
950 Pennsylvania Avenue
Washington, D.C. 20530

Telephone (202) 305-9750
Facsimile (202) 307-2839

-----Original Message-----
From: Donsanto, Craig
Sent: Monday, July 11, 2005 2:00 PM
To: Lemelle, Stan; Laurenzi, Larry; Kurimai, Cal; Kohnen, Ralph; Knauss, Darilynn; Jordan, Steve (TNM); Jahn, Ray; Hoff, David; Higdon, Bobby; Haycock, Jack; Hailman, John; Goolsby, Richard; Daniels, Donald; Varner, Christopher; Stevens, Elizabethanne; Atchley, Charles; Ellis, Larry (USAWVS); Mandel, Robert (USASD); McCarthy, James (USAME); Murphy, Rick (USAME); Rice, John; scott.polk@usdoj.gov; Elieson, Dayle; Zerhusen, Jim; White, John Ray; White, Ben; Whitaker, Barbara; Volk, Rick; Vandewetering, Josh; Van Wormer, Bernie; Valenzuela, Cynthia; Tvedt, Dan; Toliver, William; Tenorio, Christopher; Tangvald, Rolf; Storm, Arlen; Storch, Robert; Stewart, Dan; Steele, Susan; Stark, Leonard; Spartis, Gary; Smith, Deborah (Alaska); Shogren, Gregory; Schwartz, Michael; Schilling, Andrew; Savage, Mike (USANCW); Salsbury, Alan; Ross, Trini E; Rochlin, Karen; Register, Len; Prillaman, Debra; Plumlee, Christopher; Petersen, Janet; Perez, Ruben; Patton, Leon; Papps, Peter; O'Rourke, Thomas; Morrison, Tim; Gonzalez, Irene; Goldsmith, Hal; Gilmore, Greg; Gillis, James P; Gerson, Jonathon; Frohling, Richard; Fox, Harry; Flanagan, William; Ferguson, Gillum; Enoki, Elliot; Englade, Michelle; Ehlke, Steve; Edwards, Richard; Dyke, Tom; Dopf, Robert; Donnelly, Terrence; Dettelbach, Steven; Dember, Andrew; Davis, Vicki; David, Marivic; Morgan, Shawn; Daniel, Kim; Damm, Camille; Cook, Nancy; Conroy, John; Chen, Pamela; Chema, Richard; Burris, Dean; Burnham, Sharon; Burkhalter, Don; Burch, Ben; Bunnell, Steve; Brunson, Kent; Breitsameter, George; Boeshart, Paul; Bodenhausen, John; Bauer, David (Toledo, OH); Armijo, Rumaldo; Andrews, Alphonso; Anderson, James; Meadows, Pat; McLoughlin, Charles; McLean, A. Elliot; Martin, James (USA-MOE); Luther, Debora; Lopez, Ernesto; Lewis, Robert (USAMN)
Cc: Simmons, Abraham; von Spakovsky, Hans (CRT); /DDV=\/O=CRM\/OU=WASH\/CN=RECIPIENTS\/CN=PIN/DDT=EX/O=CRM2K/P=GOV+DOJ/A=TELEMAIL/C=US/; Simmons, Nancy; Elieson, Dayle; Mitchell, Cynthia; Wedge, James
Subject: 2005 Ballot Access and Voting Integrity Conference

To all District Election Officers:

[This message is being sent to those whom our records reflect are currently serving as the district election Officers for their respective Districts. If you are not the DEO for your District and believe you received this message in error, please forward it to the proper person and notify Cynthia Mitchell of the Public Integrity section of the change.]

This is a heads-up!

The 2005 Ballots Access and Voting Integrity Symposium will take place in Washington, D.C. on October, 4 and 5, 2005. This is a Tuesday and a Wednesday. This year' event will be held at the Georgetown Conference Center on 3800 Reservoir Road, NW. Washington, D.C.

Monday October 3rd will presumably be a travel day, However, you will all be receiving formal notice of this from EOUSA in the coming weeks.

So: please mark your calendars and plan to join your colleagues here in Washington for what we are planning to be a most worthwhile event.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 7:37 PM
To: Lane, Sean
Subject: CIA

Got your voice mail. Am swamped tonight, but could we set up a time to speak tomorrow? I can do 10:30-11, 1:30-2, or 3-5. Just let me know what's convenient on your end and I will give a ring then.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: [redacted]
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Lane, Sean

From: Lane, Sean
Sent: Wednesday, July 27, 2005 7:43 PM
To: Gorsuch, Neil M
Cc: Skinner, Peter; Oestericher, Jeffrey
Subject: RE: CIA

We've subsequently learned from the CIA that [redacted] has been engaged on this issue as well, just so you know all the details we know. I am not in the office tomorrow so you should talk to Peter Skinner, who is our point person on the CIA in any event. Peter will give you a ring or send you an email tomorrow to coordinate and provide any other details. Pete's direct dial number is ([redacted], in case you need it.

Thanks so much for your help. Sean

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 7:37 PM
To: Lane, Sean
Subject: CIA

Got your voice mail. Am swamped tonight, but could we set up a time to speak tomorrow? I can do 10:30-11, 1:30-2, or 3-5. Just let me know what's convenient on your end and I will give a ring then.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: ([redacted]
cell: ([redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 7:46 PM
To: Lane, Sean
Cc: Skinner, Peter; Oestericher, Jeffrey
Subject: RE: CIA

[redacted]can undoubtedly help pull the necessary levers, but if I can be of any assistance, I'm happy to do so and I'd like to know the issues in any event. Look forward to speaking with Peter tomorrow. Thanks, NMG

-----Original Message-----
From: Lane, Sean
Sent: Wednesday, July 27, 2005 7:43 PM
To: Gorsuch, Neil M
Cc: Skinner, Peter; Oestericher, Jeffrey
Subject: RE: CIA

We've subsequently learned from the CIA that [redacted] has been engaged on this issue as well, just so you know all the details we know. I am not in the office tomorrow so you should talk to Peter Skinner, who is our point person on the CIA in any event. Peter will give you a ring or send you an email tomorrow to coordinate and provide any other details. Pete's direct dial number is (212) 637-2601, in case you need it.

Thanks so much for your help. Sean

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 7:37 PM
To: Lane, Sean
Subject: CIA

Got your voice mail. Am swamped tonight, but could we set up a time to speak tomorrow? I can do 10:30-11, 1:30-2, or 3-5. Just let me know what's convenient on your end and I will give a ring then.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: [redacted]
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 8:30 PM
To: McCallum, Robert (SMO); Reyes, Luis (SMO)

Spoke with Bill M. He promised to push the memo forward with all relevant folks in anticipation of Robert's tenure as Acting DAG. From the sound of it, little has been done by odag so far despite Robert's and my prior queries.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 8:51 AM
To: McDowell, Cynthia
Subject: RE: Your BIO info is needed TODAY. Thanks. C

Hope you won't force the dept to endure all my blather! It was just rather quickly dashed off and stream of consciousness, not thinking the whole world would have to endure it! More fact-based answers follow if that's helpful....

name -Neil M. Gorsuch
title - Principal Deputy Associate Attorney General
prior work - Was a partner at the Washington, D.C. firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, specializing in complex trial and appellate litigation. Previously, clerked for Justice Byron R. White and Justice Anthony M. Kennedy on the U.S. Supreme Court, and for Judge David B. Sentelle on the U.S. Court of Appeals for the D.C. Circuit.
alma maters - D.Phil. in legal philosphy, Oxford University; J.D. Harvard Law School; B.A.Columbia University.
Native State - Colorado.

[redacted]

-----Original Message-----
From: McDowell, Cynthia
Sent: Wednesday, July 27, 2005 1:42 PM
To: Gorsuch, Neil M
Subject: RE: Your BIO info is needed TODAY. Thanks. C

Neil,
It all looks terrific, Neil. Many thanks for the quick turnaround.
[redacted] Welcome to the U.S. Department of Justice!
C
Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317
Washington, D.C. 20530
Tel: [redacted] Fax: (202) 514-3546

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 11:48 AM
To: McDowell, Cynthia
Subject: RE: Your BIO info is needed TODAY. Thanks. C

Cynthia - Here are the answers to your questions. If you need anything further, just let me know. Thanks! NMG

name -Neil M. Gorsuch
title - Principal Deputy Associate Attorney General
prior work - Was a partner at the Washington, D.C. firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, where I specialized in complex trial and appellate litigation. Also, I clerked for Justice Byron R. White and Justice Anthony M. Kennedy on the U.S. Supreme Court, and for Judge David B. Sentelle on the U.S. Court of Appeals for the D.C. Circuit.
alma maters - I hold a doctorate from Oxford University, where I studied as a Marshall Scholar, a law degree from Harvard Law School, and an undergraduate from Columbia University.
Native State - [redacted] Coloradoan.

[redacted]

-----Original Message-----
From: McDowell, Cynthia
Sent: Wednesday, July 27, 2005 11:02 AM
To: Henke, Tracy (SMO); Gorsuch, Neil M; Wiggins, Mike; Swenson, Lily F; Reyes, Luis (SMO); Kessler, Elizabeth A
Subject: Your BIO info is needed TODAY. Thanks. C
Importance: High

Dear Politicals in OAAG,

It's your turn to be featured in The DOJ News where thumbnail bio sketches are printed for DOJ appointees to get to know each other better. I received Robert McCallum's info this morning and just need yours to finish out the current edition, slated to go out tomorrow.

Please send me the info below - either by forwarding your resume and giving me the personal info (Married? Kids? Pets? Hobbies? Native state?) or by phoning me at 4-9376. I NEED THIS TODAY (no pressure...).

Please call if you have any questions. Thanks.
Cynthia

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317
Washington, D.C. 20530
Tel: [redacted], Fax: (202) 514-3546

~~

Full Name
Title
Current Office
Prior service/positions
Alma maters
Native State
Married
Children
Pets
Hobbies

Elwood, Courtney

From: Elwood, Courtney
Sent: Thursday, July 28, 2005 8:52 AM
To: Gorsuch, Neil M
Subject: Read: Questions on Interim Requirement

Skinner, Peter

From: Skinner, Peter
Sent: Thursday, July 28, 2005 8:54 AM
To: Gorsuch, Neil M; Lane, Sean
Cc: Oestericher, Jeffrey
Subject: RE: CIA

Neil,

1:30-2:00 is best for me, as I'm in court this morning. I'll give you a call around then. In the meantime, the CIA will hopefully resolve the issue one way or another.

Peter

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 7:46 PM
To: Lane, Sean
Cc: Skinner, Peter; Oestericher, Jeffrey
Subject: RE: CIA

[redacted] can undoubtedly help pull the necessary levers, but if I can be of any assistance, I'm happy to do so and I'd like to know the issues in any event. Look forward to speaking with Peter tomorrow. Thanks, NMG

-----Original Message-----
From: Lane, Sean
Sent: Wednesday, July 27, 2005 7:43 PM
To: Gorsuch, Neil M
Cc: Skinner, Peter; Oestericher, Jeffrey
Subject: RE: CIA

We've subsequently learned from the CIA that [redacted] has been engaged on this issue as well, just so you know all the details we know. I am not in the office tomorrow so you should talk to Peter Skinner, who is our point person on the CIA in any event. Peter will give you a ring or send you an email tomorrow to coordinate and provide any other details. Pete's direct dial number is ([redacted], in case you need it.
Thanks so much for your help. Sean

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 7:37 PM
To: Lane, Sean
Subject: CIA

Got your voice mail. Am swamped tonight, but could we set up a time to speak tomorrow? I can do 10:30-11, 1:30-2, or 3-5. Just let me know what's convenient on your end and I will give a ring then.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice

950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: [redacted]
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 8:58 AM
To: Skinner, Peter
Subject: RE: [redacted]

very good - thanks

-----Original Message-----
From: Skinner, Peter
Sent: Thursday, July 28, 2005 8:54 AM
To: Gorsuch, Neil M; Lane, Sean
Cc: Oestericher, Jeffrey
Subject: RE: [redacted]

Neil,

1:30-2:00 is best for me, as I'm in court this morning. I'll give you a call around then. In the meantime, [redacted] will hopefully resolve the issue one way or another.

Peter

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 7:46 PM
To: Lane, Sean
Cc: Skinner, Peter; Oestericher, Jeffrey
Subject: RE: [redacted]

Pat can undoubtedly help pull the necessary levers, but if I can be of any assistance, I'm happy to do so and I'd like to know the issues in any event. Look forward to speaking with Peter tomorrow. Thanks, NMG

-----Original Message-----
From: Lane, Sean
Sent: Wednesday, July 27, 2005 7:43 PM
To: Gorsuch, Neil M
Cc: Skinner, Peter; Oestericher, Jeffrey
Subject: RE: [redacted]

We've subsequently learned from the [redacted] that [redacted] has been engaged on this issue as well, just so you know all the details we know. I am not in the office tomorrow so you should talk to Peter Skinner, who is our point person on the [redacted] in any event. Peter will give you a ring or send you an email tomorrow to coordinate and provide any other details. Pete's direct dial number is (212) 637-2601, in case you need it.

Thanks so much for your help. Sean

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 7:37 PM
To: Lane, Sean
Subject: [redacted]

Got your voice mail. Am swamped tonight, but could we set up a time to speak tomorrow? I can do 10:30-11, 1:30-2, or 3-5. Just let me know what's convenient on your end and I will give a ring then.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Williams, Jan

From: Williams, Jan
Sent: Thursday, July 28, 2005 9:18 AM
To: Henke, Tracy (SMO)
Cc: Gorsuch, Neil M
Subject: RE: resumes

any better idea of what Robert is looking for in candidates?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Tuesday, July 26, 2005 4:22 PM
To: Williams, Jan
Cc: Gorsuch, Neil M
Subject: resumes

Jan:
Robert reviewed the resumes you sent over and he wants to keep looking. Do you have some additional resumes that he can review and consider? Please send to both Neil and myself. Thanks.
Tracy

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Thursday, July 28, 2005 9:23 AM
To: Williams, Jan
Cc: Gorsuch, Neil M
Subject: RE: resumes

Have asked Robert to email you directly. Neil is going to remind him to do so.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, July 28, 2005 9:18 AM
To: Henke, Tracy (SMO)
Cc: Gorsuch, Neil M
Subject: RE: resumes

any better idea of what Robert is looking for in candidates?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Tuesday, July 26, 2005 4:22 PM
To: Williams, Jan
Cc: Gorsuch, Neil M
Subject: resumes

Jan:
Robert reviewed the resumes you sent over and he wants to keep looking. Do you have some additional resumes that he can review and consider? Please send to both Neil and myself. Thanks.
Tracy

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 10:31 AM
To: Henke, Tracy (SMO); Williams, Jan
Subject: RE: resumes

Jan - Give me a call at your convenience and I'll share what I know.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Thursday, July 28, 2005 9:23 AM
To: Williams, Jan
Cc: Gorsuch, Neil M
Subject: RE: resumes

Have asked Robert to email you directly. Neil is going to remind him to do so.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, July 28, 2005 9:18 AM
To: Henke, Tracy (SMO)
Cc: Gorsuch, Neil M
Subject: RE: resumes

any better idea of what Robert is looking for in candidates?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Tuesday, July 26, 2005 4:22 PM
To: Williams, Jan
Cc: Gorsuch, Neil M
Subject: resumes

Jan:
Robert reviewed the resumes you sent over and he wants to keep looking. Do you have some additional resumes that he can review and consider? Please send to both Neil and myself. Thanks.
Tracy

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 10:47 AM
To: Reyes, Luis (SMO); Gunn, Currie (SMO)
Cc: Schlozman, Brad (CRT)
Subject: RE: Nothing to Report from CRT

ok

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 10:47 AM
To: Gorsuch, Neil M; Gunn, Currie (SMO)
Cc: Schlozman, Brad (CRT)
Subject: Nothing to Report from CRT

CRT states that they have nothing to report today. I recommend we cancel Neil.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 11:11 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: FW: Draft Memorandum Regarding Waiver Requests OLP Comments
Attachments: Privilege Waiver Memo OLP Comments.doc

OLP comments on this. I have incorporated them into this version in red. Comments are described in email below as well. I don't have any objections to these, but there is one comment, Comment 3 below, worth discussing. Comment 3 memorializes an element of prosecutorial discretion when deciding whether alternatives to a waiver may not be sufficient. In other words, the OLP comment would have the memo state that waiver may be requested when "prosecutors believe" that other alternatives won't be sufficient, as opposed to just saying that waiver may be requested when other alternatives are not sufficient. We may want to kick this around some.

-----Original Message-----
From: McIntosh, Brent
Sent: Thursday, July 28, 2005 8:46 AM
To: Reyes, Luis (SMO)
Subject: FW: Draft Memorandum Regarding Waiver Requests

Rachel asked me to convey to you the comments below regarding the proposed additional guidance on waiver requests. Let me know if you have questions about our comments, if any of this doesn't make sense, or if we can be of assistance.

Thanks.

Brent

Brent J. McIntosh
Counselor to the Assistant Attorney General Office of Legal Policy U.S. Department of Justice ph 202-616-2250 f 202-353-9138

-----Original Message-----
From: McIntosh, Brent
Sent: Thursday, July 28, 2005 8:36 AM
To: Brand, Rachel
Subject: RE: Draft Memorandum Regarding Waiver Requests

On a macro level, I think this makes a lot of sense. It's sound policy, and it may blunt some (but by no means all) of the criticism DOJ has been taking for its allegedly cavalier attitude toward the attorney-client privilege and the work product protection.

On a micro level, I would suggest the following changes:

1. Last sentence of the second paragraph: I would delete the phrase "clarifies the Thompson Memorandum and". I do not think it's necessary to concede that the Thompson Memorandum is unclear.

2. Third paragraph, second sentence: This should read "the attorney-client privilege and the work product protection," not "the attorney-client and work product privileges."

3. First two full paragraphs, page 2: These paragraphs are written as if federal prosecutors can determine beforehand whether a particular level of disclosure will be sufficient. In most cases, though, this will be an educated guess informed by experience and knowledge of the situation. I would acknowledge this uncertainty by using phrases like "prosecutors believe" when discussing whether, e.g., "alternatives to a waiver are [would be] insufficient to acquire timely and complete information."

4. Page 2, third full paragraph, last sentence: I would refer to "privileged or protected communications."

5. Last sentence, penultimate paragraph: I would substitute "inquiry" for "intrustion."

6. Last paragraph, sentence beginning with "Prosecutors": I would substitute "events" for "transactions," as there is no certainty that all relevant events will be transactions.

7. Last paragraph, sentence beginning with "Prosecutors": I would add "and compliance" to the end of this sentence to include improvements that do not necessarily implicate corporate governance issues.

-----Original Message-----
From: Brand, Rachel
Sent: Tuesday, July 19, 2005 11:42 AM
To: McIntosh, Brent
Subject: FW: Draft Memorandum Regarding Waiver Requests

Could you take a look at this and let me know what you think/

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 19, 2005 11:35 AM
To: Brand, Rachel
Cc: McCallum, Robert (SMO)
Subject: Draft Memorandum Regarding Waiver Requests

Rachel,
Attached hereto is the proposed memo to which Robert was referring. Please let me know how I can be of further assistance.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, July 05, 2005 12:30 PM
To: Taylor, Jeffrey (OAG); Mercer, Bill (ODAG)
Cc: Gorsuch, Neil M; Buchanan, MaryBeth; Reyes, Luis (SMO)

Subject: RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Bill and Jeff: Here is the draft memo from me and Mary Beth regarding attny/client priv and work/product waivers which I mentioned this am. I have previously mentioned it to Jim. Mary Beth and I would like to discuss it with you and, if you think the memo has merit or that some additional guidance in this area is warranted, get input regarding it from the Corp Fraud Task Force and the subcomm of the AGAC. Robt.

RDM revision 4 Memorandum Regarding Waiver Requests.wpd

MEMORANDUM

To: ALL UNITED STATES ATTORNEYS AND DEPARTMENT COMPONENT HEADS

From: James B. Comey
Deputy Attorney General

Robert D. McCallum, Jr.
Associate Attorney General

Subject: Guidance for Federal Prosecutors Regarding Requests for Corporate Waiver of the Attorney-Client Privilege and Work Product Protection

On January 20, 2003, former Deputy Attorney General Larry D. Thompson issued a Memorandum to all United States Attorneys' Offices (USAOs) regarding Principles of Federal Prosecution of Business Organizations. This memorandum, commonly known as the Thompson Memorandum, found at USAM 9-162, remains the Department's policy on charging business organizations and includes factors to be considered in making charging decisions.

One of the nine factors the Thompson Memorandum sets forth in determining whether to charge a corporation or other business organization is "the corporation's timely and voluntary disclosure of wrongdoing and its willingness to cooperate in the investigation of its agents, including, if necessary, the waiver of corporate attorney-client and work product protection." Thompson Memorandum, Section II.B.4. The Thompson Memorandum elaborates on this factor by providing that a federal prosecutor may ensure the complete and truthful cooperation of a corporation by requesting, "in appropriate circumstances[,]" that the corporation waive the attorney-client privilege and attorney work-product protection, which the Memorandum recognizes also may be "critical in enabling the government to evaluate the completeness of a corporation's voluntary disclosure and cooperation." Id., Section VI.B. This memorandum provides further guidance to federal prosecutors regarding waiver requests.

In applying the factors set forth in the Thompson Memorandum, federal prosecutors have always considered and should continue to consider carefully whether a request to a business entity for a waiver of attorney-client privilege or attorney work-product protection is necessary to establish corporate cooperation in an investigation. While cooperation is an important factor in the Department's charging decision regarding a corporate target, the Thompson Memorandum recognizes that the attorney-client privilege and work product protections serve important, long-recognized public policies encouraging candid communications between counsel and client and promoting sound corporate governance. Accordingly, the Thompson memorandum acknowledges that a business organization's full cooperation does not always require a waiver, expressly stating that the Department "does not . . . consider waiver of a corporation's attorney-client and work product protection an absolute requirement, and prosecutors should consider the willingness of a corporation to waive such protection *when necessary to provide timely and*

complete information as one factor in evaluating the corporation's cooperation." Id. (emphasis added).

Because the Thompson Memorandum limits requests of waivers to situations where they are believed to be necessary, federal prosecutors should first consider other available alternatives before seeking waivers. At the most basic level, a business organization may, for example, provide complete access to its employees, business records, organizational charts, compliance program, and any third-party witnesses over which it may have influence, such as customers, vendors, accountants, and former employees. In many cases, such action may be sufficient for the government to obtain timely and complete information concerning a suspected crime. In other instances involving complex business organizations or large volumes of evidence, obtaining timely and complete information may require the corporation to take additional steps, such as identifying for investigators specific witnesses and documents central to the suspected criminal conduct. A business organization could, without providing counsel's notes or reports, identify promptly and make available to investigators all of the witnesses and documents involved in its own internal investigation by corporate counsel and provide assurances that the witnesses will make full disclosure. If such actions would be adequate for federal investigators to determine timely the complete underlying facts, then the federal prosecutors should, consistent with the Thompson Memorandum, consider this option before requesting a waiver.

If the alternatives to a waiver are believed to be insufficient to acquire timely and complete information, federal prosecutors should seek approval from the United States Attorney, Branch Director, or a specifically designated supervisory attorney before requesting that attorney-client privilege or work-product protection be waived.

If approval for a waiver request is obtained, the Thompson Memorandum instructs that the "waiver should ordinarily be limited to the factual internal investigation and any contemporaneous advice given to the corporation concerning the conduct at issue." Id., Section VI.B, n.3. The Thompson Memorandum further provides that, "[e]xcept in unusual circumstances, prosecutors should not seek a waiver with respect to communications and work product related to advice concerning the government's criminal investigation." Id. The Thompson Memorandum, therefore, draws an important distinction between the underlying factual information and factual work product, on the one hand, and opinion work product or attorney-client communications, on the other hand. It also draws a significant distinction between legal advice rendered "contemporaneous[ly]" with "the conduct at issue" and "advice concerning the government's criminal investigation." Id. By drawing these distinctions, the Thompson Memorandum seeks to minimize, to the extent possible consistent with prosecutorial necessity, the intrusion into privileged or protected communications.

Consistent with the Thompson Memorandum, a waiver, when deemed necessary, should be limited in most cases to factual information gleaned by the corporation's own investigation, including, where appropriate, corporate counsel's interview notes and other factual findings, as opposed to privileged communications or counsel's opinion work product.

As the Thompson Memorandum outlines, a waiver request seeking privileged communications or opinion work product created contemporaneously with the underlying

conduct under investigation may also be sometimes appropriate. Id. (discussing "contemporaneous advice"). The necessity of such information, however, should be evaluated independently from the necessity of factual findings, interview notes, and other fact work product. Frequently, inquiry into "contemporaneous advice" may not be necessary.

Finally, the Thompson Memorandum indicates that a waiver request for opinion work product or attorney-client communications concerning the government's criminal investigation itself may be warranted. The Memorandum instructs, however, that "prosecutors should not seek a waiver with respect" to such information except in "unusual circumstances." Id. Prosecutors should exercise similar care when evaluating the necessity of a waiver for opinion work product or attorney-client communications that were created after the events under investigation and involve self-evaluation activities, so that companies are not discouraged from candidly engaging in self-evaluation and assessing ways to improve corporate governance and compliance. Of course, there may be cases in which even information falling into these categories may be required. One example would be a case in which there is strong reason to believe that counsel's advice about the government's current investigation constitutes an obstruction of justice, though undoubtedly there will be others as well.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 11:28 AM
To: Reyes, Luis (SMO); McCallum, Robert (SMO)
Subject: RE: Draft Memorandum Regarding Waiver Requests OLP Comments
Attachments: Privilege Waiver Memo OLP Comments.doc

These look fine to me and I'm pleased to see OLP's support.

I think the addition of "prosecutors believe" a sound one.

The only change that gives me even a moment's pause is the deletion of phrase "clarifies the Thompson Memo" in the second paragraph. Our original reason for employing that formulation was to tie this memo as closely to the Thompson Memo as possible. I can appreciate, however, Brent's point of view: our formulation can actually be misconstrued as suggesting that the Thompson Memo isn't clear, something we plainly don't want to do, a "backfire" on our original intent.

As it is, we repeatedly say that this memo only seeks to provide "further guidance," not replace or diminish the Thompson Memo in any way. To stress the point further, and do so without the "backfire" risk Brent notes, perhaps we could say we are providing "further guidance . . . consistent with the Thompson Memo." So the last sentence of the second para would read: "This memorandum provides further guidance to federal prosecutors regarding waiver requests consistent with the Thompson Memorandum." A revised draft reflecting this alteration is attached for your reference. NMG

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 11:11 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: FW: Draft Memorandum Regarding Waiver Requests OLP Comments

OLP comments on this. I have incorporated them into this version in red. Comments are described in email below as well. I don't have any objections to these, but there is one comment, Comment 3 below, worth discussing. Comment 3 memorializes an element of prosecutorial discretion when deciding whether alternatives to a waiver may not be sufficient. In other words, the OLP comment would have the memo state that waiver may be requested when "prosecutors believe" that other alternatives won't be sufficient, as opposed to just saying that waiver may be requested when other alternatives are not sufficient. We may want to kick this around some.

-----Original Message-----
From: McIntosh, Brent
Sent: Thursday, July 28, 2005 8:46 AM
To: Reyes, Luis (SMO)

Subject: FW: Draft Memorandum Regarding Waiver Requests

Rachel asked me to convey to you the comments below regarding the proposed additional guidance on waiver requests. Let me know if you have questions about our comments, if any of this doesn't make sense, or if we can be of assistance.

Thanks.

Brent

Brent J. McIntosh
Counselor to the Assistant Attorney General Office of Legal Policy U.S. Department of Justice ph 202-616-2250 f 202-353-9138

-----Original Message-----
From: McIntosh, Brent
Sent: Thursday, July 28, 2005 8:36 AM
To: Brand, Rachel
Subject: RE: Draft Memorandum Regarding Waiver Requests

On a macro level, I think this makes a lot of sense. It's sound policy, and it may blunt some (but by no means all) of the criticism DOJ has been taking for its allegedly cavalier attitude toward the attorney-client privilege and the work product protection.

On a micro level, I would suggest the following changes:

1. Last sentence of the second paragraph: I would delete the phrase "clarifies the Thompson Memorandum and". I do not think it's necessary to concede that the Thompson Memorandum is unclear.

2. Third paragraph, second sentence: This should read "the attorney-client privilege and the work product protection," not "the attorney-client and work product privileges."

3. First two full paragraphs, page 2: These paragraphs are written as if federal prosecutors can determine beforehand whether a particular level of disclosure will be sufficient. In most cases, though, this will be an educated guess informed by experience and knowledge of the situation. I would acknowledge this uncertainty by using phrases like "prosecutors believe" when discussing whether, e.g., "alternatives to a waiver are [would be] insufficient to acquire timely and complete information."

4. Page 2, third full paragraph, last sentence: I would refer to "privileged or protected communications."

5. Last sentence, penultimate paragraph: I would substitute "inquiry" for "intrustion."

6. Last paragraph, sentence beginning with "Prosecutors": I would substitute "events" for "transactions," as there is no certainty that all relevant events will be transactions.

7. Last paragraph, sentence beginning with "Prosecutors": I would add "and compliance" to the end of this sentence to include improvements that do not necessarily implicate corporate governance issues.

-----Original Message-----
From: Brand, Rachel
Sent: Tuesday, July 19, 2005 11:42 AM
To: McIntosh, Brent
Subject: FW: Draft Memorandum Regarding Waiver Requests

Could you take a look at this and let me know what you think/

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 19, 2005 11:35 AM
To: Brand, Rachel
Cc: McCallum, Robert (SMO)
Subject: Draft Memorandum Regarding Waiver Requests

Rachel,
Attached hereto is the proposed memo to which Robert was referring. Please let me know how I can be of further assistance.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, July 05, 2005 12:30 PM
To: Taylor, Jeffrey (OAG); Mercer, Bill (ODAG)
Cc: Gorsuch, Neil M; Buchanan, MaryBeth; Reyes, Luis (SMO)
Subject: RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Bill and Jeff: Here is the draft memo from me and Mary Beth regarding attny/client priv and work/product waivers which I mentioned this am. I have previously mentioned it to Jim. Mary Beth and I would like to discuss it with you and, if you think the memo has merit or that some additional guidance in this area is warranted, get input regarding it from the Corp Fraud Task Force and the subcomm of the AGAC. Robt.

RDM revision 4 Memorandum Regarding Waiver Requests.wpd

MEMORANDUM

To: ALL UNITED STATES ATTORNEYS AND DEPARTMENT COMPONENT HEADS

From: James B. Comey
Deputy Attorney General

Robert D. McCallum, Jr.
Associate Attorney General

Subject: Guidance for Federal Prosecutors Regarding Requests for Corporate Waiver of the Attorney-Client Privilege and Work Product Protection

On January 20, 2003, former Deputy Attorney General Larry D. Thompson issued a Memorandum to all United States Attorneys' Offices (USAOs) regarding Principles of Federal Prosecution of Business Organizations. This memorandum, commonly known as the Thompson Memorandum, found at USAM 9-162, remains the Department's policy on charging business organizations and includes factors to be considered in making charging decisions.

One of the nine factors the Thompson Memorandum sets forth in determining whether to charge a corporation or other business organization is "the corporation's timely and voluntary disclosure of wrongdoing and its willingness to cooperate in the investigation of its agents, including, if necessary, the waiver of corporate attorney-client and work product protection." Thompson Memorandum, Section II.B.4. The Thompson Memorandum elaborates on this factor by providing that a federal prosecutor may ensure the complete and truthful cooperation of a corporation by requesting, "in appropriate circumstances[,]" that the corporation waive the attorney-client privilege and attorney work-product protection, which the Memorandum recognizes also may be "critical in enabling the government to evaluate the completeness of a corporation's voluntary disclosure and cooperation." Id., Section VI.B. This memorandum provides further guidance to federal prosecutors regarding waiver requests consistent with the Thompson Memorandum.

In applying the factors set forth in the Thompson Memorandum, federal prosecutors have always considered and should continue to consider carefully whether a request to a business entity for a waiver of attorney-client privilege or attorney work-product protection is necessary to establish corporate cooperation in an investigation. While cooperation is an important factor in the Department's charging decision regarding a corporate target, the Thompson Memorandum recognizes that the attorney-client privilege and work product protections serve important, long-recognized public policies encouraging candid communications between counsel and client and promoting sound corporate governance. Accordingly, the Thompson memorandum acknowledges that a business organization's full cooperation does not always require a waiver, expressly stating that the Department "does not . . . consider waiver of a corporation's attorney-client and work product protection an absolute requirement, and prosecutors should consider the willingness of a corporation to waive such protection *when necessary to provide timely and*

complete information as one factor in evaluating the corporation's cooperation." Id. (emphasis added).

Because the Thompson Memorandum limits requests of waivers to situations where they are believed to be necessary, federal prosecutors should first consider other available alternatives before seeking waivers. At the most basic level, a business organization may, for example, provide complete access to its employees, business records, organizational charts, compliance program, and any third-party witnesses over which it may have influence, such as customers, vendors, accountants, and former employees. In many cases, such action may be sufficient for the government to obtain timely and complete information concerning a suspected crime. In other instances involving complex business organizations or large volumes of evidence, obtaining timely and complete information may require the corporation to take additional steps, such as identifying for investigators specific witnesses and documents central to the suspected criminal conduct. A business organization could, without providing counsel's notes or reports, identify promptly and make available to investigators all of the witnesses and documents involved in its own internal investigation by corporate counsel and provide assurances that the witnesses will make full disclosure. If such actions would be adequate for federal investigators to determine timely the complete underlying facts, then the federal prosecutors should, consistent with the Thompson Memorandum, consider this option before requesting a waiver.

If the alternatives to a waiver are believed to be insufficient to acquire timely and complete information, federal prosecutors should seek approval from the United States Attorney, Branch Director, or a specifically designated supervisory attorney before requesting that attorney-client privilege or work-product protection be waived.

If approval for a waiver request is obtained, the Thompson Memorandum instructs that the "waiver should ordinarily be limited to the factual internal investigation and any contemporaneous advice given to the corporation concerning the conduct at issue." Id., Section VI.B, n.3. The Thompson Memorandum further provides that, "[e]xcept in unusual circumstances, prosecutors should not seek a waiver with respect to communications and work product related to advice concerning the government's criminal investigation." Id. The Thompson Memorandum, therefore, draws an important distinction between the underlying factual information and factual work product, on the one hand, and opinion work product or attorney-client communications, on the other hand. It also draws a significant distinction between legal advice rendered "contemporaneous[ly]" with "the conduct at issue" and "advice concerning the government's criminal investigation." Id. By drawing these distinctions, the Thompson Memorandum seeks to minimize, to the extent possible consistent with prosecutorial necessity, the intrusion into privileged or protected communications.

Consistent with the Thompson Memorandum, a waiver, when deemed necessary, should be limited in most cases to factual information gleaned by the corporation's own investigation, including, where appropriate, corporate counsel's interview notes and other factual findings, as opposed to privileged communications or counsel's opinion work product.

As the Thompson Memorandum outlines, a waiver request seeking privileged communications or opinion work product created contemporaneously with the underlying

conduct under investigation may also be sometimes appropriate. Id. (discussing "contemporaneous advice"). The necessity of such information, however, should be evaluated independently from the necessity of factual findings, interview notes, and other fact work product. Frequently, inquiry into "contemporaneous advice" may not be necessary.

Finally, the Thompson Memorandum indicates that a waiver request for opinion work product or attorney-client communications concerning the government's criminal investigation itself may be warranted. The Memorandum instructs, however, that "prosecutors should not seek a waiver with respect" to such information except in "unusual circumstances." Id. Prosecutors should exercise similar care when evaluating the necessity of a waiver for opinion work product or attorney-client communications that were created after the events under investigation and involve self-evaluation activities, so that companies are not discouraged from candidly engaging in self-evaluation and assessing ways to improve corporate governance and compliance. Of course, there may be cases in which even information falling into these categories may be required. One example would be a case in which there is strong reason to believe that counsel's advice about the government's current investigation constitutes an obstruction of justice, though undoubtedly there will be others as well.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 11:48 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: RE: Draft Memorandum Regarding Waiver Requests OLP Comments

This looks good to me.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 11:28 AM
To: Reyes, Luis (SMO); McCallum, Robert (SMO)
Subject: RE: Draft Memorandum Regarding Waiver Requests OLP Comments

These look fine to me and I'm pleased to see OLP's support.

I think the addition of "prosecutors believe" a sound one.

The only change that gives me even a moment's pause is the deletion of phrase "clarifies the Thompson Memo" in the second paragraph. Our original reason for employing that formulation was to tie this memo as closely to the Thompson Memo as possible. I can appreciate, however, Brent's point of view: our formulation can actually be misconstrued as suggesting that the Thompson Memo isn't clear, something we plainly don't want to do, a "backfire" on our original intent.

As it is, we repeatedly say that this memo only seeks to provide "further guidance," not replace or diminish the Thompson Memo in any way. To stress the point further, and do so without the "backfire" risk Brent notes, perhaps we could say we are providing "further guidance . . . consistent with the Thompson Memo." So the last sentence of the second para would read: "This memorandum provides further guidance to federal prosecutors regarding waiver requests consistent with the Thompson Memorandum." A revised draft reflecting this alteration is attached for your reference. NMG

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 11:11 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: FW: Draft Memorandum Regarding Waiver Requests OLP Comments

OLP comments on this. I have incorporated them into this version in red. Comments are described in email below as well. I don't have any objections to these, but there is one comment, Comment 3 below, worth discussing. Comment 3 memorializes an element of prosecutorial discretion when deciding whether alternatives to a waiver may not be sufficient. In other words, the OLP comment would have the memo state that waiver may be requested when "prosecutors believe" that other

would have the memo state that waiver may be requested when "prosecutors believe" that other alternatives won't be sufficient, as opposed to just saying that waiver may be requested when other alternatives are not sufficient. We may want to kick this around some.

-----Original Message-----
From: McIntosh, Brent
Sent: Thursday, July 28, 2005 8:46 AM
To: Reyes, Luis (SMO)
Subject: FW: Draft Memorandum Regarding Waiver Requests

Rachel asked me to convey to you the comments below regarding the proposed additional guidance on waiver requests. Let me know if you have questions about our comments, if any of this doesn't make sense, or if we can be of assistance.

Thanks.

Brent

Brent J. McIntosh
Counselor to the Assistant Attorney General Office of Legal Policy U.S. Department of Justice ph 202-616-2250 f 202-353-9138

-----Original Message-----
From: McIntosh, Brent
Sent: Thursday, July 28, 2005 8:36 AM
To: Brand, Rachel
Subject: RE: Draft Memorandum Regarding Waiver Requests

On a macro level, I think this makes a lot of sense. It's sound policy, and it may blunt some (but by no means all) of the criticism DOJ has been taking for its allegedly cavalier attitude toward the attorney-client privilege and the work product protection.

On a micro level, I would suggest the following changes:

1. Last sentence of the second paragraph: I would delete the phrase "clarifies the Thompson Memorandum and". I do not think it's necessary to concede that the Thompson Memorandum is unclear.

2. Third paragraph, second sentence: This should read "the attorney-client privilege and the work product protection," not "the attorney-client and work product privileges."

3. First two full paragraphs, page 2: These paragraphs are written as if federal prosecutors can determine beforehand whether a particular level of disclosure will be sufficient. In most cases, though, this will be an educated guess informed by experience and knowledge of the situation. I would acknowledge this uncertainty by using phrases like "prosecutors believe" when discussing whether, e.g., "alternatives to a waiver are [would be] insufficient to acquire timely and complete information."

4. Page 2, third full paragraph, last sentence: I would refer to "privileged or protected communications."

5. Last sentence, penultimate paragraph: I would substitute "inquiry" for "intrustion."

6. Last paragraph, sentence beginning with "Prosecutors": I would substitute "events" for "transactions," as there is no certainty that all relevant events will be transactions.

7. Last paragraph, sentence beginning with "Prosecutors": I would add "and compliance" to the end of this sentence to include improvements that do not necessarily implicate corporate governance issues.

-----Original Message-----
From: Brand, Rachel
Sent: Tuesday, July 19, 2005 11:42 AM
To: McIntosh, Brent
Subject: FW: Draft Memorandum Regarding Waiver Requests

Could you take a look at this and let me know what you think/

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 19, 2005 11:35 AM
To: Brand, Rachel
Cc: McCallum, Robert (SMO)
Subject: Draft Memorandum Regarding Waiver Requests

Rachel,
Attached hereto is the proposed memo to which Robert was referring. Please let me know how I can be of further assistance.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, July 05, 2005 12:30 PM
To: Taylor, Jeffrey (OAG); Mercer, Bill (ODAG)
Cc: Gorsuch, Neil M; Buchanan, MaryBeth; Reyes, Luis (SMO)
Subject: RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Bill and Jeff: Here is the draft memo from me and Mary Beth regarding attny/client priv and work/product waivers which I mentioned this am. I have previously mentioned it to Jim. Mary Beth and I would like to discuss it with you and, if you think the memo has merit or that some additional guidance in this area is warranted, get input regarding it from the Corp Fraud Task Force and the subcomm of the AGAC. Robt.

RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 11:59 AM
To: Merkle, Phillip
Subject: RE: Welcome

Phil - am walking downstairs now to PA exit in middle of block. See you soon. NMG

-----Original Message-----
From: Merkle, Phillip
Sent: Friday, July 22, 2005 1:43 PM
To: Gorsuch, Neil M
Subject: RE: Welcome

Neil,

Thursday works out well. How about noon in front of the Pennsylvania Ave entrance? We can walk over to the Old Post Office, or someplace else close. Just let me know if you need to move the time/day. It's not a problem. Have a good weekend and look forward to catching up.

Thanks,
Phil

> -----Original Message-----
> **From:** Gorsuch, Neil M
> **Sent:** Friday, July 22, 2005 11:39 AM
> **To:** Merkle, Phillip
> **Subject:** RE: Welcome
>
> Phil,
>
> Thanks so much for the note. I'm glad my message "got through" and would very much enjoy catching up. How would Thurs work for lunch? Any venue is fine by me.
>
> All the best,
>
> Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----

From: Merkle, Phillip

Sent: Friday, July 22, 2005 10:33 AM

To: Gorsuch, Neil M

Subject: Welcome

Neil,

Until Nick told me yesterday that you were now with the Department, I had no idea that you were on board, so please let me extend to you a hearty welcome to DOJ. He passed along your "hello," which was much appreciated. I hope that all has been going well, and you have had a chance to settle in. I know that there is a lot going on, but I also know from my past experience that the folks in the Associate's Office are top notch. Tracy, in particular, has been great to work with and I have every confidence she will do great things at DHS. Should you have the opportunity to be up here at OJP, please feel free to stop by and say hello. In the alternative, and this may not be much of one given what is no doubt a ruthless schedule, we could grab a quick bite of lunch as well at your convenience. I could fill you in on the latest gyrations at Prep, or, as many would prefer, not talk about Prep at all and just catch up in general. Regardless, I wish you the only the best of luck and continued success.

Phil

Phillip K. Merkle
Attorney Advisor
Office of the General Counsel
Office of Justice Programs
U.S. Department of Justice
810 7th Street, NW
Washington, DC 20531
(202) 305-2550
(202) 307-1419 (fax)
phillip.merkle@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 1:11 PM
To: McDowell, Cynthia
Subject: RE: Your BIO info is needed TODAY. Thanks. C

i leave it in your good hands and judgment!

-----Original Message-----
From: McDowell, Cynthia
Sent: Thursday, July 28, 2005 12:47 PM
To: Gorsuch, Neil M
Subject: RE: Your BIO info is needed TODAY. Thanks. C

Neil,
Don't worry...you've no more "blather" than the rest of the dept. and it's good reading. The newsletter will likely come out this afternoon...always well received by appointees...say it's better than the W.Post gossip column-ha.!
C
Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317
Washington, D.C. 20530
Tel: [redacted] Fax: (202) 514-3546

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 8:51 AM
To: McDowell, Cynthia
Subject: RE: Your BIO info is needed TODAY. Thanks. C

Hope you won't force the dept to endure all my blather! It was just rather quickly dashed off and stream of consciousness, not thinking the whole world would have to endure it! More fact-based answers follow if that's helpful....

name -Neil M. Gorsuch
title - Principal Deputy Associate Attorney General
prior work - Was a partner at the Washington, D.C. firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, specializing in complex trial and appellate litigation. Previously, clerked for Justice Byron R. White and Justice Anthony M. Kennedy on the U.S. Supreme Court, and for Judge David B. Sentelle on the U.S. Court of Appeals for the D.C. Circuit.
alma maters - D.Phil. in legal philosphy, Oxford University; J.D. Harvard Law School; B.A.Columbia University.
Native State - Colorado.

[redacted]

-----Original Message-----

From: McDowell, Cynthia
Sent: Wednesday, July 27, 2005 1:42 PM
To: Gorsuch, Neil M
Subject: RE: Your BIO info is needed TODAY. Thanks. C

Neil,
It all looks terrific, Neil. Many thanks for the quick turnaround.
[redacted]. Welcome to the U.S. Department of Justice!
C

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317
Washington, D.C. 20530
Tel: [redacted], Fax: (202) 514-3546

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, July 27, 2005 11:48 AM
To: McDowell, Cynthia
Subject: RE: Your BIO info is needed TODAY. Thanks. C

Cynthia - Here are the answers to your questions. If you need anything further, just let me know. Thanks! NMG

name -Neil M. Gorsuch
title - Principal Deputy Associate Attorney General
prior work - Was a partner at the Washington, D.C. firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, where I specialized in complex trial and appellate litigation. Also, I clerked for Justice Byron R. White and Justice Anthony M. Kennedy on the U.S. Supreme Court, and for Judge David B. Sentelle on the U.S. Court of Appeals for the D.C. Circuit.
alma maters - I hold a doctorate from Oxford University, where I studied as a Marshall Scholar, a law degree from Harvard Law School, and an undergraduate from Columbia University.
Native State - [redacted] Coloradoan.
[redacted]

-----Original Message-----
From: McDowell, Cynthia
Sent: Wednesday, July 27, 2005 11:02 AM
To: Henke, Tracy (SMO); Gorsuch, Neil M; Wiggins, Mike; Swenson, Lily F; Reyes, Luis (SMO); Kessler, Elizabeth A
Subject: Your BIO info is needed TODAY. Thanks. C
Importance: High

Dear Politicals in OAAG,

It's your turn to be featured in The DOJ News where thumbnail bio sketches are printed for DOJ appointees to get to know each other better. I received Robert McCallum's info this morning and just need yours to finish out the current edition, slated to go out tomorrow.

Please send me the info below - either by forwarding your resume and giving me the personal info

(Married? Kids? Pets? Hobbies? Native state?) or by phoning me at [redacted] I NEED THIS TODAY (no pressure…).

Please call if you have any questions. Thanks.
Cynthia

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317
Washington, D.C. 20530
Tel: [redacted] Fax: (202) 514-3546

~~

Full Name
Title
Current Office
Prior service/positions
Alma maters
Native State
Married
Children
Pets
Hobbies

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 1:21 PM
To: Bartolomeo, Kelly C
Subject: RE: New Employee Ethics Training

I'm afraid that I will be out of town that day.

-----Original Message-----
From: Bartolomeo, Kelly C
Sent: Thursday, July 28, 2005 1:17 PM
To: Monheim, Thomas; Gorsuch, Neil M; Collins, David T; Safavi, Nancy; McArthur, Patrick
Subject: New Employee Ethics Training

The next required new employee ethics training session is scheduled for :

August 23, 2005 at 10:00am to approx. 11:30am, in room 1160, National Place Building,1331 Pennsylvania Avenue.

Note:
The National Place Building is not the same as the National Press Building.
You may enter the National Place Building on either Pennsylvania Avenue or F and 13th Streets. If arriving by Metrorail, the stop closest to the National Place Building is Metro Center on the Red line/Blue line. The DOJ shuttle bus also stops at the National Place Building via the Green or Black line.

Please email me with your confirmation.

Thanks,
Kelly Bartolomeo
U.S. Department of Justice
Departmental Ethics Office- 514-8196
1331 F Street, NW, Suite 1050
Fax Number-514-3117

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 1:24 PM
To: Johnson, Kelly A. (ENRD)
Cc: Kessler, Elizabeth A
Subject: Red River

I'm told that someone prepared some talking pts for the AG some time ago on Red River. Would it be possible to get an updated versions of those talking pts for OAG, reflecting recent developments and issues? How soon? Many thanks.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Johnson, Kelly A. (ENRD)

From:	Johnson, Kelly A. (ENRD)
Sent:	Thursday, July 28, 2005 1:27 PM
To:	Gorsuch, Neil M
Cc:	Kessler, Elizabeth A
Subject:	Re: Red River

I'm not familiar w/any ENRD Red River litigation. Liz?

Sent from my BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>
CC: Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>
Sent: Thu Jul 28 13:23:53 2005
Subject: Red River

I'm told that someone prepared some talking pts for the AG some time ago on Red River. Would it be possible to get an updated versions of those talking pts for OAG, reflecting recent developments and issues? How soon? Many thanks.

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 1:29 PM
To: Kessler, Elizabeth A
Subject: FW: Red River

sorry - is this not the name for the canadian border issue?

-----Original Message-----
From: Johnson, Kelly A. (ENRD)
Sent: Thursday, July 28, 2005 1:27 PM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A
Subject: Re: Red River

I'm not familiar w/any ENRD Red River litigation. Liz?

Sent from my BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>
CC: Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>
Sent: Thu Jul 28 13:23:53 2005
Subject: Red River

I'm told that someone prepared some talking pts for the AG some time ago on Red River. Would it be possible to get an updated versions of those talking pts for OAG, reflecting recent developments and issues? How soon? Many thanks.

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Thursday, July 28, 2005 1:32 PM
To: Johnson, Kelly A. (ENRD); Gorsuch, Neil M
Subject: RE: Red River

Me neither. Could this be the Devils Lake issue that ENRD did talking points on for the AG? (I don't recall the names of the various rivers connected with Devils Lake, but it's possible one could be Red River.)

-----Original Message-----
From: Johnson, Kelly A. (ENRD)
Sent: Thursday, July 28, 2005 1:27 PM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A
Subject: Re: Red River

I'm not familiar w/any ENRD Red River litigation. Liz?

Sent from my BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>
CC: Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>
Sent: Thu Jul 28 13:23:53 2005
Subject: Red River

I'm told that someone prepared some talking pts for the AG some time ago on Red River. Would it be possible to get an updated versions of those talking pts for OAG, reflecting recent developments and issues? How soon? Many thanks.

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Sours, Raquel

Subject:	Updated: Senior Management Meeting
Start:	Friday, July 29, 2005 9:35 AM
End:	Friday, July 29, 2005 9:55 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Yanes, Raul; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)

When: Friday, July 29, 2005 9:35 AM-9:55 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, Ted Ullyot, Raul Yanes, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 1:32 PM
To: Kessler, Elizabeth A; Johnson, Kelly A. (ENRD)
Subject: RE: Red River

Sorry - that's the one.

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Thursday, July 28, 2005 1:32 PM
To: Johnson, Kelly A. (ENRD); Gorsuch, Neil M
Subject: RE: Red River

Me neither. Could this be the Devils Lake issue that ENRD did talking points on for the AG? (I don't recall the names of the various rivers connected with Devils Lake, but it's possible one could be Red River.)

-----Original Message-----
From: Johnson, Kelly A. (ENRD)
Sent: Thursday, July 28, 2005 1:27 PM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A
Subject: Re: Red River

I'm not familiar w/any ENRD Red River litigation. Liz?

Sent from my BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>
CC: Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>
Sent: Thu Jul 28 13:23:53 2005
Subject: Red River

I'm told that someone prepared some talking pts for the AG some time ago on Red River. Would it be possible to get an updated versions of those talking pts for OAG, reflecting recent developments and issues? How soon? Many thanks.

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706

Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Johnson, Kelly A. (ENRD)

From:	Johnson, Kelly A. (ENRD)
Sent:	Thursday, July 28, 2005 1:41 PM
To:	Neumayr, Mary (ENRD)
Cc:	Gorsuch, Neil M; Kessler, Elizabeth A
Subject:	FW: Red River

Mary -- Can you coordinate an update of the OAG Devils Lake talking points and let Neil know an approximate time frame? Thanks.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 1:32 PM
To: Kessler, Elizabeth A; Johnson, Kelly A. (ENRD)
Subject: RE: Red River

Sorry - that's the one.

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Thursday, July 28, 2005 1:32 PM
To: Johnson, Kelly A. (ENRD); Gorsuch, Neil M
Subject: RE: Red River

Me neither. Could this be the Devils Lake issue that ENRD did talking points on for the AG? (I don't recall the names of the various rivers connected with Devils Lake, but it's possible one could be Red River.)

-----Original Message-----
From: Johnson, Kelly A. (ENRD)
Sent: Thursday, July 28, 2005 1:27 PM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A
Subject: Re: Red River

I'm not familiar w/any ENRD Red River litigation. Liz?

Sent from my BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>

To: Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>
CC: Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>
Sent: Thu Jul 28 13:23:53 2005
Subject: Red River

I'm told that someone prepared some talking pts for the AG some time ago on Red River. Would it be possible to get an updated versions of those talking pts for OAG, reflecting recent developments and issues? How soon? Many thanks.

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 1:48 PM
To: Reyes, Luis (SMO)
Subject: RE: Draft Memorandum Regarding Waiver Requests OLP Comments

You free at 2?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 1:45 PM
To: Buchanan, MaryBeth
Cc: Gorsuch, Neil M
Subject: FW: Draft Memorandum Regarding Waiver Requests OLP Comments

Mary Beth,
See below and attached OLP comments to the draft memo. Any additional thoughts in light of these proposed changes? Thanks.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 11:28 AM
To: Reyes, Luis (SMO); McCallum, Robert (SMO)
Subject: RE: Draft Memorandum Regarding Waiver Requests OLP Comments

These look fine to me and I'm pleased to see OLP's support.

I think the addition of "prosecutors believe" a sound one.

The only change that gives me even a moment's pause is the deletion of phrase "clarifies the Thompson Memo" in the second paragraph. Our original reason for employing that formulation was to tie this memo as closely to the Thompson Memo as possible. I can appreciate, however, Brent's point of view: our formulation can actually be misconstrued as suggesting that the Thompson Memo isn't clear, something we plainly don't want to do, a "backfire" on our original intent.

As it is, we repeatedly say that this memo only seeks to provide "further guidance," not replace or diminish the Thompson Memo in any way. To stress the point further, and do so without the "backfire" risk Brent notes, perhaps we could say we are providing "further guidance . . . consistent with the Thompson Memo." So the last sentence of the second para would read: "This memorandum provides further guidance to federal prosecutors regarding waiver requests consistent with the Thompson Memorandum." A revised draft reflecting this alteration is attached for your reference. NMG

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 11:11 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: FW: Draft Memorandum Regarding Waiver Requests OLP Comments

OLP comments on this. I have incorporated them into this version in red. Comments are described in email below as well. I don't have any objections to these, but there is one comment, Comment 3 below, worth discussing. Comment 3 memorializes an element of prosecutorial discretion when deciding whether alternatives to a waiver may not be sufficient. In other words, the OLP comment would have the memo state that waiver may be requested when "prosecutors believe" that other alternatives won't be sufficient, as opposed to just saying that waiver may be requested when other alternatives are not sufficient. We may want to kick this around some.

-----Original Message-----
From: McIntosh, Brent
Sent: Thursday, July 28, 2005 8:46 AM
To: Reyes, Luis (SMO)
Subject: FW: Draft Memorandum Regarding Waiver Requests

Rachel asked me to convey to you the comments below regarding the proposed additional guidance on waiver requests. Let me know if you have questions about our comments, if any of this doesn't make sense, or if we can be of assistance.

Thanks.

Brent

Brent J. McIntosh
Counselor to the Assistant Attorney General Office of Legal Policy U.S. Department of Justice ph 202-616-2250 f 202-353-9138

-----Original Message-----
From: McIntosh, Brent
Sent: Thursday, July 28, 2005 8:36 AM
To: Brand, Rachel
Subject: RE: Draft Memorandum Regarding Waiver Requests

On a macro level, I think this makes a lot of sense. It's sound policy, and it may blunt some (but by no means all) of the criticism DOJ has been taking for its allegedly cavalier attitude toward the attorney-client privilege and the work product protection.

On a micro level, I would suggest the following changes:

1. Last sentence of the second paragraph: I would delete the phrase "clarifies the Thompson Memorandum and". I do not think it's necessary to concede that the Thompson Memorandum is unclear.

2. Third paragraph, second sentence: This should read "the attorney-client privilege and the work product protection," not "the attorney-client and work product privileges."

3. First two full paragraphs, page 2: These paragraphs are written as if federal prosecutors can determine beforehand whether a particular level of disclosure will be sufficient. In most cases, though, this will be an educated guess informed by experience and knowledge of the situation. I would acknowledge this uncertainty by using phrases like "prosecutors believe" when discussing whether, e.g., "alternatives to a waiver are [would be] insufficient to acquire timely and complete information."

4. Page 2, third full paragraph, last sentence: I would refer to "privileged or protected communications."

5. Last sentence, penultimate paragraph: I would substitute "inquiry" for "intrustion."

6. Last paragraph, sentence beginning with "Prosecutors": I would substitute "events" for "transactions," as there is no certainty that all relevant events will be transactions.

7. Last paragraph, sentence beginning with "Prosecutors": I would add "and compliance" to the end of this sentence to include improvements that do not necessarily implicate corporate governance issues.

-----Original Message-----
From: Brand, Rachel
Sent: Tuesday, July 19, 2005 11:42 AM
To: McIntosh, Brent
Subject: FW: Draft Memorandum Regarding Waiver Requests

Could you take a look at this and let me know what you think/

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 19, 2005 11:35 AM
To: Brand, Rachel
Cc: McCallum, Robert (SMO)
Subject: Draft Memorandum Regarding Waiver Requests

Rachel,
Attached hereto is the proposed memo to which Robert was referring. Please let me know how I can be of further assistance.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, July 05, 2005 12:30 PM
To: Taylor, Jeffrey (OAG); Mercer, Bill (ODAG)
Cc: Gorsuch, Neil M; Buchanan, MaryBeth; Reyes, Luis (SMO)
Subject: RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Bill and Jeff: Here is the draft memo from me and Mary Beth regarding attny/client priv and

Bill and Jeff: Here is the draft memo from me and Mary Beth regarding attny/client priv and work/product waivers which I mentioned this am. I have previously mentioned it to Jim. Mary Beth and I would like to discuss it with you and, if you think the memo has merit or that some additional guidance in this area is warranted, get input regarding it from the Corp Fraud Task Force and the subcomm of the AGAC. Robt.

RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 1:49 PM
To: Johnson, Kelly A. (ENRD); Neumayr, Mary (ENRD)
Cc: Kessler, Elizabeth A
Subject: RE: Red River

Many thanks!

-----Original Message-----
From: Johnson, Kelly A. (ENRD)
Sent: Thursday, July 28, 2005 1:41 PM
To: Neumayr, Mary (ENRD)
Cc: Gorsuch, Neil M; Kessler, Elizabeth A
Subject: FW: Red River

Mary -- Can you coordinate an update of the OAG Devils Lake talking points and let Neil know an approximate time frame? Thanks.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 1:32 PM
To: Kessler, Elizabeth A; Johnson, Kelly A. (ENRD)
Subject: RE: Red River

Sorry - that's the one.

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Thursday, July 28, 2005 1:32 PM
To: Johnson, Kelly A. (ENRD); Gorsuch, Neil M
Subject: RE: Red River

Me neither. Could this be the Devils Lake issue that ENRD did talking points on for the AG? (I don't recall the names of the various rivers connected with Devils Lake, but it's possible one could be Red River.)

-----Original Message-----
From: Johnson, Kelly A. (ENRD)
Sent: Thursday, July 28, 2005 1:27 PM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A
Subject: Re: Red River

I'm not familiar w/any ENRD Red River litigation. Liz?

Sent from my BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>
CC: Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>
Sent: Thu Jul 28 13:23:53 2005
Subject: Red River

I'm told that someone prepared some talking pts for the AG some time ago on Red River. Would it be possible to get an updated versions of those talking pts for OAG, reflecting recent developments and issues? How soon? Many thanks.

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 1:52 PM
To: Rusak, Steve (ENRD)
Subject: Bill Hughes

I just got off the phone with our mutual friend [redacted] who suggested I introduce myself. I joined the Dept a couple months ago and would, from what [redacted] reports, would very much enjoy the chance to meet for a cup of coffee sometime. Neil Gorsuch

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Rusak, Steve (ENRD)

From: Rusak, Steve (ENRD)
Sent: Thursday, July 28, 2005 1:52 PM
To: Gorsuch, Neil M
Subject: Read: Bill Hughes

Neumayr, Mary (ENRD)

From: Neumayr, Mary (ENRD)
Sent: Thursday, July 28, 2005 2:18 PM
To: Gorsuch, Neil M; Johnson, Kelly A. (ENRD)
Cc: Kessler, Elizabeth A
Subject: RE: Red River

I'll prepare updated talking points this afternoon.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 1:49 PM
To: Johnson, Kelly A. (ENRD); Neumayr, Mary (ENRD)
Cc: Kessler, Elizabeth A
Subject: RE: Red River

Many thanks!

-----Original Message-----
From: Johnson, Kelly A. (ENRD)
Sent: Thursday, July 28, 2005 1:41 PM
To: Neumayr, Mary (ENRD)
Cc: Gorsuch, Neil M; Kessler, Elizabeth A
Subject: FW: Red River

Mary -- Can you coordinate an update of the OAG Devils Lake talking points and let Neil know an approximate time frame? Thanks.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 1:32 PM
To: Kessler, Elizabeth A; Johnson, Kelly A. (ENRD)
Subject: RE: Red River

Sorry - that's the one.

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Thursday, July 28, 2005 1:32 PM
To: Johnson, Kelly A. (ENRD); Gorsuch, Neil M
Subject: RE: Red River

Me neither. Could this be the Devils Lake issue that ENRD did talking points on for the AG? (I don't recall the names of the various rivers connected with Devils Lake, but it's possible one could be Red River.)

-----Original Message-----
From: Johnson, Kelly A. (ENRD)
Sent: Thursday, July 28, 2005 1:27 PM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A
Subject: Re: Red River

I'm not familiar w/any ENRD Red River litigation. Liz?

Sent from my BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>
CC: Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>
Sent: Thu Jul 28 13:23:53 2005
Subject: Red River

I'm told that someone prepared some talking pts for the AG some time ago on Red River. Would it be possible to get an updated versions of those talking pts for OAG, reflecting recent developments and issues? How soon? Many thanks.

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 2:55 PM
To: Lofthus, Lee J; Corts, Paul R
Cc: Gorsuch, Neil M
Subject: RE: SMC

Paul, Lee: Are you aware of any paper or read ahead material in advance of tomorrow's meeting of the Strategic Management Council? Thanks.

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Thursday, July 28, 2005 3:00 PM
To: Neumayr, Mary (ENRD)
Cc: Gorsuch, Neil M
Subject: RE: Red River

Mary: I got your voicemail, and I don't know any more about this than the below. I've "cc"'d Neil, though, and am hoping he can help.

Neil: If there is anything more you know about this that will be helpful to Mary (such as whether there is an upcoming meeting, whether the Canadians have contacted the AG again, etc.) and that you can share, can you let us know?

Thanks - Liz

-----Original Message-----
From: Neumayr, Mary (ENRD)
Sent: Thursday, July 28, 2005 2:18 PM
To: Gorsuch, Neil M; Johnson, Kelly A. (ENRD)
Cc: Kessler, Elizabeth A
Subject: RE: Red River

I'll prepare updated talking points this afternoon.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 1:49 PM
To: Johnson, Kelly A. (ENRD); Neumayr, Mary (ENRD)
Cc: Kessler, Elizabeth A
Subject: RE: Red River

Many thanks!

-----Original Message-----
From: Johnson, Kelly A. (ENRD)
Sent: Thursday, July 28, 2005 1:41 PM
To: Neumayr, Mary (ENRD)
Cc: Gorsuch, Neil M; Kessler, Elizabeth A
Subject: FW: Red River

Mary -- Can you coordinate an update of the OAG Devils Lake talking points and let Neil know an approximate time frame? Thanks.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 1:32 PM
To: Kessler, Elizabeth A; Johnson, Kelly A. (ENRD)
Subject: RE: Red River

Sorry - that's the one.

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Thursday, July 28, 2005 1:32 PM
To: Johnson, Kelly A. (ENRD); Gorsuch, Neil M
Subject: RE: Red River

Me neither. Could this be the Devils Lake issue that ENRD did talking points on for the AG? (I don't recall the names of the various rivers connected with Devils Lake, but it's possible one could be Red River.)

-----Original Message-----
From: Johnson, Kelly A. (ENRD)
Sent: Thursday, July 28, 2005 1:27 PM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A
Subject: Re: Red River

I'm not familiar w/any ENRD Red River litigation. Liz?

Sent from my BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>
CC: Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>
Sent: Thu Jul 28 13:23:53 2005
Subject: Red River

I'm told that someone prepared some talking pts for the AG some time ago on Red River. Would it be possible to get an updated versions of those talking pts for OAG, reflecting recent developments and issues? How soon? Many thanks.

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W. Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434

cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 3:05 PM
To: Gorsuch, Neil M; Roberts, Crystal
Subject: Tomorrow

After AG prep on FOP, we will all convene in Neil's office and discuss. Thanks

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 3:12 PM
To: Kessler, Elizabeth A; Neumayr, Mary (ENRD)
Subject: Re: Red River

Don't kmow. Perhaps just a request for an update in case of such contacts.

-----Original Message-----
From: Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>
To: Neumayr, Mary (ENRD) <Mary.Neumayr@usdoj.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Jul 28 14:59:34 2005
Subject: RE: Red River

Mary: I got your voicemail, and I don't know any more about this than the below. I've "cc"'d Neil, though, and am hoping he can help.

Neil: If there is anything more you know about this that will be helpful to Mary (such as whether there is an upcoming meeting, whether the Canadians have contacted the AG again, etc.) and that you can share, can you let us know?

Thanks - Liz

-----Original Message-----
From: Neumayr, Mary (ENRD)
Sent: Thursday, July 28, 2005 2:18 PM
To: Gorsuch, Neil M; Johnson, Kelly A. (ENRD)
Cc: Kessler, Elizabeth A
Subject: RE: Red River

I'll prepare updated talking points this afternoon.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 1:49 PM
To: Johnson, Kelly A. (ENRD); Neumayr, Mary (ENRD)
Cc: Kessler, Elizabeth A
Subject: RE: Red River

Many thanks!

-----Original Message-----

-----Original Message-----
From: Johnson, Kelly A. (ENRD)
Sent: Thursday, July 28, 2005 1:41 PM
To: Neumayr, Mary (ENRD)
Cc: Gorsuch, Neil M; Kessler, Elizabeth A
Subject: FW: Red River

Mary -- Can you coordinate an update of the OAG Devils Lake talking points and let Neil know an approximate time frame? Thanks.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 1:32 PM
To: Kessler, Elizabeth A; Johnson, Kelly A. (ENRD)
Subject: RE: Red River

Sorry - that's the one.

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Thursday, July 28, 2005 1:32 PM
To: Johnson, Kelly A. (ENRD); Gorsuch, Neil M
Subject: RE: Red River

Me neither. Could this be the Devils Lake issue that ENRD did talking points on for the AG? (I don't recall the names of the various rivers connected with Devils Lake, but it's possible one could be Red River.)

-----Original Message-----
From: Johnson, Kelly A. (ENRD)
Sent: Thursday, July 28, 2005 1:27 PM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A
Subject: Re: Red River

I'm not familiar w/any ENRD Red River litigation. Liz?

Sent from my BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>
CC: Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>
Sent: Thu Jul 28 13:23:53 2005
Subject: Red River

I'm told that someone prepared some talking pts for the AG some time ago on Red River. Would it be possible to get an updated versions of those talking pts for OAG, reflecting recent developments and issues? How soon? Many thanks.

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 3:14 PM
To: Hofer, Patrick F. (TAX)
Cc: O'Connor, Eileen J. (AAG/TAX)
Subject: RE: Tax 2007 Budget Request

Lee, Pat:

Just wanted to follow up with you on this. As contemplated, it would be unprecedented from a process standpoint to make a presentationt directly to the SMC. Nevertheless, Robert is on the board and is well aware of where your coming from as a result of the briefing and briefing materials on Project Follow-Through. Likewise, OAG is aware as well. One other venue that may be useful would be to brief your ODAG POC, Wendell Taylor, to the extent that he could lay out the issue for the DAG who is also on the board. I have sent Wendell copies of the materials and can try and facilitate a meeting if you want to go that route. Let me know and I can call him, or you may want to reach out to him directly.

-----Original Message-----
From: Hofer, Patrick F. (TAX)
Sent: Monday, July 25, 2005 5:24 PM
To: Reyes, Luis (SMO)
Cc: O'Connor, Eileen J. (AAG/TAX)
Subject: RE: Tax 2007 Budget Request

Luis: Lee confirms we would like to make a presentation to the SMC, if they will permit it. Do you have any more feedback on that?

Also, FYI, last week the Senate appropriations committee approved a 7 percent increase in the IRS's enforcement budget for 2006. Our concerns about being prepared to handle the work the IRS will be generating are getting even more concrete.

Thanks,
Pat

From: Hofer, Patrick F. (TAX)
Sent: Wednesday, July 20, 2005 12:02 PM
To: Reyes, Luis (SMO)
Cc: O'Connor, Eileen J. (AAG/TAX)
Subject: RE: Tax 2007 Budget Request

We had responded to JMD's questions, which focused on what method we used to project growth in our caseload, and I had spoken to Lee Lofthus about the basis of our request (in a briefing similar to that I gave to you). We did not give a briefing to JMD budget staff.

I believe you are correct that we would like to address the SMC, but I will let Lee advise you if I am incorrect.

Thanks again,
Pat

From: Reyes, Luis (SMO)
Sent: Wednesday, July 20, 2005 11:58 AM
To: Hofer, Patrick F. (TAX)
Cc: O'Connor, Eileen J. (AAG/TAX)
Subject: RE: Tax 2007 Budget Request

Thanks Pat. I have inquired as to the schedule of SMC deliberations. I also looped ODAG in all the relevant information. OAG and ODAG are now aware of Tax's situation. Question: had you had the opportunity to make your case to JMD before they made their rec to the SMC? Will let you know what I find out as soon as I know. I assume, if appropriate, you would like to be able to address the SMC on this?

-----Original Message-----
From: Hofer, Patrick F. (TAX)
Sent: Wednesday, July 20, 2005 10:00 AM
To: Reyes, Luis (SMO)
Cc: O'Connor, Eileen J. (AAG/TAX)
Subject: Tax 2007 Budget Request

Luis:

Our executive officer advised me late yesterday afternoon that JMD told us that its recommendation to the SMC regarding our 2007 budget initiative would be to recommend a ceiling of 4 percent above our FY 2006 current services level. As we understand it, we had asked for a 6 percent increase, but JMD's recommendation may result in halving the increase for the program initiative we proposed. (In other words, again if I understand correctly, much of the 4% increase JMD is recommending would just allow us to tread water, allowing us to keep up with salary, rent and expense increases, and would not go to augmenting our attorney staff levels; in order to meet a cap of 4%, we would have to limit our personnel increase to half of what we requested).

We are also advised that the next step will be the review/approval by the SMC of all Departmental requests, which is scheduled to be completed before the end of the month. Can you advise as to the timing and process of the SMC's deliberations?

Thanks very much for your help.

Pat Hofer

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 4:01 PM
To: Reyes, Luis (SMO)
Subject: are you around?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 4:04 PM
To: Reyes, Luis (SMO)
Subject: RE: are you around?

can you stop by?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 4:03 PM
To: Gorsuch, Neil M
Subject: Re: are you around?

Yep.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Thu Jul 28 16:00:42 2005
Subject: are you around?

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 4:20 PM
To: Merkle, Phillip
Subject: RE: Welcome

Phil, I thoroughly enjoyed catching up. Let's do it regularly, and I promise next time not to pepper you with Prep questions. Keep up the good fight, Neil

-----Original Message-----
From: Merkle, Phillip
Sent: Thursday, July 28, 2005 4:11 PM
To: Gorsuch, Neil M
Subject: RE: Welcome

Neil,

Thanks again for lunch. (Sorry the ethics regs got the better of you.) It was a pleasure to catch up and hear that, except for the Prep matter, that you are doing so well. I'll be sure to forward a sampling, or two, of what is going on up at Prep. I'll try to give you sufficient time between e-mails to allow your stomach to cease churning. In the meantime, I will continue to tip at windmills as long as I can. Continued success in the Associate's Office. You're in a great spot to do all kinds of good and interesting things. Don't hesitate to let me know if I can be of assistance to you.

Phil

> -----Original Message-----
> **From:** Gorsuch, Neil M
> **Sent:** Thursday, July 28, 2005 12:00 PM
> **To:** Merkle, Phillip
> **Subject:** RE: Welcome
>
> Phil - am walking downstairs now to PA exit in middle of block. See you soon. NMG
>
> -----Original Message-----
> **From:** Merkle, Phillip
> **Sent:** Friday, July 22, 2005 1:43 PM
> **To:** Gorsuch, Neil M
> **Subject:** RE: Welcome
>
> Neil,
>
> Thursday works out well. How about noon in front of the Pennsylvania Ave entrance? We can walk over to the Old Post Office, or someplace else close. Just let me know if you need to move the time/day. It's not a problem. Have a good weekend and look forward to catching up.
>
> Thanks,
> Phil
>
> > -----Original Message-----

From: Gorsuch, Neil M
Sent: Friday, July 22, 2005 11:39 AM
To: Merkle, Phillip
Subject: RE: Welcome

Phil,

Thanks so much for the note. I'm glad my message "got through" and would very much enjoy catching up. How would Thurs work for lunch? Any venue is fine by me.

All the best,

Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: Merkle, Phillip
Sent: Friday, July 22, 2005 10:33 AM
To: Gorsuch, Neil M
Subject: Welcome

Neil,

Until Nick told me yesterday that you were now with the Department, I had no idea that you were on board, so please let me extend to you a hearty welcome to DOJ. He passed along your "hello," which was much appreciated. I hope that all has been going well, and you have had a chance to settle in. I know that there is a lot going on, but I also know from my past experience that the folks in the Associate's Office are top notch. Tracy, in particular, has been great to work with and I have every confidence she will do great things at DHS. Should you have the opportunity to be up here at OJP, please feel free to stop by and say hello. In the alternative, and this may not be much of one given what is no doubt a ruthless schedule, we could grab a quick bite of lunch as well at your convenience. I could fill you in on the latest gyrations at Prep, or, as many would prefer, not talk about Prep at all and just catch up in general. Regardless, I wish you the only the best of luck and continued success.

Phil

Phillip K. Merkle

Attorney Advisor
Office of the General Counsel
Office of Justice Programs
U.S. Department of Justice
810 7th Street, NW
Washington, DC 20531
(202) 305-2550
(202) 307-1419 (fax)
phillip.merkle@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 5:05 PM
To: Reyes, Luis (SMO)
Subject: RE: Tax 2007 Budget Request

am i supposed to advocate for this tomorrow?
-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 3:14 PM
To: Hofer, Patrick F. (TAX)
Cc: O'Connor, Eileen J. (AAG/TAX)
Subject: RE: Tax 2007 Budget Request

Lee, Pat:

Just wanted to follow up with you on this. As contemplated, it would be unprecedented from a process standpoint to make a presentationt directly to the SMC. Nevertheless, Robert is on the board and is well aware of where your coming from as a result of the briefing and briefing materials on Project Follow-Through. Likewise, OAG is aware as well. One other venue that may be useful would be to brief your ODAG POC, Wendell Taylor, to the extent that he could lay out the issue for the DAG who is also on the board. I have sent Wendell copies of the materials and can try and facilitate a meeting if you want to go that route. Let me know and I can call him, or you may want to reach out to him directly.

-----Original Message-----
From: Hofer, Patrick F. (TAX)
Sent: Monday, July 25, 2005 5:24 PM
To: Reyes, Luis (SMO)
Cc: O'Connor, Eileen J. (AAG/TAX)
Subject: RE: Tax 2007 Budget Request

Luis: Lee confirms we would like to make a presentation to the SMC, if they will permit it. Do you have any more feedback on that?

Also, FYI, last week the Senate appropriations committee approved a 7 percent increase in the IRS's enforcement budget for 2006. Our concerns about being prepared to handle the work the IRS will be generating are getting even more concrete.

Thanks,
Pat

From: Hofer, Patrick F. (TAX)
Sent: Wednesday, July 20, 2005 12:02 PM
To: Reyes, Luis (SMO)
Cc: O'Connor, Eileen J. (AAG/TAX)
Subject: RE: Tax 2007 Budget Request

We had responded to JMD's questions, which focused on what method we used to project growth in our caseload, and I had spoken to Lee Lofthus about the basis of our request (in a briefing similar to that I gave to you). We did not give a briefing to JMD budget staff.

I believe you are correct that we would like to address the SMC, but I will let Lee advise you if I am incorrect.

Thanks again,
Pat

From: Reyes, Luis (SMO)
Sent: Wednesday, July 20, 2005 11:58 AM
To: Hofer, Patrick F. (TAX)
Cc: O'Connor, Eileen J. (AAG/TAX)
Subject: RE: Tax 2007 Budget Request

Thanks Pat. I have inquired as to the schedule of SMC deliberations. I also looped ODAG in all the relevant information. OAG and ODAG are now aware of Tax's situation. Question: had you had the opportunity to make your case to JMD before they made their rec to the SMC? Will let you know what I find out as soon as I know. I assume, if appropriate, you would like to be able to address the SMC on this?

-----Original Message-----
From: Hofer, Patrick F. (TAX)
Sent: Wednesday, July 20, 2005 10:00 AM
To: Reyes, Luis (SMO)
Cc: O'Connor, Eileen J. (AAG/TAX)
Subject: Tax 2007 Budget Request

Luis:

Our executive officer advised me late yesterday afternoon that JMD told us that its recommendation to the SMC regarding our 2007 budget initiative would be to recommend a ceiling of 4 percent above our FY 2006 current services level. As we understand it, we had asked for a 6 percent increase, but JMD's recommendation may result in halving the increase for the program initiative we proposed. (In other words, again if I understand correctly, much of the 4% increase JMD is recommending would just allow us to tread water, allowing us to keep up with salary, rent and expense increases, and would not go to augmenting our attorney staff levels; in order to meet a cap of 4%, we would have to limit our personnel increase to half of what we requested).

We are also advised that the next step will be the review/approval by the SMC of all Departmental requests, which is scheduled to be completed before the end of the month. Can you advise as to the timing and process of the SMC's deliberations?

Thanks very much for your help.

Pat Hofer

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 5:55 PM
To: Corts, Paul R; Gorsuch, Neil M
Cc: Lofthus, Lee J
Subject: Re: SMC

No problem. My apologies for the confusion. Neil Gorsuch will be attending for us so the book should go to him. Neil, you still around or should we just wait to get book in the morning?

-----Original Message-----
From: Corts, Paul R <Paul.R.Corts@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
CC: Lofthus, Lee J <Lee.J.Lofthus@SMOJMD.USDOJ.gov>
Sent: Thu Jul 28 17:47:54 2005
Subject: RE: SMC

Yes. Sorry for the confusion, but Budget Staff tells me they have normally worked with Tracy and just didn't know who to work with on this. I have a book for you and can walk it up to your office whenever is convenient for you - give me a call. I'll be here til 7 tonight or first thing in the morning.
Thx
Paul

From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 2:55 PM
To: Lofthus, Lee J; Corts, Paul R
Cc: Gorsuch, Neil M
Subject: RE: SMC

Paul, Lee: Are you aware of any paper or read ahead material in advance of tomorrow's meeting of the Strategic Management Council? Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 5:56 PM
To: Reyes, Luis (SMO); Corts, Paul R
Cc: Lofthus, Lee J
Subject: RE: SMC

I'm around, but am happy to pick it up. Dr. Corts, what's your room no?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 5:55 PM
To: Corts, Paul R; Gorsuch, Neil M
Cc: Lofthus, Lee J
Subject: Re: SMC

No problem. My apologies for the confusion. Neil Gorsuch will be attending for us so the book should go to him. Neil, you still around or should we just wait to get book in the morning?

-----Original Message-----
From: Corts, Paul R <Paul.R.Corts@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
CC: Lofthus, Lee J <Lee.J.Lofthus@SMOJMD.USDOJ.gov>
Sent: Thu Jul 28 17:47:54 2005
Subject: RE: SMC

Yes. Sorry for the confusion, but Budget Staff tells me they have normally worked with Tracy and just didn't know who to work with on this. I have a book for you and can walk it up to your office whenever is convenient for you - give me a call. I'll be here til 7 tonight or first thing in the morning.
Thx
Paul

From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 2:55 PM
To: Lofthus, Lee J; Corts, Paul R
Cc: Gorsuch, Neil M
Subject: RE: SMC

Paul, Lee: Are you aware of any paper or read ahead material in advance of tomorrow's meeting of the Strategic Management Council? Thanks.

Palmer, David (CRT)

From: Palmer, David (CRT)
Sent: Thursday, July 28, 2005 6:09 PM
To: Gorsuch, Neil M
Subject: Read: Agreement

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 6:11 PM
To: Gorsuch, Neil M
Subject: Read: SMC

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 7:13 PM
To: Gorsuch, Neil M
Subject: Not read: fyi, from the national review media blog

Madan, Rafael A.

From: Madan, Rafael A.
Sent: Thursday, July 28, 2005 8:34 PM
To: Gorsuch, Neil M
Subject: are you free this evening, for a few minutes?
Importance: High

May I trouble you, please, to give me a call? I'm still at the office (x4-0488); my cell # (should I not be at my desk) is [redacted] Thanks, Rafe

Elwood, Courtney

From: Elwood, Courtney
Sent: Thursday, July 28, 2005 8:35 PM
To: Gorsuch, Neil M
Subject: Fw: Please give me a call as soon as possible
Importance: High

I spoke to Rafe and discussed their refinement (my word, not his) on our proposal. I think we're moving in the right direction. He's going to write something up and shoot it to us.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Madan, Rafael A. <Rafael.A.Madan@usdoj.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Thu Jul 28 18:14:59 2005
Subject: Please give me a call as soon as possible

Courtney: On Regina's behalf, may I ask you, please, to give me a call to discuss a proposal? Thanks, Rafe (x4-0488)

Neumayr, Mary (ENRD)

From: Neumayr, Mary (ENRD)
Sent: Thursday, July 28, 2005 9:11 PM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A; Johnson, Kelly A. (ENRD)
Subject: Updated Briefing/Talking Points - Devils Lake
Attachments: #36030-v1-Updated_Briefing_Talking_Points_-_Devils_Lake.WPD

Attached pursuant to your request is an updated memorandum on North Dakota's Devils Lake water diversion project. Please don't hesitate to contact me if you have any questions or require additional information.

This message, including attachments, contains sensitive information that is intended only for the recipient(s). Information in this message is confidential and may be protected by attorney/client, work product, or other privileges.

Mary B. Neumayr
Counsel to the Assistant Attorney General
Environment and Natural Resources Division
950 Pennsylvania Avenue, NW
Room 2129
Washington, DC 20530
Tel: (202) 514-5243
Fax: (202) 514-0557
Email: mary.neumayr@usdoj.gov

Contact:Kelly A. Johnson
Environment Division
514-4760
July 28, 2005

Drafted by: Mary Neumayr, ENRD 4-5243
Date: July 28, 2005

North Dakota's Devils Lake Water Diversion Project

Status: The Office of the Attorney General has requested updated talking points on the Devils Lake matter. We recommend the following talking points.

Talking Points:

- The U.S. is not a party to any litigation relating to the project nor has any federal agency referred this matter to DOJ for action.

- DOJ is, however, continuing to participate in the ongoing process being carried out by the Council on Environmental Quality (CEQ).

- The CEQ process has involved (i) lengthy consultations between the relevant federal agencies (State, DOJ, EPA, OMB, Interior, and the Corps of Engineers); (ii) separate technical presentations made to the federal agencies by North Dakota, Minnesota, and Canada/Manitoba; (iii) review by CEQ of all technical aspects of the project; and (iv) consideration of whether there are potential measures to address Canada's concerns.

- We understand CEQ recently also sent a team of biologists to North Dakota to inspect and conduct a technical review the project.

- We also understand CEQ is working cooperatively with Manitoba, Canada, Minnesota, North Dakota, the Corps and Interior on a "Rapid Assessment" to collect additional water samples and carry out additional laboratory testing for potential biota or invasive species. The assessment is expected to begin next week and take several weeks to complete.

- CEQ is also continuing to engage in senior level communications with North Dakota, Minnesota, Canada, Manitoba, and our U.S. State Dept. A principals meeting is tentatively scheduled for early next week in Washington to discuss the status of the project.

- We will continue to monitor this matter and to remain in close consultation with CEQ and the State Dept. Legal Advisor's Office.

Background: Devils Lake is in northeastern North Dakota and is a closed basin with no natural outlet.[1] Due to unusually high rainfall, from 1993 through 2001 the lake level rose and there was considerable economic damage from flooding. To address future flooding, the North Dakota Congressional delegation sought to have a diversion built to connect the lake to the Sheyenne River which flows into the Red River and across the border into Canada and eventually empties into Lake Winnipeg. Canada, however, has always been concerned that any diversion project would violate the Boundary Waters Treaty (the "Treaty") between the U.S. and Canada because it would allow waters to flow into Canada which could include pollutants and invasive species. Canada is particularly concerned about impacts of invasive species to fisheries.

---

[1] Native Americans also refer to the lake as "Spirit Lake".

Contact:Kelly A. Johnson
Environment Division
514-4760
July 28, 2005

Several years ago, the Army Corps of Engineers ("Corps") proposed a federal diversion project and, following a lengthy federal interagency review process, then-Secretary of State Powell made a determination that the proposed federal project would not violate the Treaty. Ultimately, however, the Corps shelved the federal project because the Corps determined there was no longer an emergency and because costs were $180 million of which approximately $65 million would have been required to be contributed by North Dakota. Nevertheless, in March 2004 North Dakota elected to proceed with its own "emergency" $28 million diversion project that would substitute for the federal project. North Dakota did a more limited environmental assessment than would have been done for the federal project and did not install filters and other controls to prevent biota transfers that were proposed for the federal project. North Dakota believes there are already existing hydrological connections between the two lakes and that there will be no new introduction of invasive species.

Canada contends there is a risk of irreparable harm if project goes forward without further review and has requested that the project be referred for expedited review (9-12 months) to the International Joint Commission ("IJC"), which is a panel established under the Treaty to address transborder environmental issues. There is unanimous bipartisan opposition by the North Dakota governor and Congressional delegation, however, to such a referral, and State Department has not taken a position on the request for an IJC reference.

This matter has received attention at the highest levels of the Canadian government and received widespread press. During the past few months CEQ has undertaken to address Canada's concerns and has (1) convened meetings and consulted extensively with all the relevant federal agencies; (2) invited North Dakota, Minnesota, and Canada to provide separate presentations on the state outlet to the federal agencies; (3) dispatched a team of biologists to North Dakota to carry out a technical review of the project; ;(4) undertaken to coordinate a "Rapid Assessment" study to be funded by the U.S. and performed over the next few weeks to provide supplemental sampling and testing for potential invasive species; (5) communicated regularly with the North Dakota and Minnesota governors, and senior Manitoba and Canadian officials; (6) engaged technical personnel both within the U.S. government and third party contractors to analyze the feasibility and costs associated with potential mitigation measures, including a potential sand filter and/or ozone technology to prevent invasive species, if any, from passing through the outlet; and (7) requested assistance from DOJ on legal issues. Within DOJ, ENRD, OLC and Civil Division (Foreign Litigation) have been actively assisting CEQ and the State Dept.'s Legal Advisor's office in considering potential claims and/or litigation defenses that could be raised in U.S. or Canadian courts.

To date neither CEQ nor any of the federal agencies have advised us of specific objections to the state outlet project. While Canada has in the past requested that the U.S. consider filing an action seeking to enjoin North Dakota from completing the project on grounds that there is a risk of irreparable harm from the introduction of invasive species and the potential for North Dakota's actions to result in a Treaty violation, the State Department Legal Advisor's office has informed us that filing such a lawsuit would involve taking positions potentially inconsistent with State Department's prior interpretations of the Treaty, and State Department has not requested that we take such action. Nor has any other federal agency referred the matter to DOJ for action.

No litigation is currently pending relating to the project. While Manitoba had challenged

Contact:Kelly A. Johnson
Environment Division
514-4760
July 28, 2005

a health department permit issued for the project, that permit was affirmed by the North Dakota Supreme Court in a ruling issued June 2, 2005. In June 2004, Manitoba and various citizens/environmental groups had also sent a 60-day notice of intent to sue to the Corps alleging the Corps should have required North Dakota to obtain a Section 404 Clean Water Act wetlands permit(s), but the Corps reconsidered and reaffirmed its position that no such permit(s) were required and the potential plaintiffs have not filed an action. Last week, there were also press reports regarding consideration of a potential citizens' group suit in Canadian federal court based on alleged Treaty violations but we are not aware such a suit has been filed, nor whether such a lawsuit would name the U.S. as a party. ENRD, OLC and the Civil Division (Foreign Litigation) believe there are significant obstacles to such a suit, whether it were to be filed against North Dakota or the U.S., but we are continuing to monitor closely for the filing of that or any other lawsuits in either country.

The project is nearly complete and press reports assert the outlet could be ready to be opened in early August. CEQ has tentatively scheduled a Principals meeting for next Monday or Tuesday to discuss the status of the project, and expects the North Dakota and Minnesota governors, senior officials from Manitoba/Canada, and State Dept. to attend. Given the ongoing CEQ process and the absence of any referral from any agency to DOJ to take action, we continue to believe it would not be appropriate for DOJ to take any action with respect to this matter at this time.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 9:53 PM
To: Neumayr, Mary (ENRD)
Cc: Kessler, Elizabeth A; Johnson, Kelly A. (ENRD)
Subject: Re: Updated Briefing/Talking Points - Devils Lake

Thank you for the speedy turn around.

-----Original Message-----
From: Neumayr, Mary (ENRD) <Mary.Neumayr@usdoj.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>; Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>
Sent: Thu Jul 28 21:10:40 2005
Subject: Updated Briefing/Talking Points - Devils Lake

Attached pursuant to your request is an updated memorandum on North Dakota's Devils Lake water diversion project. Please don't hesitate to contact me if you have any questions or require additional information.

This message, including attachments, contains sensitive information that is intended only for the recipient(s). Information in this message is confidential and may be protected by attorney/client, work product, or other privileges.

Mary B. Neumayr
Counsel to the Assistant Attorney General Environment and Natural Resources Division 950 Pennsylvania Avenue, NW Room 2129 Washington, DC 20530 Tel: (202) 514-5243 Fax: (202) 514-0557
Email: mary.neumayr@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 9:55 PM
To: Madan, Rafael A.
Subject: Re: are you free this evening, for a few minutes?

Just picked this up. Let's talk in the morning. I will be in by 8.

-----Original Message-----
From: Madan, Rafael A. <Rafael.A.Madan@usdoj.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Jul 28 20:33:44 2005
Subject: are you free this evening, for a few minutes?

May I trouble you, please, to give me a call? I'm still at the office (x4-0488); my cell # (should I not be at my desk) is [redacted]. Thanks, Rafe

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 9:56 PM
To: Elwood, Courtney
Subject: Re: Please give me a call as soon as possible

Sounds good. I recvd an email from Rafe. He wants to talk, presumably about the 'refinement.' I will let you know what I hear.

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Jul 28 20:34:33 2005
Subject: Fw: Please give me a call as soon as possible

I spoke to Rafe and discussed their refinement (my word, not his) on our proposal. I think we're moving in the right direction. He's going to write something up and shoot it to us.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Madan, Rafael A. <Rafael.A.Madan@usdoj.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Thu Jul 28 18:14:59 2005
Subject: Please give me a call as soon as possible

Courtney: On Regina's behalf, may I ask you, please, to give me a call to discuss a proposal? Thanks, Rafe (x4-0488)

Sours, Raquel

Subject:	Updated: PREP: Fraternal Order of Police event (8/1/05, New Orleans)
Start:	Friday, July 29, 2005 5:00 PM
End:	Friday, July 29, 2005 5:20 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Elwood, Courtney; Roberts, Crystal; Scolinos, Tasia; Gorsuch, Neil M; Ullyot, Theodore
Optional Attendees:	Sellers, Kiahna (OAG)

When: Friday, July 29, 2005 5:00 PM-5:20 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ/AO: Courtney Elwood, Crystal Roberts, Tasia Scolinos, Neil Gorsuch, Ted Ullyot

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Friday, July 29, 2005 9:46 AM
To: Gorsuch, Neil M

Neil, want to join Marc Kesselman and me for lunch on Wed. 8/3 at Ceiba at 1215pm for restaurant week? Marc is deputy GC at OMB; he used to be in Fed Programs and then OLP, and he's a great guy. I think he's inviting a fourth, but I'm not sure yet who that will be. Hope you can make it.

Jeff

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 29, 2005 10:26 AM
To: Rubin, Jim (ENRD); Kessler, Elizabeth A; McAtamney, James A
Cc: Johnson, Kelly A. (ENRD); Milius, Pauline (ENRD); Oppenheimer, Peter (ENRD)
Subject: RE: CMTS info request

I agree

-----Original Message-----
From: Rubin, Jim (ENRD)
Sent: Friday, July 29, 2005 9:58 AM
To: Gorsuch, Neil M; Kessler, Elizabeth A; McAtamney, James A
Cc: Johnson, Kelly A. (ENRD); Milius, Pauline (ENRD); Oppenheimer, Peter (ENRD)
Subject: FW: CMTS info request

Fyi, I recommend we respond by saying "In view of the limited role DOJ appears to have in the work of this Committee, we do not intend to contribute an employee to the Secretariat." or something to that effect

Please advise.

-----Original Message-----
From: [redacted]@marad.dot.gov [mailto:[redacted]@marad.dot.gov]
Sent: Friday, July 29, 2005 9:18 AM
To: Rubin, Jim (ENRD); James A. McAtamney (Mac); [redacted]@comdt.uscg.mil; [redacted]@omb.eop.gov [redacted]@hq.transcom.mil; [redacted]@state.gov; [redacted]@usda.gov; [redacted]@usda.gov; [redacted]@hq02.usace.army.mil; [redacted]@nga.mil; [redacted]@dol.gov; [redacted]@marad.dot.gov; [redacted]@dot.gov; [redacted]@dot.gov; [redacted]@noaa.gov; [redacted]@nga.mil; [redacted]@dot.gov; [redacted]@noaa.gov; [redacted]@fmc.gov; [redacted]@sls.dot.gov; [redacted]@epa.gov [redacted]@hqda.army.mil; [redacted]@dhs.gov; [redacted]@usace.army.mil; [redacted]@mms.gov; [redacted]@epamail.epa.gov; [redacted]@dot.gov; [redacted]@eda.doc.gov; [redacted]@usace.army.mil; [redacted]@hq02.usace.army.mil; [redacted]@usace.army.mil; [redacted]@noaa.gov; [redacted]@dot.gov; [redacted]@dot.gov [redacted]@comdt.uscg.mil; [redacted]@marad.dot.gov; [redacted]@do.treas.gov [redacted]@dhs.gov; [redacted]@noaa.gov; [redacted]@marad.dot.gov [redacted]@do.treas.gov; [redacted]@ios.doi.gov; [redacted]@dot.gov [redacted]@fmc.gov; [redacted]@marad.dot.gov; [redacted]@dot.gov; [redacted]@dot.gov; [redacted]@usace.army.mil; [redacted]@noaa.gov; [redacted]@faa.gov; [redacted]@faa.gov; [redacted]@comdt.uscg.mil; [redacted]@marad.dot.gov [redacted]@noaa.gov; [redacted]@marad.dot.gov; [redacted]@usda.gov [redacted]@marad.dot.gov; [redacted]@usace.army.mil; [redacted]@dot.gov; [redacted]@do.treas.gov [redacted]@nga.mil;

[redacted]@noaa.gov; [redacted]@do.treas.gov; [redacted]@state.gov;
[redacted]@ios.doi.gov; [redacted]@marad.dot.gov; [redacted]@comdt.uscg.mil;
[redacted]@ost.dot.gov; [redacted]@marad.dot.gov; [redacted]@MARAD.dot.gov
Subject: FW: CMTS info request

To All:

Please see Brian's request below. This was discussed at yesterday's meeting. Please reply directly to Brian by August 8th.

Here is the info I need from the players

Please provide me with the Name and Grade/Series of the individual you will be contributing to the CMTS Executive Secretariat as well as the amount of time that individual will be dedicated to the team ASAP, but no later than 8 August 2005. I will begin working out the logistics of the physical space arangements right away in order to accommodate these individuals.

Thanks

[redacted]

Email: [redacted]@dot.gov <mailto[redacted]@dot.gov>

Rubin, Jim (ENRD)

From:	Rubin, Jim (ENRD)
Sent:	Friday, July 29, 2005 10:50 AM
To:	Gorsuch, Neil M; Kessler, Elizabeth A; McAtamney, James A
Cc:	Oppenheimer, Peter (ENRD)
Subject:	RE: CMTS info request

Thanks, will do

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 29, 2005 10:27 AM
To: Rubin, Jim (ENRD); Kessler, Elizabeth A; McAtamney, James A
Cc: Johnson, Kelly A. (ENRD); Milius, Pauline (ENRD); Oppenheimer, Peter (ENRD)
Subject: RE: CMTS info request

I agree

-----Original Message-----
From: Rubin, Jim (ENRD)
Sent: Friday, July 29, 2005 9:58 AM
To: Gorsuch, Neil M; Kessler, Elizabeth A; McAtamney, James A
Cc: Johnson, Kelly A. (ENRD); Milius, Pauline (ENRD); Oppenheimer, Peter (ENRD)
Subject: FW: CMTS info request

Fyi, I recommend we respond by saying "In view of the limited role DOJ appears to have in the work of this Committee, we do not intend to contribute an employee to the Secretariat." or something to that effect

Please advise.

-----Original Message-----
From: [redacted]@marad.dot.gov [mailto[redacted]@marad.dot.gov]
Sent: Friday, July 29, 2005 9:18 AM
To: Rubin, Jim (ENRD); James A. McAtamney (Mac); [redacted]@comdt.uscg.mil; alangton@omb.eop.gov; [redacted]@hq.transcom.mil; [redacted]@state.gov; [redacted]@usda.gov; [redacted]@usda.gov; [redacted]@hq02.usace.army.mil; [redacted]@nga.mil; [redacted]@dol.gov; [redacted]@marad.dot.gov; [redacted]@dot.gov; [redacted]@dot.gov; [redacted]@noaa.gov; [redacted]@nga.mil; [redacted]@dot.gov; [redacted]@noaa.gov; [redacted]@fmc.gov; [redacted]@sls.dot.gov; [redacted]@epa.gov; [redacted]@hqda.army.mil; [redacted]@dhs.gov; [redacted]@usace.army.mil [redacted]@mms.gov; [redacted]@epamail.epa.gov; [redacted]@dot.gov; [redacted]@eda.doc.gov; [redacted]@usace.army.mil;

[redacted]@hq02.usace.army.mil; [redacted]@usace.army.mil; [redacted]@noaa.gov;
[redacted]@dot.gov; [redacted]@dot.gov; [redacted]@comdt.uscg.mil; [redacted]@marad.dot.gov
[redacted]@do.treas.gov; [redacted]@dhs.gov; [redacted]@noaa.gov;
[redacted]@marad.dot.gov; [redacted]@do.treas.gov; [redacted]@ios.doi.gov;
[redacted]@dot.gov [redacted]@fmc.gov; [redacted]@marad.dot.gov; [redacted]@dot.gov;
[redacted]@dot.gov [redacted]@usace.army.mil; [redacted]@noaa.gov;
[redacted]@faa.gov; [redacted]@faa.gov [redacted]@comdt.uscg.mil;
[redacted]@marad.dot.gov; [redacted]@noaa.gov; [redacted]@marad.dot.gov;
[redacted]@usda.gov; [redacted]@marad.dot.gov; [redacted]@usace.army.mil;
[redacted]@dot.gov [redacted]@do.treas.gov; [redacted]@nga.mil;
[redacted]@noaa.gov; [redacted]@do.treas.gov [redacted]@state.gov;
[redacted]@ios.doi.gov; [redacted]@marad.dot.gov; [redacted]@comdt.uscg.mil;
[redacted]@ost.dot.gov [redacted]@marad.dot.gov; [redacted]@MARAD.dot.gov
Subject: FW: CMTS info request

To All:

Please see [redacted] request below. This was discussed at yesterday's meeting. Please reply directly to [redacted] by August 8th.

Here is the info I need from the players

Please provide me with the Name and Grade/Series of the individual you will be contributing to the CMTS Executive Secretariat as well as the amount of time that individual will be dedicated to the team ASAP, but no later than 8 August 2005. I will begin working out the logistics of the physical space arangements right away in order to accommodate these individuals.

Thanks

[redacted]

Email: [redacted]@dot.gov <mailto [redacted]@dot.gov>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 29, 2005 10:57 AM
To: Bucholtz, Jeffrey (CIV)
Subject: RE:

That's kind. I'd like to meet Marc, having only spoken with him on conf calls. Count me in.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Friday, July 29, 2005 9:46 AM
To: Gorsuch, Neil M
Subject:

Neil, want to join Marc Kesselman and me for lunch on Wed. 8/3 at Ceiba at 1215pm for restaurant week? Marc is deputy GC at OMB; he used to be in Fed Programs and then OLP, and he's a great guy. I think he's inviting a fourth, but I'm not sure yet who that will be. Hope you can make it.

Jeff

Neumayr, Mary (ENRD)

From: Neumayr, Mary (ENRD)
Sent: Friday, July 29, 2005 10:58 AM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A; Johnson, Kelly A. (ENRD)
Subject: RE: Updated Briefing/Talking Points - Devils Lake

FYI, I just received a call from State Dept. Legal Advisor's office and they said that CEQ is in Canada today meeting with the Canadians on the Devil's Lake matter. I should receive a further update from State Dept. today and will plan to keep you informed.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 9:53 PM
To: Neumayr, Mary (ENRD)
Cc: Kessler, Elizabeth A; Johnson, Kelly A. (ENRD)
Subject: Re: Updated Briefing/Talking Points - Devils Lake

Thank you for the speedy turn around.

-----Original Message-----
From: Neumayr, Mary (ENRD) <Mary.Neumayr@usdoj.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>; Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>
Sent: Thu Jul 28 21:10:40 2005
Subject: Updated Briefing/Talking Points - Devils Lake

Attached pursuant to your request is an updated memorandum on North Dakota's Devils Lake water diversion project. Please don't hesitate to contact me if you have any questions or require additional information.

This message, including attachments, contains sensitive information that is intended only for the recipient(s). Information in this message is confidential and may be protected by attorney/client, work product, or other privileges.

Mary B. Neumayr
Counsel to the Assistant Attorney General Environment and Natural Resources Division 950 Pennsylvania Avenue, NW Room 2129 Washington, DC 20530 Tel: (202) 514-5243 Fax: (202) 514-0557
Email: mary.neumayr@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 29, 2005 11:06 AM
To: Neumayr, Mary (ENRD)
Subject: RE: Updated Briefing/Talking Points - Devils Lake

Thanks for the heads up

-----Original Message-----
From: Neumayr, Mary (ENRD)
Sent: Friday, July 29, 2005 10:58 AM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A; Johnson, Kelly A. (ENRD)
Subject: RE: Updated Briefing/Talking Points - Devils Lake

FYI, I just received a call from State Dept. Legal Advisor's office and they said that CEQ is in Canada today meeting with the Canadians on the Devil's Lake matter. I should receive a further update from State Dept. today and will plan to keep you informed.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 9:53 PM
To: Neumayr, Mary (ENRD)
Cc: Kessler, Elizabeth A; Johnson, Kelly A. (ENRD)
Subject: Re: Updated Briefing/Talking Points - Devils Lake

Thank you for the speedy turn around.

-----Original Message-----
From: Neumayr, Mary (ENRD) <Mary.Neumayr@usdoj.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>; Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>
Sent: Thu Jul 28 21:10:40 2005
Subject: Updated Briefing/Talking Points - Devils Lake

Attached pursuant to your request is an updated memorandum on North Dakota's Devils Lake water diversion project. Please don't hesitate to contact me if you have any questions or require additional information.

This message, including attachments, contains sensitive information that is intended only for the

This message, including attachments, contains sensitive information that is intended only for the recipient(s). Information in this message is confidential and may be protected by attorney/client, work product, or other privileges.

Mary B. Neumayr
Counsel to the Assistant Attorney General Environment and Natural Resources Division 950 Pennsylvania Avenue, NW Room 2129 Washington, DC 20530 Tel: (202) 514-5243 Fax: (202) 514-0557
Email: mary.neumayr@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 29, 2005 11:06 AM
To: Ullyot, Theodore
Subject: FW: Updated Briefing/Talking Points - Devils Lake
Attachments: #36030-v1-Updated_Briefing_Talking_Points_-_Devils_Lake.WPD

Here are the updated talking points. CEQ is in Canada today discussing the matter with the govt there.

-----Original Message-----
From: Neumayr, Mary (ENRD)
Sent: Thursday, July 28, 2005 9:11 PM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A; Johnson, Kelly A. (ENRD)
Subject: Updated Briefing/Talking Points - Devils Lake

Attached pursuant to your request is an updated memorandum on North Dakota's Devils Lake water diversion project. Please don't hesitate to contact me if you have any questions or require additional information.

This message, including attachments, contains sensitive information that is intended only for the recipient(s). Information in this message is confidential and may be protected by attorney/client, work product, or other privileges.

Mary B. Neumayr
Counsel to the Assistant Attorney General
Environment and Natural Resources Division
950 Pennsylvania Avenue, NW
Room 2129
Washington, DC 20530
Tel: (202) 514-5243
Fax: (202) 514-0557
Email: mary.neumayr@usdoj.gov

Contact:Kelly A. Johnson
Environment Division
514-4760
July 28, 2005

Drafted by: Mary Neumayr, ENRD 4-5243
Date: July 28, 2005

North Dakota's Devils Lake Water Diversion Project

Status: The Office of the Attorney General has requested updated talking points on the Devils Lake matter. We recommend the following talking points.

Talking Points:

- The U.S. is not a party to any litigation relating to the project nor has any federal agency referred this matter to DOJ for action.

- DOJ is, however, continuing to participate in the ongoing process being carried out by the Council on Environmental Quality (CEQ).

- The CEQ process has involved (i) lengthy consultations between the relevant federal agencies (State, DOJ, EPA, OMB, Interior, and the Corps of Engineers); (ii) separate technical presentations made to the federal agencies by North Dakota, Minnesota, and Canada/Manitoba; (iii) review by CEQ of all technical aspects of the project; and (iv) consideration of whether there are potential measures to address Canada's concerns.

- We understand CEQ recently also sent a team of biologists to North Dakota to inspect and conduct a technical review the project.

- We also understand CEQ is working cooperatively with Manitoba, Canada, Minnesota, North Dakota, the Corps and Interior on a "Rapid Assessment" to collect additional water samples and carry out additional laboratory testing for potential biota or invasive species. The assessment is expected to begin next week and take several weeks to complete.

- CEQ is also continuing to engage in senior level communications with North Dakota, Minnesota, Canada, Manitoba, and our U.S. State Dept. A principals meeting is tentatively scheduled for early next week in Washington to discuss the status of the project.

- We will continue to monitor this matter and to remain in close consultation with CEQ and the State Dept. Legal Advisor's Office.

Background: Devils Lake is in northeastern North Dakota and is a closed basin with no natural outlet.[1/] Due to unusually high rainfall, from 1993 through 2001 the lake level rose and there was considerable economic damage from flooding. To address future flooding, the North Dakota Congressional delegation sought to have a diversion built to connect the lake to the Sheyenne River which flows into the Red River and across the border into Canada and eventually empties into Lake Winnipeg. Canada, however, has always been concerned that any diversion project would violate the Boundary Waters Treaty (the "Treaty") between the U.S. and Canada because it would allow waters to flow into Canada which could include pollutants and invasive species. Canada is particularly concerned about impacts of invasive species to fisheries.

[1/] Native Americans also refer to the lake as "Spirit Lake".

Contact:Kelly A. Johnson
Environment Division
514-4760
July 28, 2005

Several years ago, the Army Corps of Engineers ("Corps") proposed a federal diversion project and, following a lengthy federal interagency review process, then-Secretary of State Powell made a determination that the proposed federal project would not violate the Treaty. Ultimately, however, the Corps shelved the federal project because the Corps determined there was no longer an emergency and because costs were $180 million of which approximately $65 million would have been required to be contributed by North Dakota. Nevertheless, in March 2004 North Dakota elected to proceed with its own "emergency" $28 million diversion project that would substitute for the federal project. North Dakota did a more limited environmental assessment than would have been done for the federal project and did not install filters and other controls to prevent biota transfers that were proposed for the federal project. North Dakota believes there are already existing hydrological connections between the two lakes and that there will be no new introduction of invasive species.

Canada contends there is a risk of irreparable harm if project goes forward without further review and has requested that the project be referred for expedited review (9-12 months) to the International Joint Commission ("IJC"), which is a panel established under the Treaty to address transborder environmental issues. There is unanimous bipartisan opposition by the North Dakota governor and Congressional delegation, however, to such a referral, and State Department has not taken a position on the request for an IJC reference.

This matter has received attention at the highest levels of the Canadian government and received widespread press. During the past few months CEQ has undertaken to address Canada's concerns and has (1) convened meetings and consulted extensively with all the relevant federal agencies; (2) invited North Dakota, Minnesota, and Canada to provide separate presentations on the state outlet to the federal agencies; (3) dispatched a team of biologists to North Dakota to carry out a technical review of the project; ;(4) undertaken to coordinate a "Rapid Assessment" study to be funded by the U.S. and performed over the next few weeks to provide supplemental sampling and testing for potential invasive species; (5) communicated regularly with the North Dakota and Minnesota governors, and senior Manitoba and Canadian officials; (6) engaged technical personnel both within the U.S. government and third party contractors to analyze the feasibility and costs associated with potential mitigation measures, including a potential sand filter and/or ozone technology to prevent invasive species, if any, from passing through the outlet; and (7) requested assistance from DOJ on legal issues. Within DOJ, ENRD, OLC and Civil Division (Foreign Litigation) have been actively assisting CEQ and the State Dept.'s Legal Advisor's office in considering potential claims and/or litigation defenses that could be raised in U.S. or Canadian courts.

To date neither CEQ nor any of the federal agencies have advised us of specific objections to the state outlet project. While Canada has in the past requested that the U.S. consider filing an action seeking to enjoin North Dakota from completing the project on grounds that there is a risk of irreparable harm from the introduction of invasive species and the potential for North Dakota's actions to result in a Treaty violation, the State Department Legal Advisor's office has informed us that filing such a lawsuit would involve taking positions potentially inconsistent with State Department's prior interpretations of the Treaty, and State Department has not requested that we take such action. Nor has any other federal agency referred the matter to DOJ for action.

No litigation is currently pending relating to the project. While Manitoba had challenged

Contact:Kelly A. Johnson
Environment Division
514-4760
July 28, 2005

a health department permit issued for the project, that permit was affirmed by the North Dakota Supreme Court in a ruling issued June 2, 2005. In June 2004, Manitoba and various citizens/environmental groups had also sent a 60-day notice of intent to sue to the Corps alleging the Corps should have required North Dakota to obtain a Section 404 Clean Water Act wetlands permit(s), but the Corps reconsidered and reaffirmed its position that no such permit(s) were required and the potential plaintiffs have not filed an action. Last week, there were also press reports regarding consideration of a potential citizens' group suit in Canadian federal court based on alleged Treaty violations but we are not aware such a suit has been filed, nor whether such a lawsuit would name the U.S. as a party. ENRD, OLC and the Civil Division (Foreign Litigation) believe there are significant obstacles to such a suit, whether it were to be filed against North Dakota or the U.S., but we are continuing to monitor closely for the filing of that or any other lawsuits in either country.

The project is nearly complete and press reports assert the outlet could be ready to be opened in early August. CEQ has tentatively scheduled a Principals meeting for next Monday or Tuesday to discuss the status of the project, and expects the North Dakota and Minnesota governors, senior officials from Manitoba/Canada, and State Dept. to attend. Given the ongoing CEQ process and the absence of any referral from any agency to DOJ to take action, we continue to believe it would not be appropriate for DOJ to take any action with respect to this matter at this time.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 29, 2005 11:27 AM
To: Roberts, Crystal; Reyes, Luis (SMO)
Subject: RE:

of course

-----Original Message-----
From: Roberts, Crystal
Sent: Friday, July 29, 2005 11:25 AM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject:
Importance: High

I'm sorry. I'm crashing on an AG event with the AG's office. Can I swing by in about 10 mins?

Greenfeld, Larry

From: Greenfeld, Larry
Sent: Friday, July 29, 2005 11:53 AM
To: Senger, Jeffrey M; Gorsuch, Neil M; Schofield, Regina; Daley, Cybele; Tzitzon, Nicholas; Nolan, Cheri; Segerdahl-Ayers, Nancy; Hart, Sarah V.
Cc: Zawitz, Marianne; Hester, Tom; Williams, Carolyn; Smith, Steven; Cohen, Thomas; Walker, Rhea
Subject: Pre-Release Grilling on BJS Report Federal Tort Trials and Verdicts, 2002-03

As is our custom at BJS, we will conduct a pre-release prep session on the above-noted report which is scheduled for public release on August 14. The prep session will take place on August 11 at 2:00PM in the BJS Conference Room (#2261) at 810 7th Street. Assuming we have a cleared press release at that time, we should have copies of both the report and the press release available for your use prior to the grilling session. Please let me know if you have any questions---I can be reached at 6-3281.

Larry

Lawrence A. Greenfeld, Director
Bureau of Justice Statistics
U.S. Department of Justice
810 7th Street, N.W.
Washington, D.C. 20531
Phone: 202-307-0765
Fax: 202-307-5846
Email: Larry.Greenfeld@usdoj.gov
Web: www.ojp.usdoj.gov/bjs

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 29, 2005 12:03 PM
To: McCallum, Robert (SMO)
Cc: Senger, Jeffrey M
Subject: FW: Pre-Release Grilling on BJS Report Federal Tort Trials and Verdicts, 2002-03

fyi

-----Original Message-----
From: Greenfeld, Larry
Sent: Friday, July 29, 2005 11:53 AM
To: Senger, Jeffrey M; Gorsuch, Neil M; Schofield, Regina; Daley, Cybele; Tzitzon, Nicholas; Nolan, Cheri; Segerdahl-Ayers, Nancy; Hart, Sarah V.
Cc: Zawitz, Marianne; Hester, Tom; Williams, Carolyn; Smith, Steven; Cohen, Thomas; Walker, Rhea
Subject: Pre-Release Grilling on BJS Report Federal Tort Trials and Verdicts, 2002-03

As is our custom at BJS, we will conduct a pre-release prep session on the above-noted report which is scheduled for public release on August 14. The prep session will take place on August 11 at 2:00PM in the BJS Conference Room (#2261) at 810 7th Street. Assuming we have a cleared press release at that time, we should have copies of both the report and the press release available for your use prior to the grilling session. Please let me know if you have any questions---I can be reached at 6-3281.

Larry

Lawrence A. Greenfeld, Director
Bureau of Justice Statistics
U.S. Department of Justice
810 7th Street, N.W.
Washington, D.C. 20531
Phone: 202-307-0765
Fax: 202-307-5846
Email: Larry.Greenfeld@usdoj.gov <mailto:Larry.Greenfeld@usdoj.gov>
Web: www.ojp.usdoj.gov/bjs <http://www.ojp.usdoj.gov/bjs>

Beach, Andrew

From: Beach, Andrew
Sent: Friday, July 29, 2005 1:13 PM
To: McCallum, Robert (SMO)
Cc: Gunn, Currie (SMO); Gorsuch, Neil M
Subject: Aug 1 and 2 / schedule

Robert:
the AG is going to be traveling on Aug 1 and 2. there are three White House meetings for which we will need a DOJ rep. the DAG is on personal leave next week.

Mon Aug 1: 8:35 AM HSC meeting with POTUS.
Tue Aug 2: 9:50 AM Emergency communications meeting with Andy Card
Tue Aug 2: 1:30 PM NSC PC (principals - not w/ POTUS)

are you available at all to cover any of these meetings?
we will have to request White House approval for you to sub for the AG, but I wanted to check and see if you are here.

Andrew Beach
Assistant to the Attorney General
& Director of Scheduling
US Department of Justice
951 Constitution Ave., NW
Washington, DC 20530
Tel: (202) 514-4195; FAX: (202) 307-2825
E-mail: andrew.beach@usdoj.gov

Davis, Deborah J

Subject:	Phone Call w/ [redacted] of American Legion, Room 5708
Start:	Friday, July 29, 2005 3:15 PM
End:	Friday, July 29, 2005 3:45 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Davis, Deborah J
Required Attendees:	Gorsuch, Neil M; Roberts, Crystal; Reyes, Luis (SMO)
Importance:	High

When: Friday, July 29, 2005 3:15 PM-3:45 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, July 29, 2005 1:33 PM
To: Gorsuch, Neil M
Subject: Phone Call

Call Mr. McCallum on his cell phone [redacted] when you return from your meeting in the DAG's office.

McCallum, Robert (SMO)

From:	McCallum, Robert (SMO)
Sent:	Friday, July 29, 2005 2:02 PM
To:	Beach, Andrew
Cc:	Gunn, Currie (SMO); Gorsuch, Neil M
Subject:	Re: Aug 1 and 2 / schedule

Andy: I am out in Oregon [redacted] I do not get back to DC until 5pm on Monday Aug 1st and so can not attend the Mon meeting. I will be back in the office early am on Tues Aug 2nd and can attend any meetings as nec on that day. Please coordinate with Currie. Robt

-----Original Message-----
From: Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
CC: Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Jul 29 13:12:52 2005
Subject: Aug 1 and 2 / schedule

Robert:
the AG is going to be traveling on Aug 1 and 2. there are three White House meetings for which we will need a DOJ rep. the DAG is on personal leave next week.

Mon Aug 1: 8:35 AM HSC meeting with POTUS.
Tue Aug 2: 9:50 AM Emergency communications meeting with Andy Card Tue Aug 2: 1:30 PM NSC PC (principals - not w/ POTUS)

are you available at all to cover any of these meetings?
we will have to request White House approval for you to sub for the AG, but I wanted to check and see if you are here.

Andrew Beach
Assistant to the Attorney General
& Director of Scheduling
US Department of Justice
951 Constitution Ave., NW
Washington, DC 20530
Tel: [redacted] FAX: [redacted]
E-mail: andrew.beach@usdoj.gov

O'Connor, Eileen J. (AAG/TAX)

From: O'Connor, Eileen J. (AAG/TAX)
Sent: Friday, July 29, 2005 3:03 PM
To: Gorsuch, Neil M
Subject: IRS Questions Church about Pro-Kerry Rally
Attachments: 1261138_1.DOC

Neil - You might find this of interest. Lee O'C.

Copyright © 2005 Tax Analysts
Tax Notes Today
MARCH 23, 2005 WEDNESDAY

DEPARTMENT: Official Announcements, Notices, and News Releases; IRS Tax Correspondence
CITE: 2005 TNT 55-12
LENGTH: 3755 words
HEADLINE: 2005 TNT 55-12

IRS QUESTIONS CHURCH ABOUT PRO-KERRY RALLY.

(Section 501(c)(3) -- Charities;) (Release Date: FEBRUARY 15, 2005) (Doc 2005-5961)
CODE: Section 501(c)(3) -- Charities; Section 7611 -- Church Tax Inquiry Restrictions

ABSTRACT: In a letter dated February 15, the IRS notified Friendship Missionary Baptist Church of its intent to open a church tax inquiry under section 7611 to determine whether an October 2004 rally on behalf of then Democratic presidential candidate Sen. John F. Kerry, D-Mass., jeopardized the church's tax-exempt status.
AUTHOR: Johnson, R.C.
Internal Revenue Service;
Tax Exempt and Government Entities Division
GEOGRAPHIC: United States
REFERENCES:
Subject Area:
Exempt organizations
TEXT:

Release Date: FEBRUARY 15, 2005

Published by Tax AnalystsTM

February 15, 2005

CERTIFIED MAIL
Dear Sir or Madam:

The Internal Revenue Service is responsible for administering the Internal Revenue laws of the United States, including those that apply to organizations exempt from federal income tax. To carry out that responsibility, section 7602 of the Internal Revenue Code (IRC) authorizes the Service to determine the correctness of any tax return, to make a return when none has been filed, and to determine the tax liability of any person or organization. However, IRC section 7611 imposes restrictions on the Service

DOJ_NMG_ 0145755

in conducting tax inquiries and examinations of churches and conventions or associations of churches.

In passing IRC section 7611, Congress intended to ensure that the Internal Revenue Service carry out its obligation to resolve questions concerning the tax liability, if any, and the tax-exempt status of churches and organizations claiming to be churches, with due regard for both the rights of church organizations and the responsibility of the Service to enforce the Internal Revenue laws.

Because a reasonable belief exists that Friendship Missionary Baptist Church has engaged in political activities that could jeopardize its tax-exempt status as a church described in section 501(c)(3) and exempt under section 501(a), this letter is notice of the beginning of a church tax inquiry described in IRC section 7611(a). We are sending it because we believe it is necessary to resolve questions concerning your tax-exempt status as a church described in section 501(c)(3) and in section 170(b)(1)(A)(i) of the Code.

Our concerns are based on a news article that appeared in Tax Analysts on Wednesday, October 13, 2004, which reported Friendship Missionary Baptist Church hosting a rally on behalf of Democratic presidential candidate John Kerry during an official church service, featuring the Reverends Jesse Jackson and Al Sharpton. The article reported the following:

> During the service, the church's pastor, the Rev. Gaston E. Smith, introduced Kerry as "the next president of the United States" and told the crowd, "To bring our country out of despair, despondency and disgust, God has sent John Kerry." Sharpton also praised Kerry and attacked President George W. Bush. He criticized the Florida recount of 2000, promising that voters in the state would deliver a "big payback" to the president on Nov. 2.

All section 501(c)(3) organizations, including churches, their integrated auxiliaries, conventions or associations of churches, are prohibited from participating in, or intervening in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. This is an absolute prohibition, violation of which results in denial or revocation of exempt status and the imposition of certain excise taxes, if applicable.

The prohibition against political campaign activity does not prevent candidates from being invited to speak at an event of an organization described in section 501(c)(3). If a candidate is invited to speak in his or her capacity as a candidate, then other candidates running for the same office

DOJ_NMG_ 0145756

must also be invited to speak and there should be no indication of support for, or opposition to, any candidate by the organization. Also, the prohibition does not prevent an organization's officials from being involved in a political campaign, so long as those officials do not in any way utilize the organization's financial resources, facilities, or personnel and clearly indicate that the actions taken or the statements made are those of the individuals and not of the organization.

A list of specific questions about your operations/activities is attached. Please answer each question completely. If your response resolves our concerns about your exempt status and tax liability, it will not be necessary to pursue this matter further.

Attached as required by section 7611(a)(3)(B)(ii), is a statement of your administrative and constitutional rights during a tax inquiry and examination. Your rights include the right to a conference with Service representatives to discuss our concerns before the Service begins an examination. The Service will formally offer you the opportunity for a conference in the notice of examination, if a notice of examination is sent to you.

Please reply within 15 days of the date of this letter to:

Internal Revenue Service TEGE Division
Attn: Sharon Schaffer
1001 Liberty Avenue, Suite 1325
Pittsburgh, PA 15222

If we do not hear from you within that time, we may issue a Notice of Church Examination letter, which section 7611 requires to be Issued before we initiate an examination of your records or religious activities.
If you have any questions, please contact the person whose name and telephone number are shown above.
Thank you for your cooperation.

Sincerely yours,

R. C. Johnson
Director, Exempt Organization
Examinations

Enclosures: (2)

Friendship Missionary Baptist Church

Questions

DOJ_NMG_ 0145757

Regulation 1.501(c)(3)-1(c)(3) provides that an organization is not operated exclusively for one or more exempt purposes if it is an "action" organization. Section 1.501(c)(3)-1(c)(3)(iii) of the Regulations provides that an organization is an "action" organization if it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.

We have received and reviewed information that indicates Friendship Missionary Baptist Church engaged in political activities during October, 2004 for the 2004 presidential election campaign. Consequently, we request your response to the items noted below concerning Democratic, presidential candidate John Kerry's visit to your church on October 10, 2004.

01. Who made the introduction of John Kerry on Sunday, October 10, 2004? Did the introduction of John Kerry contain any statements or comments regarding his candidacy for the office of president, any statements or comments in support of his or the Democratic Party's campaign for the office of president, or any statements or comments in opposition to any candidate, President Bush or Vice President Dick Cheney, or the Republican Party, other than the comment quoted in the Tax Analyst article dated October 13, 2004?/1/ If so, please provide us with a detailed explanation of the statements made during this portion of the service. If not, did the church clearly communicate and explicitly state at the time John Kerry was introduced to the congregation, that the church does not support or oppose any candidate for the 2004 presidential elections? Please provide a detailed explanation of what was communicated to the congregation.

02. At any other point during the service, did pastor, Rev. Gaston E. Smith, or any other member of the church make statements from the pulpit endorsing John Kerry and the Democratic Party or opposing any other candidate(s) with respect to the 2004 presidential elections? If so, please provide us with a detailed explanation of the statements made during this portion of the service.

03. During his speech to the congregation, did John Kerry solicit votes? Please provide a detailed explanation of his speech.

04. Other than the Reverends Jesse Jackson and Al Sharpton, were there any other Democratic party leader, member, or constituent

DOJ_NMG_ 0145758

endorsing John Kerry's candidacy for president from the pulpit of Friendship Missionary Baptist Church during the church service?

05. Please explain in detail the purpose of allowing John Kerry to make a political campaign speech to the congregation during an official church service.

06. Please explain in detail the purpose of allowing the Reverends Jesse Jackson and Al Sharpton to make political statements specifically endorsing John Kerry's candidacy for president from the pulpit during the church service.

07. Does the church video tape or record its sermons? If so, does the church have video tape records or audio recordings of the service in question held on Sunday, October 10, 2004. Please answer Yes or No.

08. Did the church invite any other candidate(s) seeking the same office to speak at the service held on Sunday, October 10, 2004? If so, please provide the name of the candidate(s) and provide a detailed explanation of what they communicated to the congregation.

09. Did the church provide an opportunity for any other candidate(s) seeking the same office to speak to the congregation at any other time? If so, please provide the following information: (i) the name of the candidate(s), (ii) the date of their attendance, (iii) the type of service/program at which they attended and spoke, and (iv) a detailed explanation of what they communicated.

10. Did the church have advance knowledge of John Kerry's visit?

11. Did the church coordinate with the John Kerry Campaign in scheduling John Kerry's October 10, 2004 visit? Describe in detail this coordination.

12. What church official(s) were involved in this effort? Provide the name and position of the church official(s) and that individual's level of involvement.

13. Did the church make any attempt to limit the partisan speech of the various guess speakers? Describe this effort.

DOJ_NMG_ 0145759

14. Did any church official have prior knowledge of the type and tenor of the guess speakers' comments? If so, what church official and what did the official know?

15. Were any flyers or other announcements made concerning John Kerry's visit and the visit of any of the other candidate(s)? If so, please explain in detail how the visit was announced.

16. Was there a reception/forum held after the church service for John Kerry? If so, please describe the reception/forum in detail. During this time, were any endorsements/statements made on behalf of Friendship Missionary Baptist Church in favor of John Kerry's candidacy for the office of president? If so, please explain and describe in detail the endorsements made.

17. At any point in his visit, were contributions solicited or made on behalf of John Kerry's campaign? If so, please provide detailed information regarding the contributions and solicitations made.

18. When a political candidate is invited to speak at Friendship Missionary Baptist Church, does the church have a policy to ensure that:

o It provides an equal opportunity for all political candidates seeking the same office to speak to the congregation.

o It does not indicate any support of or opposition to any candidate, and

o No political fundraising occurs.

If so, please explain in detail the policy.

19. When a political candidate is invited to speak at Friendship Missionary Baptist Church in the capacity as a non-candidate, does the church have a policy to ensure that:

o The individual speaks only in a non-candidate capacity.

o Neither the individual nor any representative of the church makes any mention of his or her candidacy or the election, and

DOJ_NMG_ 0145760

o No campaign activity occurs in connection with the candidate's attendance.

If so, please describe the policy in detail.

20. All organizations granted exemption under section 501(c)(3) of the Code are expressly prohibited from engaging in any political campaign activity. This is an absolute prohibition, violation of which could result in revocation of exempt status and the imposition of certain excise taxes. Please provide your rationale for participating or hosting the events described in items 1 through 13 above, if applicable.

21. What is the church policy regarding participation in partisan political activities? If a written policy, please provide the text of that policy and indicate the church policy document where it is contained.

STATEMENT OF ADMINISTRATIVE AND CONSTITUTIONAL RIGHTS

The First Amendment of the Constitution provides that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." The first clause is referred to as the Establishment Clause, the second is the Free Exercise Clause. The Establishment Clause prohibits government sponsorship of religion. Central to this prohibition are the concepts of government neutrality and the separation between church and state. The Supreme Court has held that the Free Exercise Clause of the First Amendment is an absolute prohibition against the regulation of religious beliefs. The First Amendment provides substantial protection for lawful conduct grounded on religious beliefs. However, the government may limit religiously motivated conduct when the limitation is essential to accomplish an overriding governmental interest.

Section 7611 of the Internal Revenue Code provides the following protections to organizations claiming to be churches or conventions or associations of churches:

(1) The IRS may begin a church tax inquiry only if the Director, Exempt Organizations (EO) Examinations reasonably believes, on the basis of facts and circumstances recorded in writing, that an organization claiming to be a church or convention or association of churches may not qualify for exemption, may be carrying on an unrelated trade or business (within the meaning of section 513 of the Code), may otherwise be engaged in taxable

DOJ_NMG_ 0145761

activities or may have entered into an excess benefit transaction IRC 4958 with a disqualified person.

(2) If the Service begins a tax inquiry, the IRS is required to provide written notice at the beginning of the inquiry. The Notice of Church Tax Inquiry must contain an explanation of the concerns that gave rise to the inquiry and the general subject matter of the inquiry. It must also contain an explanation of the provisions of the Code that authorize the inquiry and a general explanation of applicable administrative and constitutional provisions with respect to the inquiry.

(3) If the IRS wishes to examine a church's records or religious activities, the Director, EO Examinations must personally approve the examination and must provide an additional written notice (Notice of Church Examination) to the church at least 15 calendar days prior to the examination. At the same time the Service gives notice to the church, the Director, EO Examinations must notify the appropriate IRS Counsel of the proposed examination. The Division Counsel is then allowed 15 days to file a non-binding advisory opinion about the examination. The church's Notice of Church Examination is required to include the following: a copy of the Notice of Church Tax Inquiry previously provided; a description of the church records and activities which the IRS wishes to examine; a copy of all documents collected or prepared by the IRS for use in the examination that are required to be disclosed under the Freedom of Information Act (5 U.S.C. 552) as supplemented by section 6103 of the Code; and an offer of a conference with the IRS to discuss the concerns which gave rise to the inquiry and the general subject matter of the inquiry prior to the examination.

The Service may send the Notice of Church Examination to the church no less than 15 days after the Notice of Church Tax Inquiry. However, the IRS must generally mail the Notice of Church Examination, within 90 days after the Notice of Church Tax Inquiry or the IRS is required to end the inquiry without change to the church's tax status.

(4) Failure of the IRS to substantially comply with the above requirements may result in a stay of summons enforcement proceedings to gain access to church records until the requirements are satisfied.

DOJ_NMG_ 0145762

(5) The IRS is generally required to complete any church inquiry or examination no later than two years after the date on which the Notice of Church Examination was mailed to the church. The two-year period may be extended by mutual agreement between the church and the IRS. It is also suspended during certain judicial proceedings and during any period in excess of 20 days but not in excess of six months, during which a church or its agents fail to comply with any reasonable IRS request for church records or other information. However, in the case of a church tax inquiry in which there is no Notice of Church Examination, the IRS is generally required to complete the inquiry within 90 days after the date on which the Notice of Church Tax Inquiry was mailed to the church.

(6) The IRS is limited initially to an examination of church records relevant to the church's tax-exempt status for the three most recently completed tax years preceding the date of the Notice of Church Examination. If the church is not exempt for any of these three years, the IRS may examine relevant records for the six completed tax years immediately preceding the Notice of Church Examination. The IRS may examine Church records of a year earlier than the third or sixth completed taxable years if material to a determination of tax-exempt status during the three or six-year period. For examinations relating to unrelated business taxable income, when no return is filed, the IRS may assess tax for the six most recently completed taxable years preceding the date of the Notice of Church Examination. The IRS may examine Church records of a year earlier than the sixth year if material to a determination of unrelated business income tax liability during the six-year period. For examinations involving issues other than determination of exempt status or unrelated business income tax liability, there is no limit on the taxable periods that may be examined if no return has been filed. If a church has filed a tax return, the normal rules for determining tax liability or assessing tax apply.

(7) IRS Counsel must approve, in writing, an adverse determination concerning the tax-exempt status of an organization claiming to be a church, an adverse determination concerning the right of an organization claiming to be a church to receive tax deductible contributions, or the issuance of a notice of tax deficiency to a church or disqualified person

DOJ_NMG_ 0145763

subject to IRC section 4958 tax following a church tax examination.

(8) Organizations claiming to be churches are entitled to bring a declaratory judgement action under section 7428 once the IRS issues a revenue agent's final report proposing to revoke or deny the church's tax exempt status.

(9) An inquiry or examination begun within five years of the date of the Notice of Church Examination (or if no Notice of Church Examination is sent, a Notice of Church Tax Inquiry), must be approved by the Director, EO Examinations and the IRS Assistant Commissioner for Tax Exempt and Governmental Entities. This approval is not required if the second examination does not involve the same or similar issues as the preceding inquiry or examination or if the first inquiry or examination resulted in a change to the organization's exempt status, an assessment of unrelated business income tax or other tax, or a recommendation for a substantive change in the church's operations, including accounting practices.

FOOTNOTE

/1/ "During the service, the church's pastor, the Rev. Gaston E. Smith, introduced Kerry as "the next president of the United States" and told the crowd, "To bring our country out of despair, despondency and disgust, God has sent John Kerry."'

END OF FOOTNOTE

********** End of Document **********

DOJ_NMG_ 0145764

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 29, 2005 3:08 PM
To: Schlozman, Brad (CRT)
Subject: Re: please give me a call when your mtg is done. thx

Will do maybe 30 mins

-----Original Message-----
From: Schlozman, Brad (CRT) <Brad.Schlozman@crt.usdoj.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Jul 29 14:32:28 2005
Subject: please give me a call when your mtg is done. thx

Brad Schlozman
Acting Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530
(202) 305-8060

Hillman, Noel

From: Hillman, Noel
Sent: Friday, July 29, 2005 3:19 PM
To: Gorsuch, Neil M

Neil -

When we met, I mentioned that I had recently asked the FBI to quantify for me the number of 56C (election crime) cases they have opened since 1999. We started the Ballot Access and Voting Integrity Initiative in the fall of 2002. The numbers follow and show, I think, the positive influence we have had:

FY1999 - 7 cases
FY2000 - 9 cases
FY2001 – 8 cases
FY2002 - 8 cases
FY2003 – 27 cases
FY2004 – 36 cases
FY2005 to date – 54 cases

Thought you might be interested in this.

Noel

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 29, 2005 3:42 PM
To: O'Connor, Eileen J. (AAG/TAX)
Subject: RE: IRS Questions Church about Pro-Kerry Rally

Thanks for this and your other email about Mr. Owens's comments.

-----Original Message-----
From: O'Connor, Eileen J. (AAG/TAX)
Sent: Friday, July 29, 2005 3:03 PM
To: Gorsuch, Neil M
Subject: IRS Questions Church about Pro-Kerry Rally

Neil - You might find this of interest. Lee O'C.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 29, 2005 3:53 PM
To: Hillman, Noel
Subject: RE:

Very interesting and helpful - thank you. It was great to meet you.
-----Original Message-----
From: Hillman, Noel
Sent: Friday, July 29, 2005 3:19 PM
To: Gorsuch, Neil M
Subject:

Neil -

When we met, I mentioned that I had recently asked the FBI to quantify for me the number of 56C (election crime) cases they have opened since 1999. We started the Ballot Access and Voting Integrity Initiative in the fall of 2002. The numbers follow and show, I think, the positive influence we have had:

FY1999 - 7 cases
FY2000 - 9 cases
FY2001 – 8 cases
FY2002 - 8 cases
FY2003 – 27 cases
FY2004 – 36 cases
FY2005 to date – 54 cases

Thought you might be interested in this.

Noel

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 29, 2005 4:07 PM
To: Schlozman, Brad (CRT)
Subject: RE: please give me a call when your mtg is done. thx

forms done and on way

-----Original Message-----
From: Schlozman, Brad (CRT)
Sent: Friday, July 29, 2005 2:32 PM
To: Gorsuch, Neil M
Subject: please give me a call when your mtg is done. thx
Importance: High

Brad Schlozman
Acting Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530
(202) 305-8060

O'Connor, Eileen J. (AAG/TAX)

From: O'Connor, Eileen J. (AAG/TAX)
Sent: Friday, July 29, 2005 4:31 PM
To: Gorsuch, Neil M
Subject: RE: IRS Questions Church about Pro-Kerry Rally

You're very welcome. Sorry for the redunancy. We're struggling our way through a new computer system here in TAX.

From: Gorsuch, Neil M
Sent: Friday, July 29, 2005 3:42 PM
To: O'Connor, Eileen J. (AAG/TAX)
Subject: RE: IRS Questions Church about Pro-Kerry Rally

Thanks for this and your other email about Mr. Owens's comments.

-----Original Message-----
From: O'Connor, Eileen J. (AAG/TAX)
Sent: Friday, July 29, 2005 3:03 PM
To: Gorsuch, Neil M
Subject: IRS Questions Church about Pro-Kerry Rally

Neil - You might find this of interest. Lee O'C.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 29, 2005 4:34 PM
To: Henke, Tracy (SMO)
Subject: you on the 5pm mtg?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
e-mail: neil.gorsuch@usdoj.gov

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Friday, July 29, 2005 5:03 PM
To: Gorsuch, Neil M
Subject: Tennis

Hey, Neil. I could play next Tues, Wed, or Thu -- any of those work for you?
Jeff

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 1, 2005 9:57 AM
To: Swenson, Lily F
Subject: UST

Normally, I see no need to attend the bi-weekly mtg. But since Robert is out, if you feel you want me there I will go. If not, I'm quite happy not attending! Just let me know. Also, when you have a free moment, let's talk privacy and antitrust.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 01, 2005 9:58 AM
To: Shaw, Aloma A; Reyes, Luis (SMO)
Subject: RE: Lily suggested . . .

i'm ok with canceling it

-----Original Message-----
From: Shaw, Aloma A
Sent: Monday, August 01, 2005 9:56 AM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: Lily suggested . . .

that we cancel today's meeting with UST. Lily will be out today. Would either of you like to chair this meeting or should we cancel it?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 01, 2005 9:59 AM
To: Gorsuch, Neil M; Swenson, Lily F
Subject: RE: UST

Just as soon as I sent this, I saw an email from Aloma saying that you're out today and recommended canceling this. An even better idea!

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 01, 2005 9:57 AM
To: Swenson, Lily F
Subject: UST

Normally, I see no need to attend the bi-weekly mtg. But since Robert is out, if you feel you want me there I will go. If not, I'm quite happy not attending! Just let me know. Also, when you have a free moment, let's talk privacy and antitrust.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 1, 2005 10:22 AM
To: Buchanan, MaryBeth
Cc: Reyes, Luis (SMO)
Subject: RE: Draft Memorandum Regarding Waiver Requests OLP Comments

Thanks so much. Your help in pushing this in AGAC and the corp fraud task force will really help. I'd like to get this ready for the DAG's signature promptly -- ideally while Robert is acting DAG later this month. If I can help in any way with this, let me know. I know that the Crim Div nominee, Alice Fisher, is generally in agreement with the need to do something in this vein. NMG

-----Original Message-----
From: Buchanan, MaryBeth
Sent: Monday, August 01, 2005 10:19 AM
To: Reyes, Luis (SMO)
Cc: Gorsuch, Neil M
Subject: RE: Draft Memorandum Regarding Waiver Requests OLP Comments

I agree with Neil's comments. I think the changes are good. I have put in call to Karin Immergut of the white collar crime subcommittee and will also talk to Paul McNulty about the need for the memo.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 1:45 PM
To: Buchanan, MaryBeth
Cc: Gorsuch, Neil M
Subject: FW: Draft Memorandum Regarding Waiver Requests OLP Comments

Mary Beth,
See below and attached OLP comments to the draft memo. Any additional thoughts in light of these proposed changes? Thanks.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 11:28 AM
To: Reyes, Luis (SMO); McCallum, Robert (SMO)
Subject: RE: Draft Memorandum Regarding Waiver Requests OLP Comments

These look fine to me and I'm pleased to see OLP's support.

I think the addition of "prosecutors believe" a sound one.

The only change that gives me even a moment's pause is the deletion of phrase "clarifies the Thompson Memo" in the second paragraph. Our original reason for employing that formulation was to tie this memo as closely to the Thompson Memo as possible. I can appreciate, however, Brent's point of view: our formulation can actually be misconstrued as suggesting that the Thompson Memo isn't clear, something we plainly don't want to do, a "backfire" on our original intent.

As it is, we repeatedly say that this memo only seeks to provide "further guidance," not replace or diminish the Thompson Memo in any way. To stress the point further, and do so without the "backfire" risk Brent notes, perhaps we could say we are providing "further guidance . . . consistent with the Thompson Memo." So the last sentence of the second para would read: "This memorandum provides further guidance to federal prosecutors regarding waiver requests consistent with the Thompson Memorandum." A revised draft reflecting this alteration is attached for your reference. NMG

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, July 28, 2005 11:11 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: FW: Draft Memorandum Regarding Waiver Requests OLP Comments

OLP comments on this. I have incorporated them into this version in red. Comments are described in email below as well. I don't have any objections to these, but there is one comment, Comment 3 below, worth discussing. Comment 3 memorializes an element of prosecutorial discretion when deciding whether alternatives to a waiver may not be sufficient. In other words, the OLP comment would have the memo state that waiver may be requested when "prosecutors believe" that other alternatives won't be sufficient, as opposed to just saying that waiver may be requested when other alternatives are not sufficient. We may want to kick this around some.

-----Original Message-----
From: McIntosh, Brent
Sent: Thursday, July 28, 2005 8:46 AM
To: Reyes, Luis (SMO)
Subject: FW: Draft Memorandum Regarding Waiver Requests

Rachel asked me to convey to you the comments below regarding the proposed additional guidance on waiver requests. Let me know if you have questions about our comments, if any of this doesn't make sense, or if we can be of assistance.

Thanks.

Brent

Brent J. McIntosh
Counselor to the Assistant Attorney General Office of Legal Policy U.S. Department of Justice ph 202-616-2250 f 202-353-9138

-----Original Message-----
From: McIntosh, Brent
Sent: Thursday, July 28, 2005 8:36 AM
To: Brand, Rachel
Subject: RE: Draft Memorandum Regarding Waiver Requests

On a macro level, I think this makes a lot of sense. It's sound policy, and it may blunt some (but by no means all) of the criticism DOJ has been taking for its allegedly cavalier attitude toward the attorney-client privilege and the work product protection.

On a micro level, I would suggest the following changes:

1. Last sentence of the second paragraph: I would delete the phrase "clarifies the Thompson Memorandum and". I do not think it's necessary to concede that the Thompson Memorandum is unclear.

2. Third paragraph, second sentence: This should read "the attorney-client privilege and the work product protection," not "the attorney-client and work product privileges."

3. First two full paragraphs, page 2: These paragraphs are written as if federal prosecutors can determine beforehand whether a particular level of disclosure will be sufficient. In most cases, though, this will be an educated guess informed by experience and knowledge of the situation. I would acknowledge this uncertainty by using phrases like "prosecutors believe" when discussing whether, e.g., "alternatives to a waiver are [would be] insufficient to acquire timely and complete information."

4. Page 2, third full paragraph, last sentence: I would refer to "privileged or protected communications."

5. Last sentence, penultimate paragraph: I would substitute "inquiry" for "intrustion."

6. Last paragraph, sentence beginning with "Prosecutors": I would substitute "events" for "transactions," as there is no certainty that all relevant events will be transactions.

7. Last paragraph, sentence beginning with "Prosecutors": I would add "and compliance" to the end of this sentence to include improvements that do not necessarily implicate corporate governance issues.

-----Original Message-----
From: Brand, Rachel
Sent: Tuesday, July 19, 2005 11:42 AM
To: McIntosh, Brent
Subject: FW: Draft Memorandum Regarding Waiver Requests

Could you take a look at this and let me know what you think/

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 19, 2005 11:35 AM
To: Brand, Rachel

To: Brand, Rachel
Cc: McCallum, Robert (SMO)
Subject: Draft Memorandum Regarding Waiver Requests

Rachel,
Attached hereto is the proposed memo to which Robert was referring. Please let me know how I can be of further assistance.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, July 05, 2005 12:30 PM
To: Taylor, Jeffrey (OAG); Mercer, Bill (ODAG)
Cc: Gorsuch, Neil M; Buchanan, MaryBeth; Reyes, Luis (SMO)
Subject: RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Bill and Jeff: Here is the draft memo from me and Mary Beth regarding attny/client priv and work/product waivers which I mentioned this am. I have previously mentioned it to Jim. Mary Beth and I would like to discuss it with you and, if you think the memo has merit or that some additional guidance in this area is warranted, get input regarding it from the Corp Fraud Task Force and the subcomm of the AGAC. Robt.

RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 01, 2005 10:28 AM
To: McCallum, Robert (SMO)
Subject: [redacted]

Sends his greetings. He's going to fish around for some potl candidates and get back to me next week.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 1, 2005 11:39 AM
To: [redacted]
Subject: RE: security investigation; [redacted]

[redacted]

Thanks for speaking with the FBI fellow, and I'm sorry to have imposed on you. But, as you know, they want to speak with neighbors in every place I've lived for the last 10 years.

[redacted]

Neil

-----Original Message-----
From: [redacted]
Sent: Monday, August 01, 2005 11:06 AM
To: Gorsuch, Neil M
Subject: security investigation; [redacted]

Neil,

I saw Jamil on Saturday; he's excited, of course, to be going to DOJ.

I spoke with the contractor with the FBI Friday doing the security investigation. It was my privilege to speak to him about you. Thank you for using me as a reference.

[redacted]

Peace,
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 1, 2005 1:58 PM
To: Henke, Tracy (SMO)
Subject: RE: NW3C Economic Summit information

Yes - it sounds very interesting and you're kind to think of me.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 12:51 PM
To: Gorsuch, Neil M
Subject: Fw: NW3C Economic Summit information

See below. This was an event I was suppose to speak at but with my pending nomination should now decline. Interest?

-----Original Message-----
From: Fowler, Liane <Liane.Fowler2@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 09:40:15 2005
Subject: FW: NW3C Economic Summit information

-----Original Message-----
From: Lewis, David
Sent: Friday, July 29, 2005 1:06 PM
To: Fowler, Liane
Subject: FW: NW3C Economic Summit information

Liane,

I sent a request to NW3C for information in response to Tracy's request and they referred me to their web site. I looked over it and it does have a lot of information. http://summit.nw3c.org/

Here are a few things answers from your e-mail:

ATTENDEES: are usually Internet and Financial fraud investigators. The also get some prosecutors and administors. Thiis is an opportunity for both public and private sector fraud-prevention professionals to share knowledge, experiences, and expertise.

# of ATTENDEES: usually have over 200 attendees. There were 750 total for 3 summits last year. The one in Minnesota is the second of three. The first was in Tampa

one in Minnesota is the second of three. The first was in Tampa.

SPEAKERS: Economic Crime Summit features objective, dynamic speakers who are enthusiastic about sharing knowledge with their peers. The event hosts speakers who are investigators, prosecutors, industry experts, researchers, practitioners, and authors.

SUBJECT MATTER: will included the latest techniques for investigating and prosecuting economic crime, including Identity Theft, Internet-Facilitated Fraud and Elder Fraud.

Let me know if you'd like anything else.

David

-----Original Message-----
From: [redacted]@nw3c.org]
Sent: Thursday, July 28, 2005 10:30 AM
To: Lewis, David
Subject: RE: Summit information

Hi David,

Yes, I can send you whatever info you need. If you don't mind, please take a look at http://summit.nw3c.org/

This site provides information on each of the (3) 2005 summits including programs, session descriptions, speaker bios, list of exhibitors, etc. If there is anything else you need that is not listed on the site, let me know and I'll get it back to you asap.

Thanks David,

[redacted]

From: Lewis, David [mailto:David.P.Lewis@usdoj.gov]
Sent: Thursday, July 28, 2005 10:06 AM
To: [redacted]
Subject: Summit information

[redacted]

Ms. Henke is requesting information about the Economic Summit, i.e. who are the attendees, material covered, focus, etc. Is there information you can send me electronically? Thank you.

David

Sent from the BlackBerry of:
David P. Lewis
Senior Policy Advisor, Justice Information Sharing DOJ - Bureau of Justice Assistance

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 01, 2005 2:03 PM
To: Henke, Tracy (SMO)
Subject: RE: NW3C Economic Summit information

I couldn't tell what the dates are from the email chain. do you know?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 2:01 PM
To: Gorsuch, Neil M
Subject: Re: NW3C Economic Summit information

If the sates work for you, I will switch us out.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 13:57:47 2005
Subject: RE: NW3C Economic Summit information

Yes - it sounds very interesting and you're kind to think of me.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 12:51 PM
To: Gorsuch, Neil M
Subject: Fw: NW3C Economic Summit information

See below. This was an event I was suppose to speak at but with my pending nomination should now decline. Interest?

-----Original Message-----
From: Fowler, Liane <Liane.Fowler2@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 09:40:15 2005
Subject: FW: NW3C Economic Summit information

-----Original Message-----

-----Original Message-----
From: Lewis, David
Sent: Friday, July 29, 2005 1:06 PM
To: Fowler, Liane
Subject: FW: NW3C Economic Summit information

Liane,

I sent a request to NW3C for information in response to Tracy's request and they referred me to their web site. I looked over it and it does have a lot of information. http://summit.nw3c.org/

Here are a few things answers from your e-mail:

ATTENDEES: are usually Internet and Financial fraud investigators. The also get some prosecutors and administors. Thiis is an opportunity for both public and private sector fraud-prevention professionals to share knowledge, experiences, and expertise.

# of ATTENDEES: usually have over 200 attendees. There were 750 total for 3 summits last year. The one in Minnesota is the second of three. The first was in Tampa.

SPEAKERS: Economic Crime Summit features objective, dynamic speakers who are enthusiastic about sharing knowledge with their peers. The event hosts speakers who are investigators, prosecutors, industry experts, researchers, practitioners, and authors.

SUBJECT MATTER: will included the latest techniques for investigating and prosecuting economic crime, including Identity Theft, Internet-Facilitated Fraud and Elder Fraud.

Let me know if you'd like anything else.

David

-----Original Message-----
From: [redacted]
Sent: Thursday, July 28, 2005 10:30 AM
To: Lewis, David
Subject: RE: Summit information

Hi David,

Yes, I can send you whatever info you need. If you don't mind, please take a look at http://summit.nw3c.org/

This site provides information on each of the (3) 2005 summits including programs, session descriptions, speaker bios, list of exhibitors, etc. If there is anything else you need that is not listed on

the site, let me know and I'll get it back to you asap.

Thanks David,

[redacted]

From: Lewis, David [mailto:David.P.Lewis@usdoj.gov]
Sent: Thursday, July 28, 2005 10:06 AM
To: [redacted]
Subject: Summit information

[redacted]

Ms. Henke is requesting information about the Economic Summit, i.e. who are the attendees, material covered, focus, etc. Is there information you can send me electronically? Thank you.

David

Sent from the BlackBerry of:
David P. Lewis
Senior Policy Advisor, Justice Information Sharing DOJ - Bureau of Justice Assistance

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 1, 2005 2:06 PM
To: Henke, Tracy (SMO)
Subject: RE: NW3C Economic Summit information

can do

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 2:05 PM
To: Gorsuch, Neil M
Subject: Re: NW3C Economic Summit information

Aug 8-10

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 14:03:05 2005
Subject: RE: NW3C Economic Summit information

I couldn't tell what the dates are from the email chain. do you know?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 2:01 PM
To: Gorsuch, Neil M
Subject: Re: NW3C Economic Summit information

If the sates work for you, I will switch us out.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 13:57:47 2005
Subject: RE: NW3C Economic Summit information

Yes - it sounds very interesting and you're kind to think of me.

-----Original Message-----

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 12:51 PM
To: Gorsuch, Neil M
Subject: Fw: NW3C Economic Summit information

See below. This was an event I was suppose to speak at but with my pending nomination should now decline. Interest?

-----Original Message-----
From: Fowler, Liane <Liane.Fowler2@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 09:40:15 2005
Subject: FW: NW3C Economic Summit information

-----Original Message-----
From: Lewis, David
Sent: Friday, July 29, 2005 1:06 PM
To: Fowler, Liane
Subject: FW: NW3C Economic Summit information

Liane,

I sent a request to NW3C for information in response to Tracy's request and they referred me to their web site. I looked over it and it does have a lot of information. http://summit.nw3c.org/

Here are a few things answers from your e-mail:

ATTENDEES: are usually Internet and Financial fraud investigators. The also get some prosecutors and administors. Thiis is an opportunity for both public and private sector fraud-prevention professionals to share knowledge, experiences, and expertise.

# of ATTENDEES: usually have over 200 attendees. There were 750 total for 3 summits last year. The one in Minnesota is the second of three. The first was in Tampa.

SPEAKERS: Economic Crime Summit features objective, dynamic speakers who are enthusiastic about sharing knowledge with their peers. The event hosts speakers who are investigators, prosecutors, industry experts, researchers, practitioners, and authors.

SUBJECT MATTER: will included the latest techniques for investigating and prosecuting economic crime, including Identity Theft, Internet-Facilitated Fraud and Elder Fraud.

Let me know if you'd like anything else.

David

-----Original Message-----
From: [redacted]
Sent: Thursday, July 28, 2005 10:30 AM
To: Lewis, David
Subject: RE: Summit information

Hi David,

Yes, I can send you whatever info you need. If you don't mind, please take a look at http://summit.nw3c.org/

This site provides information on each of the (3) 2005 summits including programs, session descriptions, speaker bios, list of exhibitors, etc. If there is anything else you need that is not listed on the site, let me know and I'll get it back to you asap.

Thanks David,

[redacted]

From: Lewis, David [mailto:David.P.Lewis@usdoj.gov]
Sent: Thursday, July 28, 2005 10:06 AM
To: [redacted]
Subject: Summit information

[redacted]

Ms. Henke is requesting information about the Economic Summit, i.e. who are the attendees, material

Ms. Henke is requesting information about the Economic Summit, i.e. who are the attendees, material covered, focus, etc. Is there information you can send me electronically? Thank you.

David

Sent from the BlackBerry of:
David P. Lewis
Senior Policy Advisor, Justice Information Sharing DOJ - Bureau of Justice Assistance

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 1, 2005 2:11 PM
To: Hillman, Noel
Subject: RE:

Have you thought about working some of these figures into the press release? They are very impressive. But this is just a quick thought based on a first impression. Please do only what you think best.

-----Original Message-----
From: Hillman, Noel
Sent: Friday, July 29, 2005 3:19 PM
To: Gorsuch, Neil M
Subject:

Neil -

When we met, I mentioned that I had recently asked the FBI to quantify for me the number of 56C (election crime) cases they have opened since 1999. We started the Ballot Access and Voting Integrity Initiative in the fall of 2002. The numbers follow and show, I think, the positive influence we have had:

FY1999 - 7 cases
FY2000 - 9 cases
FY2001 – 8 cases
FY2002 - 8 cases
FY2003 – 27 cases
FY2004 – 36 cases
FY2005 to date – 54 cases

Thought you might be interested in this.

Noel

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 1, 2005 2:58 PM
To: Brand, Rachel
Subject: OLP Component Mtg

Rachel,

I was speaking to Courtney earlier and she mentioned that OLP has a useful occasional component meeting focused on policy initiatives that someone from OASG might productively attend. Now, let me assure you that I am not looking for another meeting to attend, or another meeting for a colleague of mine to attend. But, IF (and only if) you think it would be helpful to have someone from here participate, could you let me know? Please don't hesitate to let me know that if you think it isn't worthwhile.

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 1, 2005 3:07 PM
To: McAtamney, James A
Subject: RE: Base Realignment and Closure -- Economic Adjustment Committee

I agree. From what you know about the EAC, is it something that merits Robert's involvement or better assigned to a deputy here?

-----Original Message-----
From: McAtamney, James A
Sent: Monday, August 01, 2005 2:44 PM
To: Gorsuch, Neil M
Cc: Mercer, Bill (ODAG); Davis, John S (ODAG); Reyes, Luis (SMO); Corts, Paul R; Lofthus, Lee J; Allen, Michael (JMD); Rubin, Jim (ENRD); Zwick, Ken (CIV)
Subject: Base Realignment and Closure -- Economic Adjustment Committee

Neil,

JMD forwarded me a copy of the attached letter from the Executive Director, Office of Economic Adjustment, Office of the Secretary of Defense, to the AG asking for support for a new Economic Adjustment Committee related to this round of base closures. (When opening it, please give it a few seconds to "warm up" -- had to do a little out-of-the-ordinary conversion.)

Upon examination of the letter and its attachments, it occurs to us that the matters that would be addressed by the EAC Advisory Group fall more into the Associate's bailiwick than the DAG's. While JMD's Management Planning Staff agrees to provide the working-level representative, the policy-level Advisory Group member is likely more appropriate coming from OASG. It seems that to the extent the EAC's activities have an impact on DOJ, they would be in areas related to litigation or other such matters, e.g., providing advice on whether proposed economic adjustment activities or environmental remediation proposals present litigation risks.

What are your views?

Mac

James A. McAtamney
Senior Counsel for National Security Affairs
Office of the Deputy Attorney General
U.S. Department of Justice
RFK Building, Room 4311
(202) 514-6907
Fax: (202) 307-0097
Secure e-mail:
SIPRNet: [redacted]
JWICS: [redacted]

<< File: WF842640.BRACEAC.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 1, 2005 3:25 PM
To: Reyes, Luis (SMO)
Subject: FW: Base Realignment and Closure -- Economic Adjustment Committee
Attachments: WF842640.BRACEAC.doc

fyi - i've told mac that i agree we should do it and asking whether he thinks it merits robt's participation or is better delegated. will let you know what he says.

-----Original Message-----
From: McAtamney, James A
Sent: Monday, August 01, 2005 2:44 PM
To: Gorsuch, Neil M
Cc: Mercer, Bill (ODAG); Davis, John S (ODAG); Reyes, Luis (SMO); Corts, Paul R; Lofthus, Lee J; Allen, Michael (JMD); Rubin, Jim (ENRD); Zwick, Ken (CIV)
Subject: Base Realignment and Closure -- Economic Adjustment Committee

Neil,

JMD forwarded me a copy of the attached letter from the Executive Director, Office of Economic Adjustment, Office of the Secretary of Defense, to the AG asking for support for a new Economic Adjustment Committee related to this round of base closures. (When opening it, please give it a few seconds to "warm up" -- had to do a little out-of-the-ordinary conversion.)

Upon examination of the letter and its attachments, it occurs to us that the matters that would be addressed by the EAC Advisory Group fall more into the Associate's bailiwick than the DAG's. While JMD's Management Planning Staff agrees to provide the working-level representative, the policy-level Advisory Group member is likely more appropriate coming from OASG. It seems that to the extent the EAC's activities have an impact on DOJ, they would be in areas related to litigation or other such matters, e.g., providing advice on whether proposed economic adjustment activities or environmental remediation proposals present litigation risks.

What are your views?

Mac

James A. McAtamney
Senior Counsel for National Security Affairs
Office of the Deputy Attorney General
U.S. Department of Justice
RFK Building, Room 4311
(202) 514-6907
Fax: (202) 307-0097
Secure e-mail:
SIPRNet: [redacted]
JWICS: [redacted]

843,640

OFFICE OF THE SECRETARY OF DEFENSE
OFFICE OF ECONOMIC ADJUSTMENT
400 ARMY NAVY DRIVE, SUITE 200
ARLINGTON, VA 22202-4704

July 14, 2005

The Honorable Alberto R. Gonzales
Attorney General
Washington, DC 20530-0001

Dear Attorney General Gonzales:

On May 12, 2005, President George W. Bush signed an Amendment to Executive Order 12788 (Enclosure), directing the Department of Defense to design and establish a Defense Economic Adjustment Program (DEAP) through the President's Economic Adjustment Committee (EAC) to assist communities, businesses, and/or workers adversely affected by major Defense base closures, realignments, and Defense contract-related adjustments. The amended Executive Order: designates the Secretary of Defense, or the Secretary's designee, as the permanent chair of the EAC; designates the Secretaries of Labor and Commerce to be co-vice chairs; and establishes regulatory matters, to the extent they impact local economic recovery, to be within their purview.

As one of 22 Federal Departments and Agencies comprising the EAC, the Department of Justice has specific programs of technical and financial assistance that may assist these affected areas. Accordingly, by August 1, 2005, we ask you to:

1. Designate an EAC Advisory Group member to represent you personally in these matters. Advisory Group members are generally policy officials at the Assistant Secretary or Deputy Assistant Secretary level who can speak for their Department or Agency. You should anticipate a meeting of the EAC Advisory Group to be scheduled shortly after the BRAC Commission presents its recommendations to the President this September.

2. Designate Working Group member(s) to represent the applicable programs of your Department. Working Group members are senior career or non-career program officials who will form the core interagency network for program information exchange, resolution of cross-cutting issues and day-to-day coordination of defense economic adjustment efforts. The first scheduled meeting of the EAC Working Group is to be held on August 16, 2005 at 10:00am in the Horizon Room at the Ronald Reagan Building / International Trade Center, 1300 Pennsylvania Avenue, NW, Washington, D.C.

As Director of the Office of Economic Adjustment, I also serve as the Executive Director for the EAC. On behalf of the Department of Defense, I want to express the Department's appreciation for the significant contributions to date from your Department and look forward to working with you to address the impacts of the current round of base closures.

For further information regarding the EAC, I may be reached by telephone at [redacted] or by email at [redacted]@wso.whs.mil, or you may contact [redacted] by telephone at [redacted] or by email at [redacted]@wso.whs.mil.

Thank you for your attention to this request. I look forward to your support and participation in this very important effort.

Sincerely,

[redacted]

Enclosure
As stated

cc:
White House Intergovernmental Affairs

DOJ_NMG_ 0145799

The White House
President George W. Bush

Click to Print this document

E.O. 13378

For Immediate Release
Office of the Press Secretary
May 12, 2005

Executive Order Amendments to Executive Order 12788 Relating to the Defense Economic Adjustment Program

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 10 U.S.C. 2391 and the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990, enacted as Division D, section 4001 et seq., of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, and in order to update the Defense Economic Adjustment Program, it is hereby ordered that Executive Order 12788 of January 15, 1992, as amended, is further amended as follows:

Section 1. The text of section 2 of Executive Order 12788 is revised to read as follows: "The Defense Economic Adjustment Program shall (1) assist substantially and seriously affected communities, businesses, and workers from the effects of major Defense base closures, realignments, and Defense contract-related adjustments, and (2) assist State and local governments in preventing the encroachment of civilian communities from impairing the operational utility of military installations."

Sec. 2. (a) The text of section 3(c) is amended by deleting "and communities" and inserting in lieu thereof "communities, and businesses";

(b) The text of section 3(l) is amended by deleting "and" after the semicolon;

(c) The text of section 3(m) is amended by adding "and" after "diminish;" and

(d) A new section 3(n) is added to read: "(n) Encourage resolution of regulatory issues that impede encroachment prevention and local economic adjustment efforts."

Sec. 3. (a) Section 4(a) is amended by: (i) deleting "(19) Director of the United States Arms Control and Disarmament Agency;" (ii) deleting "(21) Director of the Federal Emergency Management Agency;" and (iii) renumbering the remaining subsections listing the officials on the Economic Adjustment Committee (the "Committee") accordingly;

(b) The text of section 4(b) is revised to read as follows: "The Secretary of Defense, or the Secretary's designee, shall chair the Committee."; and

(c) The text of section 4(c) is revised to read as follows: "The Secretaries of Labor and Commerce shall serve as Vice Chairmen of the Committee. The Vice Chairmen shall co-chair the Committee in the absence of both the Chairman and the Chairman's designee and may also preside over meetings of designated representatives of the concerned executive agencies."

Sec. 4. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable by any party at law or in equity against the United States, its departments, agencies, entities, officers, employees, agents, or any other person.

GEORGE W. BUSH

THE WHITE HOUSE,

May 12, 2005.

DOJ_NMG_ 0145800

THE PRESIDENT

EXECUTIVE ORDER 12788 **As AMENDED**

Defense Economic Adjustment Program

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 10 U.S.C. 2391 and the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990, enacted as Division D, section 4001 *et seq.*, of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, and to provide coordinated Federal economic adjustment assistance necessitated by changes in Department of Defense activities, it is hereby ordered as follows:

Section 1. *Function of the Secretary of Defense.* The Secretary of Defense shall, through the Economic Adjustment Committee, design and establish a Defense Economic Adjustment Program.

Sec. 2. The Defense Economic Adjustment Program shall (1) assist substantially and seriously affected communities, businesses, and workers from the effects of major Defense base closures, realignments, and Defense contract-related adjustments, and (2) assist State and local governments in preventing the encroachment of civilian communities from impairing the operational utility of military installations.

Sec. 3 *Functions of the Defense Economic Adjustment Program.* The Defense Adjustment Program shall:

(a) Identify problems of States, regions, metropolitan areas, or communities that result from major Defense base closures, realignments, and Defense contract-related adjustments, and the encroachment of the civilian community on the mission of military installations and that require Federal assistance;

(b) Use and maintain a uniform socioeconomic impact analysis to justify the use of Federal economic adjustment resources prior to particular realignments;

(c) Apply consistent policies, practices, and procedures in the administration of Federal programs that are used to assist Defense-affected States, regions, metropolitan areas, communities, and businesses;

(d) Identify and strengthen existing agency mechanisms to coordinate employment opportunities for displaced agency personnel;

(e) Identify and strengthen existing agency mechanisms to improve reemployment opportunities for dislocated Defense industry personnel;

(f) Assure timely consultation and cooperation with Federal, State, regional, metropolitan, and community officials concerning Defense-related impacts on Defense-affected communities' problems;

(g) Assure coordinated interagency and intergovernmental adjustment assistance concerning Defense impact problems;

(h) Prepare, facilitate, and implement cost-effective strategies and action plans to coordinate interagency and intergovernmental economic adjustment efforts;

(i) Encourage effective Federal, State, regional, metropolitan, and community cooperation and concerted involvement of public interest groups and private sector organizations in Defense economic adjustment activities;

(j) Serve as a clearinghouse to exchange information among Federal, State, regional, metropolitan, and community officials involved in the resolution of community economic adjustment problems. Such information may include, for example, previous studies, technical information, and sources of public and private financing;

(k) Assist in the diversification of local economies to lessen dependence on Defense activities;

(l) Encourage and facilitate private sector interim use of lands and buildings to generate jobs as military activities diminish;

(m) Develop ways to streamline property disposal procedures to enable Defense-impacted communities to acquire base property to generate jobs as military activities diminish; and

(n) Encourage resolution of regulatory issues that impede encroachment prevention and local economic adjustment efforts.

Sec. 4. *Economic Adjustment Committee.*

(a) *Membership.* The Economic Adjustment Committee ("Committee") shall be composed of the following individuals or a designated principal deputy of these individuals, and such other individuals from the executive branch as the President may designate. Such individuals shall include the:

(1) Secretary of Agriculture;
(2) Attorney General;
(3) Secretary of Commerce;

(4) Secretary of Defense;
(5) Secretary of Education;
(6) Secretary of Energy;
(7) Secretary of Health and Human Services;
(8) Secretary of Housing and Urban Development;
(9) Secretary of Interior;
(10) Secretary of Labor;
(11) Secretary of State;
(12) Secretary of Transportation;
(13) Secretary of Treasury;
(14) Secretary of Veterans Affairs;
(15) Secretary of Homeland Security;
(16) Chairman, Council of Economic Advisers;
(17) Director of the Office of Management and Budget;
(18) Director of the Office of Personnel Management;
(19) Administrator of the Environmental Protection Agency;
(20) Administrator of General Services;
(21) Administrator of the Small Business Administration; and
(22) Postmaster General.

(b) The Secretary of Defense, or the Secretary's designee, shall chair the Committee.

(c) The Secretaries of Labor and Commerce shall serve as Vice Chairmen of the Committee. The Vice Chairmen shall co-chair the Committee in the absence of both the Chairman and the Chairman's designee and may also preside over meetings of designated representatives of the concerned executive agencies.

(d) *Executive Director.* The head of the Department of Defense's Office of Economic Adjustment shall provide all necessary policy and administrative support for the Committee and shall be responsible for coordinating the application of the Defense Economic Adjustment Program to Department of Defense activities.

(e) *Duties.* The Committee shall:
(1) Advise, assist, and support the Defense Economic Adjustment Programs;
(2) Develop procedures for ensuring that State, regional, and community officials, and representatives of organized labor in those States, municipalities, localities, or labor organizations that are substantially and seriously affected by changes in Defense expenditures, realignments or closures, or cancellation or curtailment of major Defense contracts, are notified of available Federal economic adjustment programs; and
(3) Report annually to the President and then to the Congress on the work of the Economic Adjustment Committee during the preceding fiscal year.

Sec. 5. Responsibilities of Executive Agencies.

(a) The head of each agency represented on the Committee shall designate an agency representative to:
(1) Serve as a liaison with the Secretary of Defense's economic adjustment staff;
(2) Coordinate agency support and participation in economic adjustment assistance projects; and
(3) Assist in resolving Defense-related impacts on Defense-affected communities.

(b) All executive agencies shall:
(1) Support, to the extent permitted by law, the economic adjustment assistance activities of the Secretary of Defense. Such support may include the use and application of personnel, technical expertise, legal authorities, and available financial resources. This support may be used, to the extent permitted by law, to provide a coordinated Federal response to the needs of individual States, regions, municipalities, and communities adversely affected by necessary Defense changes; and
(2) Afford priority consideration to requests from Defense-affected communities for Federal technical assistance, financial resources, excess or surplus property, or other requirements, that are part of a comprehensive plan used by the Committee.

Sec. 6. Judicial Review. This order shall not be interpreted to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, its agents, or any person.

Sec. 7. Construction. (a) Nothing in this order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any agency or head thereof to the authority of any other agency or officer or as abrogating or restricting any such function in any manner.

(b) This order shall be effective immediately and shall supersede Executive Order No 12049.

GEORGE BUSH
THE WHITE HOUSE
January 15, 1992.

[Amended 2/28/03 by President George W. Bush, E.O. 13286]
[Amended 5/12/05 by President George W. Bush, E.O. 13378]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 01, 2005 3:43 PM
To: McAtamney, James A
Subject: RE: Base Realignment and Closure -- Economic Adjustment Committee

Thanks.

-----Original Message-----
From: McAtamney, James A
Sent: Monday, August 01, 2005 3:42 PM
To: Gorsuch, Neil M
Subject: RE: Base Realignment and Closure -- Economic Adjustment Committee

What I know abouat the EAC is within the four corners of the document I sent your way. The Economic Adjustment Office is not new, though, nor is the EAC -- a variation of each has been around for at least 20 years and it appears DOJ has had a seat at the table. I just don't know how to run down which office has represented the Department during the last rounds of the process. You can take a look at the DoD Directive that addresses the process at http://www.dtic.mil/whs/directives/corres/pdf/d30301_112800/d30301p.pdf

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 01, 2005 3:07 PM
To: McAtamney, James A
Subject: RE: Base Realignment and Closure -- Economic Adjustment Committee

I agree. From what you know about the EAC, is it something that merits Robert's involvement or better assigned to a deputy here?

-----Original Message-----
From: McAtamney, James A
Sent: Monday, August 01, 2005 2:44 PM
To: Gorsuch, Neil M
Cc: Mercer, Bill (ODAG); Davis, John S (ODAG); Reyes, Luis (SMO); Corts, Paul R; Lofthus, Lee J; Allen, Michael (JMD); Rubin, Jim (ENRD); Zwick, Ken (CIV)
Subject: Base Realignment and Closure -- Economic Adjustment Committee

Neil,

JMD forwarded me a copy of the attached letter from the Executive Director, Office of Economic Adjustment, Office of the Secretary of Defense, to the AG asking for support for a new Economic Adjustment Committee related to this round of base closures. (When opening it, please give it a few seconds to "warm up" -- had to do a little out-of-the-ordinary conversion.)

Upon examination of the letter and its attachments, it occurs to us that the matters that would be addressed by the EAC Advisory Group fall more into the Associate's bailiwick than the DAG's. While JMD's Management Planning Staff agrees to provide the working-level representative, the policy-level Advisory Group member is likely more appropriate coming from OASG. It seems that to the extent the EAC's activities have an impact on DOJ, they would be in areas related to litigation or other such matters, e.g., providing advice on whether proposed economic adjustment activities or environmental remediation proposals present litigation risks.

What are your views?

Mac

James A. McAtamney
Senior Counsel for National Security Affairs
Office of the Deputy Attorney General
U.S. Department of Justice
RFK Building, Room 4311
(202) 514-6907
Fax: (202) 307-0097
Secure e-mail:
SIPRNet: [redacted]
JWICS: [redacted]

<< File: WF842640.BRACEAC.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 1, 2005 3:54 PM
To: Mercer, Bill (ODAG); Davis, John S (ODAG); Reyes, Luis (SMO); Corts, Paul R; Lofthus, Lee J; Allen, Michael (JMD); Rubin, Jim (ENRD); Zwick, Ken (CIV); McAtamney, James A
Subject: RE: Base Realignment and Closure -- Economic Adjustment Committee

As I indicated to Mac, we'll be happy to take this on. Luis has kindly agreed, in coordination with JMD, to work up a response to the correspondence.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: McAtamney, James A
Sent: Monday, August 01, 2005 2:44 PM
To: Gorsuch, Neil M
Cc: Mercer, Bill (ODAG); Davis, John S (ODAG); Reyes, Luis (SMO); Corts, Paul R; Lofthus, Lee J; Allen, Michael (JMD); Rubin, Jim (ENRD); Zwick, Ken (CIV)
Subject: Base Realignment and Closure -- Economic Adjustment Committee

Neil,

JMD forwarded me a copy of the attached letter from the Executive Director, Office of Economic Adjustment, Office of the Secretary of Defense, to the AG asking for support for a new Economic Adjustment Committee related to this round of base closures. (When opening it, please give it a few seconds to "warm up" -- had to do a little out-of-the-ordinary conversion.)

Upon examination of the letter and its attachments, it occurs to us that the matters that would be addressed by the EAC Advisory Group fall more into the Associate's bailiwick than the DAG's. While JMD's Management Planning Staff agrees to provide the working-level representative, the policy-level Advisory Group member is likely more appropriate coming from OASG. It seems that to the extent the EAC's activities have an impact on DOJ, they would be in areas related to litigation or other such matters, e.g., providing advice on whether proposed economic adjustment activities or environmental remediation proposals present litigation risks.

What are your views?

Mac

James A. McAtamney
Senior Counsel for National Security Affairs
Office of the Deputy Attorney General
U.S. Department of Justice
RFK Building, Room 4311
(202) 514-6907
Fax: (202) 307-0097
Secure e-mail:
SIPRNet: [redacted]
JWICS: [redacted]

<< File: WF842640.BRACEAC.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 1, 2005 3:56 PM
To: McCallum, Robert (SMO)
Subject: FW: Base Realignment and Closure -- Economic Adjustment Committee
Attachments: WF842640.BRACEAC.doc

Mac's requested that we take this on, and that sounds sensible to me. I'm not sure it requires your personal involvement (they're ok with a Depty Assistant Secty), but it might make sense to have someone in this office involved given that issues may cut across divisions (esp Civ and ENRD). Lily or Lu? Lu is working with JMD to prepare a draft response to the letter.

-----Original Message-----
From: McAtamney, James A
Sent: Monday, August 01, 2005 2:44 PM
To: Gorsuch, Neil M
Cc: Mercer, Bill (ODAG); Davis, John S (ODAG); Reyes, Luis (SMO); Corts, Paul R; Lofthus, Lee J; Allen, Michael (JMD); Rubin, Jim (ENRD); Zwick, Ken (CIV)
Subject: Base Realignment and Closure -- Economic Adjustment Committee

Neil,

JMD forwarded me a copy of the attached letter from the Executive Director, Office of Economic Adjustment, Office of the Secretary of Defense, to the AG asking for support for a new Economic Adjustment Committee related to this round of base closures. (When opening it, please give it a few seconds to "warm up" -- had to do a little out-of-the-ordinary conversion.)

Upon examination of the letter and its attachments, it occurs to us that the matters that would be addressed by the EAC Advisory Group fall more into the Associate's bailiwick than the DAG's. While JMD's Management Planning Staff agrees to provide the working-level representative, the policy-level Advisory Group member is likely more appropriate coming from OASG. It seems that to the extent the EAC's activities have an impact on DOJ, they would be in areas related to litigation or other such matters, e.g., providing advice on whether proposed economic adjustment activities or environmental remediation proposals present litigation risks.

What are your views?

Mac

James A. McAtamney
Senior Counsel for National Security Affairs
Office of the Deputy Attorney General
U.S. Department of Justice
RFK Building, Room 4311
(202) 514-6907
Fax: (202) 307-0097

Secure e-mail:
SIPRNet: [redacted]
JWICS: [redacted]

842,640

OFFICE OF THE SECRETARY OF DEFENSE
OFFICE OF ECONOMIC ADJUSTMENT
400 ARMY NAVY DRIVE, SUITE 200
ARLINGTON, VA 22202-4704

July 14, 2005

The Honorable Alberto R. Gonzales
Attorney General
Washington, DC 20530-0001

Dear Attorney General Gonzales:

On May 12, 2005, President George W. Bush signed an Amendment to Executive Order 12788 (Enclosure), directing the Department of Defense to design and establish a Defense Economic Adjustment Program (DEAP) through the President's Economic Adjustment Committee (EAC) to assist communities, businesses, and/or workers adversely affected by major Defense base closures, realignments, and Defense contract-related adjustments. The amended Executive Order: designates the Secretary of Defense, or the Secretary's designee, as the permanent chair of the EAC; designates the Secretaries of Labor and Commerce to be co-vice chairs; and establishes regulatory matters, to the extent they impact local economic recovery, to be within their purview.

As one of 22 Federal Departments and Agencies comprising the EAC, the Department of Justice has specific programs of technical and financial assistance that may assist these affected areas. Accordingly, by August 1, 2005, we ask you to:

1. Designate an EAC Advisory Group member to represent you personally in these matters. Advisory Group members are generally policy officials at the Assistant Secretary or Deputy Assistant Secretary level who can speak for their Department or Agency. You should anticipate a meeting of the EAC Advisory Group to be scheduled shortly after the BRAC Commission presents its recommendations to the President this September.

2. Designate Working Group member(s) to represent the applicable programs of your Department. Working Group members are senior career or non-career program officials who will form the core interagency network for program information exchange, resolution of cross-cutting issues and day-to-day coordination of defense economic adjustment efforts. The first scheduled meeting of the EAC Working Group is to be held on August 16, 2005 at 10:00am in the Horizon Room at the Ronald Reagan Building / International Trade Center, 1300 Pennsylvania Avenue, NW, Washington, D.C.

As Director of the Office of Economic Adjustment, I also serve as the Executive Director for the EAC. On behalf of the Department of Defense, I want to express the Department's appreciation for the significant contributions to date from your Department and look forward to working with you to address the impacts of the current round of base closures.

For further information regarding the EAC, I may be reached by telephone at [redacted] or by email at [redacted]@wso.whs.mil, or you may contact [redacted] at OEA, by telephone at [redacted] or by email at [redacted]@wso.whs.mil.

Thank you for your attention to this request. I look forward to your support and participation in this very important effort.

Sincerely,

[redacted]

Economic Adjustment Committee

Enclosure
As stated

cc:
White House Intergovernmental Affairs

DOJ_NMG_ 0145810

The White House
President George W. Bush

Click to Print this document

E.O. 13378

For Immediate Release
Office of the Press Secretary
May 12, 2005

Executive Order Amendments to Executive Order 12788 Relating to the Defense Economic Adjustment Program

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 10 U.S.C. 2391 and the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990, enacted as Division D, section 4001 et seq., of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, and in order to update the Defense Economic Adjustment Program, it is hereby ordered that Executive Order 12788 of January 15, 1992, as amended, is further amended as follows:

Section 1. The text of section 2 of Executive Order 12788 is revised to read as follows: "The Defense Economic Adjustment Program shall (1) assist substantially and seriously affected communities, businesses, and workers from the effects of major Defense base closures, realignments, and Defense contract-related adjustments, and (2) assist State and local governments in preventing the encroachment of civilian communities from impairing the operational utility of military installations."

Sec. 2. (a) The text of section 3(c) is amended by deleting "and communities" and inserting in lieu thereof "communities, and businesses";

(b) The text of section 3(l) is amended by deleting "and" after the semicolon;

(c) The text of section 3(m) is amended by adding "and" after "diminish;" and

(d) A new section 3(n) is added to read: "(n) Encourage resolution of regulatory issues that impede encroachment prevention and local economic adjustment efforts."

Sec. 3. (a) Section 4(a) is amended by: (i) deleting "(19) Director of the United States Arms Control and Disarmament Agency;" (ii) deleting "(21) Director of the Federal Emergency Management Agency;" and (iii) renumbering the remaining subsections listing the officials on the Economic Adjustment Committee (the "Committee") accordingly;

(b) The text of section 4(b) is revised to read as follows: "The Secretary of Defense, or the Secretary's designee, shall chair the Committee."; and

(c) The text of section 4(c) is revised to read as follows: "The Secretaries of Labor and Commerce shall serve as Vice Chairmen of the Committee. The Vice Chairmen shall co-chair the Committee in the absence of both the Chairman and the Chairman's designee and may also preside over meetings of designated representatives of the concerned executive agencies."

Sec. 4. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable by any party at law or in equity against the United States, its departments, agencies, entities, officers, employees, agents, or any other person.

GEORGE W. BUSH

THE WHITE HOUSE,

May 12, 2005.

DOJ_NMG_ 0145811

THE PRESIDENT

EXECUTIVE ORDER 12788 **As AMENDED**

Defense Economic Adjustment Program

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 10 U.S.C. 2391 and the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990, enacted as Division D, section 4001 *et seq.*, of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, and to provide coordinated Federal economic adjustment assistance necessitated by changes in Department of Defense activities, it is hereby ordered as follows:

Section 1. *Function of the Secretary of Defense.* The Secretary of Defense shall, through the Economic Adjustment Committee, design and establish a Defense Economic Adjustment Program.

Sec. 2. The Defense Economic Adjustment Program shall (1) assist substantially and seriously affected communities, businesses, and workers from the effects of major Defense base closures, realignments, and Defense contract-related adjustments, and (2) assist State and local governments in preventing the encroachment of civilian communities from impairing the operational utility of military installations.

Sec. 3 *Functions of the Defense Economic Adjustment Program.* The Defense Adjustment Program shall:

(a) Identify problems of States, regions, metropolitan areas, or communities that result from major Defense base closures, realignments, and Defense contract-related adjustments, and the encroachment of the civilian community on the mission of military installations and that require Federal assistance;

(b) Use and maintain a uniform socioeconomic impact analysis to justify the use of Federal economic adjustment resources prior to particular realignments;

(c) Apply consistent policies, practices, and procedures in the administration of Federal programs that are used to assist Defense-affected States, regions, metropolitan areas, communities, and businesses;

(d) Identify and strengthen existing agency mechanisms to coordinate employment opportunities for displaced agency personnel;

(e) Identify and strengthen existing agency mechanisms to improve reemployment opportunities for dislocated Defense industry personnel;

(f) Assure timely consultation and cooperation with Federal, State, regional, metropolitan, and community officials concerning Defense-related impacts on Defense-affected communities' problems;

(g) Assure coordinated interagency and intergovernmental adjustment assistance concerning Defense impact problems;

(h) Prepare, facilitate, and implement cost-effective strategies and action plans to coordinate interagency and intergovernmental economic adjustment efforts;

(i) Encourage effective Federal, State, regional, metropolitan, and community cooperation and concerted involvement of public interest groups and private sector organizations in Defense economic adjustment activities;

(j) Serve as a clearinghouse to exchange information among Federal, State, regional, metropolitan, and community officials involved in the resolution of community economic adjustment problems. Such information may include, for example, previous studies, technical information, and sources of public and private financing;

(k) Assist in the diversification of local economies to lessen dependence on Defense activities;

(l) Encourage and facilitate private sector interim use of lands and buildings to generate jobs as military activities diminish;

(m) Develop ways to streamline property disposal procedures to enable Defense-impacted communities to acquire base property to generate jobs as military activities diminish; and

(n) Encourage resolution of regulatory issues that impede encroachment prevention and local economic adjustment efforts.

Sec. 4. *Economic Adjustment Committee.*

(a) *Membership.* The Economic Adjustment Committee ("Committee") shall be composed of the following individuals or a designated principal deputy of these individuals, and such other individuals from the executive branch as the President may designate. Such individuals shall include the:

(1) Secretary of Agriculture;
(2) Attorney General;
(3) Secretary of Commerce;

(4) Secretary of Defense;
(5) Secretary of Education;
(6) Secretary of Energy;
(7) Secretary of Health and Human Services;
(8) Secretary of Housing and Urban Development;
(9) Secretary of Interior;
(10) Secretary of Labor;
(11) Secretary of State;
(12) Secretary of Transportation;
(13) Secretary of Treasury;
(14) Secretary of Veterans Affairs;
(15) Secretary of Homeland Security;
(16) Chairman, Council of Economic Advisers;
(17) Director of the Office of Management and Budget;
(18) Director of the Office of Personnel Management;
(19) Administrator of the Environmental Protection Agency;
(20) Administrator of General Services;
(21) Administrator of the Small Business Administration; and
(22) Postmaster General.

(b) The Secretary of Defense, or the Secretary's designee, shall chair the Committee.

(c) The Secretaries of Labor and Commerce shall serve as Vice Chairmen of the Committee. The Vice Chairmen shall co-chair the Committee in the absence of both the Chairman and the Chairman's designee and may also preside over meetings of designated representatives of the concerned executive agencies.

(d) *Executive Director.* The head of the Department of Defense's Office of Economic Adjustment shall provide all necessary policy and administrative support for the Committee and shall be responsible for coordinating the application of the Defense Economic Adjustment Program to Department of Defense activities.

(e) *Duties.* The Committee shall:
(1) Advise, assist, and support the Defense Economic Adjustment Programs;
(2) Develop procedures for ensuring that State, regional, and community officials, and representatives of organized labor in those States, municipalities, localities, or labor organizations that are substantially and seriously affected by changes in Defense expenditures, realignments or closures, or cancellation or curtailment of major Defense contracts, are notified of available Federal economic adjustment programs; and
(3) Report annually to the President and then to the Congress on the work of the Economic Adjustment Committee during the preceding fiscal year.

Sec. 5. Responsibilities of Executive Agencies.

(a) The head of each agency represented on the Committee shall designate an agency representative to:
(1) Serve as a liaison with the Secretary of Defense's economic adjustment staff;
(2) Coordinate agency support and participation in economic adjustment assistance projects; and
(3) Assist in resolving Defense-related impacts on Defense-affected communities.

(b) All executive agencies shall:
(1) Support, to the extent permitted by law, the economic adjustment assistance activities of the Secretary of Defense. Such support may include the use and application of personnel, technical expertise, legal authorities, and available financial resources. This support may be used, to the extent permitted by law, to provide a coordinated Federal response to the needs of individual States, regions, municipalities, and communities adversely affected by necessary Defense changes; and
(2) Afford priority consideration to requests from Defense-affected communities for Federal technical assistance, financial resources, excess or surplus property, or other requirements, that are part of a comprehensive plan used by the Committee.

Sec. 6. Judicial Review. This order shall not be interpreted to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, its agents, or any person.

Sec. 7. Construction. (a) Nothing in this order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any agency or head thereof to the authority of any other agency or officer or as abrogating or restricting any such function in any manner.

(b) This order shall be effective immediately and shall supersede Executive Order No 12049.

GEORGE BUSH
THE WHITE HOUSE
January 15, 1992.

[Amended 2/28/03 by President George W. Bush, E.O. 13286]
[Amended 5/12/05 by President George W. Bush, E.O. 13378]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 01, 2005 3:57 PM
To: Reyes, Luis (SMO)
Subject: RE: Base Realignment and Closure -- Economic Adjustment Committee

I hate to generate lots of committees. But use your judgment. ENRD also will have an interest.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Monday, August 01, 2005 3:55 PM
To: Gorsuch, Neil M
Subject: Re: Base Realignment and Closure -- Economic Adjustment Committee

The only thing I would add to our conversation is that if we are looking at this from a litigation risk angle, maybe we should have folks from civil in at the working group level as well.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 15:24:47 2005
Subject: FW: Base Realignment and Closure -- Economic Adjustment Committee

fyi - i've told mac that i agree we should do it and asking whether he thinks it merits robt's participation or is better delegated. will let you know what he says.

-----Original Message-----
From: McAtamney, James A
Sent: Monday, August 01, 2005 2:44 PM
To: Gorsuch, Neil M
Cc: Mercer, Bill (ODAG); Davis, John S (ODAG); Reyes, Luis (SMO); Corts, Paul R; Lofthus, Lee J; Allen, Michael (JMD); Rubin, Jim (ENRD); Zwick, Ken (CIV)
Subject: Base Realignment and Closure -- Economic Adjustment Committee

Neil,

JMD forwarded me a copy of the attached letter from the Executive Director, Office of Economic Adjustment, Office of the Secretary of Defense, to the AG asking for support for a new Economic Adjustment Committee related to this round of base closures. (When opening it, please give it a few seconds to "warm up" -- had to do a little out-of-the-ordinary conversion.)

Upon examination of the letter and its attachments, it occurs to us that the matters that would be addressed by the EAC Advisory Group fall more into the Associate's bailiwick than the DAG's. While

addressed by the EAC Advisory Group fall more into the Associate's bailiwick than the DAG's. While JMD's Management Planning Staff agrees to provide the working-level representative, the policy-level Advisory Group member is likely more appropriate coming from OASG. It seems that to the extent the EAC's activities have an impact on DOJ, they would be in areas related to litigation or other such matters, e.g., providing advice on whether proposed economic adjustment activities or environmental remediation proposals present litigation risks.

What are your views?

Mac

James A. McAtamney
Senior Counsel for National Security Affairs Office of the Deputy Attorney General U.S. Department of Justice RFK Building, Room 4311 (202) 514-6907 Fax: (202) 307-0097 Secure e-mail:
SIPRNet: [redacted]
JWICS: [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 1, 2005 4:00 PM
To: Rubin, Jim (ENRD); Kessler, Elizabeth A
Cc: Johnson, Kelly A. (ENRD); McAtamney, James A; Oppenheimer, Peter (ENRD); Milius, Pauline (ENRD)
Subject: RE: fyi, here is copy of a letter apparently winging its way to the AG on the Marine Transportation System . . .

While others may have better ideas, my initial reaction would be that Kelly would be a very sensible candidate, understanding that she may wish to delegate the responsibility as seems sensible to her. Any other thoughts?

-----Original Message-----
From: Rubin, Jim (ENRD)
Sent: Thursday, July 28, 2005 5:28 PM
To: Gorsuch, Neil M; Kessler, Elizabeth A
Cc: Johnson, Kelly A. (ENRD); McAtamney, James A; Oppenheimer, Peter (ENRD); Milius, Pauline (ENRD)
Subject: fyi, here is copy of a letter apparently winging its way to the AG on the Marine Transportation System . . .

<< File: Attorney General_Final.pdf >> As you will see, it asks for the AG to designate someone to serve as agency rep on the MTS Coordinating Body at "assistant secretary level or above." (If you feel we really need to appoint someone at this level, perhaps we can do it in name only, and have that rep delegate any meeting attendance responsibilities to one of us underlings!) Pls advise on how you wish us to handle. This letter will no doubt go into Exec Sec and take its time coming to us all, but wanted to give you a heads up.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 01, 2005 4:00 PM
To: Rubin, Jim (ENRD)
Subject: RE: Base Realignment and Closure -- Economic Adjustment Committee

Thanks - and thanks for the reminder on the other matter. Just responded to that email. Let me know what you think.

-----Original Message-----
From: Rubin, Jim (ENRD)
Sent: Monday, August 01, 2005 3:56 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Cc: Johnson, Kelly A. (ENRD); Milius, Pauline (ENRD)
Subject: RE: Base Realignment and Closure -- Economic Adjustment Committee

Fyi, I asked our Defense section if there is any connection between base closures and our litigation over federal facilities, and if so, will contact Luis with details.

Have you come to any decision on how you want to handle the request for a senior member of the MTS Coordinating Committee from DOJ?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 01, 2005 3:54 PM
To: Mercer, Bill (ODAG); Davis, John S (ODAG); Reyes, Luis (SMO); Corts, Paul R; Lofthus, Lee J; Allen, Michael (JMD); Rubin, Jim (ENRD); Zwick, Ken (CIV); McAtamney, James A
Subject: RE: Base Realignment and Closure -- Economic Adjustment Committee

As I indicated to Mac, we'll be happy to take this on. Luis has kindly agreed, in coordination with JMD, to work up a response to the correspondence.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: McAtamney, James A
Sent: Monday, August 01, 2005 2:44 PM
To: Gorsuch, Neil M
Cc: Mercer, Bill (ODAG); Davis, John S (ODAG); Reyes, Luis (SMO); Corts, Paul R; Lofthus, Lee J; Allen, Michael (JMD); Rubin, Jim (ENRD); Zwick, Ken (CIV)
Subject: Base Realignment and Closure -- Economic Adjustment Committee

Neil,

JMD forwarded me a copy of the attached letter from the Executive Director, Office of

Economic Adjustment, Office of the Secretary of Defense, to the AG asking for support for a new Economic Adjustment Committee related to this round of base closures. (When opening it, please give it a few seconds to "warm up" -- had to do a little out-of-the-ordinary conversion.)

Upon examination of the letter and its attachments, it occurs to us that the matters that would be addressed by the EAC Advisory Group fall more into the Associate's bailiwick than the DAG's. While JMD's Management Planning Staff agrees to provide the working-level representative, the policy-level Advisory Group member is likely more appropriate coming from OASG. It seems that to the extent the EAC's activities have an impact on DOJ, they would be in areas related to litigation or other such matters, e.g., providing advice on whether proposed economic adjustment activities or environmental remediation proposals present litigation risks.

What are your views?

Mac

James A. McAtamney
Senior Counsel for National Security Affairs
Office of the Deputy Attorney General
U.S. Department of Justice
RFK Building, Room 4311
(202) 514-6907
Fax: (202) 307-0097
Secure e-mail:
SIPRNet: [redacted]
JWICS: [redacted]

<< File: WF842640.BRACEAC.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 1, 2005 5:03 PM
To: Reyes, Luis (SMO)
Subject: RE: Base Realignment and Closure -- Economic Adjustment Committee

Many thanks.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Monday, August 01, 2005 4:09 PM
To: Gorsuch, Neil M
Subject: RE: Base Realignment and Closure -- Economic Adjustment Committee

What? No committees? No working groups? No meetings about meetings? Clearly, you have not picked up on the the MO around here.....

Just kidding of course....I agree.... Will staff as efficiently as possible, and will ride herd on this thing. Consider it taken cared of.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 01, 2005 3:57 PM
To: Reyes, Luis (SMO)
Subject: RE: Base Realignment and Closure -- Economic Adjustment Committee

I hate to generate lots of committees. But use your judgment. ENRD also will have an interest.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Monday, August 01, 2005 3:55 PM
To: Gorsuch, Neil M
Subject: Re: Base Realignment and Closure -- Economic Adjustment Committee

The only thing I would add to our conversation is that if we are looking at this from a litigation risk angle, maybe we should have folks from civil in at the working group level as well.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>

From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 15:24:47 2005
Subject: FW: Base Realignment and Closure -- Economic Adjustment Committee

fyi - i've told mac that i agree we should do it and asking whether he thinks it merits robt's participation or is better delegated. will let you know what he says.

-----Original Message-----
From: McAtamney, James A
Sent: Monday, August 01, 2005 2:44 PM
To: Gorsuch, Neil M
Cc: Mercer, Bill (ODAG); Davis, John S (ODAG); Reyes, Luis (SMO); Corts, Paul R; Lofthus, Lee J; Allen, Michael (JMD); Rubin, Jim (ENRD); Zwick, Ken (CIV)
Subject: Base Realignment and Closure -- Economic Adjustment Committee

Neil,

JMD forwarded me a copy of the attached letter from the Executive Director, Office of Economic Adjustment, Office of the Secretary of Defense, to the AG asking for support for a new Economic Adjustment Committee related to this round of base closures. (When opening it, please give it a few seconds to "warm up" -- had to do a little out-of-the-ordinary conversion.)

Upon examination of the letter and its attachments, it occurs to us that the matters that would be addressed by the EAC Advisory Group fall more into the Associate's bailiwick than the DAG's. While JMD's Management Planning Staff agrees to provide the working-level representative, the policy-level Advisory Group member is likely more appropriate coming from OASG. It seems that to the extent the EAC's activities have an impact on DOJ, they would be in areas related to litigation or other such matters, e.g., providing advice on whether proposed economic adjustment activities or environmental remediation proposals present litigation risks.

What are your views?

Mac

James A. McAtamney
Senior Counsel for National Security Affairs Office of the Deputy Attorney General U.S. Department of Justice RFK Building, Room 4311 (202) 514-6907 Fax: (202) 307-0097 Secure e-mail:
SIPRNet: [redacted]
JWICS: [redacted]

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, August 01, 2005 5:10 PM
To:	Madan, Rafael A.; Elwood, Courtney
Cc:	Sausjord, Ingrid; Pensinger, John
Subject:	RE: NIJ interim requirements - body armor

Rafe - Would it be possible for you to send all of the proposed recommendations, new and old, that OJP now intends to make?

-----Original Message-----
From: Madan, Rafael A.
Sent: Monday, August 01, 2005 4:40 PM
To: Gorsuch, Neil M; Elwood, Courtney
Cc: Sausjord, Ingrid; Pensinger, John
Subject: NIJ interim requirements - body armor

Courtney--
Neil--

Below, for your review and comments, please find the following discussion drafts: (1) a new recommendation paragraph (1.C.) for the AG memo; and (2) revised NIJ 2005 Requirements. Please let me know if you have any questions. Thanks, Rafe

1. AG Recommendation 1.C.:

We recommend that NIJ be directed to prepare an audit plan within 45 days, to aid in ensuring that - pending completion of the new replacement standard and while the NIJ interim requirements are in effect - body armor models deemed compliant with such interim requirements, in fact maintain their ballistic performance during their respective declared warranty periods.

2. **NIJ 2005 Interim Requirements for Bullet-Resistant Body Armor**

Effective Date

These requirements will become effective on _____.

Purpose and Scope

These requirements modify and supplement National Institute of Justice (NIJ) Standard 0101.04 (Ballistic Resistance of Personal Body Armor). They are promulgated on an interim basis to address recent NIJ research findings that indicate that certain body armor models previously found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04) may not adequately maintain ballistic resistance during their service life.

NIJ recommends that those who purchase new bullet-resistant body armor after the effective date hereof select body armor models that comply with these interim requirements. A list of models that comply with these requirements will be made available on or before such effective date at: http://www.justnet.org. NIJ will no longer publish lists of models found by NIJ (prior to the effective date hereof) to be compliant with earlier NIJ requirements for ballistic

resistance of new body armor (including NIJ Standard 0101.04).

NIJ's efforts to ensure the safety of public safety officers are ongoing. NIJ intends to promulgate future modifications to these interim requirements as appropriate in light of its continued research and comments from the law enforcement and manufacturing communities. Comments and suggestions should be directed to the Director, Office of Science and Technology, National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street, N.W., Washington, D.C. 20531.

Requirements

Body armor models submitted to the NIJ Voluntary Compliance Testing Program on or after the effective date hereof shall be subject to the following requirements:

1. Satisfaction of all of the requirements of NIJ Standard 0101.04 (including Addendum B), except as such requirements may be modified hereby;

2. Either-

(a) Submission of evidence (*e.g.*, design drawings and specifications, lists of materials of construction of each component of the model, research, ballistic testing, descriptions of performance characteristics of critical components or materials, *etc.*) that reasonably demonstrates, to the satisfaction of NIJ, that the model will maintain ballistic performance (consistent with its originally declared threat level) over its declared warranty period; or

(b) Submission of a written certification by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that-

(1) the model contains no material listed in an NIJ Body Armor Standard Advisory Notice in effect at the time of submission;

(2) lists the materials of construction of each component of the model; and

(3) the manufacturer-

(A) reasonably believes (based on objective criteria or -evidence) that the model will maintain ballistic performance (consistent with its originally declared threat level) over its declared warranty period; and

(B) agrees to provide NIJ, promptly on demand, the evidence described in ¶ 2(a);

3. Labeling of armor shall be in accordance with NIJ Standard 0101.04, except that any references to such standard thereon shall instead be to the "NIJ 2005 Interim Requirements"; and

4. Written acknowledgment by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that-

(a) Recent NIJ research findings indicate that certain body armor models that were found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04)

ballistic resistance of new body armor (including NIJ Standard 0101.04) may not adequately maintain ballistic resistance during their service life;

(b) NIJ recommends that those who purchase new bullet-resistant body armor select body armor models that comply with the NIJ 2005 Interim Requirements;

(c) NIJ will no longer publish lists of models found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04); and

(d) Any list or database of compliant body armor models published or sponsored by NIJ will include only models that are found by NIJ to comply with the NIJ 2005 Interim Requirements.

Transition Provision

Any body armor model submitted by a manufacturer that was found by NIJ to be compliant with NIJ Standard 0101.04 prior to the effective date hereof shall be deemed to comply with the NIJ 2005 Interim Requirements (pursuant to an NIJ notice of such compliance) upon submission by such manufacturer to NIJ of-

1. A written certification by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that labeling of armor manufactured after receipt from NIJ of the notice of compliance shall comply with Requirements ¶ 3;

2. The written acknowledgment described in Requirements ¶ 4; and

3. Either-

(a) The evidence described in Requirements ¶ 2(a); or

(b) The written certification described in Requirements ¶ 2(b)(1) & (2), except that such body armor model shall be deemed no longer to be in such compliance (and removed from any NIJ list of models that comply with the Requirements) unless the written certification described in Requirements ¶ 2(b)(3) is submitted to NIJ within 180 days of receipt from NIJ of the notice of compliance.

Loss of Compliance Status

Any body armor model found or deemed to comply with the NIJ 2005 Interim Requirements that contains any material subsequently listed in an NIJ Body Armor Standard Advisory Notice shall be deemed no longer to be in such compliance (and removed from any NIJ list of models that comply with the Requirements) until satisfactory evidence is submitted as described in Requirements ¶ 2(a).

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, August 01, 2005 5:14 PM
To:	McAtamney, James A; Johnson, Kelly A. (ENRD); Rubin, Jim (ENRD); Kessler, Elizabeth A
Cc:	Oppenheimer, Peter (ENRD); Milius, Pauline (ENRD)
Subject:	RE: fyi, here is copy of a letter apparently winging its way to the AG on the Marine Transportation System . . .

I attended the initial CMTS meeting with Robert and, from that experience, agree with Mac. This group is interested in commerce issues, leaving security issues largely (if not entirely) to a separate process.

-----Original Message-----
From: McAtamney, James A
Sent: Monday, August 01, 2005 4:29 PM
To: Johnson, Kelly A. (ENRD); Gorsuch, Neil M; Rubin, Jim (ENRD);
Kessler, Elizabeth A
Cc: Oppenheimer, Peter (ENRD); Milius, Pauline (ENRD)
Subject: RE: fyi, here is copy of a letter apparently winging its way to
the AG on the Marine Transportation System . . .

It's really hard to say whether this is national security or not at this point. There is a completely separate process -- in which ODAG, CRM, and FBI are participants -- that is drafting a National Maritime Security Strategy, along with implementing plans related to port security, maritime operational threat response, and related activities. The MTS would appear to be related more to the infrastructure for and safe/legal/efficient operation of the maritime transportation system. Needless to say, one hopes that all these activities will be coordinated.....

-----Original Message-----
From: Johnson, Kelly A. (ENRD)
Sent: Monday, August 01, 2005 4:20 PM
To: Gorsuch, Neil M; Rubin, Jim (ENRD); Kessler, Elizabeth A
Cc: McAtamney, James A; Oppenheimer, Peter (ENRD); Milius, Pauline
(ENRD)
Subject: Re: fyi, here is copy of a letter apparently winging its way to
the AG on the Marine Transportation System . . .

Neil - As I understand it, this really concerns a natural security issue better served by the CrimDiv but if OASG feels otherwise, ENRD will staff it. Certainly feel free to send my name forward. (At some point, I'm going to have to put together a list of all the various committees I supposedly sit on.). Peter and Jim will help me out.

Sent from my BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Rubin, Jim (ENRD) <Jim.Rubin@usdoj.gov>; Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>
CC: Johnson, Kelly A. (ENRD) <Kelly.A.Johnson@usdoj.gov>; McAtamney, James A <James.A.McAtamney@SMOJMD.USDOJ.gov>; Oppenheimer, Peter (ENRD) <POppenhe@ENRD.USDOJ.GOV>; Milius, Pauline (ENRD) <Pauline.Milius@usdoj.gov>
Sent: Mon Aug 01 15:59:50 2005
Subject: RE: fyi, here is copy of a letter apparently winging its way to the AG on the Marine Transportation System . . .

While others may have better ideas, my initial reaction would be that Kelly would be a very sensible candidate, understanding that she may wish to delegate the responsibility as seems sensible to her. Any other thoughts?

-----Original Message-----
From: Rubin, Jim (ENRD)
Sent: Thursday, July 28, 2005 5:28 PM
To: Gorsuch, Neil M; Kessler, Elizabeth A
Cc: Johnson, Kelly A. (ENRD); McAtamney, James A; Oppenheimer, Peter (ENRD); Milius, Pauline (ENRD)
Subject: fyi, here is copy of a letter apparently winging its way to the AG on the Marine Transportation System . . .

<< File: Attorney General_Final.pdf >> As you will see, it asks for the AG to designate someone to serve as agency rep on the MTS Coordinating Body at "assistant secretary level or above." (If you feel we really need to appoint someone at this level, perhaps we can do it in name only, and have that rep delegate any meeting attendance responsibilities to one of us underlings!) Pls advise on how you wish us to handle. This letter will no doubt go into Exec Sec and take its time coming to us all, but wanted to give you a heads up.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 01, 2005 5:17 PM
To: Sierra, Bryan; Hillman, Noel
Subject: RE:

Entirely up to you. Just thought you might want to take credit for all of your hard work!

-----Original Message-----
From: Sierra, Bryan
Sent: Monday, August 01, 2005 4:27 PM
To: Gorsuch, Neil M; Hillman, Noel
Subject: RE:

At this point in the process, I'd rather not add new data. Also, what do you mean by these numbers being "given informally"? I'm not sure what that means, but with release time scheduled for tomorrow morning, I'd seriously doubt that we should add data to the release until and unless it's been approved through proper channels (ie, not through me...)

Make sense?

--Bryan

From: Hillman, Noel
Sent: Monday, August 01, 2005 4:22 PM
To: Gorsuch, Neil M
Cc: Sierra, Bryan
Subject: RE:

They are in there in another form in that we report DOJ active matters at 125 which is pretty close to the FBI numbers if you add them up (the FBI numbers reflect the opening of a case as opposed to current status). For that reason I let it be. Plus these numbers were given informally and I decided to defer on battling the bureaucracy for release approval but maybe we should rethink. Bryan - Want to get these FBI numbers into the release somehow? They do show the upswing nicely.

From: Gorsuch, Neil M
Sent: Monday, August 01, 2005 2:14 PM
To: Hillman, Noel
Subject: RE:

Have you thought about working some of these figures into the press release? They are very impressive. But this is just a quick thought based on a first impression. Please do only what you think best.

-----Original Message-----
From: Hillman, Noel
Sent: Friday, July 29, 2005 3:19 PM
To: Gorsuch, Neil M
Subject:

Neil -

When we met, I mentioned that I had recently asked the FBI to quantify for me the number of 56C (election crime) cases they have opened since 1999. We started the Ballot Access and Voting Integrity Initiative in the fall of 2002. The numbers follow and show, I think, the positive influence we have had:

FY1999 - 7 cases
FY2000 - 9 cases
FY2001 – 8 cases
FY2002 - 8 cases
FY2003 – 27 cases
FY2004 – 36 cases
FY2005 to date – 54 cases

Thought you might be interested in this.

Noel

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 01, 2005 5:51 PM
To: Madan, Rafael A.
Subject: RE: NIJ interim requirements - body armor

I will give this a close read and look forward to seeing all the recommendations to place these in context, but on first glance it seems like we are very much headed in the right direction.

-----Original Message-----
From: Madan, Rafael A.
Sent: Monday, August 01, 2005 4:40 PM
To: Gorsuch, Neil M; Elwood, Courtney
Cc: Sausjord, Ingrid; Pensinger, John
Subject: NIJ interim requirements - body armor

Courtney--
Neil--

Below, for your review and comments, please find the following discussion drafts: (1) a new recommendation paragraph (1.C.) for the AG memo; and (2) revised NIJ 2005 Requirements. Please let me know if you have any questions. Thanks, Rafe

1. AG Recommendation 1.C.:

We recommend that NIJ be directed to prepare an audit plan within 45 days, to aid in ensuring that - pending completion of the new replacement standard and while the NIJ interim requirements are in effect - body armor models deemed compliant with such interim requirements, in fact maintain their ballistic performance during their respective declared warranty periods.

2. **NIJ 2005 Interim Requirements for Bullet-Resistant Body Armor**

Effective Date

These requirements will become effective on _____.

Purpose and Scope

These requirements modify and supplement National Institute of Justice (NIJ) Standard 0101.04 (Ballistic Resistance of Personal Body Armor). They are promulgated on an interim basis to address recent NIJ research findings that indicate that certain body armor models previously found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04) may not adequately maintain ballistic resistance during their service life.

NIJ recommends that those who purchase new bullet-resistant body armor after the effective date hereof select body armor models that comply with these interim requirements. A list of models that comply with these requirements will be made available on or before such effective date at: http://www.justnet.org. NIJ will no longer publish lists of models found by NIJ (prior to the effective date hereof) to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04).

NIJ's efforts to ensure the safety of public safety officers are ongoing. NIJ intends to promulgate future modifications to these interim requirements as appropriate in light of its continued research and comments from the law

enforcement and manufacturing communities. Comments and suggestions should be directed to the Director, Office of Science and Technology, National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street, N.W., Washington, D.C. 20531.

Requirements

Body armor models submitted to the NIJ Voluntary Compliance Testing Program on or after the effective date hereof shall be subject to the following requirements:

1. Satisfaction of all of the requirements of NIJ Standard 0101.04 (including Addendum B), except as such requirements may be modified hereby;

2. Either-

(a) Submission of evidence (*e.g.*, design drawings and specifications, lists of materials of construction of each component of the model, research, ballistic testing, descriptions of performance characteristics of critical components or materials, *etc.*) that reasonably demonstrates, to the satisfaction of NIJ, that the model will maintain ballistic performance (consistent with its originally declared threat level) over its declared warranty period; or

(b) Submission of a written certification by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that-

(1) the model contains no material listed in an NIJ Body Armor Standard Advisory Notice in effect at the time of submission;

(2) lists the materials of construction of each component of the model; and

(3) the manufacturer-

(A) reasonably believes (based on objective criteria or -evidence) that the model will maintain ballistic performance (consistent with its originally declared threat level) over its declared warranty period; and

(B) agrees to provide NIJ, promptly on demand, the evidence described in ¶ 2(a);

3. Labeling of armor shall be in accordance with NIJ Standard 0101.04, except that any references to such standard thereon shall instead be to the "NIJ 2005 Interim Requirements"; and

4. Written acknowledgment by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that-

(a) Recent NIJ research findings indicate that certain body armor models that were found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04) may not adequately maintain ballistic resistance during their service life;

(b) NIJ recommends that those who purchase new bullet-resistant body

armor select body armor models that comply with the NIJ 2005 Interim Requirements;

(c) NIJ will no longer publish lists of models found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04); and

(d) Any list or database of compliant body armor models published or sponsored by NIJ will include only models that are found by NIJ to comply with the NIJ 2005 Interim Requirements.

Transition Provision

Any body armor model submitted by a manufacturer that was found by NIJ to be compliant with NIJ Standard 0101.04 prior to the effective date hereof shall be deemed to comply with the NIJ 2005 Interim Requirements (pursuant to an NIJ notice of such compliance) upon submission by such manufacturer to NIJ of-

1. A written certification by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that labeling of armor manufactured after receipt from NIJ of the notice of compliance shall comply with Requirements ¶ 3;

2. The written acknowledgment described in Requirements ¶ 4; and

3. Either-

(a) The evidence described in Requirements ¶ 2(a); or

(b) The written certification described in Requirements ¶ 2(b)(1) & (2), except that such body armor model shall be deemed no longer to be in such compliance (and removed from any NIJ list of models that comply with the Requirements) unless the written certification described in Requirements ¶ 2(b)(3) is submitted to NIJ within 180 days of receipt from NIJ of the notice of compliance.

Loss of Compliance Status

Any body armor model found or deemed to comply with the NIJ 2005 Interim Requirements that contains any material subsequently listed in an NIJ Body Armor Standard Advisory Notice shall be deemed no longer to be in such compliance (and removed from any NIJ list of models that comply with the Requirements) until satisfactory evidence is submitted as described in Requirements ¶ 2(a).

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 01, 2005 5:59 PM
To: Brand, Rachel
Cc: Reyes, Luis (SMO)
Subject: RE: OLP Component Mtg

Thanks, Rachel. If you could have me and Luis placed on the calendar to be notified of the meetings, one of us will try to attend, whether merrily or otherwise!

-----Original Message-----
From: Brand, Rachel
Sent: Monday, August 01, 2005 3:32 PM
To: Gorsuch, Neil M
Subject: RE: OLP Component Mtg

You are welcome to join. I fear a lot of the topics will bore you tears, but the more the merrier. Lately I've had to ask Richard to chair it because I've been swamped with Supreme Court, but my goal is to chair it myself every week.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 01, 2005 2:58 PM
To: Brand, Rachel
Subject: OLP Component Mtg

Rachel,

I was speaking to Courtney earlier and she mentioned that OLP has a useful occasional component meeting focused on policy initiatives that someone from OASG might productively attend. Now, let me assure you that I am not looking for another meeting to attend, or another meeting for a colleague of mine to attend. But, IF (and only if) you think it would be helpful to have someone from here participate, could you let me know? Please don't hesitate to let me know that if you think it isn't worthwhile.

NMG

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Tuesday, August 2, 2005 9:00 AM
To:	McCallum, Robert (SMO)
Subject:	FW: Time Change and Location Change - Today's Meeting on Emergency Communications
Attachments:	tmp.htm
Importance:	High

Ted and Raquel say that they have received no prep materials or background info. I'm double checking now with Kiahna.

-----Original Message-----
From: Ullyot, Theodore
Sent: Tuesday, August 02, 2005 7:26 AM
To: McCallum, Robert (SMO); Gorsuch, Neil M; Beach, Andrew; Sours, Raquel
Subject: Fw: Time Change and Location Change - Today's Meeting on Emergency Communications
Importance: High

Robert -- I believe you are scheduled to attend this in the AG's place. Note the change of time and location. Thanks.

-----Original Message-----
From: Jared_B._Weinstein@who.eop.gov <Jared_B._Weinstein@who.eop.gov>
To: Sours, Raquel <Raquel.Sours@SMOJMD.USDOJ.gov>; Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>; [redacted]
theodore.Ullyot@usdoj.gov <theodore.Ullyot@usdoj.gov> [redacted]
Mary_L._Kane@who.eop.gov <Mary_L._Kane@who.eop.gov>; Heidi_M._Smith@who.eop.gov <Heidi_M._Smith@who.eop.gov>; [redacted]
Sent: Tue Aug 02 07:17:02 2005

Subject: Time Change and Location Change - Today's Meeting on Emergency Communications

Today's meeting with Secretary Card has moved from his office to the front Sit Room. Additionally, Secretary Card would like to start the meeting at 9:30 am (rather than 9:50 am). Please confirm with me (and with Lauren Kane) that this works for your principal.

Thanks,

Jared

Jared Weinstein
Special Assistant to the Chief of Staff
(202) 456-0388 (o)
(202) 456-1907 (f)
[redacted]
jweinstein@who.eop.gov

Today's meeting with Secretary Card has moved from his office to the front Sit Room. Additionally, Secretary Card would like to start the meeting at 9:30 am (rather than 9:50 am). Please confirm with me (and with Lauren Kane) that this works for your principal.

Thanks,

Jared

_____

Jared Weinstein
Special Assistant to the Chief of Staff
(202) 456-0388 (o)
(202) 456-1907 (f)
[redacted]
jweinstein@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 02, 2005 9:16 AM
To: McCallum, Robert (SMO)
Subject: RE: Time Change and Location Change - Today's Meeting on Emergency Communications

Kiahna received nothing either.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, August 02, 2005 9:00 AM
To: McCallum, Robert (SMO)
Subject: FW: Time Change and Location Change - Today's Meeting on Emergency Communications
Importance: High

Ted and Raquel say that they have received no prep materials or background info. I'm double checking now with Kiahna.

-----Original Message-----
From: Ullyot, Theodore
Sent: Tuesday, August 02, 2005 7:26 AM
To: McCallum, Robert (SMO); Gorsuch, Neil M; Beach, Andrew; Sours, Raquel
Subject: Fw: Time Change and Location Change - Today's Meeting on Emergency Communications
Importance: High

Robert -- I believe you are scheduled to attend this in the AG's place. Note the change of time and location. Thanks.

-----Original Message-----
From: Jared_B._Weinstein@who.eop.gov <Jared_B._Weinstein@who.eop.gov>
To: Sours, Raquel <Raquel.Sours@SMOJMD.USDOJ.gov>; Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>; [redacted]

[redacted]
theodore.Ullyot@usdoj.gov <theodore.Ullyot@usdoj.gov>; [redacted]
[redacted] Mary_L._Kane@who.eop.gov
<Mary_L._Kane@who.eop.gov>; Heidi_M._Smith@who.eop.gov <Heidi_M._Smith@who.eop.gov>;
[redacted]
Sent: Tue Aug 02 07:17:02 2005
Subject: Time Change and Location Change - Today's Meeting on Emergency Communications

Today's meeting with Secretary Card has moved from his office to the front Sit Room. Additionally, Secretary Card would like to start the meeting at 9:30 am (rather than 9:50 am). Please confirm with me (and with Lauren Kane) that this works for your principal.

Thanks,

Jared

Jared Weinstein
Special Assistant to the Chief of Staff
(202) 456-0388 (o)
(202) 456-1907 (f)
[redacted]
jweinstein@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 02, 2005 9:30 AM
To: Madan, Rafael A.; Sausjord, Ingrid; Pensinger, John
Cc: Elwood, Courtney; Henke, Tracy (SMO)
Subject: RE: NIJ interim requirements - body armor

Subject to Tracy and Courtney's comments, I have no further comment. As I told Regina this morning, I think we are very much headed in the right direction and I'm really grateful to you and all of the team at OJP for the hard work and resulting work product.

-----Original Message-----
From: Madan, Rafael A.
Sent: Monday, August 01, 2005 6:48 PM
To: Gorsuch, Neil M
Cc: Elwood, Courtney; Sausjord, Ingrid; Pensinger, John
Subject: RE: NIJ interim requirements - body armor

Neil: Attached is the draft memo to the AG (sent to you by Jana White the other day), which contains all the proposed recommendations - except for the draft one I sent you earlier today. I hope this serves. Rafe

> -----Original Message-----
> **From:** Gorsuch, Neil M
> **Sent:** Monday, August 01, 2005 5:51 PM
> **To:** Madan, Rafael A.
> **Subject:** RE: NIJ interim requirements - body armor
>
> I will give this a close read and look forward to seeing all the recommendations to place these in context, but on first glance it seems like we are very much headed in the right direction.
> -----Original Message-----
> **From:** Madan, Rafael A.
> **Sent:** Monday, August 01, 2005 4:40 PM
> **To:** Gorsuch, Neil M; Elwood, Courtney
> **Cc:** Sausjord, Ingrid; Pensinger, John
> **Subject:** NIJ interim requirements - body armor
>
> Courtney--
> Neil--
>
> Below, for your review and comments, please find the following discussion drafts: (1) a new recommendation paragraph (1.C.) for the AG memo; and (2) revised NIJ 2005 Requirements. Please let me know if you have any questions. Thanks, Rafe
>
> 1. AG Recommendation 1.C.:
>
> We recommend that NIJ be directed to prepare an audit plan within 45 days, to aid in ensuring that - pending completion of the new replacement standard and while the NIJ interim requirements are in effect - body armor models deemed compliant with such interim requirements, in fact maintain their ballistic performance during their respective declared warranty periods.

2. **NIJ 2005 Interim Requirements for Bullet-Resistant Body Armor**

Effective Date

These requirements will become effective on _____.

Purpose and Scope

These requirements modify and supplement National Institute of Justice (NIJ) Standard 0101.04 (Ballistic Resistance of Personal Body Armor). They are promulgated on an interim basis to address recent NIJ research findings that indicate that certain body armor models previously found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04) may not adequately maintain ballistic resistance during their service life.

NIJ recommends that those who purchase new bullet-resistant body armor after the effective date hereof select body armor models that comply with these interim requirements. A list of models that comply with these requirements will be made available on or before such effective date at: http://www.justnet.org. NIJ will no longer publish lists of models found by NIJ (prior to the effective date hereof) to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04).

NIJ's efforts to ensure the safety of public safety officers are ongoing. NIJ intends to promulgate future modifications to these interim requirements as appropriate in light of its continued research and comments from the law enforcement and manufacturing communities. Comments and suggestions should be directed to the Director, Office of Science and Technology, National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street, N.W., Washington, D.C. 20531.

Requirements

Body armor models submitted to the NIJ Voluntary Compliance Testing Program on or after the effective date hereof shall be subject to the following requirements:

1. Satisfaction of all of the requirements of NIJ Standard 0101.04 (including Addendum B), except as such requirements may be modified hereby;

2. Either-

(a) Submission of evidence (*e.g.*, design drawings and specifications, lists of materials of construction of each component of the model, research, ballistic testing, descriptions of performance characteristics of critical components or materials, *etc.*) that reasonably demonstrates, to the satisfaction of NIJ, that the model will maintain ballistic performance (consistent with its originally declared threat level) over its declared warranty period; or

(b) Submission of a written certification by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that-

(1) the model contains no material listed in an NIJ Body Armor Standard Advisory Notice in effect at the time of submission;

(2) lists the materials of construction of each component of the model; and

(3) the manufacturer-

(A) reasonably believes (based on objective criteria or -evidence) that the model will maintain ballistic performance (consistent with its originally declared threat level) over its declared warranty period; and

(B) agrees to provide NIJ, promptly on demand, the evidence described in ¶ 2 (a);

3. Labeling of armor shall be in accordance with NIJ Standard 0101.04, except that any references to such standard thereon shall instead be to the "NIJ 2005 Interim Requirements"; and

4. Written acknowledgment by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that-

(a) Recent NIJ research findings indicate that certain body armor models that were found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04) may not adequately maintain ballistic resistance during their service life;

(b) NIJ recommends that those who purchase new bullet-resistant body armor select body armor models that comply with the NIJ 2005 Interim Requirements;

(c) NIJ will no longer publish lists of models found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04); and

(d) Any list or database of compliant body armor models published or sponsored by NIJ will include only models that are found by NIJ to comply with the NIJ 2005 Interim Requirements.

Transition Provision

Any body armor model submitted by a manufacturer that was found by NIJ to be compliant with NIJ Standard 0101.04 prior to the effective date hereof shall be deemed to comply with the NIJ 2005 Interim Requirements (pursuant to an NIJ notice of such compliance) upon submission by such manufacturer to NIJ of-

1. A written certification by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that labeling of armor manufactured after receipt from NIJ of the notice of compliance shall comply with Requirements ¶ 3;

2. The written acknowledgment described in Requirements ¶ 4; and

3. Either-

(a) The evidence described in Requirements ¶ 2(a); or

(b) The written certification described in Requirements ¶ 2(b)(1) & (2), except that such body armor model shall be deemed no longer to be in such compliance (and removed from any NIJ list of models that comply with the Requirements) unless the written certification

that comply with the Requirements) unless the written certification described in Requirements ¶ 2(b)(3) is submitted to NIJ within 180 days of receipt from NIJ of the notice of compliance.

Loss of Compliance Status

Any body armor model found or deemed to comply with the NIJ 2005 Interim Requirements that contains any material subsequently listed in an NIJ Body Armor Standard Advisory Notice shall be deemed no longer to be in such compliance (and removed from any NIJ list of models that comply with the Requirements) until satisfactory evidence is submitted as described in Requirements ¶ 2(a).

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 02, 2005 10:03 AM
To: Schofield, Regina
Subject: FW: NIJ interim requirements - body armor

fyi
-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, August 02, 2005 9:30 AM
To: Madan, Rafael A.; Sausjord, Ingrid; Pensinger, John
Cc: Elwood, Courtney; Henke, Tracy (SMO)
Subject: RE: NIJ interim requirements - body armor

Subject to Tracy and Courtney's comments, I have no further comment. As I told Regina this morning, I think we are very much headed in the right direction and I'm really grateful to you and all of the team at OJP for the hard work and resulting work product.

-----Original Message-----
From: Madan, Rafael A.
Sent: Monday, August 01, 2005 6:48 PM
To: Gorsuch, Neil M
Cc: Elwood, Courtney; Sausjord, Ingrid; Pensinger, John
Subject: RE: NIJ interim requirements - body armor

Neil: Attached is the draft memo to the AG (sent to you by Jana White the other day), which contains all the proposed recommendations - except for the draft one I sent you earlier today. I hope this serves. Rafe

> -----Original Message-----
> **From:** Gorsuch, Neil M
> **Sent:** Monday, August 01, 2005 5:51 PM
> **To:** Madan, Rafael A.
> **Subject:** RE: NIJ interim requirements - body armor
>
> I will give this a close read and look forward to seeing all the recommendations to place these in context, but on first glance it seems like we are very much headed in the right direction.
> -----Original Message-----
> **From:** Madan, Rafael A.
> **Sent:** Monday, August 01, 2005 4:40 PM
> **To:** Gorsuch, Neil M; Elwood, Courtney
> **Cc:** Sausjord, Ingrid; Pensinger, John
> **Subject:** NIJ interim requirements - body armor
>
> Courtney--
> Neil--
>
> Below, for your review and comments, please find the following discussion drafts: (1) a new recommendation paragraph (1.C.) for the AG memo; and (2) revised NIJ 2005 Requirements. Please let me know if you have any questions. Thanks, Rafe
>
> 1. AG Recommendation 1.C.:

We recommend that NIJ be directed to prepare an audit plan within 45 days, to aid in ensuring that - pending completion of the new replacement standard and while the NIJ interim requirements are in effect - body armor models deemed compliant with such interim requirements, in fact maintain their ballistic performance during their respective declared warranty periods.

2. **NIJ 2005 Interim Requirements for Bullet-Resistant Body Armor**

Effective Date

These requirements will become effective on _____.

Purpose and Scope

These requirements modify and supplement National Institute of Justice (NIJ) Standard 0101.04 (Ballistic Resistance of Personal Body Armor). They are promulgated on an interim basis to address recent NIJ research findings that indicate that certain body armor models previously found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04) may not adequately maintain ballistic resistance during their service life.

NIJ recommends that those who purchase new bullet-resistant body armor after the effective date hereof select body armor models that comply with these interim requirements. A list of models that comply with these requirements will be made available on or before such effective date at: http://www.justnet.org. NIJ will no longer publish lists of models found by NIJ (prior to the effective date hereof) to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04).

NIJ's efforts to ensure the safety of public safety officers are ongoing. NIJ intends to promulgate future modifications to these interim requirements as appropriate in light of its continued research and comments from the law enforcement and manufacturing communities. Comments and suggestions should be directed to the Director, Office of Science and Technology, National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street, N.W., Washington, D.C. 20531.

Requirements

Body armor models submitted to the NIJ Voluntary Compliance Testing Program on or after the effective date hereof shall be subject to the following requirements:

1. Satisfaction of all of the requirements of NIJ Standard 0101.04 (including Addendum B), except as such requirements may be modified hereby;

2. Either-

(a) Submission of evidence (*e.g.*, design drawings and specifications, lists of materials of construction of each component of the model, research, ballistic testing, descriptions of performance characteristics of critical components or materials, *etc.*) that reasonably demonstrates, to the satisfaction of NIJ, that the model will maintain ballistic performance (consistent with its originally declared threat level) over its declared warranty period; or

(b) Submission of a written certification by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that-

(1) the model contains no material listed in an NIJ Body Armor Standard Advisory Notice in effect at the time of submission;

(2) lists the materials of construction of each component of the model; and

(3) the manufacturer-

(A) reasonably believes (based on objective criteria or -evidence) that the model will maintain ballistic performance (consistent with its originally declared threat level) over its declared warranty period; and

(B) agrees to provide NIJ, promptly on demand, the evidence described in ¶ 2 (a);

3. Labeling of armor shall be in accordance with NIJ Standard 0101.04, except that any references to such standard thereon shall instead be to the "NIJ 2005 Interim Requirements"; and

4. Written acknowledgment by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that-

(a) Recent NIJ research findings indicate that certain body armor models that were found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04) may not adequately maintain ballistic resistance during their service life;

(b) NIJ recommends that those who purchase new bullet-resistant body armor select body armor models that comply with the NIJ 2005 Interim Requirements;

(c) NIJ will no longer publish lists of models found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04); and

(d) Any list or database of compliant body armor models published or sponsored by NIJ will include only models that are found by NIJ to comply with the NIJ 2005 Interim Requirements.

Transition Provision

Any body armor model submitted by a manufacturer that was found by NIJ to be compliant with NIJ Standard 0101.04 prior to the effective date hereof shall be deemed to comply with the NIJ 2005 Interim Requirements (pursuant to an NIJ notice of such compliance) upon submission by such manufacturer to NIJ of-

1. A written certification by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that labeling of armor manufactured after receipt from NIJ of the notice of compliance shall comply with Requirements ¶ 3;

2. The written acknowledgment described in Requirements ¶ 4; and

3. Either-

(a) The evidence described in Requirements ¶ 2(a); or

(b) The written certification described in Requirements ¶ 2(b)(1) & (2), except that such body armor model shall be deemed no longer to be in such compliance (and removed from any NIJ list of models that comply with the Requirements) unless the written certification described in Requirements ¶ 2(b)(3) is submitted to NIJ within 180 days of receipt from NIJ of the notice of compliance.

Loss of Compliance Status

Any body armor model found or deemed to comply with the NIJ 2005 Interim Requirements that contains any material subsequently listed in an NIJ Body Armor Standard Advisory Notice shall be deemed no longer to be in such compliance (and removed from any NIJ list of models that comply with the Requirements) until satisfactory evidence is submitted as described in Requirements ¶ 2(a).

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 02, 2005 10:23 AM
To: Elwood, Courtney
Subject: RE: NIJ interim requirements - body armor

Not at all; happy to help as appropriate, but I think Rafe has done a good job satisfying most of my concerns.
-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, August 02, 2005 10:01 AM
To: Gorsuch, Neil M
Subject: RE: NIJ interim requirements - body armor

So are you bowing out of the body armor business?
-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, August 02, 2005 9:30 AM
To: Madan, Rafael A.; Sausjord, Ingrid; Pensinger, John
Cc: Elwood, Courtney; Henke, Tracy (SMO)
Subject: RE: NIJ interim requirements - body armor

Subject to Tracy and Courtney's comments, I have no further comment. As I told Regina this morning, I think we are very much headed in the right direction and I'm really grateful to you and all of the team at OJP for the hard work and resulting work product.

-----Original Message-----
From: Madan, Rafael A.
Sent: Monday, August 01, 2005 6:48 PM
To: Gorsuch, Neil M
Cc: Elwood, Courtney; Sausjord, Ingrid; Pensinger, John
Subject: RE: NIJ interim requirements - body armor

Neil: Attached is the draft memo to the AG (sent to you by Jana White the other day), which contains all the proposed recommendations - except for the draft one I sent you earlier today. I hope this serves. Rafe

> -----Original Message-----
> **From:** Gorsuch, Neil M
> **Sent:** Monday, August 01, 2005 5:51 PM
> **To:** Madan, Rafael A.
> **Subject:** RE: NIJ interim requirements - body armor
>
> I will give this a close read and look forward to seeing all the recommendations to place these in context, but on first glance it seems like we are very much headed in the right direction.
> -----Original Message-----
> **From:** Madan, Rafael A.
> **Sent:** Monday, August 01, 2005 4:40 PM
> **To:** Gorsuch, Neil M; Elwood, Courtney
> **Cc:** Sausjord, Ingrid; Pensinger, John
> **Subject:** NIJ interim requirements - body armor
>
> Courtney--
> Neil--

Below, for your review and comments, please find the following discussion drafts: (1) a new recommendation paragraph (1.C.) for the AG memo; and (2) revised NIJ 2005 Requirements. Please let me know if you have any questions. Thanks, Rafe

1. AG Recommendation 1.C.:

We recommend that NIJ be directed to prepare an audit plan within 45 days, to aid in ensuring that - pending completion of the new replacement standard and while the NIJ interim requirements are in effect - body armor models deemed compliant with such interim requirements, in fact maintain their ballistic performance during their respective declared warranty periods.

2. **NIJ 2005 Interim Requirements for Bullet-Resistant Body Armor**

Effective Date

These requirements will become effective on _____.

Purpose and Scope

These requirements modify and supplement National Institute of Justice (NIJ) Standard 0101.04 (Ballistic Resistance of Personal Body Armor). They are promulgated on an interim basis to address recent NIJ research findings that indicate that certain body armor models previously found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04) may not adequately maintain ballistic resistance during their service life.

NIJ recommends that those who purchase new bullet-resistant body armor after the effective date hereof select body armor models that comply with these interim requirements. A list of models that comply with these requirements will be made available on or before such effective date at: http://www.justnet.org. NIJ will no longer publish lists of models found by NIJ (prior to the effective date hereof) to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04).

NIJ's efforts to ensure the safety of public safety officers are ongoing. NIJ intends to promulgate future modifications to these interim requirements as appropriate in light of its continued research and comments from the law enforcement and manufacturing communities. Comments and suggestions should be directed to the Director, Office of Science and Technology, National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street, N.W., Washington, D.C. 20531.

Requirements

Body armor models submitted to the NIJ Voluntary Compliance Testing Program on or after the effective date hereof shall be subject to the following requirements:

1. Satisfaction of all of the requirements of NIJ Standard 0101.04 (including Addendum B), except as such requirements may be modified hereby;

2. Either-

(a) Submission of evidence (*e.g.*, design drawings and specifications, lists of materials of construction of each component of the model, research, ballistic testing, descriptions of performance characteristics of critical components or materials, *etc.*) that reasonably demonstrates, to the satisfaction of NIJ, that the model will maintain ballistic performance (consistent with its originally declared threat level) over its declared warranty period; or

(b) Submission of a written certification by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that-

(1) the model contains no material listed in an NIJ Body Armor Standard Advisory Notice in effect at the time of submission;

(2) lists the materials of construction of each component of the model; and

(3) the manufacturer-

(A) reasonably believes (based on objective criteria or -evidence) that the model will maintain ballistic performance (consistent with its originally declared threat level) over its declared warranty period; and

(B) agrees to provide NIJ, promptly on demand, the evidence described in ¶ 2 (a);

3. Labeling of armor shall be in accordance with NIJ Standard 0101.04, except that any references to such standard thereon shall instead be to the "NIJ 2005 Interim Requirements"; and

4. Written acknowledgment by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that-

(a) Recent NIJ research findings indicate that certain body armor models that were found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04) may not adequately maintain ballistic resistance during their service life;

(b) NIJ recommends that those who purchase new bullet-resistant body armor select body armor models that comply with the NIJ 2005 Interim Requirements;

(c) NIJ will no longer publish lists of models found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04); and

(d) Any list or database of compliant body armor models published or sponsored by NIJ will include only models that are found by NIJ to comply with the NIJ 2005 Interim Requirements.

Transition Provision

Any body armor model submitted by a manufacturer that was found by NIJ to be compliant with NIJ Standard 0101.04 prior to the effective date hereof shall be deemed to comply with the NIJ 2005 Interim Requirements (pursuant to an NIJ notice of such compliance) upon submission by such manufacturer to NIJ of-

1. A written certification by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that labeling of armor

form as may be prescribed by NIJ from time to time, that labeling of armor manufactured after receipt from NIJ of the notice of compliance shall comply with Requirements ¶ 3;

2. The written acknowledgment described in Requirements ¶ 4; and

3. Either-

(a) The evidence described in Requirements ¶ 2(a); or

(b) The written certification described in Requirements ¶ 2(b)(1) & (2), except that such body armor model shall be deemed no longer to be in such compliance (and removed from any NIJ list of models that comply with the Requirements) unless the written certification described in Requirements ¶ 2(b)(3) is submitted to NIJ within 180 days of receipt from NIJ of the notice of compliance.

Loss of Compliance Status

Any body armor model found or deemed to comply with the NIJ 2005 Interim Requirements that contains any material subsequently listed in an NIJ Body Armor Standard Advisory Notice shall be deemed no longer to be in such compliance (and removed from any NIJ list of models that comply with the Requirements) until satisfactory evidence is submitted as described in Requirements ¶ 2(a).

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 02, 2005 10:59 AM
To: Wiggins, Mike
Subject: what's email for phil?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 02, 2005 11:34 AM
To: [redacted]
Subject: FW: Conference Number

for 11:45 conference

-----Original Message-----
From: Shaw, Aloma A
Sent: Tuesday, August 02, 2005 11:32 AM
To: Gorsuch, Neil M
Subject: Conference Number

Neil:

The conferene telephone number is [redacted]

If you'd like me to contact the conferees, please provide their names.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 02, 2005 2:00 PM
To: Sausjord, Ingrid
Subject: RE: Re: Revised NIJ Interim Requirements

Would you be able to highlight the changes?

-----Original Message-----
From: Sausjord, Ingrid
Sent: Tuesday, August 02, 2005 1:53 PM
To: Henke, Tracy (SMO); Gorsuch, Neil M; Elwood, Courtney
Cc: Schofield, Regina; Daley, Cybele; White, Jana; Tzitzon, Nicholas; Hart, Sarah V.; Morgan, John; Madan, Rafael A.; Pensinger, John; rafemadan@yahoo.com
Subject: Re: Revised NIJ Interim Requirements

Further to Rafe's conversation with Courtney Elwood, Rafe has asked me to forward these latest revisions for your review and comments.

Ingrid Sausjord
OJP Office of the General Counsel
4-2157

1. AG Memo Recommendation 1.C.:

We recommend that NIJ be directed to prepare an audit plan within 45 days, to aid in ensuring that - pending completion of the new replacement standard and while the NIJ interim requirements are in effect - body armor models found or deemed compliant with such interim requirements, in fact maintain their ballistic performance during their respective declared warranty periods.

2. **NIJ 2005 Interim Requirements for Bullet-Resistant Body Armor**

Effective Date

These requirements will become effective on _____.

Purpose and Scope

These requirements modify and supplement National Institute of Justice (NIJ) Standard 0101.04 (Ballistic Resistance of Personal Body Armor). They are promulgated on an interim basis to address recent NIJ research findings that indicate that certain body armor models previously found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04) may not adequately maintain ballistic performance during their service life. In keeping with their interim character, these requirements rely (in significant part) for their enforcement mechanism on specific certifications from manufacturers of body armor. To help ensure the overall soundness of this mechanism and the accuracy of the certifications, NIJ intends to implement an appropriate plan for random or other audits.

NIJ recommends that those who purchase new bullet-resistant body armor after the effective date hereof select body armor models that comply with these interim requirements. A list of models that comply with these requirements will be made available on or before such effective date at: <http://www.justnet.org>. NIJ will no longer publish lists of models found by NIJ (prior to the effective date hereof) to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04).

NIJ's efforts to ensure the safety of public safety officers are ongoing; NIJ intends to promulgate future modifications to these interim requirements as appropriate in light of its continued research and comments from the law enforcement and manufacturing communities. Also, further to these efforts, from time to time, NIJ may issue Body Armor Standard Advisory Notices, among other things to identify to the public body armor materials that appear to create a risk of death or serious injury as a result of degraded ballistic performance. Comments and suggestions should be directed to the Director, Office of Science and Technology, National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street, N.W., Washington, D.C. 20531.

Requirements

Body armor models submitted to the NIJ Voluntary Compliance Testing Program on or after the effective date hereof shall be subject to the following requirements:

1. Satisfaction of all of the requirements of NIJ Standard 0101.04 (including Addendum B), except as such requirements may be modified hereby;

2. Either-

(a) Submission of evidence (*e.g.*, design drawings and specifications, lists of materials of construction of each component of the model, research, ballistic testing, descriptions of performance characteristics of critical components or materials, *etc.*) that reasonably demonstrates that the model will maintain ballistic performance (consistent with its originally declared threat level) over its declared warranty period; or

(b) Submission of a written certification by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that-

(1) the model contains no material listed in an NIJ Body Armor Standard Advisory Notice in effect at the time of submission;

(2) lists the materials of construction of each component of the model; and

(3) the manufacturer-

(A) reasonably believes (based on objective criteria or -evidence) that the model will maintain ballistic performance (consistent with its originally declared threat level) over its declared warranty period; and

(B) agrees to provide NIJ, promptly on demand, the evidence described in ¶ 2(a);

3. Labeling of armor shall be in accordance with NIJ Standard 0101.04, except that any references to such standard thereon shall instead be to the "NIJ 2005 Interim Requirements"; and

4. Written acknowledgment by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that-

(a) Recent NIJ research findings indicate that certain body armor models that were found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04) may not adequately maintain ballistic performance during their service life;

(b) NIJ recommends that those who purchase new bullet-resistant body armor select body armor models that comply with the NIJ 2005 Interim Requirements;

(c) NIJ will no longer publish lists of models found by NIJ to be compliant with earlier NIJ requirements for ballistic resistance of new body armor (including NIJ Standard 0101.04); and

(d) Any list or database of compliant body armor models published or sponsored by NIJ will include only models that are found by NIJ to comply with

the NIJ 2005 Interim Requirements.

Transition Provision

Any body armor model submitted by a manufacturer that was found by NIJ to be compliant with NIJ Standard 0101.04 prior to the effective date hereof shall be deemed to comply with the NIJ 2005 Interim Requirements (pursuant to an NIJ notice of such compliance) upon submission by such manufacturer to NIJ of-

1. A written certification by an appropriate officer of the manufacturer, in such form as may be prescribed by NIJ from time to time, that labeling of armor manufactured after receipt from NIJ of the notice of compliance shall comply with Requirements ¶ 3;
2. The written acknowledgment described in Requirements ¶ 4; and
3. Either-
    (a) The evidence described in Requirements ¶ 2(a); or
    (b) The written certification described in Requirements ¶ 2(b)(1) & (2), except that such body armor model shall be deemed no longer to be in such compliance (and removed from any NIJ list of models that comply with the Requirements) unless the written certification described in Requirements ¶ 2(b)(3) is submitted to NIJ within 180 days of receipt from NIJ of the notice of compliance.

Loss of Compliance Status pursuant to Advisory Notice

Any body armor model found or deemed to comply with the NIJ 2005 Interim Requirements that contains any material subsequently listed in an NIJ Body Armor Standard Advisory Notice shall be deemed no longer to be in such compliance (and removed from any NIJ list of models that comply with the Requirements) until after evidence is submitted as described in Requirements ¶ 2(a).

Labeling after Loss of Compliance Status

Armor manufactured during a period in which the armor model does not comply (or is deemed not to comply) with the NIJ 2005 Interim Requirements shall not be labeled as compliant with them.

Reasonable Demonstration of Maintenance of Ballistic Performance
NIJ will determine the sufficiency of any submission described in Requirements ¶ 2(a).

Sausjord, Ingrid

From: Sausjord, Ingrid
Sent: Tuesday, August 02, 2005 2:12 PM
To: Gorsuch, Neil M
Subject: Read: Revised NIJ Interim Requirements

From: Gorsuch, Neil M
Sent: Tuesday, August 02, 2005 4:02 PM
To: Brett Gerry (E-mail)
Subject: FW: DEPARTMENT OF JUSTICE TO HOLD BALLOT ACCESS AND VOTING INTEGRITY SYMPOSIUM

FYI. It's official.

-----Original Message-----
From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 02, 2005 3:01 PM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE TO HOLD BALLOT ACCESS AND VOTING INTEGRITY SYMPOSIUM

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 2, 2005
WWW.USDOJ.GOV

AG
(202) 514-2008
TDD (202) 514-1888

DEPARTMENT OF JUSTICE TO HOLD BALLOT ACCESS AND VOTING INTEGRITY SYMPOSIUM

Conference to Focus on Election Fraud, Voting Rights

WASHINGTON, D.C. - The Department of Justice announced today that the 4th annual Ballot Access and Voting Integrity Symposium will be held in Washington, D.C. on Oct. 4 and 5, 2005. The annual training conference is part of the Ballot Access and Voting Integrity Initiative, which was established in October 2002 to spearhead the Department's expanded efforts to address election fraud and voting rights violations.

The initiative is headed by the Assistant Attorneys General of the Criminal and Civil Rights Divisions. The goal of the initiative is to protect the integrity of the election process by increasing the Department's efforts and effectiveness in combating election fraud by: publicizing election fraud convictions to deter similar crimes in the future; ensuring nationwide compliance with the federal laws protecting voting rights; and assuring the public that the Department will combat election fraud and voting rights abuses vigorously, fairly and effectively.

"The power to vote is one of the greatest opportunities we share as Americans," said Attorney General Alberto R. Gonzales. "The very fiber of our Nation rests on the zealous protection of certain inalienable rights for every citizen, and we cannot grow complacent in the safeguarding of those rights. The Department of Justice will continue to aggressively protect each person's right to vote - and just as important - preserve the value of that vote from those who would corrupt the election process."

The Ballot Access and Voting Integrity Initiative includes:

Annual Training. Prosecutors serving as District Election Officers in the 94 U.S. Attorneys' Offices are required to attend annual training conferences on fighting election fraud and voting rights abuses. Previous conferences were held in October 2002, September 2003 and July 2004. These conferences are sponsored by the Voting Section of the Civil Rights Division and the Public Integrity Section of the Criminal Division, and feature presentations by Civil Rights officials and senior prosecutors from the Public Integrity Section and the U.S. Attorneys' Offices. As a result of these conferences, there is a nationwide increase in Department expertise relating to the prosecution of election crimes and the enforcement of voting rights.

State Coordination. Each U.S. Attorney is required to meet with the state Attorney General, Secretary of State, or other state official responsible for handling election matters in his or her district. These meetings underscore the Department's commitments to: prosecute election fraud and to protect voting rights; coordinate investigation of criminal matters involving joint federal and state jurisdiction; help ensure state compliance with federal voting rights laws; and avoid interference with the administration of elections, a function left primarily to the states by the Constitution. In addition, several U.S. Attorneys have established task forces with their state counterparts to increase their effectiveness in addressing election fraud and in deterring both discrimination at the polls and electoral corruption.

Prioritization of Election Fraud Enforcement. The initiative requires that all components of the Department place a high priority on the investigation and prosecution of election fraud. The Criminal Division's Public Integrity Section oversees the national effort to ensure that election fraud investigations and charges have sufficient factual and legal predication, that they will not interfere with an ongoing election, and that a national standard is maintained in this critical area of criminal law enforcement. As a result of the initiative, nationwide enforcement of election fraud matters has increased dramatically.

More than 120 election fraud investigations are currently pending throughout the country, all but four of which were opened after the initiative began in October 2002. In addition, over 60 election fraud matters have been closed after investigation since the initiative began. Finally, since the start of the initiative, 89 individuals have been charged with election fraud offenses.
To date, 52 of these individuals have been convicted.

The following are examples of the Department's enforcement successes under the Ballot Access and Voting Integrity Initiative:

CRIMINAL DIVISION

- In Illinois, four precinct officials pleaded guilty to vote buying in the 2004 general election and five more people are awaiting trial on these charges. Also, an election official pleaded guilty to forging ballots in the 2002 general election.

- In Kentucky, seven persons were convicted of vote buying in the 1998 primary in Knott County, two at trial and five through guilty pleas. Another three persons recently were indicted for vote buying for a candidate for the state senate in the 2000 primary in Knott County and neighboring counties. Finally, four persons were convicted by juries of vote buying and related offenses in the 2002 general election in Pike County, including the county district judge. Another person also pleaded guilty to these charges.

- In New Hampshire, two political party officials and another person were indicted on charges relating to a scheme to prevent voters from getting to the polls in the November 2002 general election by jamming phone lines of local organizations. Two of the defendants pleaded guilty to telephone harassment

DOJ_NMG_ 0145856

charges and the third is awaiting trial for conspiring to violate the right to vote for federal officials and other related offenses.

- In Kansas and Missouri, three Kansas residents have been convicted, one in Kansas and two in Missouri, of voting in both Kansas and Missouri in the 2002 and 2000 elections.

- In Florida, 14 non-citizens, including a candidate for the state legislature, pleaded guilty or were convicted at trial of voting-related offenses in 1998 or later elections.

- In Louisiana, a candidate for St. Martinsville City Council pleaded guilty to conspiring to submit false voter registration information in 2002.

- In North Carolina, five persons were convicted of vote buying in the 2002 general election, three by a jury and two through guilty pleas.

- In West Virginia, four individuals, including the sheriff, the former chief of police, and the treasurer of a candidate for state representative, pleaded guilty to vote buying and related offenses in Logan County in the 2004 or 2002 elections. Also, five people have been indicted and are awaiting trial on charges of vote buying in Lincoln County in 2004 and earlier elections.

- In Wisconsin, four individuals have been charged with multiple voting, and six people have been charged with providing false information regarding their felon status, in the 2004 general elections.

CIVIL RIGHTS DIVISION

- **Election Coverage.** On Election Day in November 2004, the Division sent out 251 employees from the Division and 822 federal observers from the Office of Personnel Management (OPM) to monitor elections in 86 political subdivisions in 25 states. The number of monitors and observers used for that election was more than were used in all of 2000. During all of 2004, the Division sent a total of 1,996 individuals (533 department personnel; 1,463 OPM observers) to monitor 163 elections in 105 political subdivisions in 29 states.

- **Sections 203, 208 and 4(f)(4) of the Voting Rights Act.** The Civil Rights Division has undertaken the most vigorous enforcement of section 203 in the history of the Act. Since 2001, the Division has filed as many section 203 cases as in the previous 23 years, and the pace is accelerating, with more cases filed and successfully resolved since May 2004 than in the previous 11 years. These latter lawsuits alone provided comprehensive minority language programs to more citizens than all previous Section 203 and 4(f)(4) cases combined. During this period the Civil Rights Division filed the first-ever cases to protect Filipino voters (San Diego, California) and Vietnamese voters (San Diego) and in addition it negotiated a private agreement in Harris County, Texas. The Division also used sections 2, 4(e) and 208 to protect the rights of Haitian voters (Miami-Dade, Florida), Arab voters (Hamtramck, Michigan), and Puerto Rican voters (Berks County, Pennsylvania).

- **Section 2**. In July 2005, the Civil Rights Division filed a case against Osceola, Florida under section 2 alleging that the at-large method of election for the county commission dilutes Hispanic voting strength. It also filed a case against Boston, Massachusetts for discriminatory treatment of Chinese, Vietnamese and Hispanic voters at the same time. In February 2005, the Division filed a case in Noxubee County, Mississippi under section 2, alleging that local officials routinely discriminated against white voters on the basis of their race. That case has already resulted in a consent decree with several local officials and

DOJ_NMG_ 0145857

litigation of the claims against remaining defendants is ongoing. The Noxubee County case marks the first time the Division has filed a case under the Voting Rights Act on behalf of white voters.

- **HAVA.** The Civil Rights Division is charged with enforcing the requirements of the Help America Vote Act of 2002, which mandates uniform and non-discriminatory election procedures for federal office. The Division has actively informed state and local officials of the Act's requirements through an extensive outreach effort, including the creation of a HAVA section on the Division website, responses to questions from election officials, and speeches given to election official conferences. The Division has worked closely with the Election Assistance Commission, which also has responsibilities under the Act, to ensure that the federal government gives consistent views to election officials about HAVA. The Division has obtained extensive voluntary compliance, but has also filed two lawsuits to ensure HAVA compliance, and has filed amicus briefs in several private HAVA cases to ensure consistency in interpretation of its provisions.

- **UOCAVA.** During 2004, the Civil Rights Division ensured that members of the armed forces and other persons protected by the Uniformed and Overseas Citizens Absentee Voting Act were able to request, receive and cast a ballot for federal offices in a timely manner in the 2004 elections. The Voting Section was able to resolve problems with state officials without the necessity of litigation, and also initiated litigation against Pennsylvania in April 2004 and Georgia in July 2004, successfully obtaining court orders requiring changes in the deadlines for the return of ballots so that overseas and military ballots would be counted in each state's 2004 primary election.

- **NVRA.** The Division brought two lawsuits under the National Voter Registration Act, a law designed to expand registration opportunities for all citizens and to ensure proper maintenance of voter registration lists. In *United States v. Pulaski County* (E.D. Ark.), the Division obtained a consent decree requiring the county to establish procedures to ensure that eligible voters were not improperly removed from the list of registered voters. The second lawsuit, *United States v. State of New York* (N.D.N.Y.), challenged the state's failure to provide registration opportunities at public college offices that provide services to persons with disabilities. This case remains in litigation. A third NVRA lawsuit remains pending in New York.

"As these election fraud and voting rights cases demonstrate, the Department's Ballot Access and Voting Integrity Initiative is a balanced law enforcement effort that is designed to make voting easier and cheating harder," said Acting Assistant Attorney General John C. Richter of the Criminal Division. "The Criminal Division, through the hard work of the Public Integrity Section, will continue its vigorous enforcement of voter fraud laws to ensure that elections are not corrupted and that every vote counts."

"Protecting access to the ballot for all eligible voters is a major priority of the Civil Rights Division," said Bradley J. Schlozman, Acting Assistant Attorney General for the Civil Rights Division. "The Ballot Access and Voting Integrity Initiative has been an important instrument in ensuring the effectiveness of our enforcement efforts."

###

05-404

DOJ_NMG_ 0145858

Image not available for this document, ID: 0.7.10316.73334-000001

Image not available for this document, ID: 0.7.10316.73334-000002

From: Gorsuch, Neil M
Sent: Tuesday, August 02, 2005 4:03 PM
To: Mike Davis (E-mail)
Subject: FW: DEPARTMENT OF JUSTICE TO HOLD BALLOT ACCESS AND VOTING INTEGRITY SYMPOSIUM

FYI. This was just released.

-----Original Message-----
From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 02, 2005 3:01 PM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE TO HOLD BALLOT ACCESS AND VOTING INTEGRITY SYMPOSIUM

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 2, 2005
WWW.USDOJ.GOV

AG
(202) 514-2008
TDD (202) 514-1888

DEPARTMENT OF JUSTICE TO HOLD BALLOT ACCESS AND VOTING INTEGRITY SYMPOSIUM

Conference to Focus on Election Fraud, Voting Rights

WASHINGTON, D.C. - The Department of Justice announced today that the 4th annual Ballot Access and Voting Integrity Symposium will be held in Washington, D.C. on Oct. 4 and 5, 2005. The annual training conference is part of the Ballot Access and Voting Integrity Initiative, which was established in October 2002 to spearhead the Department's expanded efforts to address election fraud and voting rights violations.

The initiative is headed by the Assistant Attorneys General of the Criminal and Civil Rights Divisions. The goal of the initiative is to protect the integrity of the election process by increasing the Department's efforts and effectiveness in combating election fraud by: publicizing election fraud convictions to deter similar crimes in the future; ensuring nationwide compliance with the federal laws protecting voting rights; and assuring the public that the Department will combat election fraud and voting rights abuses vigorously, fairly and effectively.

"The power to vote is one of the greatest opportunities we share as Americans," said Attorney General Alberto R. Gonzales. "The very fiber of our Nation rests on the zealous protection of certain inalienable rights for every citizen, and we cannot grow complacent in the safeguarding of those rights. The Department of Justice will continue to aggressively protect each person's right to vote - and just as important - preserve the value of that vote from those who would corrupt the election process."

The Ballot Access and Voting Integrity Initiative includes:

Annual Training. Prosecutors serving as District Election Officers in the 94 U.S. Attorneys' Offices are required to attend annual training conferences on fighting election fraud and voting rights abuses. Previous conferences were held in October 2002, September 2003 and July 2004. These conferences are sponsored by the Voting Section of the Civil Rights Division and the Public Integrity Section of the Criminal Division, and feature presentations by Civil Rights officials and senior prosecutors from the Public Integrity Section and the U.S. Attorneys' Offices. As a result of these conferences, there is a nationwide increase in Department expertise relating to the prosecution of election crimes and the enforcement of voting rights.

State Coordination. Each U.S. Attorney is required to meet with the state Attorney General, Secretary of State, or other state official responsible for handling election matters in his or her district. These meetings underscore the Department's commitments to: prosecute election fraud and to protect voting rights; coordinate investigation of criminal matters involving joint federal and state jurisdiction; help ensure state compliance with federal voting rights laws; and avoid interference with the administration of elections, a function left primarily to the states by the Constitution. In addition, several U.S. Attorneys have established task forces with their state counterparts to increase their effectiveness in addressing election fraud and in deterring both discrimination at the polls and electoral corruption.

Prioritization of Election Fraud Enforcement. The initiative requires that all components of the Department place a high priority on the investigation and prosecution of election fraud. The Criminal Division's Public Integrity Section oversees the national effort to ensure that election fraud investigations and charges have sufficient factual and legal predication, that they will not interfere with an ongoing election, and that a national standard is maintained in this critical area of criminal law enforcement. As a result of the initiative, nationwide enforcement of election fraud matters has increased dramatically.

More than 120 election fraud investigations are currently pending throughout the country, all but four of which were opened after the initiative began in October 2002. In addition, over 60 election fraud matters have been closed after investigation since the initiative began. Finally, since the start of the initiative, 89 individuals have been charged with election fraud offenses.
To date, 52 of these individuals have been convicted.

The following are examples of the Department's enforcement successes under the Ballot Access and Voting Integrity Initiative:

CRIMINAL DIVISION

- In Illinois, four precinct officials pleaded guilty to vote buying in the 2004 general election and five more people are awaiting trial on these charges. Also, an election official pleaded guilty to forging ballots in the 2002 general election.

- In Kentucky, seven persons were convicted of vote buying in the 1998 primary in Knott County, two at trial and five through guilty pleas. Another three persons recently were indicted for vote buying for a candidate for the state senate in the 2000 primary in Knott County and neighboring counties. Finally, four persons were convicted by juries of vote buying and related offenses in the 2002 general election in Pike County, including the county district judge. Another person also pleaded guilty to these charges.

- In New Hampshire, two political party officials and another person were indicted on charges relating to a scheme to prevent voters from getting to the polls in the November 2002 general election by jamming phone lines of local organizations. Two of the defendants pleaded guilty to telephone harassment charges and the third is awaiting trial for conspiring to violate the right to vote for federal officials and other related offenses.

DOJ_NMG_ 0145862

- In Kansas and Missouri, three Kansas residents have been convicted, one in Kansas and two in Missouri, of voting in both Kansas and Missouri in the 2002 and 2000 elections.

- In Florida, 14 non-citizens, including a candidate for the state legislature, pleaded guilty or were convicted at trial of voting-related offenses in 1998 or later elections.

- In Louisiana, a candidate for St. Martinsville City Council pleaded guilty to conspiring to submit false voter registration information in 2002.

- In North Carolina, five persons were convicted of vote buying in the 2002 general election, three by a jury and two through guilty pleas.

- In West Virginia, four individuals, including the sheriff, the former chief of police, and the treasurer of a candidate for state representative, pleaded guilty to vote buying and related offenses in Logan County in the 2004 or 2002 elections. Also, five people have been indicted and are awaiting trial on charges of vote buying in Lincoln County in 2004 and earlier elections.

- In Wisconsin, four individuals have been charged with multiple voting, and six people have been charged with providing false information regarding their felon status, in the 2004 general elections.

CIVIL RIGHTS DIVISION

- **Election Coverage.** On Election Day in November 2004, the Division sent out 251 employees from the Division and 822 federal observers from the Office of Personnel Management (OPM) to monitor elections in 86 political subdivisions in 25 states. The number of monitors and observers used for that election was more than were used in all of 2000. During all of 2004, the Division sent a total of 1,996 individuals (533 department personnel; 1,463 OPM observers) to monitor 163 elections in 105 political subdivisions in 29 states.

- **Sections 203, 208 and 4(f)(4) of the Voting Rights Act.** The Civil Rights Division has undertaken the most vigorous enforcement of section 203 in the history of the Act. Since 2001, the Division has filed as many section 203 cases as in the previous 23 years, and the pace is accelerating, with more cases filed and successfully resolved since May 2004 than in the previous 11 years. These latter lawsuits alone provided comprehensive minority language programs to more citizens than all previous Section 203 and 4(f)(4) cases combined. During this period the Civil Rights Division filed the first-ever cases to protect Filipino voters (San Diego, California) and Vietnamese voters (San Diego) and in addition it negotiated a private agreement in Harris County, Texas. The Division also used sections 2, 4(e) and 208 to protect the rights of Haitian voters (Miami-Dade, Florida), Arab voters (Hamtramck, Michigan), and Puerto Rican voters (Berks County, Pennsylvania).

- **Section 2**. In July 2005, the Civil Rights Division filed a case against Osceola, Florida under section 2 alleging that the at-large method of election for the county commission dilutes Hispanic voting strength. It also filed a case against Boston, Massachusetts for discriminatory treatment of Chinese, Vietnamese and Hispanic voters at the same time. In February 2005, the Division filed a case in Noxubee County, Mississippi under section 2, alleging that local officials routinely discriminated against white voters on the basis of their race. That case has already resulted in a consent decree with several local officials and litigation of the claims against remaining defendants is ongoing. The Noxubee County case marks the first time the Division has filed a case under the Voting Rights Act on behalf of white voters.

DOJ_NMG_ 0145863

- **HAVA.** The Civil Rights Division is charged with enforcing the requirements of the Help America Vote Act of 2002, which mandates uniform and non-discriminatory election procedures for federal office. The Division has actively informed state and local officials of the Act's requirements through an extensive outreach effort, including the creation of a HAVA section on the Division website, responses to questions from election officials, and speeches given to election official conferences. The Division has worked closely with the Election Assistance Commission, which also has responsibilities under the Act, to ensure that the federal government gives consistent views to election officials about HAVA. The Division has obtained extensive voluntary compliance, but has also filed two lawsuits to ensure HAVA compliance, and has filed amicus briefs in several private HAVA cases to ensure consistency in interpretation of its provisions.

- **UOCAVA.** During 2004, the Civil Rights Division ensured that members of the armed forces and other persons protected by the Uniformed and Overseas Citizens Absentee Voting Act were able to request, receive and cast a ballot for federal offices in a timely manner in the 2004 elections. The Voting Section was able to resolve problems with state officials without the necessity of litigation, and also initiated litigation against Pennsylvania in April 2004 and Georgia in July 2004, successfully obtaining court orders requiring changes in the deadlines for the return of ballots so that overseas and military ballots would be counted in each state's 2004 primary election.

- **NVRA.** The Division brought two lawsuits under the National Voter Registration Act, a law designed to expand registration opportunities for all citizens and to ensure proper maintenance of voter registration lists. In *United States v. Pulaski County* (E.D. Ark.), the Division obtained a consent decree requiring the county to establish procedures to ensure that eligible voters were not improperly removed from the list of registered voters. The second lawsuit, *United States v. State of New York* (N.D.N.Y.), challenged the state's failure to provide registration opportunities at public college offices that provide services to persons with disabilities. This case remains in litigation. A third NVRA lawsuit remains pending in New York.

"As these election fraud and voting rights cases demonstrate, the Department's Ballot Access and Voting Integrity Initiative is a balanced law enforcement effort that is designed to make voting easier and cheating harder," said Acting Assistant Attorney General John C. Richter of the Criminal Division. "The Criminal Division, through the hard work of the Public Integrity Section, will continue its vigorous enforcement of voter fraud laws to ensure that elections are not corrupted and that every vote counts."

"Protecting access to the ballot for all eligible voters is a major priority of the Civil Rights Division," said Bradley J. Schlozman, Acting Assistant Attorney General for the Civil Rights Division. "The Ballot Access and Voting Integrity Initiative has been an important instrument in ensuring the effectiveness of our enforcement efforts."

###

05-404

DOJ_NMG_ 0145864

Image not available for this document, ID: 0.7.10316.73337-000001

Image not available for this document, ID: 0.7.10316.73337-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 02, 2005 4:03 PM
To: 'Brett Gerry (E-mail)'
Subject: RE: DEPARTMENT OF JUSTICE TO HOLD BALLOT ACCESS AND VOTING INTEGRITY SYMPOSIUM

Sorry for the cryptic email, which I intended for another recipient. You may, however, find this of interest.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, August 02, 2005 4:02 PM
To: Brett Gerry (E-mail)
Subject: FW: DEPARTMENT OF JUSTICE TO HOLD BALLOT ACCESS AND VOTING INTEGRITY SYMPOSIUM

FYI. It's official.

-----Original Message-----
From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 02, 2005 3:01 PM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE TO HOLD BALLOT ACCESS AND VOTING INTEGRITY SYMPOSIUM

<< OLE Object: Picture (Metafile) >> << OLE Object: Picture (Metafile) >>

FOR IMMEDIATE RELEASE
AG
TUESDAY, AUGUST 2, 2005
(202) 514-2008
WWW.USDOJ.GOV
TDD (202) 514-1888

DEPARTMENT OF JUSTICE TO HOLD BALLOT ACCESS AND VOTING INTEGRITY SYMPOSIUM

Conference to Focus on Election Fraud, Voting Rights

WASHINGTON, D.C. - The Department of Justice announced today that the 4th annual Ballot Access and Voting Integrity Symposium will be held in Washington, D.C. on Oct. 4 and 5, 2005. The annual training conference is part of the Ballot Access and Voting Integrity Initiative, which was established in October 2002 to spearhead the Department's expanded efforts to address election fraud and voting rights violations.

The initiative is headed by the Assistant Attorneys General of the Criminal and Civil Rights Divisions. The goal of the initiative is to protect the integrity of the election process by increasing the Department's efforts and effectiveness in combating election fraud by: publicizing election fraud convictions to deter similar crimes in the future; ensuring nationwide compliance

with the federal laws protecting voting rights; and assuring the public that the Department will combat election fraud and voting rights abuses vigorously, fairly and effectively.

"The power to vote is one of the greatest opportunities we share as Americans," said Attorney General Alberto R. Gonzales. "The very fiber of our Nation rests on the zealous protection of certain inalienable rights for every citizen, and we cannot grow complacent in the safeguarding of those rights. The Department of Justice will continue to aggressively protect each person's right to vote - and just as important - preserve the value of that vote from those who would corrupt the election process."

The Ballot Access and Voting Integrity Initiative includes:

Annual Training. Prosecutors serving as District Election Officers in the 94 U.S. Attorneys' Offices are required to attend annual training conferences on fighting election fraud and voting rights abuses. Previous conferences were held in October 2002, September 2003 and July 2004. These conferences are sponsored by the Voting Section of the Civil Rights Division and the Public Integrity Section of the Criminal Division, and feature presentations by Civil Rights officials and senior prosecutors from the Public Integrity Section and the U.S. Attorneys' Offices. As a result of these conferences, there is a nationwide increase in Department expertise relating to the prosecution of election crimes and the enforcement of voting rights.

State Coordination. Each U.S. Attorney is required to meet with the state Attorney General, Secretary of State, or other state official responsible for handling election matters in his or her district. These meetings underscore the Department's commitments to: prosecute election fraud and to protect voting rights; coordinate investigation of criminal matters involving joint federal and state jurisdiction; help ensure state compliance with federal voting rights laws; and avoid interference with the administration of elections, a function left primarily to the states by the Constitution. In addition, several U.S. Attorneys have established task forces with their state counterparts to increase their effectiveness in addressing election fraud and in deterring both discrimination at the polls and electoral corruption.

Prioritization of Election Fraud Enforcement. The initiative requires that all components of the Department place a high priority on the investigation and prosecution of election fraud. The Criminal Division's Public Integrity Section oversees the national effort to ensure that election fraud investigations and charges have sufficient factual and legal predication, that they will not interfere with an ongoing election, and that a national standard is maintained in this critical area of criminal law enforcement. As a result of the initiative, nationwide enforcement of election fraud matters has increased dramatically.

More than 120 election fraud investigations are currently pending throughout the country, all but four of which were opened after the initiative began in October 2002. In addition, over 60 election fraud matters have been closed after investigation since the initiative began. Finally, since the start of the initiative, 89 individuals have been charged with election fraud offenses. To date, 52 of these individuals have been convicted.

The following are examples of the Department's enforcement successes under the Ballot

Access and Voting Integrity Initiative:

CRIMINAL DIVISION

- In Illinois, four precinct officials pleaded guilty to vote buying in the 2004 general election and five more people are awaiting trial on these charges. Also, an election official pleaded guilty to forging ballots in the 2002 general election.

- In Kentucky, seven persons were convicted of vote buying in the 1998 primary in Knott County, two at trial and five through guilty pleas. Another three persons recently were indicted for vote buying for a candidate for the state senate in the 2000 primary in Knott County and neighboring counties. Finally, four persons were convicted by juries of vote buying and related offenses in the 2002 general election in Pike County, including the county district judge. Another person also pleaded guilty to these charges.

- In New Hampshire, two political party officials and another person were indicted on charges relating to a scheme to prevent voters from getting to the polls in the November 2002 general election by jamming phone lines of local organizations. Two of the defendants pleaded guilty to telephone harassment charges and the third is awaiting trial for conspiring to violate the right to vote for federal officials and other related offenses.

- In Kansas and Missouri, three Kansas residents have been convicted, one in Kansas and two in Missouri, of voting in both Kansas and Missouri in the 2002 and 2000 elections.

- In Florida, 14 non-citizens, including a candidate for the state legislature, pleaded guilty or were convicted at trial of voting-related offenses in 1998 or later elections.

- In Louisiana, a candidate for St. Martinsville City Council pleaded guilty to conspiring to submit false voter registration information in 2002.

- In North Carolina, five persons were convicted of vote buying in the 2002 general election, three by a jury and two through guilty pleas.

- In West Virginia, four individuals, including the sheriff, the former chief of police, and the treasurer of a candidate for state representative, pleaded guilty to vote buying and related offenses in Logan County in the 2004 or 2002 elections. Also, five people have been indicted and are awaiting trial on charges of vote buying in Lincoln County in 2004 and earlier elections.

- In Wisconsin, four individuals have been charged with multiple voting, and six people have been charged with providing false information regarding their felon status, in the 2004 general elections.

CIVIL RIGHTS DIVISION

- **Election Coverage.** On Election Day in November 2004, the Division sent out 251

employees from the Division and 822 federal observers from the Office of Personnel Management (OPM) to monitor elections in 86 political subdivisions in 25 states. The number of monitors and observers used for that election was more than were used in all of 2000. During all of 2004, the Division sent a total of 1,996 individuals (533 department personnel; 1,463 OPM observers) to monitor 163 elections in 105 political subdivisions in 29 states.

- **Sections 203, 208 and 4(f)(4) of the Voting Rights Act.** The Civil Rights Division has undertaken the most vigorous enforcement of section 203 in the history of the Act. Since 2001, the Division has filed as many section 203 cases as in the previous 23 years, and the pace is accelerating, with more cases filed and successfully resolved since May 2004 than in the previous 11 years. These latter lawsuits alone provided comprehensive minority language programs to more citizens than all previous Section 203 and 4(f)(4) cases combined. During this period the Civil Rights Division filed the first-ever cases to protect Filipino voters (San Diego, California) and Vietnamese voters (San Diego) and in addition it negotiated a private agreement in Harris County, Texas. The Division also used sections 2, 4(e) and 208 to protect the rights of Haitian voters (Miami-Dade, Florida), Arab voters (Hamtramck, Michigan), and Puerto Rican voters (Berks County, Pennsylvania).

- **Section 2**. In July 2005, the Civil Rights Division filed a case against Osceola, Florida under section 2 alleging that the at-large method of election for the county commission dilutes Hispanic voting strength. It also filed a case against Boston, Massachusetts for discriminatory treatment of Chinese, Vietnamese and Hispanic voters at the same time. In February 2005, the Division filed a case in Noxubee County, Mississippi under section 2, alleging that local officials routinely discriminated against white voters on the basis of their race. That case has already resulted in a consent decree with several local officials and litigation of the claims against remaining defendants is ongoing. The Noxubee County case marks the first time the Division has filed a case under the Voting Rights Act on behalf of white voters.

- **HAVA.** The Civil Rights Division is charged with enforcing the requirements of the Help America Vote Act of 2002, which mandates uniform and non-discriminatory election procedures for federal office. The Division has actively informed state and local officials of the Act's requirements through an extensive outreach effort, including the creation of a HAVA section on the Division website, responses to questions from election officials, and speeches given to election official conferences. The Division has worked closely with the Election Assistance Commission, which also has responsibilities under the Act, to ensure that the federal government gives consistent views to election officials about HAVA. The Division has obtained extensive voluntary compliance, but has also filed two lawsuits to ensure HAVA compliance, and has filed amicus briefs in several private HAVA cases to ensure consistency in interpretation of its provisions.

- **UOCAVA.** During 2004, the Civil Rights Division ensured that members of the armed forces and other persons protected by the Uniformed and Overseas Citizens Absentee Voting Act were able to request, receive and cast a ballot for federal offices in a timely

manner in the 2004 elections. The Voting Section was able to resolve problems with state officials without the necessity of litigation, and also initiated litigation against Pennsylvania in April 2004 and Georgia in July 2004, successfully obtaining court orders requiring changes in the deadlines for the return of ballots so that overseas and military ballots would be counted in each state's 2004 primary election.

- **NVRA.** The Division brought two lawsuits under the National Voter Registration Act, a law designed to expand registration opportunities for all citizens and to ensure proper maintenance of voter registration lists. In *United States v. Pulaski County* (E.D. Ark.), the Division obtained a consent decree requiring the county to establish procedures to ensure that eligible voters were not improperly removed from the list of registered voters. The second lawsuit, *United States v. State of New York* (N.D.N.Y.), challenged the state's failure to provide registration opportunities at public college offices that provide services to persons with disabilities. This case remains in litigation. A third NVRA lawsuit remains pending in New York.

"As these election fraud and voting rights cases demonstrate, the Department's Ballot Access and Voting Integrity Initiative is a balanced law enforcement effort that is designed to make voting easier and cheating harder," said Acting Assistant Attorney General John C. Richter of the Criminal Division. "The Criminal Division, through the hard work of the Public Integrity Section, will continue its vigorous enforcement of voter fraud laws to ensure that elections are not corrupted and that every vote counts."

"Protecting access to the ballot for all eligible voters is a major priority of the Civil Rights Division," said Bradley J. Schlozman, Acting Assistant Attorney General for the Civil Rights Division. "The Ballot Access and Voting Integrity Initiative has been an important instrument in ensuring the effectiveness of our enforcement efforts."

###

05-404

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 2, 2005 4:19 PM
To: Elwood, Courtney
Subject: RE: Friday, 19th

can you give me a ring on uighurs? 305 1434

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, August 02, 2005 4:17 PM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject: Fw: Friday, 19th

Cybele raised with me the logistics of a briefing for the AG on body armor. I told her that he was effectively unavailable until the week of August 15 -- which is quickly filling up on his calendar.

As we iron out the substance of the body armor proposal, I wanted your thoughts on some "process" questions: (1) Will the Associate's office recommend that the AG be briefed by OJP and NIJ on the report and recommendations? (My instinct is yes, but would value your views and, in particular, your understanding of past practices on similar matters.) (2) Will the Associate's office have a recommendation on whether the AG should do a press event in connection with the release of this report, etc.?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Daley, Cybele <Cybele.Daley@usdoj.gov>
Sent: Tue Aug 02 16:08:10 2005
Subject: Re: Friday, 19th

Thanks. What a logistical nightmare. The AG may want to hear from Robert McCallum as well. I'll check with Neil on his travel schedule, and will consult with Ted and the schedulers in the am.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Daley, Cybele <Cybele.Daley@usdoj.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Tue Aug 02 14:30:35 2005
Subject: Friday, 19th

Courtney -- Sarah and Regina are available on Friday, August 19th to brief AG. Sarah will make the

Courtney -- Sarah and Regina are available on Friday, August 19th to brief AG. Sarah will make the adjustment to her vacation. Since you are out the following week and Regina will be on travel the fist part of the week of the 22nd I thought we should get at least the briefing scheduled.

Thanks

Cybele

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 2, 2005 4:22 PM
To: Elwood, Courtney; Henke, Tracy (SMO)
Subject: RE: Friday, 19th

Seems like (1) is a yes, to me, but Tracy may have some further input; (2) could definitely benefit from Tracy's expertise.

Do you want me to check Robert's schedule for Aug 19?

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, August 02, 2005 4:17 PM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject: Fw: Friday, 19th

Cybele raised with me the logistics of a briefing for the AG on body armor. I told her that he was effectively unavailable until the week of August 15 -- which is quickly filling up on his calendar.

As we iron out the substance of the body armor proposal, I wanted your thoughts on some "process" questions: (1) Will the Associate's office recommend that the AG be briefed by OJP and NIJ on the report and recommendations? (My instinct is yes, but would value your views and, in particular, your understanding of past practices on similar matters.) (2) Will the Associate's office have a recommendation on whether the AG should do a press event in connection with the release of this report, etc.?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Daley, Cybele <Cybele.Daley@usdoj.gov>
Sent: Tue Aug 02 16:08:10 2005
Subject: Re: Friday, 19th

Thanks. What a logistical nightmare. The AG may want to hear from Robert McCallum as well. I'll check with Neil on his travel schedule, and will consult with Ted and the schedulers in the am.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Daley, Cybele <Cybele.Daley@usdoj.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Tue Aug 02 14:30:35 2005

Sent: Tue Aug 02 14:30:55 2005
Subject: Friday, 19th

Courtney -- Sarah and Regina are available on Friday, August 19th to brief AG. Sarah will make the adjustment to her vacation. Since you are out the following week and Regina will be on travel the fist part of the week of the 22nd I thought we should get at least the briefing scheduled.

Thanks

Cybele

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 2, 2005 4:41 PM
To: Shaw, Aloma A
Subject: FW: Friday, 19th

can you tell me when Robt is traveling this month for courtney? also if he's around on the 19th?

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, August 02, 2005 4:29 PM
To: Gorsuch, Neil M
Subject: Re: Friday, 19th

Yes, please let me know what days Robert plans to traveling -- either for business or pleasure -- during the rest of the month.

I tried calling re uighers, but you were on the other line. Feel free to call me back (7035489301), although I can't promise there won't be a 3-yr old chattering in the background.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Tue Aug 02 16:21:50 2005
Subject: RE: Friday, 19th

Seems like (1) is a yes, to me, but Tracy may have some further input; (2) could definitely benefit from Tracy's expertise.

Do you want me to check Robert's schedule for Aug 19?

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, August 02, 2005 4:17 PM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject: Fw: Friday, 19th

Cybele raised with me the logistics of a briefing for the AG on body armor. I told her that he was effectively unavailable until the week of August 15 -- which is quickly filling up on his calendar.

As we iron out the substance of the body armor proposal, I wanted your thoughts on some "process"

As we iron out the substance of the body armor proposal, I wanted your thoughts on some "process" questions: (1) Will the Associate's office recommend that the AG be briefed by OJP and NIJ on the report and recommendations? (My instinct is yes, but would value your views and, in particular, your understanding of past practices on similar matters.) (2) Will the Associate's office have a recommendation on whether the AG should do a press event in connection with the release of this report, etc.?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Daley, Cybele <Cybele.Daley@usdoj.gov>
Sent: Tue Aug 02 16:08:10 2005
Subject: Re: Friday, 19th

Thanks. What a logistical nightmare. The AG may want to hear from Robert McCallum as well. I'll check with Neil on his travel schedule, and will consult with Ted and the schedulers in the am.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Daley, Cybele <Cybele.Daley@usdoj.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Tue Aug 02 14:30:35 2005
Subject: Friday, 19th

Courtney -- Sarah and Regina are available on Friday, August 19th to brief AG. Sarah will make the adjustment to her vacation. Since you are out the following week and Regina will be on travel the fist part of the week of the 22nd I thought we should get at least the briefing scheduled.

Thanks

Cybele

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, August 2, 2005 4:41 PM
To: Gorsuch, Neil M
Subject: Read: Friday, 19th

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 2, 2005 4:58 PM
To: McAtamney, James A; Smith, Mauri E; Taylor, Jeffrey
Subject: RE: fyi, here is copy of a letter apparently winging its way to the AG on the Marine Transportation System . . .

We're preparing a memo and letter for the AG's consideration.

-----Original Message-----
From: McAtamney, James A
Sent: Tuesday, August 02, 2005 1:41 PM
To: Smith, Mauri E; Taylor, Jeffrey
Cc: Gorsuch, Neil M
Subject: RE: fyi, here is copy of a letter apparently winging its way to the AG on the Marine Transportation System. . .

Robert McCallum and Neil attended the first CMTS meeting and have bounced around some ideas for next steps. I'd think Ted would benefit from their counsel in advising the AG.

-----Original Message-----
From: Smith, Mauri E
Sent: Tuesday, August 02, 2005 1:36 PM
To: McAtamney, James A; Taylor, Jeffrey
Cc: Gorsuch, Neil M
Subject: RE: fyi, here is copy of a letter apparently winging its way to the AG on the Marine Transportation System. . .

FYI - I sent the package to Ted Ullyot for review and recommendation for AG signature yesterday. Please let me know if you want me to pull it back before he reviews and has the AG sign.

Mauri

-----Original Message-----
From: McAtamney, James A
Sent: Tuesday, August 02, 2005 12:08 PM
To: Taylor, Jeffrey
Cc: Gorsuch, Neil M; Smith, Mauri E
Subject: FW: fyi, here is copy of a letter apparently winging its way to the AG on the Marine Transportation System. . .

Jeff,

The below letter came into ExecSec and was assigned as Workflow #843799 to OAG for appropriate action. Neil has led the charge from OASG to come up with a game plan for responding to Sec. Mineta's letter. Recommend you two discuss....

Mac

-----Original Message-----
From: Rubin, Jim (ENRD)
Sent: Thursday, July 28, 2005 5:28 PM

To: Gorsuch, Neil M; Kessler, Elizabeth A
Cc: Johnson, Kelly A. (ENRD); McAtamney, James A; Oppenheimer, Peter (ENRD); Milius, Pauline (ENRD)
Subject: fyi, here is copy of a letter apparently winging its way to the AG on the Marine Transportation System. . .

<< File: Attorney General_Final.pdf >> As you will see, it asks for the AG to designate someone to serve as agency rep on the MTS Coordinating Body at "assistant secretary level or above." (If you feel we really need to appoint someone at this level, perhaps we can do it in name only, and have that rep delegate any meeting attendance responsibilities to one of us underlings!) Pls advise on how you wish us to handle. This letter will no doubt go into Exec Sec and take its time coming to us all, but wanted to give you a heads up.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 2, 2005 6:07 PM
To: [redacted].osd.mil'
Subject: RE: My contact info

Thanks so much. Here's my info --

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: [redacted].osd.mil [mailto:[redacted].osd.mil]
Sent: Tuesday, August 02, 2005 5:27 PM
To: Gorsuch, Neil M
Subject: My contact info

Is below....

[redacted]
Office of the DoD General Counsel (Legal Counsel)

[redacted]

This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without prior approval from the Office of the DoD General Counsel.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 2, 2005 6:12 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: GTMO Trip

Thanks so much, [redacted] FYI, for planning purposes, Aug 17-27 are bad on this end.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Tuesday, August 02, 2005 6:09 PM
To: Gorsuch, Neil M
Subject: FW: GTMO Trip

-----Original Message-----
From: [redacted](OARDEC) [mailto[redacted]@navy.mil]
Sent: Tuesday, August 02, 2005 17:58
To: [redacted]@dodgc.osd.mil
Subject: Re: GTMO Trip

[redacted]

We do not yet have a firm date set for the next visit, but have inquiries into the squadron re: availability of planes. We're hopeful we can set something in the next couple of weeks. [redacted] and I are just arriving in Norfolk, for meetings tomorrow, and won't be back in DC 'til late tomorrow.
We'll follow up with the squadron either tomorrow (if possible) or Thursday.
I'll let you know as soon as we know something.

Best,
[redacted]

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

-----Original Message-----
From: [redacted]@dodgc.osd.mil>
To: [redacted](OARDEC) [redacted]@navy.mil>
Sent: Tue Aug 02 17:37:36 2005
Subject: FW: GTMO Trip

[redacted]the folks at DOJ who want to visit GTMO include the #3 person in the entire department. Any arrangements to fly them down on a visit as soon as possible would be greatly appreciated. Thanks.

-----Original Message-----
From: [redacted] OARDEC [mailto: [redacted] @navy.mil
<mailto: [redacted] @navy.mil>]
Sent: Friday, July 22, 2005 13:30
To: [redacted] DoD OGC
Cc: [redacted] (OARDEC)
Subject: RE: GTMO Trip

[redacted]
Still no word. We may be going down with two military analyst groups on the 15th and 22nd. If we do, both those flights will be at or over capacity.
We are still looking at flight dates for us to go down on just OARDEC business. When we do that we should have some seats for you.

V/r
[redacted]

-----Original Message-----
From: [redacted] [mailto [redacted] @dodgc.osd.mil
<mailto [redacted] @dodgc.osd.mil>]
Sent: Friday, July 22, 2005 13:14
To: [redacted] OARDEC; [redacted] DoD OGC; [redacted]
[redacted] (OARDEC); [redacted]
Subject: RE: GTMO Trip

Thanks, [redacted] Do you know when the next one will be?

-----Original Message-----
From [redacted] OARDEC [mailto [redacted] @navy.mil
<mailto: [redacted] @navy.mil>]
Sent: Friday, July 22, 2005 11:03
To [redacted] DoD OGC; [redacted] (OARDEC); [redacted]
[redacted]
Subject: RE: GTMO Trip

[redacted]
No sir. There are not any trips scheduled for next week.

V/r
[redacted]

-----Original Message-----

From: [redacted][mailto[redacted]@dodgc.osd.mil
<mailto[redacted]@dodgc.osd.mil>]
Sent: Friday, July 22, 2005 10:56
To: [redacted](OARDEC); [redacted]OARDEC[redacted]
[redacted]
Subject: FW: GTMO Trip

Hi folks. Is there a trip next week?

-----Original Message-----
From: Carl.Nichols@usdoj.gov [mailto:Carl.Nichols@usdoj.gov
<mailto:Carl.Nichols@usdoj.gov>]
Sent: Thursday, July 14, 2005 21:46
To: Mike.Wiggins@usdoj.gov[redacted]@dodgc.osd.mil;
Brett_C._Gerry@who.eop.gov
Subject: Re: GTMO Trip

Yes, if it would be Monday (the 25th) and maybe Tuesday.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [redacted]@dodgc.osd.mil>
To: Wiggins, Mike <Mike.Wiggins@SMOJMD.USDOJ.gov>; Nichols, Carl (CIV)
<canichol@CIV.USDOJ.GOV>; Brett_C._Gerry@who.eop.gov
<Brett_C._Gerry@who.eop.gov>
Sent: Thu Jul 14 20:18:50 2005
Subject: FW: GTMO Trip

Still interested? Anyone else interested?

-----Original Message-----
From: [redacted](OARDEC) [mailto[redacted]@navy.mil
<mailto[redacted]@navy.mil>]
Sent: Thursday, July 14, 2005 20:14
To: [redacted]@dodgc.osd.mil; [redacted]OARDEC; [redacted]
Subject: Re: GTMO Trip

[redacted]

With CODELs and Military Analysts, our OARDEC trip was overtaken by events.
However, we are looking at a trip in the last week of July (week after next). We'll make sure to keep you posted as the planning firms up.

Best regards,
[redacted]

[redacted]

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

-----Original Message-----
From: [redacted]@dodgc.osd.mil>
To: [redacted] OARDEC [redacted]@navy.mil>; [redacted]
[redacted]@navy.mil>
CC: [redacted](OARDEC) <[redacted]@navy.mil>
Sent: Thu Jul 14 20:03:32 2005
Subject: RE: GTMO Trip

I assume this trip was canceled? DOJ and White House reps remain interested in a trip. Is there a date for the next flight?

-----Original Message-----
From: [redacted]OARDEC [mailto:[redacted]@navy.mil
<mailto[redacted]@navy.mil>
<mailto:[redacted]@navy.mil <mailto[redacted]@navy.mil> >]
Sent: Thursday, June 16, 2005 15:26
To: [redacted]DoD OGC
Cc: [redacted](OARDEC)
Subject: RE: GTMO Trip

[redacted]
We are looking at some time in the first half of the week of 11 July. There is an outside chance that it may be as early as 7 July. I will make sure to let you know as soon as we have a better idea. How many seats were you looking for?

V/r
[redacted]

[redacted]
Pentagon
(W) [redacted] (C) [redacted] (F) [redacted] E [redacted]@navy.mil

-----Original Message-----
From: [redacted]
Sent: Thursday, June 16, 2005 15:21
To: [redacted]DoD OGC'
Cc: [redacted](OARDEC); [redacted]
OARDEC

Subject: RE: GTMO Trip

Holy smokes sir; [redacted] and I are looking for the "bugs" as I type! We were, not but 15 minutes ago, talking about the next trip. Your ears must have been burning! Stand by .... I'll put [redacted] on this email and I know he's tentatively looking at a couple of dates in mid-July.
BREAK-BREAK: [redacted] ...over to you sir.
Warmest Regards and V/R, [redacted]

-----Original Message-----
From: [redacted] [mailto[redacted]@dodgc.osd.mil
<mailto[redacted]@dodgc.osd.mil>
<mailto[redacted]@dodgc.osd.mil <mailto[redacted]@dodgc.osd.mil> >]
Sent: Thursday, June 16, 2005 15:15
To: [redacted]
Subject: FW: GTMO Trip

[redacted] when's the next plane down?

-----Original Message-----
From: Carl.Nichols@usdoj.gov [mailto:Carl.Nichols@usdoj.gov
<mailto:Carl.Nichols@usdoj.gov>
<mailto:Carl.Nichols@usdoj.gov <mailto:Carl.Nichols@usdoj.gov> >]
Sent: Wednesday, June 15, 2005 15:19
To[redacted]@dodgc.osd.mil
Subject: GTMO Trip

[redacted]
Now that we have the hearing behind us, I wanted to follow up with you about trying to get down to GTMO. Mike Wiggins has also expressed interest in going, if you had the space. Thanks, Carl

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 02, 2005 6:14 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: Photos of Iguana

Homer: Ahh, tantalizing view.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Tuesday, August 02, 2005 5:47 PM
To: [redacted]@dodgc.osd.mil
Cc: Gorsuch, Neil M
Subject: RE: Photos of Iguana

I especially like the chain link fence in the "tantalising view."

> -----Original Message-----
> From: [redacted]Ms DoD OGC
> Sent: Tuesday, August 02, 2005 17:45
> To: [redacted]Mr, DoD OGC
> Cc: 'Neil.Gorsuch@usdoj.gov'
> Subject: Photos of Iguana
>
> At http://www.guardian.co.uk/gall/0,8542,1255209,00.html > <http://www.guardian.co.uk/gall/0,
8542,1255209,00.html> the pictures > called "down time" and "on patrol" are of Iguana.
>
> Their "tantalizing view" can be seen at > http://newswww.bbc.net.uk/2/hi/americas/3175501.stm >
<http://newswww.bbc.net.uk/2/hi/americas/3175501.stm>
>
>
>
>[redacted]
> Office of the DoD General Counsel (Legal Counsel)
>
>[redacted]
>[redacted]
> (703) 614-6745 (fax)
>
>
> This message may contain information protected by the attorney-client, > attorney work product,
deliberative process, or other privilege. Do not > disseminate without prior approval from the Office of
the DoD General > Counsel.
>
>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 2, 2005 6:15 PM
To: Elwood, Courtney
Subject: RE: Friday, 19th

Aug 19 works for Robert. The 11-12, 25-26 are the only days that don't.

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, August 02, 2005 4:29 PM
To: Gorsuch, Neil M
Subject: Re: Friday, 19th

Yes, please let me know what days Robert plans to traveling -- either for business or pleasure -- during the rest of the month.

I tried calling re[redacted], but you were on the other line. Feel free to call me back ([redacted], although I can't promise there won't be a[redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Tue Aug 02 16:21:50 2005
Subject: RE: Friday, 19th

Seems like (1) is a yes, to me, but Tracy may have some further input; (2) could definitely benefit from Tracy's expertise.

Do you want me to check Robert's schedule for Aug 19?

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, August 02, 2005 4:17 PM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject: Fw: Friday, 19th

Cybele raised with me the logistics of a briefing for the AG on body armor. I told her that he was effectively unavailable until the week of August 15 -- which is quickly filling up on his calendar.

As we iron out the substance of the body armor proposal, I wanted your thoughts on some "process"

As we iron out the substance of the body armor proposal, I wanted your thoughts on some "process" questions: (1) Will the Associate's office recommend that the AG be briefed by OJP and NIJ on the report and recommendations? (My instinct is yes, but would value your views and, in particular, your understanding of past practices on similar matters.) (2) Will the Associate's office have a recommendation on whether the AG should do a press event in connection with the release of this report, etc.?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Daley, Cybele <Cybele.Daley@usdoj.gov>
Sent: Tue Aug 02 16:08:10 2005
Subject: Re: Friday, 19th

Thanks. What a logistical nightmare. The AG may want to hear from Robert McCallum as well. I'll check with Neil on his travel schedule, and will consult with Ted and the schedulers in the am.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Daley, Cybele <Cybele.Daley@usdoj.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Tue Aug 02 14:30:35 2005
Subject: Friday, 19th

Courtney -- Sarah and Regina are available on Friday, August 19th to brief AG. Sarah will make the adjustment to her vacation. Since you are out the following week and Regina will be on travel the fist part of the week of the 22nd I thought we should get at least the briefing scheduled.

Thanks

Cybele

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 02, 2005 6:19 PM
To: Madan, Rafael A.
Subject: Your call

I've followed up as discussed and really appreciate your heads up. I very much want to make sure we all pull together as a team.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 02, 2005 6:23 PM
To: Seidel, Rebecca
Subject: Your message

Tried to return your call, but missed you. I'll be here for a bit [redacted]) or feel free to reach me on the cell [redacted]) anytime.

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Tuesday, August 2, 2005 6:39 PM
To:	Hillman, Noel
Subject:	RE: Final list of election fraud charges and convictions

thanks, please let me know when it is approved for public distribution. thanks.
-----Original Message-----
From: Hillman, Noel
Sent: Tuesday, August 02, 2005 6:37 PM
To: Schlozman, Brad (CRT); von Spakovsky, Hans (CRT); Scott-Finan, Nancy; Sierra, Bryan; Friedrich, Matthew; Keeney, John; Richter, John; Elieson, Dayle (USAEO)
Cc: Ullyot, Theodore; Gorsuch, Neil M; Immergut, Karin; Iglesias, David; Rikhye, Evan; Scolinos, Tasia; Thiemann, Robyn (ODAG); Brand, Rachel; Dhillon, Uttam; Yanes, Raul; Simmons, Nancy; Donsanto, Craig; Mitchell, Cynthia; Goldberg, Stuart; Comisac, Rena; Coughlin, Robert; Stansell-Gamm, Martha; [redacted]@ic.fbi.gov; McNulty, Paul (USAVAE)
Subject: FW: Final list of election fraud charges and convictions

To all - Click through and you will find attached a list of election fraud cases brought nationwide since the beginning of the AG's Ballot Access and Voting Integrity Initiative. This is the back-up for the statistics used by the AG in his speech today in Austin, Texas upon the 40th Anniversary of the Voting Rights Act. The attached list has been approved by the relevant Criminal Division Sections and USAOs. Please let me or Nancy Simmons of my office (202-514-1440) know if you have any questions or concerns by the close of business tomorrow. Upon final approval, it will distributed by OPA and OLA where appropriate.

Noel Hillman
Chief, PIN-CRM

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 03, 2005 7:48 AM
To: Seidel, Rebecca
Subject: RE: Your message

Good for you! I'm around all day; we can speak whenever is convenient.

-----Original Message-----
From: Seidel, Rebecca
Sent: Tuesday, August 02, 2005 6:59 PM
To: Gorsuch, Neil M
Subject: Re: Your message

We can chat tomorrow. I actually left the office at 6:15 tonight!!! That's like a half day for me :). Love Congress being in recess.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
Sent: Tue Aug 02 18:22:46 2005
Subject: Your message

Tried to return your call, but missed you. I'll be here for a bit [redacted] or feel free to reach me on the cell [redacted] anytime.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 03, 2005 8:09 AM
To: Reyes, Luis (SMO)
Subject: division of labor
Attachments: OASG Component Responsibilities.doc

I've tried to summarize our discussions for a post-Wiggins world. Could you review this and give me any thoughts? Should I share this with Robert?

August 3, 2005

OASG Component Responsibilities

Tracy A. Henke	Office of Justice Programs Community Oriented Policing Services Office on Violence Against Women
Elizabeth A. Kessler	Environment & Natural Resources Division Office of Information & Privacy International Trade/Tribunals Foreign Claims Settlement Commission Department Document Committee
Luis A. Reyes	Tax Division Civil Rights Division Community Relations Service Assist with terrorism-related litigation Judicial/Rules Committee/Bar Outreach Budget matters Weekly reporting
Jeffrey M. Senger	Tobacco-related litigation Indian and Tribal Trust Matters (including *Cobell*) Legislative/Interagency clearance Civil Justice Statistics Initiative Office of Consumer Litigation
Lily Fu Swenson	Antitrust Division Civil Division (except OIL, tobacco, *Cobell*, terrorism and Office of Consumer Litigation) Executive office for U.S. Trustees Grant & Assistance Advisory Board Intellectual Property Task Force Web/Privacy initiatives

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 3, 2005 8:14 AM
To: [redacted] (E-mail)
Subject: Election Fraud
Attachments: ELECTION FRAUD Charges Convictions post 2002 Initiative 2 August 2005.wpd

A further press release to be released today.

ELECTION FRAUD PROSECUTIONS & CONVICTIONS
BALLOT ACCESS & VOTING INTEGRITY INITIATIVE
OCTOBER 2002 – JULY 2005

DISTRICT OF COLORADO (2004-Voting by Noncitizen), *United States v. Shah*, Case No. 04-CR-00458: On November 1, 2004, Ajmal Shah was indicted on charges of providing false information concerning U.S. citizenship in order to register to vote in violation of 18 U.S.C. §§ 911 and 1015(f). On March 1, 2005, the defendant was convicted on both counts.

United States Attorney: William J. Leone (303) 454-0100
District Election Officer: Tom O'Rourke

STATUS: 1 Indictment; 1 Conviction.

NORTHERN DISTRICT OF FLORIDA (2002-Registration Fraud), *United States v. Chaudhary, a/k/a Usman Ali,* Case No. 04-CR-00059: On November 9, 2004, an indictment was returned against Chaudhary charging misuse of a social security number in violation of 42 U.S.C. § 408 and making a false claim of U.S. citizenship on a 2002 driver's license application in violation of 18 U.S.C. § 911. A superseding indictment was returned on January 4, 2005, charging the defendant with falsely claiming U.S. citizenship on a driver's license application and on the accompanying voter registration application. On May 18, 2005, the defendant was convicted by a jury of the false citizenship claim on his voter registration application.

United States Attorney: Gregory Robert Miller (850) 942-8430
District Election Officer: Len Register
Supervisory Assistant United States Attorney: Karen Rhew

STATUS: 1 Indictment; 1 Conviction.

SOUTHERN DISTRICT OF FLORIDA (Voting by Noncitizen), *United States v. Velasquez*, Case No. 03-CR-20233: On March 20, 2003, Rafael Velasquez, a former candidate for the Florida legislature, was indicted on charges of misrepresenting U.S. citizenship in 1998 in connection with voting and for making false statements in 2001 to the Immigration and Naturalization Service, in violation of 18 U.S.C. §§ 911, 1015(f) and 1001. On September 9, 2003, the defendant was convicted by a jury on two counts of making false statements on his nationalization application to the INS concerning his voting history.

United States Attorney: R. Alexander Acosta (305) 961-9100
District Election Officer: Karen Rochlin

STATUS: 1 Indictment; 1 Conviction.

SOUTHERN DISTRICT OF FLORIDA (Voting by Noncitizen), *United States v. McKenzie,* Case No. 04-CR-60160; *United States v. Francois,* No. 04-CR-20488; *United States v. Exavier,* No. 04-CR-60161; *United States v. Lloyd Palmer,* No. 04-CR-60159; *United States v. Velrine Palmer,* No. 04-CR-60162; *United States v. Shivdayal,* No. 04-CR-60164; *United States v. Rickman,* No. 04-CR-20491; *United States v. Knight,* No. 04-CR-20490; *United States v. Sweeting,* No. 04-CR-20489; *United States v. Lubin,* No. 04-CR-60163; *United States v. Bennett,* No. 04-CR-14048; *United States v. O'Neil,* No. 04-CR-60165; *United States v. Torres-Perez,* No. 04-CR-14046; *United States v. Phillip,* No. 04-CR-80103; *United States v. Bain Knight,* No. 04-CR-14047: On July 15, 2004, fifteen noncitizens were charged with voting in various elections beginning in 1998 in Broward, Miami-Dade, St. Lucie, Martin, or Palm Beach County in violation of 18 U.S.C. § 611, and four of these defendants were also charged with making false citizenship claims in violation of 18 U.S.C. §§ 911 or 1015(f). Ten defendants were convicted, one defendant was acquitted, and charges against four defendants were dismissed upon motion of the government

United States Attorney: R. Alexander Acosta (305) 961-9100
District Election Officer: Karen Rochlin

STATUS: 15 Indictments; 10 Convictions; 4 Dismissals by Government; 1 Acquittal.

SOUTHERN DISTRICT OF ILLINOIS (2002-Ballot Forgery), *United States v. Brooks*, Case No. 03-CR-30201: East St. Louis election official Leander Brooks was indicted on October 24, 2003, on charges of submitting fraudulent ballots in the 2002 general election in St. Clair County in violation of 42 U.S.C. §§ 1973i(c), 1973i(e), 1973gg-10(2)(B), and 18 U.S.C. §§ 241 and 371. The defendant pled guilty to all charges on February 12, 2004.

United States Attorney: Ronald J. Tenpas (618) 628-3700
District Election Officer: Hal Goldsmith

STATUS: 1 Indictment; 1 Conviction.

SOUTHERN DISTRICT OF ILLINOIS (2004-Vote Buying), *United States v. Scott,* Case No. 05-CR-30040; *United States v. Nichols,* No. 05-CR-30041; *United States v. Terrance Stith*, No. 05-CR-30042; *United States v. Sandra Stith*, No. 05-CR-30043; *United States v. Powell, et al.,* No. 05-CR-30044: On March 22, 2005, four Democratic precinct committeemen in East St. Louis, St. Clair County, were charged by information with vote buying in the 2004 general election in violation of 42 U.S.C. § 1973i(c). All four pled guilty the same day. Also on March 22, a grand jury indicted four additional Democratic precinct committeemen and one precinct worker on conspiracy and vote buying charges in violation of 18 U.S.C. § 371 and 42 U.S.C. § 1973i(c). A jury convicted all five defendants on June 29, 2005.

United States Attorney: Ronald J. Tenpas (618) 628-3700
District Election Officer: Hal Goldsmith

DOJ_NMG_ 0145898

STATUS: 4 Informations; 5 Indictments; 9 Convictions.

DISTRICT OF KANSAS (2002 & 2000-Double Voting), *United States v. McIntosh*, Case No. 04-CR-20142*:* A felony information was filed on October 28, 2004, against McIntosh for voting in both Wyandotte County, Kansas, and Jackson County, Missouri, in the general elections of 2002 and 2000 in violation of 42 U.S.C. § 1973i(e). A superseding misdemeanor information was filed on December 15, 2004, charging McIntosh with causing the deprivation of constitutional rights in violation of 18 U.S.C. § 242, to which the defendant pled guilty on December 20, 2004.

United States Attorney: Eric F. Melgren (316) 269-6481
District Election Officer: Leon Patton

STATUS: 1 Information; 1 Conviction.

EASTERN DISTRICT OF KENTUCKY (1998-Vote Buying), *United States v. Conley*, Case No. 03-CR-00013; *United States v. Slone,* No. 03-CR-0014; *United States v. Madden*, No. 03-CR-00015, *United States v. Slone, et al.*, No. 03-CR-00016; *United States v. Calhoun*, No. 03-CR-00017; *United States v. Johnson*, No. 03-CR-00018; *United States v. Newsome, et al.,* No. 03-CR-0019: Six persons were indicted on March 28, 2003, and four more persons were indicted on April 24, 2003, on charges of buying votes in connection with the 1998 primary in Knott County in violation of 42 U.S.C. § 1973i(c). Five of the ten defendants pled guilty, two were convicted at trial, and three were acquitted. One defendant has appealed his conviction.

United States Attorney: Gregory F. Van Tatenhove (859) 233-2661
Criminal Chief/District Election Officer: James A. Zerhusen
Public Integrity Section Trial Attorney: Richard C. Pilger

STATUS: 10 Indictments; 7 Convictions; 3 Acquittals.

EASTERN DISTRICT OF KENTUCKY (2002-Vote Buying), *United States v. Hays, et al.,* Case No. 03-CR-00011: On March 7, 2003, ten defendants were indicted on charges of conspiracy and vote buying for a local judge, John Doug Hays, in Pike County in the November 2002 general election in violation of 42 U.S.C. § 1973i(c) and 18 U.S.C.§ 371. Five defendants were convicted, one defendant was acquitted, and charges against four defendants were dismissed upon motion of the government.

United States Attorney: Gregory F. Van Tatenhove (859) 233-2661
District Election Officer: James A. Zerhusen
Assistant United States Attorney: Ken Taylor

STATUS: 10 Indictments; 5 Convictions; 4 Dismissals; 1 Acquittal.

EASTERN DISTRICT OF KENTUCKY (2000-Vote Buying & Mail Fraud), *United States v. Turner, et al.,* Case No. 05-CR-00002: A grand jury indicted three defendants on May 5,

2005, for vote buying and mail fraud in connection with the 2000 elections in Knott, Letcher, Floyd, and Breathitt Counties in violation of 42 U.S.C. § 1973i(c) and 18 U.S.C. § 1341.

United States Attorney: Gregory F. Van Tatenhove (859) 233-2661
Criminal Chief/District Election Officer: James A. Zerhusen
Assistant United States Attorney: Ken Taylor

STATUS: 3 Indictments.

MIDDLE DISTRICT OF LOUISIANA (2002-Perjury, Registration Fraud), *United States v. Braud*, Case No. 03-CR-00019: On March 6, 2003, Tyrell Mathews Braud was indicted on three counts of making false declarations to a grand jury in connection with his 2002 fabrication of 11 voter registration applications, in violation of 18 U.S.C. § 1623. Braud pled guilty to all counts on May 2, 2003.

United States Attorney: David R. Dugas (225) 389-0443
District Election Officer: James Stanley Lemelle

STATUS: 1 Indictment; 1 Conviction.

WESTERN DISTRICT OF LOUISIANA (2002-Registration Fraud), *United States v. Thibodeaux*, Case No. 03-CR-60055: St. Martinsville City Councilwoman Pamela C. Thibodeaux was indicted on December 10, 2003, for conspiring to submit false voter registration information, in violation of 18 U.S.C. § 371 and 42 U.S.C. § 1973i(c). The defendant pled guilty to both charges on April 12, 2005.

United States Attorney: Donald W. Washington (337) 262-6618
District Election Officer: William Flanagan

STATUS: 1 Indictment; 1 Conviction.

WESTERN DISTRICT OF MISSOURI (2004, 2002, & 2000-Double Voting), *United States v. Scherzer,* Case No. 04-CR-00401; *United States v. Goodrich,* No. 04-CR-00402; *United States v. Jones,* No. 05-CR-00257; *United States v. Martin,* No. 05-CR-00258: On December 13, 2004, two misdemeanor informations were filed charging Lorraine Goodrich and James Scherzer, Kansas residents who voted in the 2002 and 2000 federal elections in both Johnson County, Kansas and Kansas City, Missouri, with causing the deprivation of the constitutional right to vote for federal candidates by casting spurious ballots in violation of 18 U.S.C. §§ 242 and 2. Goodrich pled guilty on January 7, 2005, and Scherzer pled guilty on March 28, 2005. On July 19, 2005, similar misdemeanor informations were filed charging section 242 violations in the 2004 general election by Tammy J. Martin, who voted in both Independence and Kansas City, Missouri, and Brandon E. Jones, who voted in both Raytown and Kansas City, Missouri.

United States Attorney: Todd P. Graves (816) 426-3122
District Election Officer: Dan Stewart

DOJ_NMG_ 0145900

STATUS: 4 Informations; 2 Convictions.

DISTRICT OF NEW HAMPSHIRE (2002-Civil Rights), *United States v. Raymond,* Case No. 04-CR-00141; *United States v. McGee,* No. 04-CF-00146; *United States v. Tobin,* No. 04-CR-00216; *United States v. Hansen,* No. 05-CR-00054: On June 21, 2004, two informations were filed charging Allen Raymond, former president of a Virginia-based political consulting firm called GOP Marketplace, and Charles McGee, former Executive Director of the New Hampshire State Republican Committee, with conspiracy to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. § 371 and 47 U.S.C. § 223. The charges stem from a scheme to block the phone lines used by two Manchester organizations to arrange drives to the polls during the 2002 general election. Raymond pled guilty on June 20, 2004, and McGee pled guilty on July 28, 2004.

On December 1, 2004, James Tobin, former New England Regional Director of the Republican National Committee, was indicted on charges of conspiring to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. § 371 and 47 U.S.C. § 223. On April 7, 2005, an information was filed charging Shaun Hansen, the principal of an Idaho telemarketing firm called MILO Enterprises which placed the harassing calls, with conspiracy and aiding and abetting telephone harassment in violation of 18 U.S.C. §§ 371 and 2 and 47 U.S.C. § 223. On May 9, 2005, the information against Hansen was dismissed upon motion of the government, and on May 18, 2005, a superseding indictment was returned against Tobin charging conspiracy to impede the constitutional right to vote for federal candidates in violation of 18 U.S.C. § 241 and conspiracy to make harassing telephone calls in violation of 47 U.S.C. § 223.

Computer Crimes and Intellectual
Property Section, Criminal Division
Chief: Martha Stansell-Gamm (202) 514-1026
Trial Attorney: Todd Hinnen

STATUS: 2 Informations; 1 Indictment; 2 Convictions.

WESTERN DISTRICT OF NORTH CAROLINA (2002 & 2000-Voting by Noncitizen), *United States v. Workman*, Case No. 03-CR-00038: On April 7, 2003, a ten-count indictment was returned charging Joshua Workman, a Canadian citizen, with voting and related offenses in the 2002 and 2000 primary and general elections in Avery County in violation of 18 U.S.C. §§ 611, 911, 1001, and 1015(f). On June 30, 2003, the defendant pled guilty to charges of providing false information to election officials and to a federal agency.

United States Attorney: Gretchen C.F. Shappert (704) 344-6222
District Election Officer: Richard Edwards

STATUS: 1 Indictment; 1 Conviction.

WESTERN DISTRICT OF NORTH CAROLINA (2002-Vote Buying), *United States v.*

DOJ_NMG_ 0145901

***Shatley, et al.*, Case No. 03-CR-00035:** On July 30, 2003, a grand jury returned a nine-count indictment charging Wayne Shatley, Anita Moore, Valerie Moore, Carlos "Sunshine" Hood and Ross "Toogie" Banner with conspiracy and vote buying in the Caldwell County 2002 general election in violation of 42 U.S.C. § 1973i(c) and 18 U.S.C. § 371. Anita Moore pled guilty on March 12, 2004. Valerie Moore pled guilty on April 28, 2004, and cooperated in the investigation. Wayne Shatley, Carlos "Sunshine" Hood**,** and Ross "Toogie" Banner were convicted by a jury of all counts on May 14, 2004.

United States Attorney: Gretchen C.F. Shappert (704) 344-6222
District Election Officer: Richard Edwards

STATUS: 5 Indictments; 5 Convictions.

WESTERN DISTRICT OF PENNSYLVANIA (Voter Intimidation), *United States v. Stewart,* Case No. 05-CR-00127; *United States v. Schiralli,* No. 05-CR-00126: On May 3, 2005, two sheriff's deputies in Allegheny County, Richard A. Stewart, Jr., and Frank Schiralli, were indicted on charges of making false declarations to the grand jury in violation of 18 U.S.C. § 1623.

United States Attorney: Mary Beth Buchanan (412) 644-3500
First Assistant United States Attorney: Robert Cessar
District Election Officer: A. Elliott McLean
Assistant United States Attorney: Stephen S. Stallings

STATUS: 2 Indictments.

SOUTHERN DISTRICT OF WEST VIRGINIA (2004, 2002, & 2000-Vote Buying), *United States v. Mendez*, Case No. 04-CR-00101; *United States v. Porter,* No. 04-CR-00145; *United States v. Hrutkay,* No. 04-CR-00149; *United States v. Stapleton*, No. 04-CR-00173; *Thomas E. Esposito,* No. 05-CR-00002: A felony information was filed on May 7, 2004, charging Logan County Sheriff Johnny Mendez with conspiracy to defraud the United States in violation of 8 U.S.C. § 371. Mendez pled guilty on July 19, 2004. On July 30, 2004, a felony information was filed charging former Logan County Police Chief Alvin Ray Porter, Jr., with making expenditures to influence voting in violation of 18 U.S.C. § 597. Porter pled guilty on December 7, 2004. On August 10, 2004, Logan County attorney Mark Oliver Hrutkay was charged by information with mail fraud in violation of 18 U.S.C. §1341. Hrutkay pled guilty on January 7, 2005. On September 9, 2004, Ernest Stapleton, Commander of the local VFW, was charged by information with mail fraud. Stapleton pled guilty on October 29, 2004. Finally, on January 10, 2005, an information was filed charging Thomas E. Esposito, a former Mayor of the City of Logan, with concealing the commission of a felony in violation of 18 U.S.C. § 4.

Acting United States Attorney: Charles T. Miller (304) 345-2200
District Election Officer: Larry Ellis
Assistant United States Attorney: Booth Goodwin

STATUS: 5 Informations; 4 Convictions.

SOUTHERN DISTRICT OF WEST VIRGINIA (1990-2004 Vote Buying), *United States v. Adkins, et al.*, Case No. 04-CR-00162: On August 25, 2004, Jackie Adkins was indicted for vote buying in Lincoln County in 2002 in violation of 42 U.S.C. § 1973i(c). A superseding indictment was returned on November 16, 2004, which added Wandell "Rocky" Adkins to the indictment and charged both defendants with conspiracy to buy votes in violation of 18 U.S.C. § 371 and vote buying. A second superseding indictment was returned on May 5, 2005, which added three additional defendants, Gregory Brent Stowers, Clifford Odell "Groundhog" Vance, and Toney "Zeke" Dingess, to the conspiracy and vote buying indictment.

Acting United States Attorney: Charles T. Miller (304) 345-2200
District Election Officer: Larry Ellis
Assistant United States Attorney: Karen George

STATUS: 5 Indictments.

EASTERN DISTRICT OF WISCONSIN (2004-Registration Fraud), *United States v. Davis,* Case No. 05-MJ-00454; *United States v. Byas,* No. 05-MJ-00455; *United States v. Ocasio,* No. 05-CR-00161; *United States v. Prude,* No. 05-CR-00162; *United States v. Sanders,* No. 05-CR-00163; *United States v. Alicea,* No. 05-CR-00168; *United States v. Brooks,* No. 05-CR-00170; *United States v. Hamilton,* No. 05-CR-00171; *United States v. Little,* No. 05-CR-00172; *United States v. Swift,* No. 05-CR-00177: On June 23, 2005, criminal complaints were issued against Brian L. Davis and Theresa J. Byas charging them with double voting in violation of 42 U.S.C. § 1973i(e). Five days later indictments were returned against convicted felons Milo R. Ocasio and Kimberly Prude, charging them with falsely certifying that they were eligible to vote in violation of 42 U.S.C. § 1973gg-10(2)(B), and against Enrique C. Sanders, charging him with multiple voting in violation of 42 U.S.C. § 1973i(e). On July 12, 2005, five more indictments were returned charging Cynthia C. Alicea with multiple voting in violation of 42 U.S.C. § 1973i(e) and convicted felons Deshawn B. Brooks, Alexander T. Hamilton, Derek G. Little, and Eric L. Swift with falsely certifying that they were eligible to vote in violation of 42 U.S.C. § 1973gg-10(2)(B).

United States Attorney: Steven M. Biskupic (414)297-1700
District Election Officer: Richard Frohling

STATUS: 8 Indictments; 2 Complaints.

DOJ_NMG_ 0145903

ELECTION FRAUD PROSECUTIONS
SINCE OCTOBER 2002

ELECTION FRAUD OFFENSES	Total Number
PERSONS CHARGED (BY INDICTMENT, INFORMATION, OR COMPLAINT)	89
CONVICTIONS	52
DISMISSALS BY THE GOVERNMENT	8
ACQUITTALS	4

DOJ_NMG_ 0145904

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 03, 2005 8:15 AM
To: Brett Gerry (E-mail)
Subject: FW: Final list of election fraud charges and convictions
Attachments: ELECTION FRAUD Charges Convictions post 2002 Initiative 2 August 2005.wpd

Thought this might also be of interest. Further press release on election fraud initiative.

-----Original Message-----
From: Simmons, Nancy
Sent: Tuesday, August 02, 2005 5:58 PM
To: Hillman, Noel
Cc: Mitchell, Cynthia
Subject: Final list of election fraud charges and convictions

As requested, we have prepared the attached list of election fraud cases brought by the Department since the creation of the Ballot Access and Voting Integrity Initiative in October 2002. The US Attorneys who handled cases on the list have approved their case summaries.
com

CRIMINAL DIVISION
PUBLIC INTEGRITY SECTION
UNITED STATES DEPARTMENT OF JUSTICE

ELECTION FRAUD PROSECUTIONS & CONVICTIONS
BALLOT ACCESS & VOTING INTEGRITY INITIATIVE
OCTOBER 2002 – JULY 2005

DISTRICT OF COLORADO (2004-Voting by Noncitizen), *United States v. Shah*, Case No. 04-CR-00458: On November 1, 2004, Ajmal Shah was indicted on charges of providing false information concerning U.S. citizenship in order to register to vote in violation of 18 U.S.C. §§ 911 and 1015(f). On March 1, 2005, the defendant was convicted on both counts.

United States Attorney: William J. Leone (303) 454-0100
District Election Officer: Tom O'Rourke

STATUS: 1 Indictment; 1 Conviction.

NORTHERN DISTRICT OF FLORIDA (2002-Registration Fraud), *United States v. Chaudhary, a/k/a Usman Ali,* Case No. 04-CR-00059: On November 9, 2004, an indictment was returned against Chaudhary charging misuse of a social security number in violation of 42 U.S.C. § 408 and making a false claim of U.S. citizenship on a 2002 driver's license application in violation of 18 U.S.C. § 911. A superseding indictment was returned on January 4, 2005, charging the defendant with falsely claiming U.S. citizenship on a driver's license application and on the accompanying voter registration application. On May 18, 2005, the defendant was convicted by a jury of the false citizenship claim on his voter registration application.

United States Attorney: Gregory Robert Miller (850) 942-8430
District Election Officer: Len Register
Supervisory Assistant United States Attorney: Karen Rhew

STATUS: 1 Indictment; 1 Conviction.

SOUTHERN DISTRICT OF FLORIDA (Voting by Noncitizen), *United States v. Velasquez*, Case No. 03-CR-20233: On March 20, 2003, Rafael Velasquez, a former candidate for the Florida legislature, was indicted on charges of misrepresenting U.S. citizenship in 1998 in connection with voting and for making false statements in 2001 to the Immigration and Naturalization Service, in violation of 18 U.S.C. §§ 911, 1015(f) and 1001. On September 9, 2003, the defendant was convicted by a jury on two counts of making false statements on his nationalization application to the INS concerning his voting history.

United States Attorney: R. Alexander Acosta (305) 961-9100
District Election Officer: Karen Rochlin

STATUS: 1 Indictment; 1 Conviction.

DOJ_NMG_ 0145906

SOUTHERN DISTRICT OF FLORIDA (Voting by Noncitizen), *United States v. McKenzie,* Case No. 04-CR-60160; *United States v. Francois,* No. 04-CR-20488; *United States v. Exavier,* No. 04-CR-60161; *United States v. Lloyd Palmer,* No. 04-CR-60159; *United States v. Velrine Palmer,* No. 04-CR-60162; *United States v. Shivdayal,* No. 04-CR-60164; *United States v. Rickman,* No. 04-CR-20491; *United States v. Knight,* No. 04-CR-20490; *United States v. Sweeting,* No. 04-CR-20489; *United States v. Lubin,* No. 04-CR-60163; *United States v. Bennett,* No. 04-CR-14048; *United States v. O'Neil,* No. 04-CR-60165; *United States v. Torres-Perez,* No. 04-CR-14046; *United States v. Phillip,* No. 04-CR-80103; *United States v. Bain Knight,* No. 04-CR-14047: On July 15, 2004, fifteen noncitizens were charged with voting in various elections beginning in 1998 in Broward, Miami-Dade, St. Lucie, Martin, or Palm Beach County in violation of 18 U.S.C. § 611, and four of these defendants were also charged with making false citizenship claims in violation of 18 U.S.C. §§ 911 or 1015(f). Ten defendants were convicted, one defendant was acquitted, and charges against four defendants were dismissed upon motion of the government

United States Attorney: R. Alexander Acosta (305) 961-9100
District Election Officer: Karen Rochlin

STATUS: 15 Indictments; 10 Convictions; 4 Dismissals by Government; 1 Acquittal.

SOUTHERN DISTRICT OF ILLINOIS (2002-Ballot Forgery), *United States v. Brooks*, Case No. 03-CR-30201: East St. Louis election official Leander Brooks was indicted on October 24, 2003, on charges of submitting fraudulent ballots in the 2002 general election in St. Clair County in violation of 42 U.S.C. §§ 1973i(c), 1973i(e), 1973gg-10(2)(B), and 18 U.S.C. §§ 241 and 371. The defendant pled guilty to all charges on February 12, 2004.

United States Attorney: Ronald J. Tenpas (618) 628-3700
District Election Officer: Hal Goldsmith

STATUS: 1 Indictment; 1 Conviction.

SOUTHERN DISTRICT OF ILLINOIS (2004-Vote Buying), *United States v. Scott,* Case No. 05-CR-30040; *United States v. Nichols,* No. 05-CR-30041; *United States v. Terrance Stith*, No. 05-CR-30042; *United States v. Sandra Stith*, No. 05-CR-30043; *United States v. Powell, et al.,* No. 05-CR-30044: On March 22, 2005, four Democratic precinct committeemen in East St. Louis, St. Clair County, were charged by information with vote buying in the 2004 general election in violation of 42 U.S.C. § 1973i(c). All four pled guilty the same day. Also on March 22, a grand jury indicted four additional Democratic precinct committeemen and one precinct worker on conspiracy and vote buying charges in violation of 18 U.S.C. § 371 and 42 U.S.C. § 1973i(c). A jury convicted all five defendants on June 29, 2005.

United States Attorney: Ronald J. Tenpas (618) 628-3700
District Election Officer: Hal Goldsmith

DOJ_NMG_ 0145907

STATUS: 4 Informations; 5 Indictments; 9 Convictions.

DISTRICT OF KANSAS (2002 & 2000-Double Voting), *United States v. McIntosh*, Case No. 04-CR-20142*:* A felony information was filed on October 28, 2004, against McIntosh for voting in both Wyandotte County, Kansas, and Jackson County, Missouri, in the general elections of 2002 and 2000 in violation of 42 U.S.C. § 1973i(e). A superseding misdemeanor information was filed on December 15, 2004, charging McIntosh with causing the deprivation of constitutional rights in violation of 18 U.S.C. § 242, to which the defendant pled guilty on December 20, 2004.

United States Attorney: Eric F. Melgren (316) 269-6481
District Election Officer: Leon Patton

STATUS: 1 Information; 1 Conviction.

EASTERN DISTRICT OF KENTUCKY (1998-Vote Buying), *United States v. Conley*, Case No. 03-CR-00013; *United States v. Slone,* No. 03-CR-0014; *United States v. Madden*, No. 03-CR-00015, *United States v. Slone, et al.*, No. 03-CR-00016; *United States v. Calhoun*, No. 03-CR-00017; *United States v. Johnson*, No. 03-CR-00018; *United States v. Newsome, et al.,* No. 03-CR-0019: Six persons were indicted on March 28, 2003, and four more persons were indicted on April 24, 2003, on charges of buying votes in connection with the 1998 primary in Knott County in violation of 42 U.S.C. § 1973i(c). Five of the ten defendants pled guilty, two were convicted at trial, and three were acquitted. One defendant has appealed his conviction.

United States Attorney: Gregory F. Van Tatenhove (859) 233-2661
Criminal Chief/District Election Officer: James A. Zerhusen
Public Integrity Section Trial Attorney: Richard C. Pilger

STATUS: 10 Indictments; 7 Convictions; 3 Acquittals.

EASTERN DISTRICT OF KENTUCKY (2002-Vote Buying), *United States v. Hays, et al.,* Case No. 03-CR-00011: On March 7, 2003, ten defendants were indicted on charges of conspiracy and vote buying for a local judge, John Doug Hays, in Pike County in the November 2002 general election in violation of 42 U.S.C. § 1973i(c) and 18 U.S.C.§ 371. Five defendants were convicted, one defendant was acquitted, and charges against four defendants were dismissed upon motion of the government.

United States Attorney: Gregory F. Van Tatenhove (859) 233-2661
District Election Officer: James A. Zerhusen
Assistant United States Attorney: Ken Taylor

STATUS: 10 Indictments; 5 Convictions; 4 Dismissals; 1 Acquittal.

EASTERN DISTRICT OF KENTUCKY (2000-Vote Buying & Mail Fraud), *United States v. Turner, et al.,* Case No. 05-CR-00002: A grand jury indicted three defendants on May 5,

2005, for vote buying and mail fraud in connection with the 2000 elections in Knott, Letcher, Floyd, and Breathitt Counties in violation of 42 U.S.C. § 1973i(c) and 18 U.S.C. § 1341.

United States Attorney: Gregory F. Van Tatenhove (859) 233-2661
Criminal Chief/District Election Officer: James A. Zerhusen
Assistant United States Attorney: Ken Taylor

STATUS: 3 Indictments.

MIDDLE DISTRICT OF LOUISIANA (2002-Perjury, Registration Fraud), *United States v. Braud*, Case No. 03-CR-00019: On March 6, 2003, Tyrell Mathews Braud was indicted on three counts of making false declarations to a grand jury in connection with his 2002 fabrication of 11 voter registration applications, in violation of 18 U.S.C. § 1623. Braud pled guilty to all counts on May 2, 2003.

United States Attorney: David R. Dugas (225) 389-0443
District Election Officer: James Stanley Lemelle

STATUS: 1 Indictment; 1 Conviction.

WESTERN DISTRICT OF LOUISIANA (2002-Registration Fraud), *United States v. Thibodeaux*, Case No. 03-CR-60055: St. Martinsville City Councilwoman Pamela C. Thibodeaux was indicted on December 10, 2003, for conspiring to submit false voter registration information, in violation of 18 U.S.C. § 371 and 42 U.S.C. § 1973i(c). The defendant pled guilty to both charges on April 12, 2005.

United States Attorney: Donald W. Washington (337) 262-6618
District Election Officer: William Flanagan

STATUS: 1 Indictment; 1 Conviction.

WESTERN DISTRICT OF MISSOURI (2004, 2002, & 2000-Double Voting), *United States v. Scherzer,* Case No. 04-CR-00401; *United States v. Goodrich,* No. 04-CR-00402; *United States v. Jones,* No. 05-CR-00257; *United States v. Martin,* No. 05-CR-00258: On December 13, 2004, two misdemeanor informations were filed charging Lorraine Goodrich and James Scherzer, Kansas residents who voted in the 2002 and 2000 federal elections in both Johnson County, Kansas and Kansas City, Missouri, with causing the deprivation of the constitutional right to vote for federal candidates by casting spurious ballots in violation of 18 U.S.C. §§ 242 and 2. Goodrich pled guilty on January 7, 2005, and Scherzer pled guilty on March 28, 2005. On July 19, 2005, similar misdemeanor informations were filed charging section 242 violations in the 2004 general election by Tammy J. Martin, who voted in both Independence and Kansas City, Missouri, and Brandon E. Jones, who voted in both Raytown and Kansas City, Missouri.

United States Attorney: Todd P. Graves (816) 426-3122
District Election Officer: Dan Stewart

DOJ_NMG_ 0145909

STATUS: 4 Informations; 2 Convictions.

DISTRICT OF NEW HAMPSHIRE (2002-Civil Rights), *United States v. Raymond,* Case No. 04-CR-00141; *United States v. McGee,* No. 04-CF-00146; *United States v. Tobin,* No. 04-CR-00216; *United States v. Hansen,* No. 05-CR-00054: On June 21, 2004, two informations were filed charging Allen Raymond, former president of a Virginia-based political consulting firm called GOP Marketplace, and Charles McGee, former Executive Director of the New Hampshire State Republican Committee, with conspiracy to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. § 371 and 47 U.S.C. § 223. The charges stem from a scheme to block the phone lines used by two Manchester organizations to arrange drives to the polls during the 2002 general election. Raymond pled guilty on June 20, 2004, and McGee pled guilty on July 28, 2004.

On December 1, 2004, James Tobin, former New England Regional Director of the Republican National Committee, was indicted on charges of conspiring to commit telephone harassment using an interstate phone facility in violation of 18 U.S.C. § 371 and 47 U.S.C. § 223. On April 7, 2005, an information was filed charging Shaun Hansen, the principal of an Idaho telemarketing firm called MILO Enterprises which placed the harassing calls, with conspiracy and aiding and abetting telephone harassment in violation of 18 U.S.C. §§ 371 and 2 and 47 U.S.C. § 223. On May 9, 2005, the information against Hansen was dismissed upon motion of the government, and on May 18, 2005, a superseding indictment was returned against Tobin charging conspiracy to impede the constitutional right to vote for federal candidates in violation of 18 U.S.C. § 241 and conspiracy to make harassing telephone calls in violation of 47 U.S.C. § 223.

Computer Crimes and Intellectual
Property Section, Criminal Division
Chief: Martha Stansell-Gamm (202) 514-1026
Trial Attorney: Todd Hinnen

STATUS: 2 Informations; 1 Indictment; 2 Convictions.

WESTERN DISTRICT OF NORTH CAROLINA (2002 & 2000-Voting by Noncitizen), *United States v. Workman*, Case No. 03-CR-00038: On April 7, 2003, a ten-count indictment was returned charging Joshua Workman, a Canadian citizen, with voting and related offenses in the 2002 and 2000 primary and general elections in Avery County in violation of 18 U.S.C. §§ 611, 911, 1001, and 1015(f). On June 30, 2003, the defendant pled guilty to charges of providing false information to election officials and to a federal agency.

United States Attorney: Gretchen C.F. Shappert (704) 344-6222
District Election Officer: Richard Edwards

STATUS: 1 Indictment; 1 Conviction.

WESTERN DISTRICT OF NORTH CAROLINA (2002-Vote Buying), *United States v.*

DOJ_NMG_ 0145910

***Shatley, et al.*, Case No. 03-CR-00035:** On July 30, 2003, a grand jury returned a nine-count indictment charging Wayne Shatley, Anita Moore, Valerie Moore, Carlos "Sunshine" Hood and Ross "Toogie" Banner with conspiracy and vote buying in the Caldwell County 2002 general election in violation of 42 U.S.C. § 1973i(c) and 18 U.S.C. § 371. Anita Moore pled guilty on March 12, 2004. Valerie Moore pled guilty on April 28, 2004, and cooperated in the investigation. Wayne Shatley, Carlos "Sunshine" Hood**,** and Ross "Toogie" Banner were convicted by a jury of all counts on May 14, 2004.

United States Attorney: Gretchen C.F. Shappert (704) 344-6222
District Election Officer: Richard Edwards

STATUS: 5 Indictments; 5 Convictions.

WESTERN DISTRICT OF PENNSYLVANIA (Voter Intimidation), *United States v. Stewart,* Case No. 05-CR-00127; *United States v. Schiralli,* No. 05-CR-00126: On May 3, 2005, two sheriff's deputies in Allegheny County, Richard A. Stewart, Jr., and Frank Schiralli, were indicted on charges of making false declarations to the grand jury in violation of 18 U.S.C. § 1623.

United States Attorney: Mary Beth Buchanan (412) 644-3500
First Assistant United States Attorney: Robert Cessar
District Election Officer: A. Elliott McLean
Assistant United States Attorney: Stephen S. Stallings

STATUS: 2 Indictments.

SOUTHERN DISTRICT OF WEST VIRGINIA (2004, 2002, & 2000-Vote Buying), *United States v. Mendez*, Case No. 04-CR-00101; *United States v. Porter,* No. 04-CR-00145; *United States v. Hrutkay,* No. 04-CR-00149; *United States v. Stapleton*, No. 04-CR-00173; *Thomas E. Esposito,* No. 05-CR-00002: A felony information was filed on May 7, 2004, charging Logan County Sheriff Johnny Mendez with conspiracy to defraud the United States in violation of 8 U.S.C. § 371. Mendez pled guilty on July 19, 2004. On July 30, 2004, a felony information was filed charging former Logan County Police Chief Alvin Ray Porter, Jr., with making expenditures to influence voting in violation of 18 U.S.C. § 597. Porter pled guilty on December 7, 2004. On August 10, 2004, Logan County attorney Mark Oliver Hrutkay was charged by information with mail fraud in violation of 18 U.S.C. §1341. Hrutkay pled guilty on January 7, 2005. On September 9, 2004, Ernest Stapleton, Commander of the local VFW, was charged by information with mail fraud. Stapleton pled guilty on October 29, 2004. Finally, on January 10, 2005, an information was filed charging Thomas E. Esposito, a former Mayor of the City of Logan, with concealing the commission of a felony in violation of 18 U.S.C. § 4.

Acting United States Attorney: Charles T. Miller (304) 345-2200
District Election Officer: Larry Ellis
Assistant United States Attorney: Booth Goodwin

STATUS: 5 Informations; 4 Convictions.

SOUTHERN DISTRICT OF WEST VIRGINIA (1990-2004 Vote Buying), *United States v. Adkins, et al.*, Case No. 04-CR-00162: On August 25, 2004, Jackie Adkins was indicted for vote buying in Lincoln County in 2002 in violation of 42 U.S.C. § 1973i(c). A superseding indictment was returned on November 16, 2004, which added Wandell "Rocky" Adkins to the indictment and charged both defendants with conspiracy to buy votes in violation of 18 U.S.C. § 371 and vote buying. A second superseding indictment was returned on May 5, 2005, which added three additional defendants, Gregory Brent Stowers, Clifford Odell "Groundhog" Vance, and Toney "Zeke" Dingess, to the conspiracy and vote buying indictment.

Acting United States Attorney: Charles T. Miller (304) 345-2200
District Election Officer: Larry Ellis
Assistant United States Attorney: Karen George

STATUS: 5 Indictments.

EASTERN DISTRICT OF WISCONSIN (2004-Registration Fraud), *United States v. Davis,* Case No. 05-MJ-00454; *United States v. Byas,* No. 05-MJ-00455; *United States v. Ocasio,* No. 05-CR-00161; *United States v. Prude,* No. 05-CR-00162; *United States v. Sanders,* No. 05-CR-00163; *United States v. Alicea,* No. 05-CR-00168; *United States v. Brooks,* No. 05-CR-00170; *United States v. Hamilton,* No. 05-CR-00171; *United States v. Little,* No. 05-CR-00172; *United States v. Swift,* No. 05-CR-00177: On June 23, 2005, criminal complaints were issued against Brian L. Davis and Theresa J. Byas charging them with double voting in violation of 42 U.S.C. § 1973i(e). Five days later indictments were returned against convicted felons Milo R. Ocasio and Kimberly Prude, charging them with falsely certifying that they were eligible to vote in violation of 42 U.S.C. § 1973gg-10(2)(B), and against Enrique C. Sanders, charging him with multiple voting in violation of 42 U.S.C. § 1973i(e). On July 12, 2005, five more indictments were returned charging Cynthia C. Alicea with multiple voting in violation of 42 U.S.C. § 1973i(e) and convicted felons Deshawn B. Brooks, Alexander T. Hamilton, Derek G. Little, and Eric L. Swift with falsely certifying that they were eligible to vote in violation of 42 U.S.C. § 1973gg-10(2)(B).

United States Attorney: Steven M. Biskupic (414)297-1700
District Election Officer: Richard Frohling

STATUS: 8 Indictments; 2 Complaints.

DOJ_NMG_ 0145912

ELECTION FRAUD PROSECUTIONS
SINCE OCTOBER 2002

ELECTION FRAUD OFFENSES	Total Number
PERSONS CHARGED (BY INDICTMENT, INFORMATION, OR COMPLAINT)	89
CONVICTIONS	52
DISMISSALS BY THE GOVERNMENT	8
ACQUITTALS	4

DOJ_NMG_ 0145913

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 03, 2005 10:47 AM
To: McCallum, Robert (SMO)
Subject: OASG component responsibilities
Attachments: OASG Component Responsibilities.doc

Robert,

This seeks to summarize the results of my conversations with the team about the division of labor in a post-Wiggins world. I think all are happy with something like this, but it merits your review and final yea or nay as I think folks would appreciate the guidance.

After having looked to see how it's been done in the past w/r/t the pdag, I haven't assigned myself any particular components on the theory that I will likely touch many of them -- not on the theory that I bear no responsibility!

NMG

August 3, 2005

OASG Component Responsibilities

Tracy A. Henke	Office of Justice Programs Community Oriented Policing Services Office on Violence Against Women
Elizabeth A. Kessler	Environment & Natural Resources Division Office of Information & Privacy International Trade/Tribunals Foreign Claims Settlement Commission Department Document Committee
Luis A. Reyes	Tax Division Civil Rights Division Community Relations Service Assist with terrorism-related litigation Judicial/Rules Committee/Bar Outreach Budget matters Weekly reporting
Jeffrey M. Senger	Tobacco-related litigation Indian and tribal trust matters (including *Cobell*) Legislative/Interagency clearance Civil Justice Statistics Initiative Office of Consumer Litigation
Lily Fu Swenson	Antitrust Division Civil Division (except tobacco, *Cobell*, terrorism, and Office of Consumer Litigation) Executive office for U.S. Trustees Grant & Assistance Advisory Board Intellectual Property Task Force Web/Privacy initiatives

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 03, 2005 11:57 AM
To: Reyes, Luis (SMO)
Subject: FW: PRESS RELEASE regarding 2005 Ballot Access and Voting Integrity Conference

Is this something you and/or I should attend? Robt?
-----Original Message-----
From: Gantt, Angela N (CRT)
Sent: Wednesday, August 03, 2005 11:47 AM
To: von Spakovsky, Hans (CRT); Donsanto, Craig; Lemelle, Stan; Laurenzi, Larry; Kurimai, Cal; Kohnen, Ralph; Knauss, Darilynn; Jordan, Steve (TNM); Jahn, Ray; Hoff, David; Higdon, Bobby; Haycock, Jack; Hailman, John; Goolsby, Richard; Daniels, Donald; Varner, Christopher; Stevens, Elizabethanne; Atchley, Charles; Ellis, Larry (USAWVS); Mandel, Robert (USASD); McCarthy, James (USAME); Murphy, Rick (USAME); Rice, John; scott.polk@usdoj.gov; Elieson, Dayle; Zerhusen, Jim; White, John Ray; White, Ben; Whitaker, Barbara; Volk, Rick; Vandewetering, Josh; Van Wormer, Bernie; Valenzuela, Cynthia; Tvedt, Dan; Toliver, William; Tenorio, Christopher; Tangvald, Rolf; Storm, Arlen; Storch, Robert; Stewart, Dan; Steele, Susan; Stark, Leonard; Spartis, Gary; Smith, Deborah (Alaska); Shogren, Gregory; Schwartz, Michael; Schilling, Andrew; Savage, Mike (USANCW); Salsbury, Alan; Ross, Trini E; Rochlin, Karen; Register, Len; Prillaman, Debra; Plumlee, Christopher; Petersen, Janet; Perez, Ruben; Patton, Leon; Papps, Peter; O'Rourke, Thomas; Morrison, Tim; Gonzalez, Irene; Goldsmith, Hal; Gilmore, Greg; Gillis, James P; Gerson, Jonathon; Frohling, Richard; Fox, Harry; Flanagan, William; Ferguson, Gillum; Enoki, Elliot; Englade, Michelle; Ehlke, Steve; Edwards, Richard; Dyke, Tom; Dopf, Robert; Donnelly, Terrence; Dettelbach, Steven; Dember, Andrew; Davis, Vicki; David, Marivic; Morgan, Shawn; Daniel, Kim; Damm, Camille; Cook, Nancy; Conroy, John; Chen, Pamela; Chema, Richard; Burris, Dean; Burnham, Sharon; Burkhalter, Don; Burch, Ben; Bunnell, Steve; Brunson, Kent; Breitsameter, George; Boeshart, Paul; Bodenhausen, John; Bauer, David (Toledo, OH); Armijo, Rumaldo; Andrews, Alphonso; Anderson, James; Meadows, Pat; McLoughlin, Charles; McLean, A. Elliot; Martin, James (USA-MOE); Luther, Debora; Lopez, Ernesto; Lewis, Robert (USAMN)
Cc: Simmons, Abraham; /DDV=\/O=CRM\/OU=WASH\/CN=RECIPIENTS\/CN=PIN/DDT=EX/O=CRM2K/P=GOV+DOJ/A=TELEMAIL/C=US/; Simmons, Nancy; Elieson, Dayle; Mitchell, Cynthia; Wedge, James; Schlozman, Brad (CRT); Kim, Wan (CRT); Tanner, John K (CRT); Coates, Christopher (CRT); Dhillon, Uttam; Gorsuch, Neil M; Parent, Steve (USAEO); Barrett, Richard
Subject: PRESS RELEASE regarding 2005 Ballot Access and Voting Integrity Conference

Good Morning,

Hans has asked that I forward you the Press Release below. Also, please be sure to email me the names of individuals who will be attending the conference, so that we can prepare for their arrival accordingly.

Thank you,

Angela Noel Gantt
Special Assistant to the
Executive Officer for the
Civil Rights Division
202-305-8006
****

FOR IMMEDIATE RELEASE
AG
TUESDAY, AUGUST 2, 2005
(202) 514-2008
WWW.USDOJ.GOV
TDD (202) 514-1888

DEPARTMENT OF JUSTICE TO HOLD BALLOT ACCESS AND VOTING INTEGRITY SYMPOSIUM

Conference to Focus on Election Fraud, Voting Rights

WASHINGTON, D.C. - The Department of Justice announced today that the 4th annual Ballot Access and Voting Integrity Symposium will be held in Washington, D.C. on Oct. 4 and 5, 2005. The annual training conference is part of the Ballot Access and Voting Integrity Initiative, which was established in October 2002 to spearhead the Department's expanded efforts to address election fraud and voting rights violations.

The initiative is headed by the Assistant Attorneys General of the Criminal and Civil Rights Divisions. The goal of the initiative is to protect the integrity of the election process by increasing the Department's efforts and effectiveness in combating election fraud by: publicizing election fraud convictions to deter similar crimes in the future; ensuring nationwide compliance with the federal laws protecting voting rights; and assuring the public that the Department will combat election fraud and voting rights abuses vigorously, fairly and effectively.

"The power to vote is one of the greatest opportunities we share as Americans," said Attorney General Alberto R. Gonzales. "The very fiber of our Nation rests on the zealous protection of certain inalienable rights for every citizen, and we cannot grow complacent in the safeguarding of those rights. The Department of Justice will continue to aggressively protect each person's right to vote - and just as important - preserve the value of that vote from those who would corrupt the election process."

The Ballot Access and Voting Integrity Initiative includes:

Annual Training. Prosecutors serving as District Election Officers in the 94 U.S. Attorneys' Offices are required to attend annual training conferences on fighting election fraud and voting rights abuses. Previous conferences were held in October 2002, September 2003 and July 2004. These conferences are sponsored by the Voting Section of the Civil Rights Division and the Public Integrity Section of the Criminal Division, and feature presentations by Civil Rights officials and senior prosecutors from the Public Integrity Section and the U.S. Attorneys' Offices. As a result of these conferences, there is a nationwide increase in Department expertise relating to the prosecution of election crimes and the enforcement of voting rights.

State Coordination. Each U.S. Attorney is required to meet with the state Attorney General, Secretary of State, or other state official responsible for handling election matters in his or her district. These meetings underscore the Department's commitments to: prosecute election fraud and to protect voting rights; coordinate investigation of criminal matters involving joint federal and state jurisdiction; help ensure state compliance with federal voting rights laws; and avoid interference with the administration of elections, a function left primarily to the states by the Constitution. In addition, several U.S. Attorneys have established task forces with their state counterparts to increase their effectiveness in addressing election fraud and in deterring both discrimination at the polls and electoral corruption.

Prioritization of Election Fraud Enforcement. The initiative requires that all components of the Department place a high priority on the investigation and prosecution of election fraud. The Criminal Division's Public Integrity Section oversees the national effort to ensure that election fraud investigations and charges have sufficient factual and legal predication, that they will not interfere with an ongoing election, and that a national standard is maintained in this critical area of criminal law enforcement. As a result of the initiative, nationwide enforcement of election fraud matters has increased dramatically.

More than 120 election fraud investigations are currently pending throughout the country, all but four of which were opened after the initiative began in October 2002. In addition, over 60 election fraud matters have been closed after investigation since the initiative began. Finally, since the start of the initiative, 89 individuals have been charged with election fraud offenses. To date, 52 of these individuals have been convicted.

The following are examples of the Department's enforcement successes under the Ballot Access and Voting Integrity Initiative:

CRIMINAL DIVISION

* In Illinois, four precinct officials pleaded guilty to vote buying in the 2004 general election and five more people are awaiting trial on these charges. Also, an election official pleaded guilty to forging ballots in the 2002 general election.

* In Kentucky, seven persons were convicted of vote buying in the 1998 primary in Knott County, two at trial and five through guilty pleas. Another three persons recently were indicted for vote buying for a candidate for the state senate in the 2000 primary in Knott County and neighboring counties. Finally, four persons were convicted by juries of vote buying and related offenses in the 2002 general election in Pike County, including the county district judge. Another person also pleaded guilty to these charges.
*
* In New Hampshire, two political party officials and another person were indicted on charges relating to a scheme to prevent voters from getting to the polls in the November 2002 general election by jamming phone lines of local organizations. Two of the defendants pleaded guilty to telephone harassment charges and the third is awaiting trial for conspiring to violate the right to vote for federal officials and other related offenses.
*
* In Kansas and Missouri, three Kansas residents have been convicted, one in Kansas and two in Missouri, of voting in both Kansas and Missouri in the 2002 and 2000 elections.
*
* In Florida, 14 non-citizens, including a candidate for the state legislature, pleaded guilty or were convicted at trial of voting-related offenses in 1998 or later elections.
*
* In Louisiana, a candidate for St. Martinsville City Council pleaded guilty to conspiring to submit false voter registration information in 2002.
*
* In North Carolina, five persons were convicted of vote buying in the 2002 general election, three by a jury and two through guilty pleas.
*
* In West Virginia, four individuals, including the sheriff, the former chief of police, and the treasurer of a candidate for state representative, pleaded guilty to vote buying and related offenses in Logan County in the 2004 or 2002 elections. Also, five people have been indicted and are awaiting trial on charges of vote buying in Lincoln County in 2004 and earlier elections.
*
* In Wisconsin, four individuals have been charged with multiple voting, and six people have been charged with providing false information regarding their felon status, in the 2004 general elections.
*
* CIVIL RIGHTS DIVISION
*
* Election Coverage. On Election Day in November 2004, the Division sent out 251 employees from the Division and 822 federal observers from the Office of Personnel Management (OPM) to monitor elections in 86 political subdivisions in 25 states. The number of monitors and observers used for that election was more than were used in all of 2000. During all of 2004, the Division sent a total of 1,996 individuals (533 department personnel; 1,463 OPM observers) to monitor 163 elections in 105 political subdivisions in 29 states.
*
* Sections 203, 208 and 4(f)(4) of the Voting Rights Act. The Civil Rights Division has undertaken the most vigorous enforcement of section 203 in the history of the Act. Since 2001, the Division has filed as many section 203 cases as in the previous 23 years, and the pace is accelerating, with more cases filed and successfully resolved since May 2004 than in the previous 11 years. These latter lawsuits alone provided comprehensive minority language programs to more citizens than all previous Section 203 and 4(f)(4) cases combined. During this period the Civil Rights Division filed the first-ever cases to protect Filipino voters (San Diego, California) and Vietnamese voters (San Diego) and in addition it negotiated a private agreement in Harris County, Texas. The Division also used sections 2, 4(e) and 208 to protect the rights of Haitian voters (Miami-Dade, Florida), Arab voters (Hamtramck, Michigan), and Puerto Rican voters (Berks County, Pennsylvania).
*
* Section 2. In July 2005, the Civil Rights Division filed a case against Osceola, Florida under section 2 alleging that the at-large method of election for the county commission dilutes Hispanic voting strength. It also filed a case against Boston, Massachusetts for discriminatory treatment of Chinese, Vietnamese and Hispanic voters at the same time. In February 2005, the Division filed a case in Noxubee County, Mississippi under section 2, alleging that local officials routinely discriminated against white voters on the basis of their race. That case has already resulted in a consent decree with several local officials and litigation of the claims against remaining defendants is

resulted in a consent decree with several local officials and litigation of the claims against remaining defendants is ongoing. The Noxubee County case marks the first time the Division has filed a case under the Voting Rights Act on behalf of white voters.

*

* HAVA. The Civil Rights Division is charged with enforcing the requirements of the Help America Vote Act of 2002, which mandates uniform and non-discriminatory election procedures for federal office. The Division has actively informed state and local officials of the Act's requirements through an extensive outreach effort, including the creation of a HAVA section on the Division website, responses to questions from election officials, and speeches given to election official conferences. The Division has worked closely with the Election Assistance Commission, which also has responsibilities under the Act, to ensure that the federal government gives consistent views to election officials about HAVA. The Division has obtained extensive voluntary compliance, but has also filed two lawsuits to ensure HAVA compliance, and has filed amicus briefs in several private HAVA cases to ensure consistency in interpretation of its provisions.

*

* UOCAVA. During 2004, the Civil Rights Division ensured that members of the armed forces and other persons protected by the Uniformed and Overseas Citizens Absentee Voting Act were able to request, receive and cast a ballot for federal offices in a timely manner in the 2004 elections. The Voting Section was able to resolve problems with state officials without the necessity of litigation, and also initiated litigation against Pennsylvania in April 2004 and Georgia in July 2004, successfully obtaining court orders requiring changes in the deadlines for the return of ballots so that overseas and military ballots would be counted in each state's 2004 primary election.

*

* NVRA. The Division brought two lawsuits under the National Voter Registration Act, a law designed to expand registration opportunities for all citizens and to ensure proper maintenance of voter registration lists. In United States v. Pulaski County (E.D. Ark.), the Division obtained a consent decree requiring the county to establish procedures to ensure that eligible voters were not improperly removed from the list of registered voters. The second lawsuit, United States v. State of New York (N.D.N.Y.), challenged the state's failure to provide registration opportunities at public college offices that provide services to persons with disabilities. This case remains in litigation. A third NVRA lawsuit remains pending in New York.

*

* "As these election fraud and voting rights cases demonstrate, the Department's Ballot Access and Voting Integrity Initiative is a balanced law enforcement effort that is designed to make voting easier and cheating harder," said Acting Assistant Attorney General John C. Richter of the Criminal Division. "The Criminal Division, through the hard work of the Public Integrity Section, will continue its vigorous enforcement of voter fraud laws to ensure that elections are not corrupted and that every vote counts."

*

* "Protecting access to the ballot for all eligible voters is a major priority of the Civil Rights Division," said Bradley J. Schlozman, Acting Assistant Attorney General for the Civil Rights Division. "The Ballot Access and Voting Integrity Initiative has been an important instrument in ensuring the effectiveness of our enforcement efforts."

###

05-404

-----Original Message-----

From: von Spakovsky, Hans (CRT)

Sent: Wednesday, July 27, 2005 3:48 PM

To: Donsanto, Craig; Lemelle, Stan; Laurenzi, Larry; Kurimai, Cal; Kohnen, Ralph; Knauss, Darilynn; Jordan, Steve (TNM); Jahn, Ray; Hoff, David; Higdon, Bobby; Haycock, Jack; Hailman, John; Goolsby, Richard; Daniels, Donald; Varner, Christopher; Stevens, Elizabethanne; Atchley, Charles; Ellis, Larry (USAWVS); Mandel, Robert (USASD); McCarthy, James (USAME); Murphy, Rick (USAME); Rice, John; 'scott.polk@usdoj.gov'; Elieson, Dayle; Zerhusen, Jim; White, John Ray; White, Ben; Whitaker, Barbara; Volk, Rick; Vandewetering, Josh; Van Wormer, Bernie; Valenzuela, Cynthia; Tvedt, Dan; Toliver, William; Tenorio, Christopher; Tangvald, Rolf; Storm, Arlen; Storch, Robert; Stewart, Dan; Steele, Susan; Stark, Leonard; Spartis, Gary; Smith, Deborah (Alaska); Shogren, Gregory; Schwartz, Michael; Schilling, Andrew; Savage, Mike (USANCW); Salsbury, Alan; Ross, Trini E; Rochlin, Karen; Register, Len; Prillaman, Debra; Plumlee, Christopher; Petersen, Janet; Perez, Ruben; Patton, Leon; Papps, Peter; O'Rourke, Thomas; Morrison, Tim; Gonzalez, Irene; Goldsmith, Hal; Gilmore, Greg; Gillis, James P; Gerson, Jonathon; Frohling, Richard; Fox, Harry; Flanagan, William; Ferguson, Gillum; Enoki, Elliot; Englade, Michelle; Ehlke, Steve; Edwards, Richard; Dyke, Tom; Dopf, Robert; Donnelly, Terrence; Dettelbach, Steven; Dember, Andrew; Davis, Vicki; David, Marivic; Morgan, Shawn; Daniel, Kim; Damm, Camille; Cook, Nancy; Conroy, John; Chen,

Pamela; Chema, Richard; Burris, Dean; Burnham, Sharon; Burkhalter, Don; Burch, Ben; Bunnell, Steve; Brunson, Kent; Breitsameter, George; Boeshart, Paul; Bodenhausen, John; Bauer, David (Toledo, OH); Armijo, Rumaldo; Andrews, Alphonso; Anderson, James; Meadows, Pat; McLoughlin, Charles; McLean, A. Elliot; Martin, James (USA-MOE); Luther, Debora; Lopez, Ernesto; Lewis, Robert (USAMN)
Cc: Simmons,
Abraham; '/DDV=\/O=CRM\/OU=WASH\/CN=RECIPIENTS\/CN=PIN/DDT=EX/O=CRM2K/P=GOV+DOJ/A=TELE MAIL/C=US/'; Simmons, Nancy; Elieson, Dayle; Mitchell, Cynthia; Wedge, James; Schlozman, Brad (CRT); Kim, Wan (CRT); Gantt, Angela N (CRT); Tanner, John K (CRT); Coates, Christopher (CRT); Dhillon, Uttam; Gorsuch, Neil M; Parent, Steve (USAEO); Barrett, Richard
Subject: RE: 2005 Ballot Access and Voting integrity Conference

To all District Election Officers,

Following up on Craig Donsanto's earlier email to you, our slot has been confirmed for the October 4 though October 5, 2005 Ballot Access and Voting Integrity Conference.

The host hotel information is as follows:

The Georgetown University Conference Center
Marriott Conference Center
3800 Reservoir Road, NW
Washington, DC 20057
Reservation Line 800-228-9290
Main Hotel Line 202-687-3200
website: http://Marriott.com/property/propertypage/WASGU

Participants must register for our block of rooms by Midnight, September 12, 2005
There are a limited number of rooms available (12) for West Coast guests to maintain the $153 per night conference rate, should they decide to stay the night of October 5th.

Also, we are working the the NAC to find out about offering CLE credits again this year.

We are slated to have a meet & greet reception on Tuesday, October 4th from 5:30 to 7:pm.

Please make your reservations and plans to attend. Also, we would appreciate it if you would send a copy of this notice to your USA. Otherwise, if you have any questions, you are welcome to call me or Craig Donsanto.

Hans A. von Spakovsky
Counsel to the Assistant Attorney General
Civil Rights Division - Room 5539
U.S. Department of Justice
950 Pennsylvania Avenue
Washington, D.C. 20530

Telephone (202) 305-9750
Facsimile (202) 307-2839

Gorsuch, Neil M

Subject:	Accepted: Updated: Tax Bi-Weekly Meeting
Location:	5710
Start:	Thursday, August 04, 2005 9:30 AM
End:	Thursday, August 04, 2005 10:30 AM
Recurrence:	Monthly
Recurrence Pattern:	every 2 week(s) on Thursday from 10:00 AM to 11:00 AM
Meeting Status:	Accepted
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 03, 2005 4:15 PM
To: Henke, Tracy (SMO)
Subject: Re: NW3C Economic Summit information

Are you going to be here friday?

-----Original Message-----
From: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Lewis, David <David.P.Lewis@usdoj.gov>; Fowler, Liane <Liane.Fowler2@usdoj.gov>
Sent: Wed Aug 03 15:05:55 2005
Subject: Re: NW3C Economic Summit information

Neil:
Dave Lewis is the BJA point on this conference. He is working on talking points that you can review/edit to fit your style. I will have Liane change the hotel reservation to your name (she will work with Aloma) and either she or Dave will let you know the day and time of the speech so you can determine when you are flying in/out. Aloma can then make your flight arrangements. Feel free to call Dave with any questions.

Dave--please let the group know how sorry I am that I can't make it.
Tracy

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 14:05:42 2005
Subject: RE: NW3C Economic Summit information

can do

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 2:05 PM
To: Gorsuch, Neil M
Subject: Re: NW3C Economic Summit information

Aug 8-10

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 14:03:05 2005
Subject: RE: NW3C Economic Summit information

I couldn't tell what the dates are from the email chain. do you know?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 2:01 PM
To: Gorsuch, Neil M
Subject: Re: NW3C Economic Summit information

If the sates work for you, I will switch us out.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 13:57:47 2005
Subject: RE: NW3C Economic Summit information

Yes - it sounds very interesting and you're kind to think of me.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 12:51 PM
To: Gorsuch, Neil M
Subject: Fw: NW3C Economic Summit information

See below. This was an event I was suppose to speak at but with my pending nomination should now decline. Interest?

-----Original Message-----
From: Fowler, Liane <Liane.Fowler2@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 09:40:15 2005
Subject: FW: NW3C Economic Summit information

-----Original Message-----
From: Lewis, David
Sent: Friday, July 29, 2005 1:06 PM

To: Fowler, Liane
Subject: FW: NW3C Economic Summit information

Liane,

I sent a request to NW3C for information in response to Tracy's request and they referred me to their web site. I looked over it and it does have a lot of information. http://summit.nw3c.org/

Here are a few things answers from your e-mail:

ATTENDEES: are usually Internet and Financial fraud investigators. The also get some prosecutors and administors. Thiis is an opportunity for both public and private sector fraud-prevention professionals to share knowledge, experiences, and expertise.

# of ATTENDEES: usually have over 200 attendees. There were 750 total for 3 summits last year. The one in Minnesota is the second of three. The first was in Tampa.

SPEAKERS: Economic Crime Summit features objective, dynamic speakers who are enthusiastic about sharing knowledge with their peers. The event hosts speakers who are investigators, prosecutors, industry experts, researchers, practitioners, and authors.

SUBJECT MATTER: will included the latest techniques for investigating and prosecuting economic crime, including Identity Theft, Internet-Facilitated Fraud and Elder Fraud.

Let me know if you'd like anything else.

David

-----Original Message-----
From: [redacted]
Sent: Thursday, July 28, 2005 10:30 AM
To: Lewis, David
Subject: RE: Summit information

Hi David,

Yes, I can send you whatever info you need. If you don't mind, please take a look at http://summit.nw3c.org/

This site provides information on each of the (3) 2005 summits including programs, session descriptions, speaker bios, list of exhibitors, etc. If there is anything else you need that is not listed on the site, let me know and I'll get it back to you asap.

Thanks David,

[redacted]

From: Lewis, David [mailto:David.P.Lewis@usdoj.gov]
Sent: Thursday, July 28, 2005 10:06 AM
To: [redacted]
Subject: Summit information

[redacted]

Ms. Henke is requesting information about the Economic Summit, i.e. who are the attendees, material covered, focus, etc. Is there information you can send me electronically? Thank you.

David

Sent from the BlackBerry of:
David P. Lewis
Senior Policy Advisor, Justice Information Sharing DOJ - Bureau of Justice Assistance

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 3, 2005 4:46 PM
To: Henke, Tracy (SMO)
Subject: RE: NW3C Economic Summit information

Not a thing. Liz was just mentioning an issue that may arise at the components II meeting on friday, but I don't plan to be there unless you're not. Asked Liz to discuss it with you.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Wednesday, August 03, 2005 4:17 PM
To: Gorsuch, Neil M
Subject: Re: NW3C Economic Summit information

What you need?

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Wed Aug 03 16:15:09 2005
Subject: Re: NW3C Economic Summit information

Are you going to be here friday?

-----Original Message-----
From: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Lewis, David <David.P.Lewis@usdoj.gov>; Fowler, Liane <Liane.Fowler2@usdoj.gov>
Sent: Wed Aug 03 15:05:55 2005
Subject: Re: NW3C Economic Summit information

Neil:
Dave Lewis is the BJA point on this conference. He is working on talking points that you can review/edit to fit your style. I will have Liane change the hotel reservation to your name (she will work with Aloma) and either she or Dave will let you know the day and time of the speech so you can determine when you are flying in/out. Aloma can then make your flight arrangements. Feel free to call Dave with any questions.

Dave--please let the group know how sorry I am that I can't make it.
Tracy

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 14:05:42 2005
Subject: RE: NW3C Economic Summit information

can do

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 2:05 PM
To: Gorsuch, Neil M
Subject: Re: NW3C Economic Summit information

Aug 8-10

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 14:03:05 2005
Subject: RE: NW3C Economic Summit information

I couldn't tell what the dates are from the email chain. do you know?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 2:01 PM
To: Gorsuch, Neil M
Subject: Re: NW3C Economic Summit information

If the sates work for you, I will switch us out.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 13:57:47 2005
Subject: RE: NW3C Economic Summit information

Yes - it sounds very interesting and you're kind to think of me.

-----Original Message-----
From: Henke, Tracy (SMO)

Sent: Monday, August 01, 2005 12:51 PM
To: Gorsuch, Neil M
Subject: Fw: NW3C Economic Summit information

See below. This was an event I was suppose to speak at but with my pending nomination should now decline. Interest?

-----Original Message-----
From: Fowler, Liane <Liane.Fowler2@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 09:40:15 2005
Subject: FW: NW3C Economic Summit information

-----Original Message-----
From: Lewis, David
Sent: Friday, July 29, 2005 1:06 PM
To: Fowler, Liane
Subject: FW: NW3C Economic Summit information

Liane,

I sent a request to NW3C for information in response to Tracy's request and they referred me to their web site. I looked over it and it does have a lot of information. http://summit.nw3c.org/

Here are a few things answers from your e-mail:

ATTENDEES: are usually Internet and Financial fraud investigators. The also get some prosecutors and administors. Thiis is an opportunity for both public and private sector fraud-prevention professionals to share knowledge, experiences, and expertise.

# of ATTENDEES: usually have over 200 attendees. There were 750 total for 3 summits last year. The one in Minnesota is the second of three. The first was in Tampa.

SPEAKERS: Economic Crime Summit features objective, dynamic speakers who are enthusiastic about sharing knowledge with their peers. The event hosts speakers who are investigators, prosecutors, industry experts, researchers, practitioners, and authors.

SUBJECT MATTER: will included the latest techniques for investigating and prosecuting economic crime, including Identity Theft, Internet-Facilitated Fraud and Elder Fraud.

Let me know if you'd like anything else.

David

-----Original Message-----
From: [redacted]

From: [redacted]
Sent: Thursday, July 28, 2005 10:30 AM
To: Lewis, David
Subject: RE: Summit information

Hi David,

Yes, I can send you whatever info you need. If you don't mind, please take a look at http://summit.nw3c.org/

This site provides information on each of the (3) 2005 summits including programs, session descriptions, speaker bios, list of exhibitors, etc. If there is anything else you need that is not listed on the site, let me know and I'll get it back to you asap.

Thanks David,

[redacted]

From: Lewis, David [mailto:David.P.Lewis@usdoj.gov]
Sent: Thursday, July 28, 2005 10:06 AM
To: [redacted]
Subject: Summit information

[redacted]

Ms. Henke is requesting information about the Economic Summit, i.e. who are the attendees, material covered, focus, etc. Is there information you can send me electronically? Thank you.

David

Sent from the BlackBerry of:
David P. Lewis
Senior Policy Advisor, Justice Information Sharing DOJ - Bureau of Justice Assistance

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 3, 2005 4:51 PM
To: Fowler, Liane; Lewis, David
Cc: Henke, Tracy (SMO)
Subject: RE: NW3C Economic Summit information

Thanks so much. Look forward, when you have a chance, to hearing more about what's expected of me! - Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: Fowler, Liane
Sent: Wednesday, August 03, 2005 3:22 PM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Cc: Lewis, David
Subject: RE: NW3C Economic Summit information

I e-mailed Aloma the information that David had already given to me. It has the website and the number of people at the conference etc.....When I canceled the flight for Tracy I did not cancel her room so we can switch it into Neils name. I have already spoken with Aloma and she is going to call me back. David was going to give the proper people a call at NW3C to let them know so all should be just about taken care of!
Liane

> -----Original Message-----
> **From:** Henke, Tracy (SMO)
> **Sent:** Wednesday, August 03, 2005 3:10 PM
> **To:** Gorsuch, Neil M
> **Cc:** Fowler, Liane; Lewis, David
> **Subject:** Re: NW3C Economic Summit information
>
> Neil:
> Dave Lewis is the BJA point on this conference. He is working on talking points that you can review/edit to fit your style. I will have Liane change the hotel reservation to your name (she will work with Aloma) and either she or Dave will let you know the day and time of the speech so you can determine when you are flying in/out. Aloma can then make your flight arrangements. Feel free to call Dave with any questions.
>
> Dave--please let the group know how sorry I am that I can't make it.
> Tracy

Tracy

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 14:05:42 2005
Subject: RE: NW3C Economic Summit information

can do

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 2:05 PM
To: Gorsuch, Neil M
Subject: Re: NW3C Economic Summit information

Aug 8-10

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 14:03:05 2005
Subject: RE: NW3C Economic Summit information

I couldn't tell what the dates are from the email chain. do you know?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 2:01 PM
To: Gorsuch, Neil M
Subject: Re: NW3C Economic Summit information

If the sates work for you, I will switch us out.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 13:57:47 2005
Subject: RE: NW3C Economic Summit information

Yes - it sounds very interesting and you're kind to think of me.

-----Original Message-----
From: Henke, Tracy (SMO)

Sent: Monday, August 01, 2005 12:51 PM
To: Gorsuch, Neil M
Subject: Fw: NW3C Economic Summit information

See below. This was an event I was suppose to speak at but with my pending nomination should now decline. Interest?

-----Original Message-----
From: Fowler, Liane <Liane.Fowler2@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 09:40:15 2005
Subject: FW: NW3C Economic Summit information

-----Original Message-----
From: Lewis, David
Sent: Friday, July 29, 2005 1:06 PM
To: Fowler, Liane
Subject: FW: NW3C Economic Summit information

Liane,

I sent a request to NW3C for information in response to Tracy's request and they referred me to their web site. I looked over it and it does have a lot of information. http://summit.nw3c.org/

Here are a few things answers from your e-mail:

ATTENDEES: are usually Internet and Financial fraud investigators. The also get some prosecutors and administors. Thiis is an opportunity for both public and private sector fraud-prevention professionals to share knowledge, experiences, and expertise.

# of ATTENDEES: usually have over 200 attendees. There were 750 total for 3 summits last year. The one in Minnesota is the second of three. The first was in Tampa.

SPEAKERS: Economic Crime Summit features objective, dynamic speakers who are enthusiastic about sharing knowledge with their peers. The event hosts speakers who are investigators, prosecutors, industry experts, researchers, practitioners, and authors.

SUBJECT MATTER: will included the latest techniques for investigating and prosecuting economic crime, including Identity Theft, Internet-Facilitated Fraud and Elder Fraud.

Let me know if you'd like anything else.

David

-----Original Message-----
From: JBible@nw3c.org [mailto:JBible@nw3c.org]
Sent: Thursday, July 28, 2005 10:30 AM
To: Lewis, David
Subject: RE: Summit information

Hi David,

Yes, I can send you whatever info you need. If you don't mind, please take a look at http://summit.nw3c.org/

This site provides information on each of the (3) 2005 summits including programs, session descriptions, speaker bios, list of exhibitors, etc. If there is anything else you need that is not listed on the site, let me know and I'll get it back to you asap.

Thanks David,

[redacted]

From: Lewis, David [mailto:David.P.Lewis@usdoj.gov]
Sent: Thursday, July 28, 2005 10:06 AM
To: [redacted]
Subject: Summit information

[redacted]

Ms. Henke is requesting information about the Economic Summit, i.e. who are the attendees, material covered, focus, etc. Is there information you can send me electronically? Thank you.

David

Sent from the BlackBerry of:
David P. Lewis
Senior Policy Advisor, Justice Information Sharing
DOJ - Bureau of Justice Assistance

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 03, 2005 5:09 PM
To: Henke, Tracy (SMO)
Subject: RE: NW3C Economic Summit information

Super. I'll ignore this, then.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Wednesday, August 03, 2005 5:08 PM
To: Gorsuch, Neil M
Subject: Re: NW3C Economic Summit information

I will be there.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Wed Aug 03 16:45:38 2005
Subject: RE: NW3C Economic Summit information

Not a thing. Liz was just mentioning an issue that may arise at the components II meeting on friday, but I don't plan to be there unless you're not. Asked Liz to discuss it with you.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Wednesday, August 03, 2005 4:17 PM
To: Gorsuch, Neil M
Subject: Re: NW3C Economic Summit information

What you need?

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Wed Aug 03 16:15:09 2005
Subject: Re: NW3C Economic Summit information

Are you going to be here friday?

-----Original Message-----
From: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Lewis, David <David.P.Lewis@usdoj.gov>; Fowler, Liane <Liane.Fowler2@usdoj.gov>
Sent: Wed Aug 03 15:05:55 2005
Subject: Re: NW3C Economic Summit information

Neil:
Dave Lewis is the BJA point on this conference. He is working on talking points that you can review/edit to fit your style. I will have Liane change the hotel reservation to your name (she will work with Aloma) and either she or Dave will let you know the day and time of the speech so you can determine when you are flying in/out. Aloma can then make your flight arrangements. Feel free to call Dave with any questions.

Dave--please let the group know how sorry I am that I can't make it.
Tracy

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 14:05:42 2005
Subject: RE: NW3C Economic Summit information

can do

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 2:05 PM
To: Gorsuch, Neil M
Subject: Re: NW3C Economic Summit information

Aug 8-10

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 14:03:05 2005
Subject: RE: NW3C Economic Summit information

I couldn't tell what the dates are from the email chain. do you know?

-----Original Message-----
From: Henke, Tracy (SMO)

Sent: Monday, August 01, 2005 2:01 PM
To: Gorsuch, Neil M
Subject: Re: NW3C Economic Summit information

If the sates work for you, I will switch us out.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 13:57:47 2005
Subject: RE: NW3C Economic Summit information

Yes - it sounds very interesting and you're kind to think of me.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 12:51 PM
To: Gorsuch, Neil M
Subject: Fw: NW3C Economic Summit information

See below. This was an event I was suppose to speak at but with my pending nomination should now decline. Interest?

-----Original Message-----
From: Fowler, Liane <Liane.Fowler2@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 09:40:15 2005
Subject: FW: NW3C Economic Summit information

-----Original Message-----
From: Lewis, David
Sent: Friday, July 29, 2005 1:06 PM
To: Fowler, Liane
Subject: FW: NW3C Economic Summit information

Liane,

I sent a request to NW3C for information in response to Tracy's request and they referred me to their web site. I looked over it and it does have a lot of information. http://summit.nw3c.org/

Here are a few things answers from your e-mail:

ATTENDEES: are usually Internet and Financial fraud investigators. The also get some prosecutors and

ATTENDEES: are usually internet and Financial fraud investigators. The also get some prosecutors and administors. Thiis is an opportunity for both public and private sector fraud-prevention professionals to share knowledge, experiences, and expertise.

# of ATTENDEES: usually have over 200 attendees. There were 750 total for 3 summits last year. The one in Minnesota is the second of three. The first was in Tampa.

SPEAKERS: Economic Crime Summit features objective, dynamic speakers who are enthusiastic about sharing knowledge with their peers. The event hosts speakers who are investigators, prosecutors, industry experts, researchers, practitioners, and authors.

SUBJECT MATTER: will included the latest techniques for investigating and prosecuting economic crime, including Identity Theft, Internet-Facilitated Fraud and Elder Fraud.

Let me know if you'd like anything else.

David

-----Original Message-----
From: JBible@nw3c.org [mailto:JBible@nw3c.org]
Sent: Thursday, July 28, 2005 10:30 AM
To: Lewis, David
Subject: RE: Summit information

Hi David,

Yes, I can send you whatever info you need. If you don't mind, please take a look at http://summit.nw3c.org/

This site provides information on each of the (3) 2005 summits including programs, session descriptions, speaker bios, list of exhibitors, etc. If there is anything else you need that is not listed on the site, let me know and I'll get it back to you asap.

Thanks David,

Jodi :-)

Jodi A. Bible

NW3C Executive Assistant

304-366-9094, ext. 235

304-366-9022, fax

jbible@nw3c.org

From: Lewis, David [mailto:David.P.Lewis@usdoj.gov]
Sent: Thursday, July 28, 2005 10:06 AM
To: Jodi Bible
Subject: Summit information

Jodi,

Ms. Henke is requesting information about the Economic Summit, i.e. who are the attendees, material covered, focus, etc. Is there information you can send me electronically? Thank you.

David

Sent from the BlackBerry of:
David P. Lewis
Senior Policy Advisor, Justice Information Sharing DOJ - Bureau of Justice Assistance

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 04, 2005 9:45 AM
To: Shaw, Aloma A
Subject: RE: Send me Neil's bio
Attachments: Bio.doc

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, August 04, 2005 9:12 AM
To: Gorsuch, Neil M
Subject: Send me Neil's bio

Neil M. Gorsuch is Principal Deputy Associate Attorney General at the U.S. Department of Justice. The Office of the Associate Attorney General oversees the Antitrust, Civil, Civil Rights, Environment and Natural Resources, and Tax Divisions of the Department of Justice. It also advises and assists the Attorney General in formulating and implementing departmental policies and programs pertaining to a broad range of civil justice, federal and local law enforcement, and public safety matters.

Prior to joining the Department of Justice, Mr. Gorsuch was a partner at the Washington, D.C. firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC. Mr. Gorsuch is also a former clerk to Justice Byron R. White and Justice Anthony M. Kennedy of the U.S. Supreme Court, and to Judge David B. Sentelle of the U.S. Court of Appeals for the D.C. Circuit.

Mr. Gorsuch holds a doctorate from Oxford University (Marshall Scholar), a law degree from Harvard Law School (*cum laude*, Harry S. Truman Scholar), and an undergraduate degree from Columbia University (Phi Beta Kappa, Class Marshal, Nachems Society). Mr. Gorsuch is a term member of the Council on Foreign Relations and has published and spoken widely on a variety of legal issues. A native of Colorado, he is married to the former Louise Burletson, and they have two daughters, Emma (6) and Belinda (3).

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 04, 2005 9:55 AM
To: Shaw, Aloma A
Subject: RE: Send me Neil's bio

Don't know. The one I just sent you is slightly updated/revised.

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, August 04, 2005 9:55 AM
To: Gorsuch, Neil M
Subject: RE: Send me Neil's bio

I thought I sent this to Currie.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, August 04, 2005 9:45 AM
To: Shaw, Aloma A
Subject: RE: Send me Neil's bio

<< File: Bio.doc >>

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, August 04, 2005 9:12 AM
To: Gorsuch, Neil M
Subject: Send me Neil's bio

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Thursday, August 04, 2005 10:29 AM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: HR 3541
Attachments: tmp.htm; HR3541.doc

-----Original Message-----
From: [redacted] CIV, OSD-LA
Sent: Thursday, August 04, 2005 09:44
To: [redacted] OSD-LA; [redacted] CIV, OSD-LA; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] OSD-LA; [redacted] OSD-CIO; [redacted] OCLL [redacted] OCLL; [redacted] OCLL
Subject: HR 3541

Please be advised of the attached.

Respectfully,

[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

109TH CONGRESS

1ST SESSION

H. R. 3541

To affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment or punishment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2005

Mr. CONYERS (for himself, Mr. SKELTON, Mr. SERRANO, Ms. ZOE LOFGREN of California, Mr. MEEHAN, and Ms. LINDA T. SáNCHEZ of California) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment or punishment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Promoting Responsible Interrogation Standards Enforcement Act of 2005" or "PRISE Act of 2005".

SEC. 2. FINDINGS AND SENSE OF CONGRESS.

(a) Findings.—Congress makes the following findings:

(1) After World War II, the United States and its allies created a new international legal order based on respect for human rights. One of its fundamental tenets was a universal prohibition on torture and ill treatment.

(2) On June 26, 2003, the International Day in Support of Victims of Torture,

President George W. Bush stated, "The United States is committed to the world-wide elimination of torture and we are leading this fight by example. I call on all governments to join with the United States and the community of law-abiding nations in prohibiting, investigating, and prosecuting all acts of torture and in undertaking to prevent other cruel and unusual punishment.".

(3) The United States is a party to the Geneva Conventions, which prohibit torture, cruel treatment, or outrages upon personal dignity, in particular, humiliating and degrading treatment, during armed conflict.

(4) The United States is a party to 2 treaties that prohibit torture and cruel, inhuman, or degrading treatment or punishment, as follows:

(A) The International Covenant on Civil and Political Rights, done at New York on December 16, 1966.

(B) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984.

(5) The United States filed reservations to the treaties described in subparagraphs (A) and (B) of paragraph (4) stating that the United States considers itself bound to prevent "cruel, inhuman or degrading treatment or punishment" to the extent that phrase means the cruel, unusual, and inhumane treatment or punishment prohibited by the 5th amendment, 8th amendment, or 14th amendment to the Constitution.

(6) Army Regulation 190-8 entitled "Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees" provides that "Inhumane treatment is a serious and punishable violation under international law and the Uniform Code of Military Justice (UCMJ). . . . All prisoners will receive humane treatment without regard to race, nationality, religion, political opinion, sex, or other criteria. The following acts are prohibited: murder, torture, corporal punishment, mutilation, the taking of hostages, sensory deprivation, collective punishments, execution without trial by proper authority, and all cruel and degrading treatment. . . . All persons will be respected as human beings. They will be protected against all acts of violence to include rape, forced prostitution, assault and theft, insults, public curiosity, bodily injury, and reprisals of any kind. . . . This list is not exclusive.".

(7) The Field Manual on Intelligence Interrogation of the Department of the Army states that "acts of violence or intimidation, including physical or mental torture, threats, insults, or exposure to inhumane treatment as a means of or an aid to interrogation" are "illegal". Such Manual defines "infliction of pain through . . . bondage (other than legitimate use of restraints to prevent escape)", "forcing an individual to stand, sit, or kneel in abnormal positions for prolonged periods of time", "food deprivation", and "any form of beating" as "physical torture", defines "abnormal sleep deprivation" as "mental torture", and prohibits the use of such tactics under any circumstances.

(8) The Field Manual on Intelligence Interrogation of the Department of the Army states that "Use of torture and other illegal methods is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator wants to hear. Revelation of use of torture by U.S. personnel will bring discredit upon the U.S. and its armed forces while

undermining domestic and international support for the war effort. It may also place U.S. and allied personnel in enemy hands at a greater risk of abuse by their captors.".

(b) Sense of Congress.—It is the sense of Congress that the reservation filed by the United States to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Convention") regarding the obligation under Article 16 of the Convention—

(1) should be interpreted as a substantive definition of the term "cruel, inhuman or degrading treatment or punishment" under Article 16 of the Convention and not as a geographical limitation on the obligations of the United States under Article 16 of the Convention; and

(2) should reflect the original intent of the Senate and preserve the objectives and purposes of the Convention.

SEC. 3. HUMANE TREATMENT OF DETAINEES.

(a) Prohibition on Torture or Cruel, Inhuman, or Degrading Treatment or Punishment.—(1) No person in the custody or under the physical control of the United States shall be subject to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(b) Rules, Regulations, and Guidelines.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe the rules, regulations, or guidelines necessary to ensure compliance with the prohibition in subsection (a)(1) by the members of the Armed Forces and by any person providing services to the Department of Defense on a contract basis.

(2) The Secretary shall submit to the congressional defense committees the rules, regulations, or guidelines prescribed under paragraph (1), and any modifications to such rules, regulations, or guidelines—

(A) not later than 30 days after the effective date of such rules, regulations, guidelines, or modifications; and

(B) in a manner and form that will protect the national security interests of the United States.

(c) Report to Congress.—(1) The Secretary of Defense shall submit, on a timely basis and not less than twice each year, a report to Congress on the circumstances surrounding any investigation of a possible violation of the prohibition in subsection

(a)(1) by a member of the Armed Forces or by a person providing services to the Department of Defense on a contract basis.

(2) A report required under paragraph (1) shall be submitted in a manner and form that—

(A) will protect the national security interests of the United States; and

(B) will not prejudice any prosecution of an individual involved in, or responsible for, a violation of the prohibition in subsection (a)(1).

(d) Definitions.—In this section:

(1) The term "cruel, inhuman, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the 5th amendment, 8th amendment, or 14th amendment to the Constitution.

(2) The term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(3) The term "Geneva Conventions" means—

(A) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(B) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(C) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(D) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(4) The term "torture" has the meaning given that term in section 2340 of title 18, United States Code.

SEC. 4. ADHERENCE BY UNITED STATES TO OBLIGATIONS UNDER THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT.

(a) Limitation on Assistance With Respect to Obtaining Information From Individuals.—An officer or employee of the United States may not provide assistance to the government of a foreign country for the purpose of obtaining information from an individual held in custody by the foreign government if the officer or employee has reason to believe that torture or cruel, inhuman, or degrading treatment or punishment will be utilized to obtain the information.

(b) Limitation on Assistance With Respect to Transfer of Individuals.—An officer or employee of the United States may not encourage or otherwise assist the government of a foreign country to transfer, render, expel, return, or extradite an individual to another country if the officer or employee has reason to believe that the individual would be in danger of being subjected to torture in violation of Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. For purposes of the preceding sentence, the term "assist" includes the provision of personnel, information, equipment, financial assistance, or any other form of assistance.

-----Original Message-----
From: [redacted] CIV, OSD-LA
Sent: Thursday, August 04, 2005 09:44
[redacted] OSD-LA; [redacted] CIV, OSD-LA; [redacted] CIV, OSD-POLICY [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] OSD-LA; [redacted] OSD-CIO, [redacted] OCLL; [redacted] OCLL; [redacted] OCLL
Subject: HR 3541

Please be advised of the attached.

Respectfully,

[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 04, 2005 10:33 AM
To: [redacted]@dodgc.osd.mil'
Subject: RE: HR 3541

call me about this when you have a chance

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Thursday, August 04, 2005 10:29 AM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: HR 3541

-----Original Message-----
From: [redacted] CIV, OSD-LA
Sent: Thursday, August 04, 2005 09:44
To: [redacted] OSD-LA; [redacted] CIV, OSD-LA; [redacted], [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] OSD-LA; [redacted] OSD-CIO; [redacted] OCLL [redacted] OCLL [redacted] OCLL
Subject: HR 3541

Please be advised of the attached.

Respectfully,

[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and

Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 04, 2005 2:37 PM
To: [redacted]@cfr.org'
Subject: FW: Reminder:Term Member Buddy Volunteer Request
Attachments: Bio.doc

[redacted] Let me know if you need help. Bio, as requested, is attached. NMG

-----Original Message-----
From: Term_Membership@cfr.org [mailto:Term_Membership@cfr.org]
Sent: Thursday, August 04, 2005 2:32 PM
To: Term_Membership@cfr.org
Cc: [redacted]@cfr.org; [redacted]@yahoo.com;
david_olson@ustr.eop.gov; [redacted]@cfr.org
Subject: Reminder:Term Member Buddy Volunteer Request

Please find a message below from your fellow term members.
****

Dear DC Term Members,

The Council seeks to improve the orientation program for new term members.
To this end, the Council is looking to the â??buddyâ?? program as a key means of integrating new term members into the term membership and the Councilâ??s programs overall.

We are seeking volunteers from among DC term members to serve as â??buddiesâ??
for the new class of DC term members entering the program this summer. Our aim is to have enough volunteers so that each volunteer will be linked with only one new DC term member. We will try to link new and current term members based on similar professional interests. Each â??buddyâ?? will be asked to contact the new term member he/she is linked up with, explain in general about the Councilâ??s programs, and over the year answer any questions that the new term member has. Also, there will likely be a reception for current and new term members in the early fall at which the â?? buddiesâ?? can meet if they have not done so already.

Please contact [redacted] if you would like to participate or if you have any questions. Also, please list some of your professional interests to facilitate matching. We look forward to yourparticipation.

Thank you.

[redacted]@yahoo.com Andy Olson david_olson@ustr.eop.gov

Neil M. Gorsuch is Principal Deputy Associate Attorney General at the U.S. Department of Justice. The Office of the Associate Attorney General oversees the Antitrust, Civil, Civil Rights, Environment and Natural Resources, and Tax Divisions of the Department of Justice. It also advises and assists the Attorney General in formulating and implementing departmental policies and programs pertaining to a broad range of civil justice, federal and local law enforcement, and public safety matters.

Prior to joining the Department of Justice, Mr. Gorsuch was a partner at the Washington, D.C. firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC. Mr. Gorsuch is also a former clerk to Justice Byron R. White and Justice Anthony M. Kennedy of the U.S. Supreme Court, and to Judge David B. Sentelle of the U.S. Court of Appeals for the D.C. Circuit.

Mr. Gorsuch holds a doctorate from Oxford University (Marshall Scholar), a law degree from Harvard Law School (*cum laude*, Harry S. Truman Scholar), and an undergraduate degree from Columbia University (Phi Beta Kappa, Class Marshal, Nachems Society). Mr. Gorsuch is a term member of the Council on Foreign Relations and has published and spoken widely on a variety of legal issues. A native of Colorado, he is married to the former Louise Burletson, and they have two daughters, Emma (6) and Belinda (3).

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Thursday, August 04, 2005 3:22 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: FW: Final Draft -- Cuba Claims Press Release

FYI - Mauricio plans to go ahead with the new Cuban claims "program," which was referred to the FCSC by the State Department, and has been working on the below press release with OPA. As a reminder, this is only expected to cover that one claim involving a radio tower that he has been mentioning to us. There will be a six month filing period for filing any claims under the new program.

-----Original Message-----
From: Tamargo, Mauricio J
Sent: Thursday, August 04, 2005 3:18 PM
To: Nowacki, John
Cc: Kessler, Elizabeth A; Bradley, David E; McArthur, Patrick; Scolinos, Tasia
Subject: RE: Final Draft -- Cuba Claims Press Release

John,

Thanks for your help.
Here is the press release again with a few minor changes. We will turn in the federal register notice on Monday so we should be ready to put out the press release on Wednesday Aug. 10th.

Thanks,
Mauricio

Mauricio J. Tamargo
Chairman
Foreign Claims Settlement Commission
U.S. Department of Justice
600 E Street, NW, Suite 6002
Washington, DC 20579
[redacted] **Beeper**

U.S. Department of Justice

Foreign Claims Settlement Commission
of the United States

DEPARTMENT OF JUSTICE FOREIGN CLAIMS SETTLEMENT COMMISSION ANNOUNCES A SECOND CUBAN CLAIMS PROGRAM FOR AMERICANS WITH NEW PROPERTY CLAIMS AGAINST THE

GOVERNMENT OF CUBA

FOR IMMEDIATE RELEASE
XXXX, August XX, 2005

Phone: [redacted]
Fax: (202) 616-6993

WASHINGTON, D.C.- Mauricio Tamargo, Chairman of the Foreign Claims Settlement Commission, announced today the commencement of a Second Cuban Claims Program to receive claims of U.S. citizens or corporations against the Government of Cuba for previously unajudicated losses of real and personal property taken after May 1, 1967.

In the earlier Cuban Claims Program (under Section 1643 of Title 22, U.S. Code), completed on July 6, 1972, the Commission certified 5,911 claims to the U.S. Department of State. Any new claims certified as valid by the Commission will be added to those already certified in the previous program. Although there are no funds currently available to make payment on any American claims, the certification of the Commission's findings to the Secretary of State will be used as a basis for future negotiation of a claims settlement with the Government of Cuba.

This Second Cuban Claims Program provides for claims of U.S. citizens or corporations that would have been eligible under the earlier Program, but for the fact that they did not arise by the time of the filing deadline of May 1, 1967 and were not otherwise adjudicated by the Commission prior to completion of the earlier Program. The filing deadline for these claims is XXXX XX, 2006. Chairman Tamargo emphasized the program is open only to those who were U.S. citizens or an American corporation at the time their property was taken.

All inquiries concerning these claims should be forwarded directly to the Foreign Claims Settlement Commission of the United States, 600 E Street N.W., Suite 6002, Washington, D.C. 20579, Phone: [redacted], Fax: (202) 616-6993.

The Foreign Claims Settlement Commission of the United States (FCSC) is a quasi-judicial, independent agency within the Department of Justice which adjudicates claims of U.S. nationals against foreign governments. More information about the Commission is available at http://www.usdoj.gov/fcsc/.

###

-----Original Message-----
From: Scolinos, Tasia
Sent: Thursday, August 04, 2005 1:59 PM
To: Tamargo, Mauricio J
Cc: Kessler, Elizabeth A; Bradley, David E; McArthur, Patrick; Sampson, Kyle; Ullyot, Theodore; Nowacki, John
Subject: RE: Final Draft -- Cuba Claims Press Release

Thanks Mauricio. I am cc'ing John Nowacki on my staff who will be the point person on this issue. He can coordinate as appropriate with State Department OPA.

-----Original Message-----
From: Tamargo, Mauricio J
Sent: Thursday, August 04, 2005 1:16 PM

To: Scolinos, Tasia
Cc: Kessler, Elizabeth A; Bradley, David E; McArthur, Patrick; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Final Draft -- Cuba Claims Press Release

Tasia,

This is the draft press release that will be sent out once the official notice appears in the federal register. Please look it over and let me know any changes you think should be made.

As you can see from the draft it is a narrow group that would be eligible to make claims. There is no way to know for sure but we expect only a few claims. We are sure of only one claimant and he is the one who contacted the Secretary of State and requested the referral. That is Starwood Resorts who owned a sizable amount of land in Havana Cuba where they operated a telephone tower for many years until a hurricane put it out of business. According to their documents, which we will investigate, the Government of Cuba confiscated everything in 2003. DOS decided that they needed to refer all new property claims since the end of the old Cuban Claims Program to the FCSC to be added to the already certified American claims against Cuba.

We, (or hopefully you) need to be ready to highlight a few key facts. As in all past 47 claims programs, the claimants must have been American citizens at the time of the confiscation. Also the claim cannot be for a personal injury or death - only property. If they ask why only property, I would suggest they ask the State Department. The claim must be only for new confiscations that arose after the end of the last Cuban Program. If they ask why only takings after May 1, 1967, the answer to that one is that all takings that occurred before that date already had an opportunity to file a claim in the earlier program and it would not be fair to give them a second shot at the apple.

The draft press release below should be sent out the day the notice appears in the federal register. The dates and deadlines will be added when we know the dates of publication in the fed register. I believe it should go out all major news outlets. Certainly all print, maybe not TV, if you wish to eliminate any. I will understand if the Attorney General does not wish to be included in this announcement.

I look forward to meeting you sometime and thank you for your help with this.

Mauricio

Mauricio J. Tamargo
Chairman
Foreign Claims Settlement Commission
U.S. Department of Justice
600 E Street, NW, Suite 6002
Washington, DC 20579
[redacted]

Jackson, Marjorie L

Subject:	Updated: Component Heads Group I Meeting
Location:	Room 4111
Start:	Friday, August 5, 2005 10:00 AM
End:	Friday, August 5, 2005 10:30 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Friday from 10:00 AM to 10:30 AM
Meeting Status:	Not yet responded
Organizer:	Jackson, Marjorie L
Required Attendees:	Gorsuch, Neil M

When: Friday, August 05, 2005 10:00 AM-10:30 AM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 4111

~~*~*~*~*~*~*~*~*~*

Attending: Bill Mercer, Neil Gorsuch attending for ASG McCallum, AAG Keisler, AAG O'Connor, OSG Clement, AAG Moschella, Acting AAG Thomas Barnett/ Antitrust, Sharee Freeman/CRS, Mike Battle/EOUSA, Tasia Scolinos/PAO, Kelly Johnson attending for AAG ENRD, Crystal Roberts/OIPL, Brad Schlozman and Wan Kim on leave, no rep from CRT
POC: Linda Long

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 04, 2005 4:11 PM
To: McCallum, Robert (SMO)
Subject: Tuesday

Tracy has asked me to step in for her next wk at a conference on economic/white collar crime. If it's alright by you, I will do so, having had some interest and involvement in the area while in private practice. It would mean that I'd be out of the office next Tuesday.

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 04, 2005 4:22 PM
To: USDOJ- Office of Public Affairs
Subject: PRESS RELEASE FROM THE SOUTHERN DISTRICT OF NEW YORK
Attachments: BrentPR.pdf; Brent Complaint.pdf

Attached is a copy of a press release issued today by the U.S. Attorney's Office in the Southern District of New York, along with a copy of the criminal complaint.

Approved: Karl Metzner
VICTOR L. HOU/KARL METZNER
Assistant United States Attorneys

05 MAG 1388

Before: HON. FRANK MAAS
United States Magistrate Judge
Southern District of New York

- - - - - - - - - - - - - - - - - - - -X

UNITED STATES OF AMERICA	:	SEALED COMPLAINT
-v.-	:	Violation of 18 U.S.C. § 2339B
MAHMUD FARUQ BRENT, a/k/a "Mahmud Al Mutazzim,"	:	COUNTY OF OFFENSE: BRONX
Defendant.	:	

- - - - - - - - - - - - - - - - - - - -X

SOUTHERN DISTRICT OF NEW YORK, ss.:

ROBERT FULLER, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation, and charges as follows:

COUNT ONE

From at least in or about 2001, up to and including in or about May 2005, in the Southern District of New York and elsewhere, MAHMUD FARUQ BRENT, a/k/a "Mahmud Al Mutazzim," the defendant, and others known and unknown, unlawfully and knowingly combined, conspired, confederated and agreed together and with each other, within the United States, to provide material support and resources, as that term is defined in Title 18, United States Code, Section 2339A, to a foreign terrorist organization, namely, Lashkar-e-Taiba.

(Title 18, United States Code, Section 2339B.)

The bases for my knowledge and the foregoing charge are, in part, as follows:

1. I have been a Special Agent with the Federal Bureau of Investigation ("FBI") for the past approximately five years and am a member of the FBI/New York City Police Department Joint Terrorism Task Force ("JTTF"). I have been personally involved in the investigation of this case. I am currently assigned to a squad whose principal responsibility is to

investigate the activities of al Qaeda and its founder Usama Bin Laden. I have been investigating the criminal activities of members and associates of al Qaeda for approximately four years. This affidavit is based upon my personal participation in this investigation, conversations with witnesses, other agents, and other law enforcement officers, and review of relevant documents, reports, court documents, Web postings, audio recordings, and transcripts.

2. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part.

Lashkar-e-Taiba

3. Markaz Dawa Wa'al Irshad, which roughly translated means "Center or Invitation [to Islam] and Instructions," was founded in or about 1986 to organize Pakistani mujahideen participating in the jihad against Russians in Afghanistan. As it expanded, education and jihad sections were separated. Thereafter, the military wing of the Markaz Dawa Wa'al Irshad was established in the name of Lashkar-e-Taiba, also known as Lashker-e-Taiba, Lashkar-e-Toyeba, Lashkar-e-Toiba, Lashkar e-Tayyiba, and Lashkar-I-Taib (hereinafter abbreviated as "LET"). Later, Lashkar-e-Taiba expanded its focus to include jihad against the Government of India and conducted military operations in Kashmir. India and Pakistan have long disputed the territorial rights to the Kashmir region, and violence between the factions seeking control of the area is commonplace.

4. Lashkar-e-Taiba, which roughly translated means "Army of the Pure" or the "Army of the Righteous," claims to have trained thousands of mujahideen to fight in areas including Afghanistan, Kashmir, Bosnia, Chechnya, Kosovo, and the Philippines. Lashkar-e-Taiba is known to have operated training camps in Pakistan for training mujahideen from around the world.

5. Following the terrorist attacks of September 11, 2001, several electronic bulletin board-type messages were sent, with headlines linking directly back to the Lashkar-e-Taiba web site, in which a purported Lashkar-e-Taiba spokesperson, "Abu Osama," stated, in substance: "Lashkar-e-Taiba will not leave Afghan brethren in the lurch. They will sacrifice their lives along with other Muslims against America and other disbelievers

DOJ_NMG_ 0145962

in case they attack Afghanistan. Lashkar-e-Taiba is intended to uphold the flag of Islam by jihad in the battlefield."

6. On or about December 13, 2001, terrorists attacked India's Parliament while it was in session, resulting in approximately 12 deaths. Media outlets reported that the Government of India blamed two groups for the attack, including Lashkar-e-Taiba.

7. On or about December 24, 2001, the United States designated Lashkar-e-Taiba a foreign terrorist organization pursuant to Section 219 of the Immigration and Nationality Act. That designation was renewed effective December 23, 2003, and remains in effect.

Evidence of Material Support

8. During the course of this investigation, I have interviewed on a number of occasions a confidential source ("CS-1").[1] CS-1 advised me and other law enforcement officers, in part and in substance, of the following:

a. Between in or about October 2003 and in or about December 2003, CS-1 was in contact with an individual named Tarik Shah. During various conversations with CS-1 during this approximate time period, many of which were consensually recorded, Shah discussed with CS-1 the duty of "jihad" (i.e., holy war).

b. Shah indicated to CS-1, in substance, that he was a "professor" of the "martial arts" although he was currently not "training" any "brothers." In that regard, Shah noted, in substance, that after the terrorist attacks on September 11, 2001, various mosques had, in fact, prevented Shah from continuing such training.

---

[1] In or about 1990, CS-1 was convicted of certain state crimes relating to robberies. While serving his state sentence, CS-1 agreed to cooperate with the Government regarding certain terrorism investigations and, in return, the Government wrote the state sentencing judge for sentencing consideration. After serving his sentence, CS-1 continued to cooperate with the Government and currently provides information as a paid informant. CS-1's information has proven to be reliable and has been corroborated by other sources of information, including surveillance and recordings.

DOJ_NMG_ 0145963

c. Shah informed CS-1 that he had previously discussed with other "brothers" how "we could pass" knowledge on to "brothers who are ready" [to fight jihad].

9. In or about December 2003, Shah was arrested by New York state law enforcement authorities for petit larceny. During a search incident to that arrest, authorities recovered from Shah an address book that included the following entries:

a. "Mahmud Almutazzim (973) 393-7666, (240) 350-0051, (973) 792-0973, (202) 528-0567."

b. "Sayfullah (703) 461-3339."

Telephone records demonstrate that (240) 350-0051 was subscribed to in the name of "Taisha Abdel-Aziz," which is the name of MAHMUD FARUQ BRENT's wife, at 5306 Gwynn Oak Avenue, Gwynn Oak, Maryland, from September 21, 2000, through February 10, 2005. The telephone number (973) 792-0973 was listed as the contact number in a passport application submitted by "Mahmud Al Mutazzim," as detailed below. The telephone number (703) 461-3339 was subscribed to at an address in Alexandria, Virginia, known to have been a residence of Seifullah Chapman.[2]

10. Later, between in or about January 2004 and in or about February 2004, Shah and CS-1 had several discussions regarding "training," which were consensually recorded. During these discussions, CS-1 told Shah (at the FBI's direction) that CS-1 was in contact with a recruiter for jihad from the Middle East (in reality, an FBI Special Agent acting in an undercover capacity ("UC-1")) and advised Shah that the recruiter (UC-1) was interested in someone who could train a small number of individuals overseas in hand-to-hand combat and martial arts. Shah advised CS-1, in substance, that he was interested and that he had a close associate, Rafiq Sabir, a "doctor," who lived in Florida, and who would also be interested in joining the jihad.

---

[2] On or about March 4, 2004, Chapman and two of his co-conspirators were convicted in the Eastern District of Virginia of, among other charges, providing material support to Lashkar-e-Taiba. Chapman was a member of the Virginia Jihad Network in which members interested in jihad were trained in combat techniques, which involved, among other things, paintball exercises. At trial, Chapman testified on his own behalf and admitted that he had attended a Lashkar-e-Taiba training camp in or about 2001. Chapman was sentenced to ~~85 years~~ an extensive term of imprisonment, which he is currently serving.

DOJ_NMG_ 0145964

Shah suggested that CS-1 present Shah and Sabir as, in essence, a "package" to the recruiter and indicated again that Shah could provide martial arts services and his "partner," a medical doctor, could provide medical services. Shah also indicated that he would be interested in meeting with the "recruiter" (UC-1). Later, during these discussions, CS-1 told Shah that UC-1 was willing to meet with Shah alone and that the meeting would probably take place in upstate New York, near the Canadian border.

11. On March 4 and 5, 2004, Shah met with UC-1 in a city in upstate New York. Those meetings were consensually recorded. During those meetings, and throughout his dealings with Shah, UC-1 posed as a recruiter for "brothers" overseas who were seeking other "brothers" to wage jihad. The following points were discussed, among others:

a. Shah talked with UC-1 about the "end point" and indicated that he "may not really be interested in coming back here ever." Shah mentioned that the "very serious" brothers might recognize Shah's "usefulness" and put him to use for jihad and the fight against the United States.

b. Shah discussed his specialty in the "martial arts" and informed UC-1 that he has been trained in jujitsu, which he described as the Japanese art and culture of hand-to-hand combat, and knife and stick fighting, and that he was "blessed" to have studied with a mujahideen who had previously fought a war in Malaysia in or about 1969.

12. On or about April 1 and 2, 2004, Shah and UC-1 met again, this time in Florida. These meetings were consensually recorded. The following was discussed, among other things:

a. Shah informed UC-1 that he would like to learn at the camps about "chemical stuff" and later Shah specified that he wanted training about "explosives and firearms." UC-1 and Shah also discussed training on AK-47 assault rifles and hand grenades.

b. Shah explained to UC-1 that he had previously trained many "brothers" and that a "lot of my brothers" who were trained by him would "go over" and "got hooked up," although nobody ever came in and told Shah that they were "gonna walk in a place and blow up." The "brothers," Shah indicated, "don't even talk like that."

DOJ_NMG_ 0145965

c. Shah mentioned the names of several students who studied martial arts with Shah and who had gone overseas to training camps in Afghanistan and Yemen, including "Mahmud Al Mutazzim," a name used by MAHMUD FARUQ BRENT, the defendant. In particular, Shah indicated, in substance, that Al Mutazzim was "over there" around the time frame of September 11, 2001, and had to keep on traveling to "different provinces and moving around in different places" before ultimately being able to return to the United States. Shah explained his belief that Al Mutazzim had been given the names of people to contact at the camps by a white American Muslim convert.[3] Shah also stated that Al Mutazzim had told Shah how difficult it was to be back in the United States and not to be in training. Shah stated that he would call Al Mutazzim to enlist his help to prepare the demonstration video for martial arts training requested by UC-1 and assured UC-1 that Shah trusted Al Mutazzim. Shah also told UC-1 that Al Mutazzim could be trusted because he was a longtime student of Shah who, after leaving school, started "seeking the way to become Mujahideen."

13. Toll and pen register records show that on or about August 21, 2004, a 16 minute call was placed from telephone number (240) 350-0051 to telephone number (914) 489-9526. As detailed above, (240) 350-0051 was subscribed to in the name of MAHMUD FARUQ BRENT's wife at BRENT's home. Records indicate that (914) 489-9526 was subscribed to in the name of Shah's wife, and Shah's business cards listed that number as his telephone number.

14. On or about May 20, 2005, Shah met with CS-1 and UC-1 at CS-1's apartment in the Bronx, New York. Soon after the meeting had begun, Rafiq Sabir arrived and joined the meeting. This meeting was consensually recorded. During this meeting, the following, among other things, was discussed:

a. Shah and UC-1 discussed training camps overseas and spoke generally about jihad.

b. Shah asked UC-1 whether he was familiar with the "brothers" in Washington, D.C., and then indicated that Shah knew one of the brothers who was "fully prepared." Shah indicated that this "brother" was a paramedic and that Shah was

---

[3] Based upon Shah's post-arrest statements and my discussions with agents involved in the Virginia Jihad Network investigation, I believe that the "white brother" to whom Shah refers is Seifullah Chapman. As mentioned above, Chapman's name and telephone number were found in Shah's possession.

DOJ_NMG_ 0145966

happy because this brother followed his orders. Shah stated that, around the time of September 11, 2001, the paramedic took Shah to meet with a "white brother" in D.C. who had done training with the "Mujahideen" and had extensive knowledge about al Qaeda.[4] Shah also indicated, in substance, that the "brother was taking brothers out" for paintball training exercises.

c. UC-1 told Shah and Sabir that al Qaeda needed trusted people in the organization and that he was authorized to deliver a message from his leader. UC-1 explained to Shah and Sabir that he was authorized to give bayat, i.e., the oath of loyalty to al Qaeda.

d. UC-1 explained bayat and subsequently both Shah and Sabir committed themselves to the path of Holy War, to the oath of secrecy, and to abide by the directives of al Qaeda. Both Shah and Sabir both indicated that they understood the oath and agreed that they would obey the guardians of the oath, namely Usama Bin Laden.

15. On or about May 28, 2005, Shah and Sabir were arrested by the FBI on charges of conspiring to provide material support to a foreign terrorist organization, namely, al Qaeda. Following Shah's arrest, Shah was advised of his constitutional rights, agreed to speak with the agents, and made the following statements, among others:

a. Shah was a martial arts trainer who had previously trained many individuals committed to jihad, including "Mahmud Al Mutazzim" (a name used by MAHMUD FARUQ BRENT, the defendant), and Al Mutazzim remained committed to jihad and lived in the vicinity of Baltimore, Maryland.[5]

b. Beginning in or about Summer 2001, Shah had trained Al Mutazzim in martial arts when Shah lived in Beacon,

---

[4] As explained below, MAHMUD FARUQ BRENT works as a paramedic, and the "white brother" to whom Shah referred was Seifullah Chapman.

[5] Pursuant to a search warrant executed at Shah's residence in the Bronx, law enforcement authorities recovered, among other items, an envelope bearing the name "Mahmud Al-Mutazzim," with the address "2707 Upshur St., Apt. 6, Mt. Ranier, Maryland 27012," and telephone number "(301) 484-1415." Telephone records show that number (301) 484-1415 was subscribed to by "Mahmud Al-Mutazzim" at this address.

DOJ_NMG_ 0145967

New York, and Al Mutazzim had lived with Shah during this time period. Shah also indicated that while Al Mutazzim lived with Shah in Beacon, New York, Al Mutazzim frequently viewed martial arts training videos and other videos about jihad in Bosnia.

c. Al Mutazzim, in the time period around the September 11 terrorist attacks, had introduced Shah to Seifullah Chapman in the Washington, D.C.-area, whom Shah understood to be a military trainer and Muslim convert who had traveled to training camps overseas. Chapman was the "white brother" and "white convert" to whom Shah had been referring in his previous conversations with UC-1.

d. Al Mutazzim's martial arts training with Shah ended after the September 11 attacks when the officials at the local mosque in Beacon, New York, where they sometimes practiced, essentially "kicked" them out. Sometime thereafter, Shah learned from a mutual associate that Al Mutazzim had "traveled." Shah interpreted this to mean that Al Mutazzim had been overseas to receive jihad training.

e. Later, when Al Mutazzim returned to the United States in or about 2002, Al Mutazzim mentioned to Shah that he had gone to a camp but did not specify to Shah what camp it had been.

16. On or about May 28, 2005, at the direction of the FBI, Shah made a consensually recorded call to a number Shah had previously used to contact Al Mutazzim. Shah spoke to MAHMUD FARUQ BRENT, a/k/a "Mahmud Al Mutazzim," the defendant, and BRENT agreed to meet with Shah in Maryland.[6]

17. Later on or about May 28, 2005, Shah agreed to travel with FBI agents to the vicinity of Columbia, Maryland, to meet with MAHMUD FARUQ BRENT, a/k/a "Mahmud Al Mutazzim," the defendant. Shah and BRENT met at a hotel in the vicinity of Columbia, Maryland. At the outset of the meeting, BRENT was accompanied by three other individuals who were not present for most of the ensuing meeting. This meeting was monitored and recorded using audio and video surveillance. During the meeting,

---

[6] At the time of the calls, Shah was cooperating with the Government. At present, no cooperation agreement exists between Shah and the Government. However, Shah's information has been corroborated by other evidence, including audio recordings and surveillance, which are described herein.

DOJ_NMG_ 0145968

the following, among other things, was discussed in substance between BRENT and Shah:

a. Shah indicated that he wanted to "travel." In response, BRENT replied that his "connections" were "kinda gone," in light of what had been happening in the community and that his only "connect" was "doing time now."[7]

b. BRENT explained that he never really "knew names" since that was the "way that they had it set up" over there and that, at the time he went to the camps, everything was "really organized."

c. BRENT described the difficulties he encountered in reaching the "camps" and the process by which he was able to find a connection to get into the camps, although he told Shah that he would not "mention" his connection's name to Shah.

d. BRENT encouraged Shah to travel overseas to the camps and told Shah that it was a question of "how much" Shah was willing to "sacrifice" and whether Shah was willing to "take a risk."

e. BRENT also explained that watching the videotapes of Muslim brothers "suffering" while he was "up" at Shah's residence (i.e., in Beacon, New York) had an impact on him and that this experience "kind of like pushed me over the, over the edge" about "going there."[8]

f. BRENT explained how difficult it was to make the trip since it was difficult to "trust" people in the current climate and noted that "we don't know who is who," and that "we were not in a position to make new friends."

g. BRENT indicated that he had traveled to Pakistan. When Shah inquired whether BRENT had stayed in the

---

[7] As noted above, Seifullah Chapman is serving ~~a sentence of 85 years~~ an extensive term of imprisonment. In addition, approximately ten of Chapman's co-conspirators, who were also members of the Virginia Jihad Network, are currently imprisoned.

[8] A search of Shah's Bronx home resulted in the seizure of, among other things, a videotape, which I have reviewed, that details the jihad in Bosnia, glorifies the "martyrs," and seeks additional recruits for "martyrdom" operations.

DOJ_NMG_ 0145969

city, BRENT responded that he had not been in the cities but had been up in the "mountains" training "and stuff" with "the mujahideen, the fighters." BRENT stated that because of "treaties with Bush," it became dangerous for "foreigners," like BRENT, to stay in the camps, and so they moved him around from place to place.

h. BRENT stated that he had agreed to provide whatever "assistance" he could over there and expressed his hope that Allah would bless him for his efforts.

i. BRENT stated that he would never "go back" on his decision to go to the camps and that it was "one of the better decisions in my life."

j. Near the conclusion of the meeting, the three individuals who had accompanied BRENT returned to the meeting location and at least one of the individuals asked Shah about "the doctor" in Riyadh, Saudi Arabia. Shah proceeded to discuss Sabir's job as a doctor at a military hospital in Saudi Arabia with BRENT and the other individuals present.

18. On or about June 2, 2005, another FBI agent and I interviewed two cooperating witnesses ("CW-1" and "CW-2," respectively) who pled guilty to their crimes based on their involvement with the Virginia Jihad Network and their travel to LET training camps in Pakistan.[9] Based upon the interview of CW-1 and CW-2, and my review of reports and court documents, I learned the following, among other things:

a. Both CW-1 and CW-2, along with other members of the Virginia Jihad Network, including Seifullah Chapman, Ibrahim Ahmed Al-Hamdi, Randall Todd Royer, and others, participated in paintball training exercises and other tactics training in Virginia in preparation for jihad.

b. Between in or about 2000, up to and including in or about 2001, both CW-1 and CW-2 (and other members of the Virginia Jihad Network, including Seifullah Chapman and Ibrahim Ahmed Al-Hamdi) were given recommendations by Randall Todd Royer, another member of the Virginia Jihad Network who was the first member of the group to obtain entrance into the LET training camp

---

[9] CW-1 and CW-2 have provided information and testimony that has been reliable and corroborated by other evidence. Both CW-1 and CW-2 are cooperating with the authorities in the hopes of receiving a reduction of their sentences.

DOJ_NMG_ 0145970

in Pakistan. Subsequently, in or about 2001, both CW-1 and CW-2 traveled separately to the LET training camp in Pakistan. To reach the LET camp, both CW-1 and CW-2 traveled to the city of Lahore, Pakistan, to report to the LET office. After reporting to the office in Lahore, both CW-1 and CW-2 traveled by bus for several hours to the LET camps in the mountains.

c. The training at the LET camp was organized into several phases, including weapons and tactics training, and battlefield commands. CW-1 also indicated that the LET camp divided trainees into several groups, including one group made up of "foreigners." CW-1 indicated that the LET cadre members referred to themselves using "kuniyat" names (or aliases). CW-1 described, in detail, the weapons training that he received at the LET camp and stated that his intent was to use this training to enable CW-1 to travel to Afghanistan to wage jihad.

d. In or about April 2000, Randall Todd Royer entered Pakistan to serve with the Lashkar-e-Taiba at an LET camp in Pakistan.

e. In or about August 2000, Ibrahim Ahmed Al-Hamdi traveled to Pakistan to serve with the Lashkar-e-Taiba at an LET camp in Pakistan.

f. In or about July 2001, Seifullah Chapman traveled to Pakistan to serve with the Lashkar-e-Taiba at an LET camp in Pakistan.

g. Neither CW-1 nor CW-2 are aware of any other training camp that members of the Virginia Jihad Network had "connections" to other than the LET camp in Pakistan.

h. An individual not named as a co-conspirator herein ("Individual-1") who lived in the vicinity of Baltimore, Maryland, also participated in various paintball exercises with CW-1, CW-2 and other members of the Virginia Jihad Network, and participated in discussions among members about jihad and the possibility of traveling to train for jihad at LET training camps in Pakistan.

19. In or about June 2005, I reviewed travel records, including a passport application for "Mahmud Al Mutazzim" and a copy of the United States passport issued to "Mahmud Al Mutazzim." Based upon my review of the passport application, which was dated on or about March 6, 2000, it appears that BRENT requested an expedited passport to travel to a religious conference in Saudi Arabia. In support of his expedited passport

DOJ_NMG_ 0145971

application, BRENT attached a letter of support from Seifullah Chapman, dated on or about March 3, 2000. Further, based upon my review of the passport, it appears that BRENT entered Lahore, Pakistan, on or about February 25, 2002, and departed from Lahore, Pakistan, on or about June 4, 2002.

20. The photograph on the "Mahmud Al Mutazzim" passport depicts the person I know to be MAHMUD FARUQ BRENT, a/k/a "Mahmud Al Mutazzim;" the defendant, from my review of other identification documents, including a Washington, D.C. driver's license and a second United States passport, each of which were issued in the name "Mahmud Faruq Brent," and from my own observations of BRENT. A database search using the Social Security number ("SSN") provided on employment records by "Mahmud Al Mutazzim" reveals that the same SSN has been used in association with both the name "Mahmud Al Mutazzim" and the name "Mahmud Faruq Brent."

21. Based upon my review of the "Mahmud Al Mutazzim" passport and other travel records, I also learned that on or about November 26, 2002, MAHMUD FARUQ BRENT traveled from the United Arab Emirates to the United States on the same flight as Individual-1.

22. Toll and pen register records show at least two telephone calls between telephones used by MAHMUD FARUQ BRENT, a/k/a "Mahmud Al Mutazzim," the defendant, and Seifullah Chapman, in May 2001, approximately two months prior to Chapman's travel to Pakistan to serve with the Lashkar-e-Taiba. Toll and pen register records also show that in or about March 2001, there was a telephone call between telephones used by Ibrahim Ahmed Al-Hamdi and BRENT. In addition, an address book seized from Chapman in July 2003 reflects a Maryland telephone number for "Mahmud Brent." Records for a telephone calling card believed to be used by BRENT reflect this same Maryland telephone number as the originating number for hundreds of telephone calls.

23. On or about June 2, 2005, other law enforcement agents interviewed an official at a medical services company based in Silver Springs, Maryland (the "Medical Services Company"). During this interview, the Medical Services Company official confirmed that between in or about December 2003 up to and including in or about November 2004, MAHMUD FARUQ BRENT, a/k/a "Mahmud Al Mutazzim," the defendant, had been working as a paramedic at the Medical Services Company.

24. On or about June 6, 2005, other FBI agents and I interviewed an individual with ties to the mosque in Beacon, New

DOJ_NMG_0145972

York ("Witness-1"). Witness-1 indicated that Shah had conducted martial arts training at the Beacon mosque in or about 2001. Witness-1 also indicated that Shah had invited a male from the Baltimore area to train at the mosque although Witness-1 did not recall the name of this individual. Witness-1 further indicated that, in essence, Shah was asked by officials at the mosque to cease the martial arts training soon after September 11, 2001, because it was inappropriate. Witness-1 was shown surveillance photos of BRENT. He did not recognize BRENT from those photos.

25. On or about June 14, 2005, other FBI agents and I interviewed a second individual with ties to the mosque in Beacon ("Witness-2"). Witness-2 stated that, in or around July 2002, he learned that Shah had sought permission for a person from Baltimore to live at the mosque for a period of time. Witness-2 saw this person with Shah. I showed Witness-2 surveillance photos of MAHMUD FARUQ BRENT, and he identified BRENT as the individual he had seen with Shah at the mosque.

WHEREFORE, deponent prays that an arrest warrant issue for MAHMUD FARUQ BRENT, a/k/a "Mahmud Al Mutazzim," the defendant, and that he be arrested and imprisoned or bailed, as the case may be.

ROBERT FULLER
Special Agent
Federal Bureau of Investigation

Sworn to before me this
3rd day of August, 2005

UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

FRANK MAAS
United States Magistrate Judge
Southern District of New York

DOJ_NMG_ 0145973

United States Attorney
Southern District of New York

FOR IMMEDIATE RELEASE
AUGUST 4, 2005

CONTACT:

U.S. ATTORNEY'S OFFICE
HERBERT HADAD, MEGAN GAFFNEY, HEATHER TASKER
PUBLIC INFORMATION OFFICE
(212) 637-2600

FBI
JAMES M. MARGOLIN, MATTHEW BERTRON
(212) 384-2720,2715

NYPD
PAUL BROWNE
(646) 610-6700

U.S. ARRESTS MARYLAND MAN FOR PROVIDING MATERIAL SUPPORT TO FOREIGN TERRORIST ORGANIZATION

DAVID N. KELLEY, the United States Attorney for the Southern District of New York, MARK J. MARSHON, the Assistant Director in Charge of the New York Office of the Federal Bureau of Investigation, and RAYMOND W. KELLY, the Commissioner of the New York City Police Department, announced today the arrest of MAHMUD FARUQ BRENT, also known as "Mahmud Al Mutazzim," on a criminal complaint charging him with conspiracy to provide material support or resources to the Lashkar-e-Taiba foreign terrorist organization.

The complaint alleges that BRENT, of Gwynn Oak, Maryland, conspired to provide material support or resources to Lashkar-e-Taiba ("Lashkar") from in or about 2001 up through May 2005, by, among other things, attending a terrorist training camp run by

Lashkar in Pakistan. Lashkar was designated as a Foreign Terrorist Organization in December 2001. The complaint also alleges that BRENT received martial arts training from Tarik Shah, who is presently under indictment in the Southern District of New York on similar charges.

Shah was allegedly found to be in possession of an address book containing telephone numbers for "Mahmud Almutazzim" and "Sayfullah." Telephone records reveal that one of the numbers listed for "Almutazzim" was subscribed to by BRENT's wife at his home in Gwynn Oak, Maryland, and that the number listed for "Sayfullah" was subscribed to at an address known to have been used by Seifullah Chapman. Chapman has been convicted in the Eastern District of Virginia of multiple terrorism and firearms charges as part of the Virginia Jihad Network prosecutions.

In a recorded conversation with an undercover FBI agent, Shah allegedly mentioned the names of several students with whom he had studied martial arts and who had gone overseas to training camps in Afghanistan and Yemen, including "Mahmud Al Mutazzim." It is alleged, among other things, Shah reported that Al Mutazzim had told him how "difficult" it was to be back in the United States and not to be in training. Shah allegedly said that Al Mutazzim could be trusted because he was a longtime student of his who, after leaving school, started "seeking the way to become Mujahideen." Shah also allegedly told the undercover agent that he intended to call Al Mutazzim to enlist his help to prepare a

demonstration video to be used for martial arts training of jihadists. Phone records reveal a subsequent 16-minute telephone call between phones used by Shah and Al Mutazzim.

After Shah was arrested on May 28, 2005, he provided additional details regarding his relationship with Al Mutazzim. Specifically, Shah admitted that he had trained Al Mutazzim in martial arts when they both lived in Beacon, New York, in 2001, and that they often watched martial arts training videos and other videos about jihad in Bosnia. During this period, Al Mutazzim allegedly introduced Shah to Seifullah Chapman in the Washington, D.C. area. It is alleged that later, when Al Mutazzim returned to the United States in or about 2002, Al Mutazzim mentioned to Shah that he had gone to a "camp."

On the same day as Shah's arrest, Shah agreed to meet with BRENT and to allow the FBI to record the encounter. Shah and BRENT met at a hotel in the vicinity of Columbia, Maryland. Allegedly, during that meeting, when Shah indicated that he wanted to "travel," BRENT replied that his "connections" were "kinda gone," in light of what had been happening in the community and that his only "connect" was "doing time now." According to the complaint, BRENT explained that he never really "knew names" since that was the "way that they had it set up" over there and that, at the time he went to the camps, everything was "really organized." BRENT allegedly described the difficulties he encountered in reaching the "camps" and the

process by which he was able to find a connection to get into the camps, although he told Shah that he would not "mention" his connection's name to Shah. It is alleged that BRENT encouraged Shah to travel overseas to the camps and told Shah that it was a question of "how much" Shah was willing to "sacrifice" and whether Shah was willing to "take a risk." BRENT allegedly explained how difficult it was to make the trip since it was difficult to "trust" people in the current climate and noted that "we don't know who is who," and that "we were not in a position to make new friends." BRENT also allegedly indicated that he had traveled to Pakistan. The complaint charges that, when Shah inquired whether BRENT had stayed in the city, BRENT responded that he had not been in the cities but had been up in the "mountains" training "and stuff" with "the mujahideen, the fighters." BRENT allegedly stated that because of "treaties with Bush," it became dangerous for "foreigners," like BRENT, to stay in the camps, and so they moved him around from place to place. BRENT also allegedly stated that he had agreed to provide whatever "assistance" he could over there and expressed his hope that Allah would bless him for his efforts. BRENT allegedly stated that he would never "go back" on his decision to go to the camps and that it was "one of the better decisions in my life."

BRENT is scheduled to appear this afternoon before United States Magistrate Judge FRANK MAAS in Manhattan federal court.

A search warrant was executed at BRENT's home in Maryland at approximately the same time as BRENT's arrest by members of the Baltimore Joint Terrorism Task Force.

Mr. KELLEY praised the efforts of the New York Joint Terrorism Task Force, including the Federal Bureau of Investigation and the New York City Police Department, for their efforts in this continuing investigation. Mr. KELLEY also thanked the members of the New Jersey and Maryland Joint Terrorism Task Forces who assisted with the arrest and search.

Assistant United States Attorneys VICTOR L. HOU and KARL METZNER are in charge of this prosecution.

The charges in the complaint are merely accusations, and the defendant is presumed innocent unless and until proven guilty.

05-172 ###

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 4, 2005 4:26 PM
To: 'David_S._Addington@ovp.eop.gov'
Subject: RE:

Thanks again, David, for all the help. For your reference, my contact info follows. Best, Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: David_S._Addington@ovp.eop.gov
[mailto:David_S._Addington@ovp.eop.gov]
Sent: Thursday, August 04, 2005 4:13 PM
To: Gorsuch, Neil M
Subject:

Elwood, Courtney

From: Elwood, Courtney
Sent: Thursday, August 04, 2005 6:29 PM
To: Gorsuch, Neil M
Subject: Read: Re: Revised NIJ Interim Requirements

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 04, 2005 6:56 PM
To: Nichols, Carl (CIV)
Subject: RE: did you just try to call me?

Y. can you call?

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Thursday, August 04, 2005 6:54 PM
To: Gorsuch, Neil M
Subject: did you just try to call me?

Jennifer_R._Brosnahan@who.eop.gov

From: Jennifer_R._Brosnahan@who.eop.gov
Sent: Thursday, August 4, 2005 7:02 PM
To: Gorsuch, Neil M
Subject: your number

Neil -

It was nice to see you yesterday. I have an issue that is probably OJP-related that I'd like to discuss when you have a moment. Could you please give me a call at [redacted] or let me know when would be good to call you (and what your number is)?

Thanks!
Jenny

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 04, 2005 7:41 PM
To: 'Jennifer_R._Brosnahan@who.eop.gov'
Subject: RE: your number

Jenny,

Enjoyed lunch, though you and Jeff clearly held the upper hand in dessert orders. I tried to reach you just now, but hope you've actually managed to head home. My phone no. and other info follow.

Best,

Neil

Neil M. Gorsuch
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: Jennifer_R._Brosnahan@who.eop.gov
[mailto:Jennifer_R._Brosnahan@who.eop.gov]
Sent: Thursday, August 04, 2005 7:02 PM
To: Gorsuch, Neil M
Subject: your number

Neil -

It was nice to see you yesterday. I have an issue that is probably OJP-related that I'd like to discuss when you have a moment. Could you please give me a call at [redacted] or let me know when would be good to call you (and what your number is)?

Thanks!
Jenny

Lewis, David

From:	Lewis, David
Sent:	Thursday, August 04, 2005 7:44 PM
To:	Gorsuch, Neil M
Cc:	Henke, Tracy (SMO); Fowler, Liane
Subject:	RE: NW3C Economic Summit information
Attachments:	Agenda-Minneapolis-FINAL.pdf; NW3C information for Neil Gorsuch.doc

Principal Deputy AAG Gorsuch,

I sent the information about the Summit to Aloma and have attached it here also. I've made contact with the group and they are excited you're able to address the group.

In an effort to give you more in-depth feel of the group I provided a background on NW3C as well as background on the Summit itself. There are three major subjects being addressed; Identity Theft, Elder Fraud, and Internet related crimes. I've provided a few talking points on each and some cases for reference.

Please contact me at anytime to discuss or if you need anything else. I will also be in Minneapolis and look forward to meeting you. My BJA cell number is [redacted]

David

****

David P. Lewis
Senior Policy Advisor
Justice Information Sharing
Department of Justice
Office of Justice Programs
Bureau of Justice Assistance
810 7th Avenue, NW
Washington DC 20531

(202) 616-7829
(202) 616-2421 FAX

****

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, August 03, 2005 4:53 PM
To: Fowler, Liane; Lewis, David
Cc: Henke, Tracy (SMO)
Subject: RE: NW3C Economic Summit information

Thanks so much. Look forward, when you have a chance, to hearing more about what's expected of me! - Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: Fowler, Liane
Sent: Wednesday, August 03, 2005 3:22 PM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Cc: Lewis, David
Subject: RE: NW3C Economic Summit information

I e-mailed Aloma the information that David had already given to me. It has the website and the number of people at the conference etc.....When I canceled the flight for Tracy I did not cancel her room so we can switch it into Neils name. I have already spoken with Aloma and she is going to call me back. David was going to give the proper people a call at NW3C to let them know so all should be just about taken care of! Liane

> -----Original Message-----
> **From:** Henke, Tracy (SMO)
> **Sent:** Wednesday, August 03, 2005 3:10 PM
> **To:** Gorsuch, Neil M
> **Cc:** Fowler, Liane; Lewis, David
> **Subject:** Re: NW3C Economic Summit information
>
> Neil:
> Dave Lewis is the BJA point on this conference. He is working on talking points that you can review/edit to fit your style. I will have Liane change the hotel reservation to your name (she will work with Aloma) and either she or Dave will let you know the day and time of the speech so you can determine when you are flying in/out. Aloma can then make your flight arrangements. Feel free to call Dave with any questions.
>
> Dave--please let the group know how sorry I am that I can't make it.
> Tracy
>
> -----Original Message-----
> From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
> To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
> Sent: Mon Aug 01 14:05:42 2005
> Subject: RE: NW3C Economic Summit information
>
> can do
>
> -----Original Message-----
> From: Henke, Tracy (SMO)
> Sent: Monday, August 01, 2005 2:05 PM

To: Gorsuch, Neil M
Subject: Re: NW3C Economic Summit information

Aug 8-10

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 14:03:05 2005
Subject: RE: NW3C Economic Summit information

I couldn't tell what the dates are from the email chain. do you know?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 2:01 PM
To: Gorsuch, Neil M
Subject: Re: NW3C Economic Summit information

If the sates work for you, I will switch us out.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 13:57:47 2005
Subject: RE: NW3C Economic Summit information

Yes - it sounds very interesting and you're kind to think of me.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 12:51 PM
To: Gorsuch, Neil M
Subject: Fw: NW3C Economic Summit information

See below. This was an event I was suppose to speak at but with my pending nomination should now decline. Interest?

-----Original Message-----
From: Fowler, Liane <Liane.Fowler2@usdoj.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 09:40:15 2005
Subject: FW: NW3C Economic Summit information

Subject: FW: NW3C Economic Summit information

-----Original Message-----
From: Lewis, David
Sent: Friday, July 29, 2005 1:06 PM
To: Fowler, Liane
Subject: FW: NW3C Economic Summit information

Liane,

I sent a request to NW3C for information in response to Tracy's request and they referred me to their web site. I looked over it and it does have a lot of information. http://summit.nw3c.org/

Here are a few things answers from your e-mail:

ATTENDEES: are usually Internet and Financial fraud investigators. The also get some prosecutors and administors. Thiis is an opportunity for both public and private sector fraud-prevention professionals to share knowledge, experiences, and expertise.

# of ATTENDEES: usually have over 200 attendees. There were 750 total for 3 summits last year. The one in Minnesota is the second of three. The first was in Tampa.

SPEAKERS: Economic Crime Summit features objective, dynamic speakers who are enthusiastic about sharing knowledge with their peers. The event hosts speakers who are investigators, prosecutors, industry experts, researchers, practitioners, and authors.

SUBJECT MATTER: will included the latest techniques for investigating and prosecuting economic crime, including Identity Theft, Internet-Facilitated Fraud and Elder Fraud.

Let me know if you'd like anything else.

David

-----Original Message-----
From: [redacted]@nw3c.org]
Sent: Thursday, July 28, 2005 10:30 AM
To: Lewis, David
Subject: RE: Summit information

Hi David,

Yes, I can send you whatever info you need. If you don't mind, please take a look at http://summit.nw3c.org/

This site provides information on each of the (3) 2005 summits including programs, session descriptions, speaker bios, list of exhibitors, etc. If there is anything else you need that is not listed on the site, let me know and I'll get it back to you asap.

know and I'll get it back to you ASAP.

Thanks David,

[redacted]

From: Lewis, David [mailto:David.P.Lewis@usdoj.gov]
Sent: Thursday, July 28, 2005 10:06 AM
To: [redacted]
Subject: Summit information

[redacted]

Ms. Henke is requesting information about the Economic Summit, i.e. who are the attendees, material covered, focus, etc. Is there information you can send me electronically? Thank you.

David

Sent from the BlackBerry of:
David P. Lewis
Senior Policy Advisor, Justice Information Sharing
DOJ - Bureau of Justice Assistance

2005 ECONOMIC CRIME SUMMIT AGENDA

(Minneapolis, Minnesota– August 9-10, 2005)

Day 1

7:00 a.m. - 8:30 a.m.	Registration Opens
7:00 a.m. – 4:00 p.m.	Exhibits Open
8:30 a.m. – 10:00 a.m.	Breakfast & Opening Ceremonies **Welcome and Opening Remarks:** [redacted] *NW3C Regional Director, Midwest Region (emcee)* [redacted] *Attorney General, State of Minnesota* [redacted] *Director, National White Collar Crime Center* [redacted] *Minnesota Department of Public Safety* [redacted] *Minneapolis Police Department* *Presentation of Colors: Minneapolis Police Department Honor Guard* *National Anthem:* [redacted] *Minneapolis Police Department* *Invocation:* [redacted] *Minneapolis Police Department*
10:15 a.m. - 11:45 a.m.	Session 1 A. **Identity Theft Prosecution Strategies** [redacted] *Supervising Deputy Attorney General, Hawaii Department of the Attorney General, NW3C Alternate Regional Representative* B. **Electronic Crimes Task Force** [redacted] *Assistant to the Special Agent in Charge, U.S. Secret Service, Criminal Investigative Division* C. **Elder Victimization: True Life Case Studies** [redacted] *Ohio Attorney General's Office*
12:00 p.m. - 1:15 p.m.	Lunch and Keynote Address *Tracy A. Henke, Deputy Associate Attorney General, U.S. Department of Justice*
1:30 p.m. - 3:00 p.m.	Session 2 A. **Identity Theft: Postal Inspectors Concern & State and Federal Statutes to Assist Law Enforcement** [redacted] *U.S. Postal Inspector* [redacted] *U.S. Postal Inspector* [redacted] *U.S. Postal Inspector*

2005 ECONOMIC CRIME SUMMIT AGENDA

(Minneapolis, Minnesota– August 9-10, 2005)

	B. **Complex Investigations Involving Skilled Criminals** [redacted] *Indiana State Police*
	C. **Senior Financial Fraud: A Collaborative Approach to Prevention, Detection, Investigation and Prosecution** [redacted] *Senior Managing Attorney, Hennepin County Attorney's Office* [redacted], *Hennepin County Adult Protection Services* [redacted], *Eden Prairie Police Department (ret.)* [redacted], *M & I Bank/Minnesota Bankers' Association*
3:00 p.m. - 3:30 p.m.	Afternoon Break
3:30 p.m. - 5:00 p.m.	Session 3
	A. **Identity Theft and "Phishing"** [redacted] *Jefferson County Sheriff's Office (Golden, CO)*
3:30 p.m. – 4:15 p.m.	B. **RECOL Project** [redacted] *Commercial Crimes Branch, Royal Canadian Mounted Police* [redacted] *Commercial Crimes Branch, Royal Canadian Mounted Police*
4:15 p.m. – 5:00 p.m.	**Fighting Fraud Against Seniors** [redacted] *AARP Consumer Protection* *AARP Oklahoma* *AARP Oklahoma*
3:30 p.m. – 4:15 p.m.	C. **NW3C Services** [redacted], *NW3C Computer Crimes Specialist*
4:15 p.m. – 5:00 p.m.	**Internet-Facilitated Fraud** [redacted] *Attorney, Division of Marketing Practices, Federal Trade Commission*
5:30 p.m. – 6:30 p.m.	Evening Reception at the Hyatt Regency Hotel

Day 2

7:30 a.m. – 11:00 a.m.	Exhibits Open

2005 ECONOMIC CRIME SUMMIT AGENDA

(Minneapolis, Minnesota– August 9-10, 2005)

8:00 a.m. - 9:00 a.m.	Continental Breakfast
9:00 a.m. - 10:30 a.m.	Session 4
	A. **New Initiative: Identity Theft Verification Passport Program** [redacted] *Senior Deputy Attorney General, Ohio Attorney General's Office*
	B. **Elder Fraud and ID Theft: The Role of Intervention, Education and Assistance to Victims** [redacted] *FBI Los Angeles* [redacted] *Consultant in Elder Abuse Prevention*
	C. **Partnership Models: Training Consumers and Law Enforcement on Identity Theft and Securities Fraud** [redacted] *Special Assistant Attorney General, Montana State Auditor's Office*
10:30 a.m. - 10:45 a.m.	Morning Break
10:45 a.m. - 12:00 p.m.	Session 5
	A. **Computer Forensics Solutions for Encrypted Data Investigations** [redacted] *Training Division, AccessData*
	B. **Skiptracing and Asset Investigations Using Online Sources** [redacted] *Merlin Information Services*
	C. **How Businesses Deal with Cross Border Identity Theft** [redacted] *Sobel & Co., LLC*

NATIONAL WHITE COLLAR CRIME CENTER
INTEGRITY QUALITY SERVICE

Background on the National White Collar Crime Center:
The mission of National White Collar Crime Center (NW3C) is to provide a nationwide support system for agencies involved in the prevention, investigation, and prosecution of economic and high-tech crimes and to support and partner with other appropriate entities in addressing homeland security initiatives, as they relate to economic and high-tech crimes.

NW3C is a federally-funded, non-profit corporation whose membership primarily comprises law enforcement agencies, state regulatory bodies with criminal investigative authority, and state and local prosecution offices.

While NW3C has no investigative authority itself, its job is to help law enforcement agencies better understand and utilize tools to combat economic and high-tech crime. These tools include:

- Training to educate investigators and computer forensic examiners on how to conduct searches and seizures, locate and maintain computer related evidence, and how to testify in computer related cases.

- NW3C will also assist agencies with investigations by providing access to computer forensic examiners, intelligence analysts, and can provide funding needed to assist with complex economic and high-tech cases.

- Public records searches help members gather intelligence on their investigations targets for locator information, address history, assets owned, and business associations. Analytical services assist our member agencies with the mounds of paperwork associated with any financial case.

- The Internet Fraud Complaint Center (IFCC) is a partnership between the Federal Bureau of Investigation (FBI) and the National White Collar Crime Center (NW3C). Their mission is to address fraud committed over the Internet. For victims of Internet fraud a convenient and easy-to-use reporting mechanism that alerts authorities of a suspected criminal or civil violation. For law enforcement and regulatory agencies at all levels, a central repository for complaints related to Internet fraud, works to quantify fraud patterns, and provides timely statistical data of current fraud trends.

- The coordination of information sharing with members, partners, and other constituencies is essential to the core functions of training, investigative support, and research. The most prominent is "The Informant" magazine published 3 times in FY04 with 47,232 distributed (target was 40,500).

Background on the NW3C Economic Summit:

- This s the 9th year NW3C has been conducting Economic Crime Summits, the project began in 1997.

- 2005 is the second year for the "regional" approach to the Summits.

- In 2004, there were over 750 attendees (in total) who participated in one of the three regional summits.

- Who attends? Law enforcement personnel, security professionals in the private and public sector, victim and consumer services advocates, fraud investigators, auditors, loss prevention specialists, corporate officials, prosecutors, research and academic professionals interested in fraud prevention and economic crime, technology and business professionals.

Information about Economic Summit in Minneapolis, MN:

- Expected number of attendees is over 200.

- Subjects highlighted at the Summit:
  - Identity Theft
  - Elder Fraud
  - Internet Related Crimes

- Minneapolis is the second Summit for 2005 with the final being in Phoenix, AZ in November. (the first Summit for 2005 was in Tampa, FL, in May)

- The Department of Justice/Office of Justice Programs is a co-sponsor of the event.

- The focus of the Summit is to build the bridges that:
  - Encourages networking between private companies and public sector agencies

  - Provides information on model programs

  - Shares best practices addressing economic and high-tech crime issues at many levels.

Talking Points for the National White Collar Crime Economic Summit

Minneapolis, MN
August 9-10, 2005

Identity Theft

- Identity theft has been referred to by some as the crime of the new millennium. Due to its ability to be accomplished anonymously, easily, and through a variety of means.

- As you know from working in the field the impact upon the victim is devastating, not to mention the impact and strain on agencies to investigate and then prosecute.

- In 2004, Consumer Sentinel, the complaint database developed and maintained by the FTC, received over 635,000 consumer fraud and identity theft complaints. Consumers reported losses from fraud of more than $547 million.

- Credit card fraud (28%) was the most common from of reported identity theft followed by phone or utilities fraud (19%), bank fraud (18%) and employment fraud (13%).

- FTC also reported that during the study's final year, losses to businesses and financial institutions totaled nearly $48 billion and consumer victims reported $5 billion in out-of-pocket expenses. Clearly, this is an epidemic that must be brought under control.

- In 1998, Federal legislation was enacted under the "Identity Theft and Assumption Deterrence Act" that created a new offense of identity theft, which prohibits knowingly transfer[ring] or us[ing], without lawful authority, a means of identification of another person with the intent to commit, or to aid or abet, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law.

- Recent Cases:
    - **Central California** - A woman pleaded guilty to federal charges of using a stolen Social Security number to obtain thousands of dollars in credit and then filing for bankruptcy in the name of her victim.

    - **California** - a man was indicted, pleaded guilty to federal charges and was sentenced to 27 months' imprisonment for obtaining private bank account information about an insurance company's policyholders and using that information to deposit $764,000 in counterfeit checks in his account.

    - **Kansas** - A defendant pleaded guilty to conspiracy, odometer fraud, and mail fraud for operating an odometer "rollback" scheme on used cars. The defendant used false and assumed identities, including the identities of deceased persons, to obtain false ID documents and fraudulent car titles.

Eldery Fraud

- According to the 2000 Census, one 1 in 7 Americans is a senior citizen, with those 60 and over making 15% of the US population. This means 30 % of all fraud is committed against this group. That's twice the normal rate.

- The top frauds victimizing people 60 and over include Lotteries/Lottery Clubs, Phishing(pronounced FISHING – getting personal information about an individual through the Internet), Information/Adult Services, and Nigerian Money Offers

- Why is this group a target? Due to retirement, isolation, and/or declining health they are there to open the door or answer the phone. This makes them a target for fraud schemes and con artists.

- The unique element of Elder Fraud is it can occur just as easily, if not easier, through technology and the con artist doesn't even have to face the victim. As you know telemarketing schemes and phone scams are attacking our elderly on a daily basis.

- The sad story, many of the victims from this group do not report they have been victimized because they are embarrassed to admit they had been conned. Not only is it important to investigate and make arrest on these crimes, but educating this group is extremely important. This requires investigators and prevention officers to work closely in an effort to educate and encourage reports of this type of fraud.

- Examples:
    - A Virginia woman paid a door-to-door yard service worker a total of $26,310 over a three-month period for pruning and planting work in her modest yard. After completing an initial job costing $1,710, the worker showed up repeatedly to solicit more work. He made outright demands for work and payment until the terrified homeowner called the police, who promptly arrested the man.

    - In one case, a telemarketer was trying to get potential investors to buy space for a satellite on a space shuttle. The space would cost $2.5 million for the company to reserve, but the telemarketer said it could sell the space to another company in another five years for as much as $5 million. The pitch urged investors to "act now and not to let anyone in on the great deal" that they were about to receive.

    - As part of Operation Roaming Charge, U. S. Postal Inspectors and other law enforcement agencies have convicted 64 individuals for fraud, and Postal Inspectors have responded to over 158,000 mail fraud complaints since 2003.

Internet Related Crimes

- When I think of computer crimes I remember the 1983 movie "War Games," with Matthew Broderick and Ally Sheedy who play high school students who inadvertently access the NORAD computer network, thinking that they are merely playing a "war game" with the computers. Sheedy asks: "Isn't that a crime"? Broderick's reply: "Not if you are under eighteen."

- As futuristic as that was for 1983, as you know, the teens of today have the equipment, technology, knowledge, and ability to hack into systems, steal codes, find the highly guarded version of new video games, not only from their home, but right under the same roof as the unknowing parents.

- We are all aware that the Internet continues to grow as do the new methods to commit some type of crime. Though traditional spam categories--medication, mortgage and pornography--continue to dominate, new ones such as stock scams are growing, according to the study, which covered the first six months of 2005.

- Phishing attacks have led to an estimated $2.75 billion in losses related to ATM and debit cards over the past 12 months. These numbers come from a recent Gartner report. The report also included a survey of US bank customers that lead Gartner to estimate that 3 million Americans have lost an average of more than $900 each due to online scams over the past year. (2004)

- The Federal Cyber Crime program works to prevent criminals, sexual predators and others intent on malicious destruction from using the Internet and online services to steal from, defraud and otherwise victimize citizens, businesses and communities. Although to really address these issues a stronger working relationship is needed between all levels of government, especially at the local level where these types of crimes are being committed in homes in each of our neighborhoods.

- Cases:
    - Disgruntled Phillies fan was convicted of 79 counts of computer fraud and identity fraud for hacking into computers belonging to numerous individuals and then launching hundreds of thousands of spam e-mails complaining about the Phillies. He used e-mail addresses of writers at the Philadelphia Daily News, Philadelphia Inquirer, The Sporting News, Fox Sports, ESPN, and officials at Knight Ridder, the parent company of the Inquirer and Daily News. The spammer was sentenced to 4 years in prison

    - A Minnesota man was sentenced to 18 months in prison for creating and unleashing a variant of the MS Blaster Computer Worm. The government estimated 48,000 computers were infected. The Judge stated "What you've done is a terrible thing. Aside from injuring people and their computers you shook the foundation of technology." The individual was only 19 years old.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, August 05, 2005 9:13 AM
To: Lewis, David
Cc: Gorsuch, Neil M
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

David:

Thank you for the talking points. I'll get them into Neil right away.

Here is Neil's travel itinerary:

8/8 - Depart National Airport 6:13pm NW Flt 1029
Arrive Minneapolis, MN 7:54pm

Hotel: Doubletree Guest Suites
1101 LaSalle Ave.
(612) 332-6800

8/9 - Depart MN 3:13 pm - NW Flt 0612
Arrive DC 6:40 pm

-----Original Message-----
From: Lewis, David
Sent: Thursday, August 04, 2005 7:37 PM
To: Shaw, Aloma A
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

Aloma,

Sorry about taking so long to get this to you.

I've attached information about the National White Collar Crime Center (NW3C), background on their Economic Summit which is the group Neil will be addressing, information about this year's Summit, and some talking points based on the subjects being addressed at the conference. I've also included the agenda. Please let me know if there is anything else you might need. Thank you for your assistance in the matter, it is greatly appreciated.

Also, I will be meeting him there. Do you know his travel schedule? If you could let me know that would be great.

David

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, August 04, 2005 10:59 AM
To: Lewis, David
Subject: RE: RE: Contact information for National White Collar Crime Center (NW3C)

David:
I just spoke to [redacted] I've forwarded [redacted] Neil's bio. Neil is expected to speak 20-30 minutes. He'd prefer no more than 20 minutes. As soon as you've prepared the talking points, could you please email them to me and I'll get them in to Neil right away.

Thank you,
Aloma

-----Original Message-----
From: Lewis, David
Sent: Wednesday, August 03, 2005 3:32 PM
To: Shaw, Aloma A
Cc: Fowler, Liane
Subject: RE: Contact information for National White Collar Crime Center (NW3C)

Aloma,

The public relations contact for NW3C is [redacted] Her email is [redacted]@nw3c.org . I have already called [redacted] and advised that Principal DAAG Gorsuch will be making the presentation instead of Tracy. [redacted] will be able to give you the particulars about the time, date, etc. [redacted] will probably need a copy of his BIO. I will be preparing some talking points and getting to you first thing in the morning. Let me know if there is anything you need from me.

David

****
David P. Lewis
Senior Policy Advisor
Justice Information Sharing
Department of Justice
Office of Justice Programs
Bureau of Justice Assistance
810 7th Avenue, NW
Washington DC 20531

(202) 616-7829
(202) 616-2421 FAX
****

Tamargo, Mauricio J

From: Tamargo, Mauricio J
Sent: Friday, August 05, 2005 9:31 AM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A
Subject: FW: Final Draft -- Cuba Claims Press Release

Neil,

Here is the Press Release I am working with Liz and OLA to get out next week for your review. Note the back ground note at the bottom. The Federal Register notice, I will send you now too.

Mauricio

Mauricio J. Tamargo
Chairman
Foreign Claims Settlement Commission
U.S. Department of Justice
600 E Street, NW, Suite 6002
Washington, DC 20579
[redacted]
Beeper

-----Original Message-----
From: Tamargo, Mauricio J
Sent: Thursday, August 04, 2005 3:18 PM
To: Nowacki, John
Cc: Kessler, Elizabeth A; Bradley, David E; McArthur, Patrick; Scolinos, Tasia
Subject: RE: Final Draft -- Cuba Claims Press Release

John,

Thanks for your help.
Here is the press release again with a few minor changes. We will turn in the federal register notice on Monday so we should be ready to put out the press release on Wednesday Aug. 10th.

Thanks,
Mauricio

Mauricio J. Tamargo
Chairman
Foreign Claims Settlement Commission
U.S. Department of Justice
600 E Street, NW, Suite 6002
Washington, DC 20579
[redacted]
Beeper

U.S. Department of Justice

Foreign Claims Settlement Commission
of the United States

DEPARTMENT OF JUSTICE FOREIGN CLAIMS SETTLEMENT COMMISSION ANNOUNCES A SECOND CUBAN CLAIMS PROGRAM FOR AMERICANS WITH NEW PROPERTY CLAIMS AGAINST THE GOVERNMENT OF CUBA

FOR IMMEDIATE RELEASE
XXXX, August XX, 2005

Phone: [redacted]
Fax: (202) 616-6993

WASHINGTON, D.C.- Mauricio Tamargo, Chairman of the Foreign Claims Settlement Commission, announced today the commencement of a Second Cuban Claims Program to receive claims of U.S. citizens or corporations against the Government of Cuba for previously unajudicated losses of real and personal property taken after May 1, 1967.

In the earlier Cuban Claims Program (under Section 1643 of Title 22, U.S. Code), completed on July 6, 1972, the Commission certified 5,911 claims to the U.S. Department of State. Any new claims certified as valid by the Commission will be added to those already certified in the previous program. Although there are no funds currently available to make payment on any American claims, the certification of the Commission's findings to the Secretary of State will be used as a basis for future negotiation of a claims settlement with the Government of Cuba.

This Second Cuban Claims Program provides for claims of U.S. citizens or corporations that would have been eligible under the earlier Program, but for the fact that they did not arise by the time of the filing deadline of May 1, 1967 and were not otherwise adjudicated by the Commission prior to completion of the earlier Program. The filing deadline for these claims is XXXX XX, 2006. Chairman Tamargo emphasized the program is open only to those who were U.S. citizens or an American corporation at the time their property was taken.

All inquiries concerning these claims should be forwarded directly to the Foreign Claims Settlement Commission of the United States, 600 E Street N.W., Suite 6002, Washington, D.C. 20579, Phone: [redacted], Fax: (202) 616-6993.

The Foreign Claims Settlement Commission of the United States (FCSC) is a quasi-judicial, independent agency within the Department of Justice which adjudicates claims of U.S. nationals against foreign governments. More information about the Commission is available at http://www.usdoj.gov/fcsc/.

###

-----Original Message-----
From: Scolinos, Tasia
Sent: Thursday, August 04, 2005 1:59 PM
To: Tamargo, Mauricio J
Cc: Kessler, Elizabeth A; Bradley, David E; McArthur, Patrick; Sampson, Kyle; Ullyot, Theodore; Nowacki, John
Subject: RE: Final Draft -- Cuba Claims Press Release

Thanks Mauricio. I am cc'ing John Nowacki on my staff who will be the point person on this issue. He can coordinate as appropriate with State Department OPA.

-----Original Message-----
From: Tamargo, Mauricio J
Sent: Thursday, August 04, 2005 1:16 PM
To: Scolinos, Tasia
Cc: Kessler, Elizabeth A; Bradley, David E; McArthur, Patrick; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Final Draft -- Cuba Claims Press Release

Tasia,

This is the draft press release that will be sent out once the official notice appears in the federal register. Please look it over and let me know any changes you think should be made.

As you can see from the draft it is a narrow group that would be eligible to make claims. There is no way to know for sure but we expect only a few claims. We are sure of only one claimant and he is the one who contacted the Secretary of State and requested the referral. That is Starwood Resorts who owned a sizable amount of land in Havana Cuba where they operated a telephone tower for many years until a hurricane put it out of business. According to their documents, which we will investigate, the Government of Cuba confiscated everything in 2003. DOS decided that they needed to refer all new property claims since the end of the old Cuban Claims Program to the FCSC to be added to the already certified American claims against Cuba.

We, (or hopefully you) need to be ready to highlight a few key facts. As in all past 47 claims programs, the claimants must have been American citizens at the time of the confiscation. Also the claim cannot be for a personal injury or death - only property. If they ask why only property, I would suggest they ask the State Department. The claim must be only for new confiscations that arose after the end of the last Cuban Program. If they ask why only takings after May 1, 1967, the answer to that one is that all takings that occurred before that date already had an opportunity to file a claim in the earlier program and it would not be fair to give them a second shot at the apple.

The draft press release below should be sent out the day the notice appears in the federal register. The dates and deadlines will be added when we know the dates of publication in the fed register. I believe it should go out all major news outlets. Certainly all print, maybe not TV, if you wish to eliminate any. I will understand if the Attorney General does not wish to be included in this announcement.

I look forward to meeting you sometime and thank you for your help with this.

Mauricio

Mauricio J. Tamargo
Chairman
Foreign Claims Settlement Commission
U.S. Department of Justice
600 E Street, NW, Suite 6002
Washington, DC 20579

[redacted]

Long, Linda E

Subject:	Updated: Component Heads Group I Meeting
Location:	Room 4111
Start:	Friday, August 05, 2005 10:00 AM
End:	Friday, August 05, 2005 10:30 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Friday from 10:00 AM to 10:30 AM
Meeting Status:	Not yet responded
Organizer:	Long, Linda E
Required Attendees:	McCallum, Robert (SMO); Keisler, Peter D. (CIV); O'Connor, Eileen J. (AAG/TAX); Clement, Paul D; Moschella, William; Freeman, Sharee; Scolinos, Tasia; Johnson, Kelly A. (ENRD); Roberts, Crystal; Schlozman, Brad (CRT); Kim, Wan (CRT); Barnett, Thomas O.; Mercer, Bill (ODAG); Battle, Michael (USAEO); Gorsuch, Neil M

When: Friday, August 05, 2005 10:00 AM-10:30 AM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 4111

~~*~*~*~*~*~*~*~*~*

Attending: Bill Mercer, Neil Gorsuch attending for ASG McCallum, AAG Keisler, AAG O'Connor, OSG Clement, AAG Moschella, Acting AAG Thomas Barnett/ Antitrust, Sharee Freeman/CRS, Mike Battle/EOUSA, Tasia Scolinos/PAO, Kelly Johnson attending for AAG ENRD, Crystal Roberts/OIPL, Brad Schlozman and Wan Kim on leave, no rep from CRT
POC: Linda Long
8/5/05 Component Heads meeting is on today - Bill Mercer will host.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 05, 2005 9:48 AM
To: Henke, Tracy (SMO)
Subject: FW: Final Draft -- Cuba Claims Press Release

-----Original Message-----
From: Tamargo, Mauricio J
Sent: Friday, August 05, 2005 9:31 AM
To: Gorsuch, Neil M
Cc: Kessler, Elizabeth A
Subject: FW: Final Draft -- Cuba Claims Press Release

Neil,

Here is the Press Release I am working with Liz and OLA to get out next week for your review. Note the back ground note at the bottom. The Federal Register notice, I will send you now too.

Mauricio

Mauricio J. Tamargo
Chairman
Foreign Claims Settlement Commission
U.S. Department of Justice
600 E Street, NW, Suite 6002
Washington, DC 20579
[redacted] **Beeper**

-----Original Message-----
From: Tamargo, Mauricio J
Sent: Thursday, August 04, 2005 3:18 PM
To: Nowacki, John
Cc: Kessler, Elizabeth A; Bradley, David E; McArthur, Patrick; Scolinos, Tasia
Subject: RE: Final Draft -- Cuba Claims Press Release

John,

Thanks for your help.
Here is the press release again with a few minor changes. We will turn in the federal register notice on Monday so we should be ready to put out the press release on Wednesday Aug. 10th.

Thanks,
Mauricio

Mauricio J. Tamargo
Chairman
Foreign Claims Settlement Commission

U.S. Department of Justice
600 E Street, NW, Suite 6002
Washington, DC 20579
[redacted]
[redacted] **Beeper**

U.S. Department of Justice

Foreign Claims Settlement Commission
of the United States

DEPARTMENT OF JUSTICE FOREIGN CLAIMS SETTLEMENT COMMISSION ANNOUNCES A SECOND CUBAN CLAIMS PROGRAM FOR AMERICANS WITH NEW PROPERTY CLAIMS AGAINST THE GOVERNMENT OF CUBA

FOR IMMEDIATE RELEASE
XXXX, August XX, 2005

Phone: [redacted]
Fax: (202) 616-6993

WASHINGTON, D.C.- Mauricio Tamargo, Chairman of the Foreign Claims Settlement Commission, announced today the commencement of a Second Cuban Claims Program to receive claims of U.S. citizens or corporations against the Government of Cuba for previously unajudicated losses of real and personal property taken after May 1, 1967.

In the earlier Cuban Claims Program (under Section 1643 of Title 22, U.S. Code), completed on July 6, 1972, the Commission certified 5,911 claims to the U.S. Department of State. Any new claims certified as valid by the Commission will be added to those already certified in the previous program. Although there are no funds currently available to make payment on any American claims, the certification of the Commission's findings to the Secretary of State will be used as a basis for future negotiation of a claims settlement with the Government of Cuba.

This Second Cuban Claims Program provides for claims of U.S. citizens or corporations that would have been eligible under the earlier Program, but for the fact that they did not arise by the time of the filing deadline of May 1, 1967 and were not otherwise adjudicated by the Commission prior to completion of the earlier Program. The filing deadline for these claims is XXXX XX, 2006. Chairman Tamargo emphasized the program is open only to those who were U.S. citizens or an American corporation at the time their property was taken.

All inquiries concerning these claims should be forwarded directly to the Foreign Claims Settlement Commission of the United States, 600 E Street N.W., Suite 6002, Washington, D.C. 20579, Phone: [redacted], Fax: (202) 616-6993.

The Foreign Claims Settlement Commission of the United States (FCSC) is a quasi-judicial, independent agency within the Department of Justice which adjudicates claims of U.S. nationals against foreign governments. More information about the Commission is available at http://www.usdoj.gov/fcsc/.

###

-----Original Message-----
From: Scolinos, Tasia
Sent: Thursday, August 04, 2005 1:59 PM
To: Tamargo, Mauricio J
Cc: Kessler, Elizabeth A; Bradley, David E; McArthur, Patrick; Sampson, Kyle; Ullyot, Theodore; Nowacki, John
Subject: RE: Final Draft -- Cuba Claims Press Release

Thanks Mauricio. I am cc'ing John Nowacki on my staff who will be the point person on this issue. He can coordinate as appropriate with State Department OPA.

-----Original Message-----
From: Tamargo, Mauricio J
Sent: Thursday, August 04, 2005 1:16 PM
To: Scolinos, Tasia
Cc: Kessler, Elizabeth A; Bradley, David E; McArthur, Patrick; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Final Draft -- Cuba Claims Press Release

Tasia,

This is the draft press release that will be sent out once the official notice appears in the federal register. Please look it over and let me know any changes you think should be made.

As you can see from the draft it is a narrow group that would be eligible to make claims. There is no way to know for sure but we expect only a few claims. We are sure of only one claimant and he is the one who contacted the Secretary of State and requested the referral. That is Starwood Resorts who owned a sizable amount of land in Havana Cuba where they operated a telephone tower for many years until a hurricane put it out of business. According to their documents, which we will investigate, the Government of Cuba confiscated everything in 2003. DOS decided that they needed to refer all new property claims since the end of the old Cuban Claims Program to the FCSC to be added to the already certified American claims against Cuba.

We, (or hopefully you) need to be ready to highlight a few key facts. As in all past 47 claims programs, the claimants must have been American citizens at the time of the confiscation. Also the claim cannot be for a personal injury or death - only property. If they ask why only property, I would suggest they ask the State Department. The claim must be only for new confiscations that arose after the end of the last Cuban Program. If they ask why only takings after May 1, 1967, the answer to that one is that all takings that occurred before that date already had an opportunity to file a claim in the earlier program and it would not be fair to give them a second shot at the apple.

The draft press release below should be sent out the day the notice appears in the federal register. The dates and deadlines will be added when we know the dates of publication in the fed register. I believe it should go out all major news outlets. Certainly all print, maybe not TV, if you wish to eliminate any. I will understand if the Attorney General does not wish to be included in this announcement.

I look forward to meeting you sometime and thank you for your help with this.

Mauricio

Mauricio J. Tamargo
Chairman
Foreign Claims Settlement Commission
U.S. Department of Justice
600 E Street, NW, Suite 6002
Washington, DC 20579
[redacted]

Elwood, Courtney

From: Elwood, Courtney
Sent: Friday, August 5, 2005 10:50 AM
To: Henke, Tracy (SMO)
Cc: Gorsuch, Neil M
Subject: Castlerock stmt

Have we run this to ground yet?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 01, 2005 8:31 PM
To: Elwood, Courtney
Cc: Gorsuch, Neil M
Subject: Re: OJJDP briefing

Courtney--the castlerock info was sent to me on thursday afternoon via email. Will let you know what is up after I discuss with OLP.

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 17:44:47 2005
Subject: Fw: OJJDP briefing

Fyi -- see below

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>
To: Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 17:38:29 2005
Subject: RE: OJJDP briefing

will do

-----Original Message-----
From: Yanes, Raul
Sent: Monday, August 01, 2005 5:38 PM

To: Hertling, Richard; Elwood, Courtney
Subject: Re: OJJDP briefing

I will be back on Wed, but go ahead and get this scheduled as quickly as you can, even if I can't attend.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>
Sent: Mon Aug 01 17:35:31 2005
Subject: OJJDP briefing

I spoke to Cybele Daley, OJP DAAG. She agrees with our concerns about protocol here. She will call OJJDP leadership and pull the plug on tomorrow's WH briefing. She will require OJJDP to walk us through the tool first. There is, however, a deadline in that FLOTUS staff want to be briefed before POTUS and FLOTUS go to Crawford this week. So we will need to schedule our briefing in the next day or so. Raul, I know you are out tomorrow. Are you back on Wed.? If not, do you want me to handle alone, or Courtney would you like to sit in if Raul cannot? Please let me know. But the immediate issue of tomorrow's briefing appears to have been taken care of. rah

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 05, 2005 10:52 AM
To: Reyes, Luis (SMO)
Subject: RE: I will miss the morning group 2 meeting

You ok? Anything I can do to help?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, August 05, 2005 10:19 AM
To: Gorsuch, Neil M; Swenson, Lily F
Subject: I will miss the morning group 2 meeting

Trying to [redacted] but looks like I may have to come back after lunch...

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 05, 2005 11:08 AM
To: McCallum, Robert (SMO)
Subject: DAG Component Mtg

Tasia reported that she is getting an increasing number of press inquiries (Newsweek, NYT, et al.) asking who, if anyone, will oversee Fitzgerald once Comey leaves and what procedures, if any, there are for Fitzgerald's oversight (e.g., any documents laying out the terms of the investigation). Mercer said he'd look into an answer for Tasia. Thought you'd also want to know. It may be a good idea for you and Bill to get a handle on what procedures were set in place at the outset of the investigation, if any, and perhaps to get a download from Comey before he departs.

Separately, FYI, Tasia reported that sh's working to schedule a conference for US Attys here in DC this Fall; first time such a conf will be held in about 8 years.

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Friday, August 05, 2005 2:07 PM
To: Gorsuch, Neil M
Subject: FW: Prepared Remarks of Attorney General John Ashcroft, Announcement of "peration Cyber Sweep,"1-20-03

Here is an old JDA speech that might be useful. Will see what else I find.

-----Original Message-----
From: Magnuson, Cynthia
Sent: Thursday, November 20, 2003 1:04 PM
Subject: Prepared Remarks of Attorney General John Ashcroft, Announcement of "Operation Cyber Sweep," 11-20-03

Prepared Remarks of Attorney General John Ashcroft
Announcement of "Operation Cyber Sweep"
Thursday, November 20, 2003

(Please Note: The Attorney General Often Deviates From Prepared Remarks)

The Information Superhighway should be a conduit for communication, information and commerce, not an expressway to crime. It is a top federal law enforcement priority to stop crime on the Internet.

That is why the DOJ is announcing Operation Cyber Sweep, the most productive, coordinated law enforcement operation that law enforcement has ever conducted against online crime.

The nationwide dimension of Operation Cyber Sweep began on October 1 of this year and already has been an unqualified success. Over the past seven weeks, this coordinated criminal investigation has netted:

- More than 125 investigations, in which more than 125,000 victims lost more than $100 million;
- More than 350 targeted subjects, resulting in more than 125 arrests or convictions thus far; and,
- More than 70 indictments to date, and the execution of more than 90 search/seizure warrants.

Although it closely resembles traditional economic crime in many ways, online economic crime has two distinctive features:

- First, the online crimes are increasingly multi-jurisdictional. The criminals may be half-way around the world, but the Internet gets them close enough to pick the virtual pockets of consumers faster than it takes to send an e-mail.

- Second, online criminals are using more sophisticated techniques to conceal their true identities or locations from law enforcement.

Law enforcement faces the challenge of adapting and outthinking Internet criminals and online abusers. So we are upgrading our capacity to make the World Wide Web a safer place by using the combined resources of federal, state, local and international law enforcement agencies.

Operation Cyber Sweep is the largest, most successful Internet investigation undertaken by law enforcement to date. It involves the collective efforts of:

- 34 United States Attorneys' Offices
- FBI
- Postal Inspection Service
- Federal Trade Commission
- Secret Service
- Bureau of Immigration and Customs Enforcement, and
- The Criminal Division of the Justice Department.

These agencies have joined together to conduct Operation Cyber Sweep, a concentrated series of prosecutions and other enforcement actions that have targeted major forms of online economic crime, including:

- Identity theft. In one case, an individual pleaded guilty in Alexandria, Virginia, to conspiracy to possess unauthorized access devices. This individual engaged in so-called "phishing" - sending thousands of fake e-mail messages to America Online customers, and advising them to update their credit card or personal information with AOL to maintain their accounts.
- Investment fraud. An individual pleaded guilty for his role in two separate online-investment-fraud schemes in Virginia and Tennessee. The first scheme involved an Internet website for a fictitious investment club that offered investors tax-free, double-digit, returns. His other scheme involved another bogus investment website built using information and photos stolen from other, legitimate business websites.
- Software piracy. An individual was indicted in the Eastern District of Missouri on fraud and copyright infringement charges for selling counterfeit copies of computer

software programs on eBay.

- Counterfeit product fraud. In a precursor case that led up to Operation Cyber Sweep, a Southern California computer supply company executive was convicted of criminal trademark violations. At trial, the evidence showed that the defendant had counterfeited at least $5 million to $7 million of Compaq computer memory modules, which numbered in the tens of thousands.

Our last operation of this type, Operation E-Con, ran from January 1 to May 16, 2003. That operation involved more than 90 investigations, the execution of more than 70 search and seizure warrants, and the charging or conviction of more than 130 individuals. Combined, these online investigations have saved consumers and businesses hundreds of millions of dollars.

After "Operation E-Con", federal law enforcement recognized the need to secure cooperation from a number of foreign countries in investigating and prosecuting major international Internet fraud schemes.

Over the past six months, I am pleased to say the level of cooperation we have obtained from foreign law enforcement has increased dramatically. As a result of cooperation from the Ghana Police Department, under the leadership of Deputy Inspector General Patrick Acheampong [ACK-ey-pong], we made substantial progress in a number of Internet investigations. We are deeply indebted to the Ghana Police Department for its valuable contributions to Operation Cyber Sweep.

In addition, the FBI Legal Attaché in Lagos, Nigeria, works closely with the newly created Nigerian Economic and Financial Fraud Commission against various international online fraud schemes. As a result of the joint efforts between the FBI and law enforcement officers in Nigeria, the Legal Attaché has to date assisted in the recovery of more than $100,000 in merchandise and $2.1 million in fraudulent cashier's checks.

I emphasize that the significant accomplishments of this operation are due, in large measure, to the contributions of state and local law enforcement. State and local prosecutors from across the nation and police departments from Lewiston, Maine to Kent, Washington, played an integral part in Operation Cyber Sweep.

In addition, the National White Collar Crime Center proved yet again to be a valued and effective partner with the FBI in operating the Internet Fraud Complaint Center. In the first nine months of 2003, the IFCC has referred more than 58,000 Internet-related fraud complaints to law enforcement. Glen Gainer, who is the Chairman of the National White Collar Crime Center, is

here with us, and I thank him and his staff for their continuing contributions.

If citizens or companies believe they have been the victims of on-line fraud, complaint forms can be found on-line at www.ifccfbi.gov <http://www.ifccfbi.gov>. That is: www.ifccfbi.gov <http://www.ifccfbi.gov>. The Federal Trade Commission also has forms at www.ftc.gov <http://www.ftc.gov>.

I am also pleased to note that a number of major corporations and trade associations have been strong supporters of Operation Cyber Sweep. Our success in combating cyber-crime depends on the alliance between law enforcement and the private sector to share information that identifies and roots out cyber-schemes of all types.

Finally, I want to call attention to the roles played by two Sections of the Department's Criminal Division: the Fraud Section, which oversees the Department's nationwide initiative on Internet fraud prosecutions, and the Computer Crime and Intellectual Property Section, which is overseeing the Department's prosecutorial efforts against intellectual property crimes and computer-related crimes.

I turn now to FBI Assistant Director Jana Monroe for her remarks.

###

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 05, 2005 2:08 PM
To: Henke, Tracy (SMO)
Subject: RE: Prepared Remarks of Attorney General John Ashcroft, Announcement of "peration Cyber Sweep,"1-20-03

thanks!

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, August 05, 2005 2:07 PM
To: Gorsuch, Neil M
Subject: FW: Prepared Remarks of Attorney General John Ashcroft, Announcement of "Operation Cyber Sweep," 11-20-03

Here is an old JDA speech that might be useful. Will see what else I find.

-----Original Message-----
From: Magnuson, Cynthia
Sent: Thursday, November 20, 2003 1:04 PM
Subject: Prepared Remarks of Attorney General John Ashcroft, Announcement of "Operation Cyber Sweep," 11-20-03

Prepared Remarks of Attorney General John Ashcroft
Announcement of "Operation Cyber Sweep"
Thursday, November 20, 2003

(Please Note: The Attorney General Often Deviates From Prepared Remarks)

The Information Superhighway should be a conduit for communication, information and commerce, not an expressway to crime. It is a top federal law enforcement priority to stop crime on the Internet.

That is why the DOJ is announcing Operation Cyber Sweep, the most productive, coordinated law enforcement operation that law enforcement has ever conducted against online crime.

The nationwide dimension of Operation Cyber Sweep began on October 1 of this year and already has been an unqualified success. Over the past seven weeks, this coordinated criminal investigation has netted:

- More than 125 investigations, in which more than 125,000 victims lost more than $100 million;
- More than 350 targeted subjects, resulting in more than 125 arrests or convictions

thus far; and,

- More than 70 indictments to date, and the execution of more than 90 search/seizure warrants.

Although it closely resembles traditional economic crime in many ways, online economic crime has two distinctive features:

- First, the online crimes are increasingly multi-jurisdictional. The criminals may be half-way around the world, but the Internet gets them close enough to pick the virtual pockets of consumers faster than it takes to send an e-mail.

- Second, online criminals are using more sophisticated techniques to conceal their true identities or locations from law enforcement.

Law enforcement faces the challenge of adapting and outthinking Internet criminals and online abusers. So we are upgrading our capacity to make the World Wide Web a safer place by using the combined resources of federal, state, local and international law enforcement agencies.

Operation Cyber Sweep is the largest, most successful Internet investigation undertaken by law enforcement to date. It involves the collective efforts of:

- 34 United States Attorneys' Offices
- FBI
- Postal Inspection Service
- Federal Trade Commission
- Secret Service
- Bureau of Immigration and Customs Enforcement, and
- The Criminal Division of the Justice Department.

These agencies have joined together to conduct Operation Cyber Sweep, a concentrated series of prosecutions and other enforcement actions that have targeted major forms of online economic crime, including:

- Identity theft. In one case, an individual pleaded guilty in Alexandria, Virginia, to conspiracy to possess unauthorized access devices. This individual engaged in so-called "phishing" - sending thousands of fake e-mail messages to America Online customers, and advising them to update their credit card or personal information with AOL to maintain their accounts.
- Investment fraud. An individual pleaded guilty for his role in two separate online-investment-fraud schemes in Virginia and Tennessee. The first scheme

involved an Internet website for a fictitious investment club that offered investors tax-free, double-digit, returns. His other scheme involved another bogus investment website built using information and photos stolen from other, legitimate business websites.

- Software piracy. An individual was indicted in the Eastern District of Missouri on fraud and copyright infringement charges for selling counterfeit copies of computer software programs on eBay.
- Counterfeit product fraud. In a precursor case that led up to Operation Cyber Sweep, a Southern California computer supply company executive was convicted of criminal trademark violations. At trial, the evidence showed that the defendant had counterfeited at least $5 million to $7 million of Compaq computer memory modules, which numbered in the tens of thousands.

Our last operation of this type, Operation E-Con, ran from January 1 to May 16, 2003. That operation involved more than 90 investigations, the execution of more than 70 search and seizure warrants, and the charging or conviction of more than 130 individuals. Combined, these online investigations have saved consumers and businesses hundreds of millions of dollars.

After "Operation E-Con", federal law enforcement recognized the need to secure cooperation from a number of foreign countries in investigating and prosecuting major international Internet fraud schemes.

Over the past six months, I am pleased to say the level of cooperation we have obtained from foreign law enforcement has increased dramatically. As a result of cooperation from the Ghana Police Department, under the leadership of Deputy Inspector General Patrick Acheampong [ACK-ey-pong], we made substantial progress in a number of Internet investigations. We are deeply indebted to the Ghana Police Department for its valuable contributions to Operation Cyber Sweep.

In addition, the FBI Legal Attaché in Lagos, Nigeria, works closely with the newly created Nigerian Economic and Financial Fraud Commission against various international online fraud schemes. As a result of the joint efforts between the FBI and law enforcement officers in Nigeria, the Legal Attaché has to date assisted in the recovery of more than $100,000 in merchandise and $2.1 million in fraudulent cashier's checks.

I emphasize that the significant accomplishments of this operation are due, in large measure, to the contributions of state and local law enforcement. State and local prosecutors from across the nation and police departments from Lewiston, Maine to Kent, Washington,

played an integral part in Operation Cyber Sweep.

In addition, the National White Collar Crime Center proved yet again to be a valued and effective partner with the FBI in operating the Internet Fraud Complaint Center. In the first nine months of 2003, the IFCC has referred more than 58,000 Internet-related fraud complaints to law enforcement. Glen Gainer, who is the Chairman of the National White Collar Crime Center, is here with us, and I thank him and his staff for their continuing contributions.

If citizens or companies believe they have been the victims of on-line fraud, complaint forms can be found on-line at www.ifccfbi.gov <http://www.ifccfbi.gov>. That is: www.ifccfbi.gov <http://www.ifccfbi.gov>. The Federal Trade Commission also has forms at www.ftc.gov <http://www.ftc.gov>.

I am also pleased to note that a number of major corporations and trade associations have been strong supporters of Operation Cyber Sweep. Our success in combating cyber-crime depends on the alliance between law enforcement and the private sector to share information that identifies and roots out cyber-schemes of all types.

Finally, I want to call attention to the roles played by two Sections of the Department's Criminal Division: the Fraud Section, which oversees the Department's nationwide initiative on Internet fraud prosecutions, and the Computer Crime and Intellectual Property Section, which is overseeing the Department's prosecutorial efforts against intellectual property crimes and computer-related crimes.

I turn now to FBI Assistant Director Jana Monroe for her remarks.

###

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Friday, August 5, 2005 2:09 PM
To: Gorsuch, Neil M
Subject: FW: Prepared Remarks of Attorney General John Ashcroft, World Economic Forum - Davos, Switzerland, January 22, 2004

another one
-----Original Message-----
From: Magnuson, Cynthia
Sent: Thursday, January 22, 2004 9:43 AM
Subject: Prepared Remarks of Attorney General John Ashcroft, World Economic Forum - Davos, Switzerland, January 22, 2004

Prepared Remarks of Attorney General John Ashcroft
World Economic Forum - Davos, Switzerland
January 22, 2004

(Please Note: The Attorney General Often Deviates From Prepared Remarks)

Thank you. It is a pleasure to join you here in Switzerland. I thank President [Klaus] Schwab and the World Economic Forum for the invitation to speak with you today.

Last year when many of us met here, the focus was quite naturally on our common effort against global terrorism. Our terrorist enemies have sworn to decimate liberty, to undermine the rule of law and to disrupt free markets. We, in turn, have banded together in defense of our ideals. Terrorists sought a world divided by hate and oppression, but instead have helped to unite all freedom-loving nations.

We are winning this war against terrorism. But there are other threats to our values, and to the capacity of business and government to work together to end the plague of poverty and expand human achievement. I would like to discuss one of the most pressing threats to opportunity and human achievement today … corruption … and how the world is uniting to combat it.

The fight against corruption has commanded my attention since my first days of service as Attorney General. My first international responsibility was to lead the U.S. delegation to the second World Forum on corruption held in The Hague in 2001. In the intervening years, the international effort against terrorism has not obscured my dream of government integrity and public trust. In fact, last month, I joined with officials of 94 other nations in Merida, Mexico,

for the signing of the landmark United Nations International Convention Against Corruption.

Just as our most basic ideals of liberty and the rule of law can be traced back to the time of Hammurabi, so, too, can the threat corruption poses to those ideals.

Moses warned the children of Israel, quote, "Do not accept a bribe, for a bribe blinds the eyes of the wise and twists the words of the righteous." Mohammed, referring to giving what is due the people, said, quote, "Give full measure and full weight in justice. Do not evil in the earth, causing corruption."

The 20th Century taught us forcefully that free people operating in free markets are the greatest force man has ever known for overcoming the scourge of poverty, while creating opportunity and achievement for all.

The success of this system, though, depends on a marketplace of integrity. When governments play favorites … when they award contracts and make decisions based on corruption that favors the connected, rather than competition that favors the citizenry … freedom is stymied.

When corruption intrudes, the invisible hand that guides the market is replaced by a greased palm. And officials who pocket payoffs do not just violate the integrity of the marketplace.

They tax the poor to benefit the corrupt.

They deny their people better roads, cleaner water, and stronger schools.

They strangle the culture of productivity that is the death knell of impoverishment and the life force of human achievement.

The goal of law enforcement, then, is clear: Equal opportunity in the marketplace must be defended. Trust must not be abused. Confidence must be sustained. The marketplace of integrity must not be contaminated by a corrupt contagion of greed.

Shockingly, until recently, corruption … and terrorism for that matter … were viewed as regional problems beyond international discussion and cooperation.

In some nations, bribes were actually allowed as tax write-offs, a cost to be deducted at home for doing business abroad. These governments engaged in the delusion that they could

subsidize bribe-paying abroad while expecting these same companies to behave morally at home.

But let me be clear: no society has ever been totally free from corruption. Even the most successful and longest-established market societies experience corruption. For example, in 2002, the United States Justice Department dealt with more than 1,000 federal prosecutions of corrupt officials on the federal, state and local levels.

World Bank studies estimate that negative effects of corruption can reduce a country's economic growth rate by as much as a full percentage point each year.

Overall, the World Bank estimates that the cost of corruption represents about seven percent of the annual world economy, roughly 2.3 trillion dollars. This is a staggering amount … a figure that is equal to the entire federal budget of the United States government [2.2 trillion dollars].

Think of the jobs, the infrastructure, and the educational systems that 2.3 trillion dollars could provide if it were redirected from the personal enrichment of the corrupt to the public service of the people. Think of the rising tide of trust and productivity that would result … a tide that would lift all citizens, especially the poor among us.

Today, with accelerated economic globalization and rapid advances in technology, corruption is a contagion that cannot be contained by borders. Corruption facilitates and perpetuates such transnational criminal activity as organized crime, money laundering, drug trafficking, and the smuggling of human beings.

Corruption provides sanctuary to the forces of terror, aiding the smuggling of biological, chemical or nuclear weapons materials.

Corruption draws the business community into a web of deceit and graft, making them co-conspirators in picking the pockets of ordinary people. After all, if businesses must pay to gain a position, they will make certain that position pays off.

Corruption saps the legitimacy of democratic governments. In its extreme forms, corruption even threatens democracy itself, because democracy lives on trust, and corruption destroys trust.

Perhaps worst of all, corruption limits the unique ability of all human beings to flourish in freedom.

Austrian economist and Nobel Prize-winner, Friedrich von Hayek, noted in his seminal book, "The Road to Serfdom," that when man is able to pursue his goals unfettered in an open, competitive market place of integrity, the creative capacity in him is unleashed, benefiting all.

Freedom's greatest gift is the ability of every individual to fulfill his or her God-given potential. When corruption robs us of this gift, it diminishes each and every one of us.

I believe that with an understanding of the threat posed by corruption also comes an opportunity for us to defeat it. If corruption is an age-old threat, the 21st Century presents us with an unparalleled opportunity to defeat it through a combination of visionary leadership, unprecedented cooperation, and openness and transparency.

First, leadership.

To be sustainable over time, the political will necessary to succeed against corruption requires a moral foundation. Economic and political interests may shift, but the morality of fighting corruption is a constant. It is common ground that all governments and private citizens can and should share.

The Honorable Ki Raitu Murungi, the Minister of Justice in Kenya, explained why his country was combating corruption. Quote, "[Corruption] has killed our children. It has destroyed our society. It is the fundamental cause of our high levels of poverty, unemployment and social backwardness. For us in Kenya, the fight against corruption is a matter of life and death. It cannot wait for tomorrow. The time is now."

Notably, Kenya was the first nation to ratify the U.N. anti-corruption treaty, and it is to be congratulated for taking that courageous step. But words of leadership must be backed by actions of leadership, and this is my second point: the unprecedented level of cooperation that is developing to combat corruption.

Back in the 1970s, investigations by the U.S. Securities and Exchange Commission revealed unethical and immoral practices on the part of American firms seeking business abroad. In response to public outrage, the United States passed the Foreign Corrupt Practices Act in 1977.

This act, with its strong criminal penalties, influenced American businesses to develop corporate compliance codes and to establish ethical guidelines to fight bribery and corruption. To enlist other countries in the movement toward good governance, the United States strongly supported the OECD Anti-bribery Convention, which entered into force in 1999 and now has 35

nations working together to help strengthen its implementation.

Over the past ten years, multilateral organizations such as the Organization of American States, the Council of Europe, and the Southern African Development Community have all committed to some form of a mutual peer review process designed to identify, combat and prevent corruption.

In addition, we have seen the creation of the Global Forum on Fighting Corruption and Safeguarding Integrity, which on two occasions during the past three years has gathered more than 100 nations to discuss ways to combat corruption.

These regional and multilateral efforts culminated in the signing of the U.N. treaty to combat corruption in Merida, Mexico, last month. As evidenced by the 95 nations that signed the U.N. treaty, there is now a worldwide conviction that the crime of corruption … which sacrifices prosperity for personal profit, and human achievement for human greed … must be defeated. With each prosecution of a corrupt government official, we reinforce the principle that the purpose of government is to serve the people.

We must use the tools of investigation and prosecution to bring the corrupt to justice, but we must also do more.

We know from our war against terrorism that it is not enough to act after attacks have been perpetrated. To defeat terrorism we must prevent acts from occurring in the first place. Just as we cannot wait for the next terrorist to strike, we must not wait for the next bribe to be paid before moving to stop future corrupt activity.

Technology gives us the tools we need to be forward-looking in the fight against corruption … to achieve a world in which corruption is not merely prosecuted, but prevented … not merely detected, but deterred.

This is my third point: Information - or transparency - is the enemy of corruption. Corruption feeds and breeds from secrecy and ignorance. It cannot thrive under the light spread by an open, informed society.

Today, with the explosive growth of the Internet and 500-channel digital satellite broadcasting, information has never moved more quickly, to more people, with more purpose. As the various financial crises and our effort to deal with the corporate scandals in the United States has confirmed, information is the most therapeutic resource we have in achieving integrity in our markets and in our government.

When evidence of corruption is presented to the public, institutions are held accountable. In this way, open government becomes an essential tool to creating good government.

One example of this is in Uganda. When the government there published the amount of funds allocated to local school districts, the amount actually received by the schools rose from 28 percent to 90 percent.

Transparency and openness facilitates not only a flow of information, but also a flow of capital. This is particularly helpful in developing nations, where investors have shown an unwillingness to make large commitments to development efforts without signs of governmental integrity.

To encourage transparency and accountability, President Bush created the Millennium Challenge Account, which pledges $5 billion in development aid over the next three years. But this new assistance will only be made available to countries that rule justly, invest in their people and stand firmly against corruption.

The United States is committed to working with other governments, citizens, businesses and non-governmental organizations to defeat corruption. By declaring that corruption is not an acceptable part of doing business, we will spread the blessings of freedom and the rule of law. Impoverishment will be vanquished. Opportunity and human achievement will be available to all, not just the privileged and corrupt few.

Twenty-eight months ago, all free nations were called to defend freedom from terrorism. Today we are called to defend our freedom from corruption. Each of us must pledge to answer this call, because, in the end, government alone cannot promote the opportunity and achievement that flourish in the absence of corruption. It is up to business leaders and government leaders alike to set high ethical standards. And if we do, we will turn a zero-sum contest of corruption into a framework of freedom that benefits all.

For with each word of leadership, we send the unmistakable message that government will not be sold to the highest bidder.

With each example of courage, we send the message that the poor will not be held hostage by the greedy and corrupt.

And with each act of justice, we send the message that citizens - all citizens - will not be denied the opportunity to achieve a better, more prosperous life in a world of freedom.

Thank you very much.

###

From: Henke, Tracy (SMO)
Sent: Friday, August 05, 2005 2:12 PM
To: Gorsuch, Neil M
Subject: FW: Fact Sheet: Second Year Anniversary of President Bush's Corporate Fraud Task Force

-----Original Message-----
From: Piper, Matthew
Sent: Tuesday, July 20, 2004 12:58 PM
Subject: Fact Sheet: Second Year Anniversary of President Bush's Corporate Fraud Task Force

Department of Justice

FOR IMMEDIATE RELEASE

DAG

TUESDAY, JULY 20, 2004

(202) 514-2007

WWW.USDOJ.GOV

TDD (202) 514-1888

FACT SHEET

SECOND YEAR ANNIVERSARY OF PRESIDENT BUSH'S CORPORATE FRAUD TASK FORCE

President Bush's Leadership in Restoring Confidence to the Marketplace

"[I]t is time to reaffirm the basic principles and rules that make capitalism work - truthful books and honest people, and well-enforced laws against fraud and corruption."

- President George W. Bush, announcing the Task Force's formation on July 9, 2002

"The President's Corporate Fraud Task Force ... can, however, do one thing, and that is what we are here today to do: to restore public confidence in our financial markets and in our criminal justice system - to make people know we will continue to work like crazy until we have brought all corporate crooks to justice."
- Deputy Attorney General James Comey, announcing charges from the Enron investigation on July 8, 2004

The Task Force's Second-Year Anniversary. During its second year, the President's Corporate Fraud Task Force improved on its strong first year record in combating corporate fraud and punishing corporate wrongdoers. Not only did Task Force members equal their efforts and accomplishments from the year prior, in many instances, they far surpassed them. On the criminal enforcement front, federal prosecutors began to try a number of high profile cases resulting in important convictions in the Adelphia, Craig Consumer Electronics,

DOJ_NMG_ 0146027

Dynegy, Martha Stewart, Frank Quattrone, Unify, Graham-Field Health Products, and U.S. Technologies matters. On the civil enforcement front, the SEC obtained a $2.25 billion penalty, the largest in SEC history, against WorldCom, and settled significant financial fraud, reporting, and disclosure cases with companies including Gemstar-TV Guide International, Lucent Technologies Inc., and Vivendi Universal, S.A. The SEC also brought and settled significant cases against mutual funds and their executives, financial services providers, and brokers for alleged fraudulent conduct relating to market timing and late trading in fund shares, including settlements with Alliance Capital Management L.P. and Massachusetts Financial Services Co.

President Bush created the Corporate Fraud Task Force by Executive Order No. 13271 on July 9, 2002. It is chaired by Deputy Attorney General James B. Comey and includes senior Department of Justice officials, the heads of the Departments of Treasury and Labor, and the heads of the Securities and Exchange Commission, Commodity Futures Trading Commission, Federal Energy Regulatory Commission, Federal Communications Commission, Office of Federal Housing Enterprise Oversight, and United States Postal Inspection Service.

Through fair, swift and decisive actions, the Task Force continues to remove suspicion, doubt, and uncertainty that pervaded the marketplace only two years ago. Investor confidence is returning and the public is recognizing that the vast majority of corporate leaders are honest and ethical stewards of their shareholders and employees. The Task Force's actions are successfully working to:

- Restore confidence to the marketplace;
- Provide fair and accurate information to the investing public;
- Reward shareholder and employee trust; and
- Protect jobs and savings of hard-working Americans.

Prosecuting Corporate Fraud Criminally. Justice Department prosecutors throughout the country, working hand in hand with regulatory Task Force members and investigators from the Federal Bureau of Investigation, Internal Revenue Service's Criminal Investigation division, and U.S. Postal Inspection Service, have responded to President Bush's call to get tough on corporate crime. Since the inception of the Task Force through May 31, 2004, prosecutors and investigators had:

- Obtained over 500 corporate fraud convictions or guilty pleas;

- Charged over 900 defendants and over 60 corporate CEOs and presidents with some type of corporate fraud crime in connection with over 400 filed cases; and

- Obtained charges against 31 Enron defendants, including 21 former Enron executives, obtained the convictions of 11 Enron defendants including its former CFO and treasurer, and seized over $161 million for the benefit of victims of the frauds at Enron.

Aggressively Pursuing Civil and Regulatory Enforcement Actions. During the Task Force's second year, civil and regulatory Task Force members, often in actions parallel to criminal actions, and in coordination with criminal investigators and prosecutors, actively pursued enforcement actions to protect investors and consumers from corporate fraud.

Securities and Exchange Commission: During fiscal year 2003 (October 1, 2002-September 30, 2003), the SEC filed 199 financial fraud and reporting cases. From October 1, 2003 through June 21, 2004, the SEC filed 350 enforcement actions, 72 of which involved financial fraud or reporting. Thirty-two companies have been suspended from trading, and the SEC has sought asset freezes against individuals and companies in 36 cases. In addition, the SEC has sought to bar 110 corporate executives and directors from again serving in publicly traded companies. The SEC has used its new enforcement

DOJ_NMG_ 0146028

authority under the Sarbanes-Oxley Act, which the President signed into law on July 30, 2002, to it's fullest extent in seeking to improve corporate responsibility and protect America's shareholders and workers, including using the "Fair Funds" provision in many recent settlements. The SEC has collected over $432 million to be returned to victims of the Enron fraud, pursuant to this authority.

Last fall, when a number of disturbing scandals involving mutual funds came to light, the SEC responded. During fiscal year 2003 through the present, the SEC filed 41 mutual fund-related enforcement actions and obtained orders for close to one billion dollars in penalties and disgorgements related to mutual funds, all of which will be returned to investors. Moreover, the SEC has proposed some 15 new mutual fund reforms, all in response to these mutual fund scandals.

Commodity Futures Trading Commission: From July 1, 2003 to June 30, 2004, the CFTC instituted 68 enforcement actions - a 17% increase over the prior year - against 193 defendants. It obtained permanent injunctions against 58 defendants and restraining orders to freeze assets and preserve books and records against 77 defendants. It also obtained cease and desist orders against 51 respondents in administrative proceedings. The CFTC secured nearly $315 million in civil monetary penalties, an increase of nearly 137% from the prior year, and over $67 million in restitution and disgorgement. It obtained trading prohibitions against 18 individuals during this time.

Much of the CFTC's enforcement activity over the last year centered around the energy markets. The CFTC focused on the widespread practice by energy companies - most of them public entities - of falsely reporting the prices and quantities of natural gas or electricity transactions to reporting services, often to influence the prices reported by these services and to consequently benefit energy derivative positions held by these companies.

Federal Energy Regulatory Commission: FERC's numerous investigations into the manipulation of energy markets, including anomalous bidding practices, physical withholding of capacity, gaming practices, and violations of standards of conduct resulted in settlements valued at in excess of $500 million. Energy companies entering into settlements with FERC included Reliant Energy Services, Duke Energy and Trading, Williams Power Company, Dynegy, Inc., Portland General Electric, El Paso Electric, Avista Corporation, Cleco Corp., Nicor Gas, National Fuel Gas Company, and Center Point Gas Transmission Company. FERC still has underway several proceedings in which it is pursuing refunds of up to $3 billion for sales in California, as well as additional disgorgement of profits from sellers who are found to have violated FERC tariffs.

Employee Security Benefits Security Administration (Department of Labor): EBSA continues to aggressively protect employee benefit plans from the effects of corporate fraud. Since the inception of corporate fraud as an investigative priority, EBSA has identified 44 civil investigations as having potential corporate fraud issues including investigations into Global Crossing, WorldCom, and ULLICO. In May 2004, EBSA announced the filing of settlements (which must be approved by the court) to restore at least $66.5 million to the Enron savings and employee stock ownership plans and to restrict the ability of named corporate officers, directors, and administrative committee members from future service as ERISA fiduciaries. In July 2004, EBSA entered into settlement agreements with five former officers and directors of Global Crossing significantly restricting their ability to serve as fiduciaries of ERISA plans for a period of five years without the Department's approval. EBSA also secured $25 million for the plan from Gary Winnick, the former chairman of Global Crossing's Board of Directors and was instrumental in facilitating the recovery of an additional $54 million for the plan through the private class action settlement, bringing the total recovery for workers and retirees to $79 million. In September 2003, EBSA obtained a consent decree against former Rite Aid CFO and plan trustee, Franklyn M. Bergonzi. The court's order permanently barred Bergonzi from representing any employee benefit plan in any capacity.

DOJ_NMG_ 0146029

Office of Federal Housing Enterprise Oversight (Department of Housing and Urban Development): OFHEO brought civil actions against Freddie Mac executives for, among other things, their failure to maintain adequate internal controls and negotiated with Freddie Mac a record civil money penalty for a safety and soundness violation - $125 million - as well as entering into a consent order that required the Board and senior management to address corporate governance and culture at Freddie Mac. OFHEO continues its oversight of Freddie Mac while currently conducting a review of accounting and controls at Fannie Mae.

Restoring Investor Confidence. The Task Force's swift, fair and decisive actions are helping to restore confidence to the marketplace. CEOs and other executives who fudged the numbers and deceived their investors and workers are being held accountable. The actions of the Task Force are helping to demonstrate something equally important to the American people: the vast majority of corporate leaders are honest and ethical who work hard to earn the trust of their shareholders and employees.

###

04-495

DOJ_NMG_ 0146030

Image not available for this document, ID: 0.7.10316.72529-000001

Image not available for this document, ID: 0.7.10316.72529-000002

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Friday, August 5, 2005 2:13 PM
To: Gorsuch, Neil M
Subject: FW: Prepared Remarks of Attorney General John Ashcroft at the United States Chamber of Commerce

-----Original Message-----
From: Jackson, Wroe
Sent: Tuesday, October 19, 2004 6:42 PM
Subject: Prepared Remarks of Attorney General John Ashcroft at the United States Chamber of Commerce

Prepared Remarks of Attorney General John Ashcroft
United States Chamber of Commerce
Tuesday, October 19, 2004

Thank you for the invitation to join you here at the United States Chamber of Commerce. The members of the U.S. Chamber personify the success that comes from hard work, focus and dedication. These efforts have transformed the American and global economies.

At the United States Department of Justice, we also understand what hard work, focus and dedication can achieve for the American people. In the past three years, we have achieved remarkable successes in protecting and enhancing the lives and liberties of our citizens.

A little over three years ago, after suffering a terrorist attack that took more than 3,000 innocent lives, many experts said it would be impossible to protect America from another attack from our enemy.

The Department of Justice reorganized and worked with law enforcement on every level to make America safer and more secure. In the past three years, we have not suffered another major terrorist

attack on our soil.

For three years, our nation has been blessed. But the hand of Providence has been assisted by the dedicated men and women of the Department of Justice. In three years, we have compiled a record of achievement that is impressive by peacetime standards. In a time of war, it is inspiring. We have:

- **Dismantled terrorist operations and cells that presented clear threats to the safety of our citizens from New York to Oregon, Florida to Ohio, and Virginia to California;**
- **Brought criminal charges against 364 individuals;**
- **Secured convictions against 193 of them; and,**
- **Incapacitated 3,000 individuals worldwide who enlisted in the campaign of terror against America.**

Pessimists long told us that violent crime is a fact of life - especially for poorer groups of Americans.

Last month, the Justice Department's Bureau of Justice Statistics reported that violent crime rates in America have been driven down to record 30-year lows. This record level of safety has been achieved for all Americans - across every economic category in our nation.

In the past three years - 2001 to 2003 - we have seen the overall rate of violent crime decline 27 percent from the previous three-year period prior to the Bush Administration.

Over the past three years, we have seen double-digit reductions in the rate of:

- **Rape and sexual assault: down 31 percent**
- **Robbery: down 31 percent**
- **Assault: down 26 percent**

These are not mere statistics. Behind these numbers are real people - 1.7 million Americans who were spared the pain of violent crime.

The three-year reduction in the rate of violent crime means that:

- **1.4 million fewer friends and co-workers have been assaulted;**
- **229,000 fewer citizens have been robbed; and,**
- **93,000 fewer women have been raped.**

There were experts who said that tough enforcement of the laws that were already on the books would never work in reducing crimes committed with a gun.

Well today, gun crime prosecutions are at a record high and gun crime is at a record low.

In the past three years, under President Bush's Project Safe Neighborhoods initiative, we have increased federal prosecutions of gun crime by 68 percent. These prosecutions have led to a decrease of more than 250,000 gun crimes. That represents an 18 percent drop in the incidence of gun crime.

In 2003 alone, we charged a record 13,000 defendants with federal firearms offenses, and more than 9,500 individuals were convicted-the largest number ever convicted in the federal system in a single year.

Four years ago, our nation's financial markets were rocked by scandals. The chattering classes said we could never restore the trust that had been lost.

But that was before the Department of Justice charged 900 defendants in 400 corporate fraud cases. And that was before more than 500 individuals, including 60 CEOs, were convicted of defrauding investors.

For the past three years, the men and women of the Department of Justice have been steadily focused on protecting the lives and the liberties of the American people. We have faced serious challenges, but the Justice Department has showed what can be achieved with focus, determination, and hard work. Still, challenges remain.

The protection of our nation's intellectual property has been a top priority of the Justice Department from my first days as Attorney General. But serious threats to intellectual property endanger our nation's economy and our citizens. The Justice Department's response to this threat must be every bit as forceful and aggressive as its response to terrorism or violent crime.

In the increasingly knowledge-driven economy, intellectual property is our nation's most important economic resource. Taken as a whole, intellectual property helps to employ hundreds of million of people around the world and generates revenue in the trillions. It follows then that if intellectual property unleashes our nation's potential, the theft of intellectual property limits our nation's capacity to grow.

When jobs and wages are lost due to intellectual property crimes, our nation's economy is weakened.

The United States Trade Representative estimates that intellectual property theft and counterfeiting worldwide costs United States companies $250 billion annually. Industries from software designers to auto-parts manufacturers estimate that they have lost more than 300,000 jobs due to the cost of intellectual property theft.

When counterfeit pharmaceuticals reach America's medicine cabinets, they threaten the health of our citizens. For example, a pharmaceutical company discovered a counterfeit version of its pills

that was made with a combination of floor wax and yellow lead-based paint normally used to mark roads.

And when profits from counterfeited fashions or illegally distributed DVDs help finance the operations of organized crime, and potentially terrorists, intellectual property crimes undercut our nation's security.

The Department of Justice takes seriously its mission to protect intellectual property from the criminals of the new millennium ... thieves who steal our nation's innovative ideas and hard work. For example:

- **In the past two years, the Justice Department and the Bureau of Immigration and Customs Enforcement have seized hundreds of thousands of counterfeit batteries. These batteries contained unsafe levels of mercury, and were so poorly manufactured that exposure to sunlight might have caused the batteries to explode.**

- **In April 2003, a South Carolina man was sentenced to seven years in prison and ordered to pay $3.5 million in restitution for selling fake Nike shoes and fashion apparel.**

- **In August 2004, Operation Digital Gridlock seized more than 40 terabytes of illegally distributed movies, music and computer software on computers located in Texas, New York, and Wisconsin. This was the first federal enforcement action against a "peer to peer" network. The 40 terabytes were the equivalent of 60,000 movies or 10.5 million songs.**

These are successes, and over the past four years there have been others, but there is much more to be done. That is why on March 31, 2004, I created the Department of Justice's Task Force on

Intellectual Property. My charge to the Task Force was to find new and innovative ways to protect Americans from the theft of intellectual property.

Earlier this month, I received the Task Force final report. It is a blueprint for the most aggressive, ambitious and far-reaching law enforcement effort against intellectual property crimes in Justice Department history.

The Task Force recommendations - which I have embraced - include significant proposals in the areas of criminal, civil, and antitrust enforcement, international cooperation, legislative initiatives, and public outreach and education. Today I would like to highlight three sections of the report that feature significant initiatives:

First: criminal enforcement.

In 2001, I established the national Computer Hacking and Intellectual Property Unit network, or CHIP network. CHIP Units are comprised of specially trained prosecutors and investigators who focus on intellectual property crimes. They are located in thirteen U.S. Attorneys offices where intellectual property crimes enforcement is especially important.

The results have been dramatic. In 2003, the first year all units were operational, the CHIP Program filed charges against 46 percent more defendants than they had averaged in each of the four years prior to the formation of the units.

In order to build on this success, the Justice Department will create five new CHIP Units to be based here in Washington, D.C., in Sacramento, California; Nashville, Tennessee; Pittsburgh, Pennsylvania; and Orlando, Florida.

We will also designate a CHIP Coordinator in every U.S. Attorney Office in the nation. This coordinator will be a prosecutor who specializes in intellectual property crime. We will enhance training programs for prosecutors and investigators of intellectual property crime, including those based overseas.

This brings me to the second area: international cooperation.

Geographic borders do not limit intellectual property theft and counterfeiting. Borders must not limit our investigation, prosecution, and prevention efforts against such crimes.

Eastern Europe and Asia are two regions where large, organized networks of intellectual property counterfeiters and thieves operate. Therefore we will place new federal prosecutors to focus on intellectual property crime at United States embassies in Hong Kong and Budapest, Hungary.

To assist these prosecutors, we will recommend that the FBI deploy specially trained FBI agents to the embassies. These prosecutors and agents will also be armed with updated legal tools.

Last year, representing the United States, I signed the first ever Mutual Legal Assistance and Extradition treaties with the European Union. This treaty allows intellectual property counterfeiting and theft as extraditable offenses.

The United States is now working with each of the 25 Member States of the EU to complete the instruments that will bring the treaties into force. In fact, earlier this month at EU meetings in The

Hague, I signed implementing instruments with the Dutch and French governments.

Many of the intellectual property cases we develop would not be possible were it not for the cooperation of the victims of the crime. This brings me to the final area, education and outreach.

The prosecution - and, critically, the prevention - of intellectual property crime requires cooperation from the individuals, businesses and industries that have been victimized. Victims must have the information and resources necessary to protect their hard work and innovation.

We will expand the Department of Justice's programs to educate and encourage a respect for intellectual property. The Task Force has developed and recommended national implementation of an education program targeting America's young people.

The expansion of the Justice Department's protection of intellectual property, and the prosecution of intellectual property crimes, will go a long a way to undercutting what I call the "culture of uncompensated use."

People who illegally download a movie online, or who steal the formula for a new pesticide, are not "pirates" or "spies." They are thieves, pure and simple. And these thieves are a threat to the economic strength and innovative spirit of our nation.

Whether it is an entrepreneur in his home office or a corporation with four factories, each must be given the opportunity to succeed in an environment where enterprise, creativity and innovation are

respected and where there is a marketplace that offers potential reward for their efforts.

If the environment in this country is not conducive to creativity and innovation, the innovators will find an environment elsewhere that is. And that is an outcome our nation cannot afford.

The Intellectual Property Task Force and its recommendations are ensuring that the Department of Justice will have the strongest, most aggressive legal assault against intellectual property crime in our nation's history.

The Justice Department will continue to expand and enhance the environment for creativity and innovation that is the hallmark of our nation.

We will continue to protect Americans on the streets, in their workplaces and in their homes.

We will continue to protect the lives and liberties of our citizens, so that America remains a beacon to all who seek opportunity and all who cherish freedom.

Thank you very much.

# # #

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 5, 2005 2:13 PM
To: Shaw, Aloma A; Lewis, David
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

David, Thanks for the excellent talking points. I will endeavor not to butcher them. Will you be attending the conference? Best, Neil
-----Original Message-----
From: Shaw, Aloma A
Sent: Friday, August 05, 2005 9:13 AM
To: Lewis, David
Cc: Gorsuch, Neil M
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

David:

Thank you for the talking points. I'll get them into Neil right away.

Here is Neil's travel itinerary:

8/8 - Depart National Airport 6:13pm NW Flt 1029
Arrive Minneapolis, MN 7:54pm

Hotel: Doubletree Guest Suites
1101 LaSalle Ave.
(612) 332-6800

8/9 - Depart MN 3:13 pm - NW Flt 0612
Arrive DC 6:40 pm

-----Original Message-----
From: Lewis, David
Sent: Thursday, August 04, 2005 7:37 PM
To: Shaw, Aloma A
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

Aloma,

Sorry about taking so long to get this to you.

I've attached information about the National White Collar Crime Center (NW3C), background on their Economic Summit which is the group Neil will be addressing, information about this year's Summit, and some talking points based on the subjects being addressed at the conference. I've also included the agenda. Please let me know if there is anything else you might need. Thank you for your assistance in the matter, it is greatly appreciated.

Also, I will be meeting him there. Do you know his travel schedule? If you could let me know that would be great.

David

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, August 04, 2005 10:59 AM
To: Lewis, David
Subject: RE: RE: Contact information for National White Collar Crime Center (NW3C)

David:
I just spoke to [redacted] I've forwarded [redacted] Neil's bio. Neil is expected to speak 20-30 minutes. He'd prefer no more than 20 minutes. As soon as you've prepared the talking points, could you please email them to me and I'll get them in to Neil right away.

Thank you,
Aloma

-----Original Message-----
From: Lewis, David
Sent: Wednesday, August 03, 2005 3:32 PM
To: Shaw, Aloma A
Cc: Fowler, Liane
Subject: RE: Contact information for National White Collar Crime Center (NW3C)

Aloma,

The public relations contact for NW3C is [redacted] Her email is [redacted]@nw3c.org . I have already called [redacted] and advised that Principal DAAG Gorsuch will be making the presentation instead of Tracy. [redacted] will be able to give you the particulars about the time, date, etc. [redacted] will probably need a copy of his BIO. I will be preparing some talking points and getting to you first thing in the morning. Let me know if there is anything you need from me.

David

****

David P. Lewis
Senior Policy Advisor
Justice Information Sharing
Department of Justice
Office of Justice Programs
Bureau of Justice Assistance
810 7th Avenue, NW
Washington DC 20531

(202) 616-7829
(202) 616-2421 FAX
****

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, August 05, 2005 2:14 PM
To: Gorsuch, Neil M
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

Didn't mean to say I'd get the talking points "into" you, instead, "in to!"
-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 05, 2005 2:13 PM
To: Shaw, Aloma A; Lewis, David
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

David, Thanks for the excellent talking points. I will endeavor not to butcher them. Will you be attending the conference? Best, Neil
-----Original Message-----
From: Shaw, Aloma A
Sent: Friday, August 05, 2005 9:13 AM
To: Lewis, David
Cc: Gorsuch, Neil M
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

David:

Thank you for the talking points. I'll get them into Neil right away.

Here is Neil's travel itinerary:

8/8 - Depart National Airport 6:13pm NW Flt 1029
Arrive Minneapolis, MN 7:54pm

Hotel: Doubletree Guest Suites
1101 LaSalle Ave.
(612) 332-6800

8/9 - Depart MN 3:13 pm - NW Flt 0612
Arrive DC 6:40 pm

-----Original Message-----
From: Lewis, David
Sent: Thursday, August 04, 2005 7:37 PM
To: Shaw, Aloma A
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

Aloma,

Sorry about taking so long to get this to you.

I've attached information about the National White Collar Crime Center (NW3C), background on their Economic Summit which is the group Neil will be addressing, information about this year's Summit, and some talking points based on the subjects being addressed at the conference. I've also included the agenda. Please let me know if

based on the subjects being addressed at the conference. I've also included the agenda. Please let me know if there is anything else you might need. Thank you for your assistance in the matter, it is greatly appreciated.

Also, I will be meeting him there. Do you know his travel schedule? If you could let me know that would be great.

David

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, August 04, 2005 10:59 AM
To: Lewis, David
Subject: RE: RE: Contact information for National White Collar Crime Center (NW3C)

David:
I just spoke to [redacted] I've forwarded [redacted] Neil's bio. Neil is expected to speak 20-30 minutes. He'd prefer no more than 20 minutes. As soon as you've prepared the talking points, could you please email them to me and I'll get them in to Neil right away.

Thank you,
Aloma

-----Original Message-----
From: Lewis, David
Sent: Wednesday, August 03, 2005 3:32 PM
To: Shaw, Aloma A
Cc: Fowler, Liane
Subject: RE: Contact information for National White Collar Crime Center (NW3C)

Aloma,

The public relations contact for NW3C is [redacted] Her email is [redacted]@nw3c.org . I have already called [redacted] and advised that Principal DAAG Gorsuch will be making the presentation instead of Tracy. [redacted] will be able to give you the particulars about the time, date, etc. [redacted] will probably need a copy of his BIO. I will be preparing some talking points and getting to you first thing in the morning. Let me know if there is anything you need from me.

David

****

David P. Lewis
Senior Policy Advisor
Justice Information Sharing
Department of Justice
Office of Justice Programs
Bureau of Justice Assistance
810 7th Avenue, NW
Washington DC 20531

(202) 616-7829
(202) 616-2421 FAX
****

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Friday, August 5, 2005 2:15 PM
To: Gorsuch, Neil M
Subject: FW: FYI PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE U.S. ATTORNEYS CONFERENCE

-----Original Message-----
From: Segerdahl-Ayers, Nancy
Sent: Thursday, April 21, 2005 5:25 PM
To: Henke, Tracy (SMO); Nolan, Cheri; Bottner, Andrea; White, Jana; Benedi, Lizette; Herraiz, Domingo S.; Gillis, John; Hart, Sarah V.; Greenfeld, Larry; Hernandez, Nelson; Flores, Robert
Subject: FYI PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE U.S. ATTORNEYS CONFERENCE

Nancy Segerdahl Ayers
Director, Office of Communication
Office of Justice Programs
U.S. Department of Justice
202-307-0703

NOTE NEW E-MAIL: Nancy.Segerdahl-Ayers@usdoj.gov

-----Original Message-----
From: USDOJ- Office of Public Affairs
Sent: Thursday, April 21, 2005 4:18 PM
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE U.S. ATTORNEYS CONFERENCE

PREPARED REMARKS OF
ATTORNEY GENERAL ALBERTO R. GONZALES
AT THE
U.S. ATTORNEYS CONFERENCE

THURSDAY, APRIL 21, 2005
SCOTTSDALE, ARIZONA

Thank you for that introduction. It's good to be with you today.

This is my first chance to meet with many of you since becoming Attorney General. That means it's also my first chance to say thank you.

You are vital to this Department - and to our Nation. So thank you for your constant efforts on behalf of the American people. They appreciate your hard work and so do I.

I want to take a moment to say a word about one of your alumni, who announced yesterday that he is returning to the private sector. Jim Comey has served this Department with great distinction for almost 15 years. President Bush entrusted Jim with two very important assignments, Deputy Attorney General and U.S. Attorney, and he applied his impressive talents to both jobs with energy and enthusiasm. In both capacities, Jim has been a respected leader in helping to combat crime, both in the boardroom and on our streets, and in defending America against terrorism.

On a personal level, I have very much enjoyed working with Jim both while I was at the White House and as Attorney General, and he will be missed at the Department. I appreciate the sacrifices made by Jim's wife Patrice and their five children during the long period of Jim's government service. On behalf of everyone at the Department, I thank Jim for his service and wish him all the very best as he moves on to a new phase in his career.

I'd also like to thank Mary Beth Buchanan for her service over the past year as U.S. Attorney and Director of the Executive Office of U.S. Attorneys. Last week, I had the pleasure of appointing Michael Battle to be her

successor as Director. Mike brings a wealth of experience to this new challenge - as a prosecutor, civil attorney, judge, and public defender - so I know that he is up to the task. We will miss his expertise in the Western District of New York, but you will each gain from his work in this new role.

I also appreciate the continued guidance of the Advisory Committee under Bill Mercer's strong leadership. The Committee's efforts in all areas of the Department's mission have been critical to our success. The work of the AGAC shows that with input and communication from the field, we can achieve our goals.

That's because most of the Department's work doesn't just happen inside the Beltway of Washington, D.C. It happens across the country, in courthouses and federal buildings and in your offices.

Personally, I rely heavily on the work you perform across the country each and every day. No matter how much I travel, most citizens will never see or meet with me. You represent the Attorney General in your district. For many, the only interaction they have with the Justice Department - with their government - will be through you. This is an enormous responsibility, but one I know you are capable of shouldering.

The President has the highest confidence in each of you and he has entrusted you with a great deal of responsibility. I know that you will continue to execute your duties with the humility, integrity, and wisdom the President expects of all his appointees.

Finally, I want to remind you that we are not here to play little ball, we are here to play big ball, to go for the big inning. President Bush often notes that we are "here to make a difference, not to mark time…to confront problems directly and forcefully, not pass them on to future generations."

This is our charge. We cannot stand idly by and allow this opportunity to pass. We must use this second term and exercise bold leadership to fulfill our mission and achieve justice for all. And we can do it by working together as a team.

***

I'd like to take a moment to highlight some of the areas in which I believe we can make important progress for the American people.

I know you all understand that on September 11th, 2001, the collective mission of the federal government was instantly transformed. At that moment, the top priority of the United States government became - and remains today - to protect our citizens against terrorism.

Thanks to your efforts and those of millions of men and women in federal, state, and local law enforcement, the intelligence community, and our military, we've made some real progress in the war on terror. Yet, despite our successes, the threat posed by al Qaeda and other similar groups is still very real.

Our new challenge is to remain ever vigilant. We cannot grow complacent. We cannot afford to assume the quiet of today will mean peace for tomorrow. As President Bush has reminded us, "we must not

allow the passage of time or the illusion of safety to weaken our resolve in this new war."

All of us in the Department of Justice are keenly aware of the continuing threat posed by terrorists - I see it every morning when I begin my day with an intelligence briefing, and you surely see it every day when you work to investigate, track down, and prosecute terrorists.

I am committed to giving you the tools and resources you need to confront this present danger. And that's why we need to reauthorize the PATRIOT Act.

I know how important the tools of the PATRIOT Act are to you in the fight against terror. The PATRIOT Act is working. The law enforcement and intelligence communities are now sharing important information. You are bringing the tools you already use on a daily basis in other criminal areas to bear in the new war on terror subject to the oversight of federal judges and the Congress. No one has provided me with evidence that the PATRIOT Act is being abused or misused.

We are currently engaged in a nationwide discussion about the PATRIOT Act. As I have said, I welcome the views of those who have concerns about the Act and hope that we can have a productive discussion based on the facts. This debate has provided the Department a chance to rebut many of the misconceptions that have emerged about the Act. As I have said, what I will not accept in this debate are changes to our laws that would make America less safe against terror and crime.

I appreciate your advocacy on the front lines regarding the PATRIOT Act. But there is still a great deal of work that must be done to explain to Congress and the American people why the provisions scheduled to sunset in this critical piece of legislation should be renewed.

***

I will be actively engaged in this debate, as I know you will, for many months. But we cannot forget that prosecuting the war on terror is only one element of our multi-dimensional mission. We must also continue to be vigilant and move aggressively in several other areas to fully promote equal justice for all.

I know that you face a variety of challenges. Some are specific to your district, others - such as the prevalence of illegal drugs and drug-related crimes - are common to most, if not all, of you. I am mindful of those concerns - and have several of my own.

In my first weeks in office, I laid out some of the issues that I consider special priorities for my time as Attorney General, in addition to our top priority of protecting America against terrorism. They are the President's Project Safe Neighborhoods initiative, obscenity prosecutions, victims' rights, human trafficking, immigration reform, and confirmation of judges. In nearly every one, I will need your help to achieve important goals.

Over the past four years, you have made Project Safe Neighborhoods a tremendous success. Not only have you increased federal firearms prosecutions by impressive margins, you've made systematic changes to the way we fight gun crime and violence on our streets. You've employed new strategies that are increasingly helpful to communities working to fight

violent crime. Now that this groundwork has been laid, it is time to build new and better methods for even more success.

While the premise of the safe neighborhoods program is to rely on local information and partners to fight local crime, we can also share best practices to deal with common problems across the country - such as the prevalence of gang violence.

The President and the First Lady have spoken about the gang problem, and combating that problem is one of my priorities.

It's clear that gangs have become an increasingly deadly threat to our neighborhoods - nearly seventy percent of you report a significant gun crime problem associated with gangs in your district. So, today, I am announcing several steps we will take to strengthen Department-wide efforts to combat gang violence and reduce crime.

First, I am establishing the Attorney General's Anti-Gang Coordination Committee. This Committee will report directly to the Deputy Attorney General, who will lead the Department's anti-gang activities. The Committee will advise the Department on resource allocation, policy, and budget recommendations that will help us continue to drive down violent crime from gangs. I will be asking two of you to serve on this Committee and I look forward to working with you to make this new effort a success.

Second, I am asking that each of you - in the next month -appoint an Assistant U.S. Attorney to serve as the anti-gang coordinator in your district. I expect this person to prepare a comprehensive, district-wide strategy - in consultation with partners from federal and local law enforcement, social services, and community and faith-based groups - to

coordinate anti-gang activity across the board. This strategy should be submitted to the new Anti-Gang Coordination Committee within ninety days.

Lastly, I am directing the Committee to develop a single, integrated, advanced level training regimen. This comprehensive protocol will cover a broad range of topics from gang prevention to investigation to re-entry - and will draw on information and best practices from a variety of experts throughout the Department. When these training methods are put into place, everyone striving to combat gang violence will be working from the same playbook.

For this plan to succeed - for us to achieve measurable reductions in gang activity and violent crime - we must work together at the national and local levels. We'll coordinate processes through the new Committee to be sure you have the tools you need; then you will put those tools into action in the neighborhoods you serve.

To help you do that, we are making available at this Conference the National Gang Threat Assessment. This report gives a "ground-level" view of the gang problem facing our country from those who know it well - state and local gang investigators.

It was prepared by the National Alliance of Gang Investigators Associations with the combined expertise of the FBI, ATF, the Bureau of Justice Assistance, and the National Drug Intelligence Center. With a contribution from all stakeholders, especially those close to the problem at the state and local level, this document can help us develop an effective national - and regionally appropriate - strategy to combat gang crime and violence.

One of the recommendations of the report is to continue with programs already in place, such as Project Safe Neighborhoods. It's one of the most important tools we have to combat violent crime - which is why you may decide that your coordinator for that program will also serve as your anti-gang coordinator.

With the strong foundation you've built through Project Safe Neighborhoods and the road map provided in the Gang Threat Assessment, we can now create a proactive plan to dismantle gangs and incapacitate their leaders. This includes taking advantage of the powerful federal laws at our disposal - gun laws, drug laws, and the RICO and VICAR statutes - to eradicate this violent threat from our neighborhoods.

For instance, as you may know, Pat Fitzgerald recently testified before Congress on how he has used the Project Safe Neighborhoods program in Chicago to investigate and prosecute the Black Disciples and Mafia Insane Vice Lords street gangs.

We'd also like to enhance our prevention efforts. I encourage you to work with community and faith-based organizations to offer at-risk youth alternatives to gangs and to support re-entry programs for those released from prison - as many of you have already done with great success across the country. To remove the scourge of gangs - and gang violence - from the experience of our Nation's youth, we must depend on an integrated and comprehensive approach that includes prosecution and prevention.

The proactive investigation of gangs and the long-term benefits of prevention programs are difficult to measure. I realize that the results may not be seen right away. But that doesn't mean they aren't worthwhile.

Gang violence is not the only thing tearing at the fabric of our

neighborhoods. From street corners to websites, obscenity and child pornography rip at the heart of our moral values and too easily corrupt our communities. I've made it clear that I intend to aggressively combat the purveyors of obscene materials.

I am strongly committed to protecting free speech. The right of ordinary citizens - and of the press - to speak out and to express their views is one of the greatest strengths of our Republic. But, the Supreme Court has ruled that the First Amendment does not protect obscene materials. And in today's world, those materials are often unavoidable. Enforcement is absolutely necessary if we are going to protect citizens from unwanted exposure to obscene materials.

You've done a good job of prosecuting child pornographers and sexual predators - and we've significantly increased obscenity prosecutions since the beginning of this Administration. But we can go further.

As you know, individual community standards are an integral part of determining which cases are appropriate for prosecution; so you are in the best position to assess the situation in your district and proceed accordingly. But I want you to remember that this Department has an obligation to protect not only our children, but all citizens, from obscenity.

There are examples you can follow. In the Western District of Texas, Johnny Sutton helped win a guilty plea from John Kenneth Coil - a long-time pornography merchant - on charges that included obscenity. Coil ran twenty-seven adult businesses throughout the southwest and defrauded the IRS out of millions of tax dollars. He was sentenced to sixty-three months in jail and ordered to forfeit property estimated at more

than eight million dollars.

And just recently, thanks to the work of Richard Roper in the Northern District of Texas and the Child Exploitation and Obscenity Section of the Criminal Division, a grand jury returned an indictment in the Wedelstedt case that includes obscenity charges related to the alleged operation of dozens of video arcades featuring obscene materials across the United States.

Both of these cases involve large-scale operations with fraud, conspiracy, and tax violations - common related offenses for obscenity offenders. You must be prepared to prosecute these complex offenses to ensure that perpetrators are held fully accountable for their crimes.

I have directed Department officials to carefully review these and other federal laws to determine how we can further strengthen our hand in prosecuting obscenity. And I would like you to assess what methods you can use - or what tools you still need - to more effectively investigate and prosecute these crimes in your district…and report back to me through the Executive Office of U.S. Attorneys within ninety days.

***

The protection of justice cannot sit solely on your shoulders or on mine - or on any one of the Department's 110,000 employees. It's going to be a complete team effort. And while you will play an integral role as we rise to the many challenges that confront us, our goals will not be yours alone to achieve. We will have help from our partners in government at the federal, state, and local level.

For instance, we've partnered with other federal agencies and U.S. Attorneys offices to create more than twenty anti-trafficking task forces across the country to combat the heinous crime of human trafficking. This form of modern-day slavery does not only exist in far away lands; it happens here on our shores. Aliens are smuggled into our country, held in bondage, treated as commodities, and stripped of their humanity. You've already shown large increases in prosecutions and investigations into this evil practice - and I expect that will continue. That's why we're providing copies of our tough, model state legislation to the governors and legislative leaders of more than forty states that don't yet have their own anti-trafficking laws.

As we battle crime, we must also defend the rights of crime victims and assist them in their recovery. That is why this Administration has been the first to urge Congress to pass the Victims' Rights Amendment, which would ensure that victims have a constitutional right to information about the proceedings and to participate appropriately in the proceedings. This is a priority for the President and a priority for me.

There are also measures now pending in Congress that would reform the immigration litigation system. The Department's immigration judges and the Board of Immigration Appeals are charged with making important decisions every day about which aliens will be granted asylum or removed to their own countries.

Under the current system, however, criminal aliens generally receive more opportunities for judicial review than non-criminal aliens. Everyone should be given hearings that are fair and complete. These reforms would ensure

that the system does not reward criminals or overburden our court system with unnecessary appeals - and I have urged Congress to send them to the President for his signature.

Lastly, Congress must act to confirm the qualified judges nominated by the President to administer justice in our courts. I know this point needs no further explanation to this audience - you've certainly observed first-hand the crowded courtrooms and full dockets that overburden our federal courts. And you understand as well as anyone that the full protection of the law - the freedom and opportunity that we've each pledged to provide to every American - requires justice in the courtroom.

Justice in the courtroom requires judges who respect the Constitution. President Bush has consistently nominated to the federal bench men and women of the highest integrity that will strictly and faithfully interpret the law. They deserve an up-or-down vote in the Senate, and I hope they each get one soon.

***

Ladies and gentlemen, there is no time to waste. We have a great deal of work ahead of us and we will need every one of our resources to get it done.

The famed mathematician Archimedes said: "Give me a lever long enough and a fulcrum on which to place it, and I shall move the world."

You are the lengthy lever of this Department. Your collective strength multiplies the effectiveness of our efforts and guarantees the success of our mission. I see my job as providing the fulcrum on which you can go to

work: a vision for our country that is secure for freedom, safe from crime, and sure to make good on the promise of justice for all.

Together, we can achieve great things as the President has asked. Together, we can accomplish our goals through strong leadership. Together, we can serve the American people with hard work. Together, we can move the world.

Thank you.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 5, 2005 2:17 PM
To: Shaw, Aloma A
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

Wish you had. I need to get them INTO my head....

-----Original Message-----
From: Shaw, Aloma A
Sent: Friday, August 05, 2005 2:14 PM
To: Gorsuch, Neil M
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

Didn't mean to say I'd get the talking points "into" you, instead, "in to!"
-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 05, 2005 2:13 PM
To: Shaw, Aloma A; Lewis, David
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

David, Thanks for the excellent talking points. I will endeavor not to butcher them. Will you be attending the conference? Best, Neil
-----Original Message-----
From: Shaw, Aloma A
Sent: Friday, August 05, 2005 9:13 AM
To: Lewis, David
Cc: Gorsuch, Neil M
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

David:

Thank you for the talking points. I'll get them into Neil right away.

Here is Neil's travel itinerary:

8/8 - Depart National Airport 6:13pm NW Flt 1029
Arrive Minneapolis, MN 7:54pm

Hotel: Doubletree Guest Suites
1101 LaSalle Ave.
(612) 332-6800

8/9 - Depart MN 3:13 pm - NW Flt 0612
Arrive DC 6:40 pm

-----Original Message-----
From: Lewis, David
Sent: Thursday, August 04, 2005 7:37 PM
To: Shaw, Aloma A

To: Shaw, Aloma A
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

Aloma,

Sorry about taking so long to get this to you.

I've attached information about the National White Collar Crime Center (NW3C), background on their Economic Summit which is the group Neil will be addressing, information about this year's Summit, and some talking points based on the subjects being addressed at the conference. I've also included the agenda. Please let me know if there is anything else you might need. Thank you for your assistance in the matter, it is greatly appreciated.

Also, I will be meeting him there. Do you know his travel schedule? If you could let me know that would be great.

David

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, August 04, 2005 10:59 AM
To: Lewis, David
Subject: RE: RE: Contact information for National White Collar Crime Center (NW3C)

David:
I just spoke to [redacted] I've forwarded [redacted] Neil's bio. Neil is expected to speak 20-30 minutes. He'd prefer no more than 20 minutes. As soon as you've prepared the talking points, could you please email them to me and I'll get them in to Neil right away.

Thank you,
Aloma

-----Original Message-----
From: Lewis, David
Sent: Wednesday, August 03, 2005 3:32 PM
To: Shaw, Aloma A
Cc: Fowler, Liane
Subject: RE: Contact information for National White Collar Crime Center (NW3C)

Aloma,

The public relations contact for NW3C is [redacted] Her email is [redacted]@nw3c.org . I have already called [redacted] and advised that Principal DAAG Gorsuch will be making the presentation instead of Tracy. [redacted] will be able to give you the particulars about the time, date, etc. [redacted] will probably need a copy of his BIO. I will be preparing some talking points and getting to you first thing in the morning. Let me know if there is anything you need from me.

David

****

David P. Lewis
Senior Policy Advisor
Justice Information Sharing
Department of Justice

Office of Justice Programs
Bureau of Justice Assistance
810 7th Avenue, NW
Washington DC 20531

(202) 616-7829
(202) 616-2421 FAX

****

Lewis, David

From: Lewis, David
Sent: Friday, August 05, 2005 2:29 PM
To: Gorsuch, Neil M
Subject: Re: RE: information for National White Collar Crime Center (NW3C) Conference

Yes. I was planning to meet with you prior to the presentation and discuss any last minute questions. I will send you a message when I get on site.

Have a good weekend an safe.

David

Sent from the BlackBerry of:
David P. Lewis
Senior Policy Advisor, Justice Information Sharing
DOJ - Bureau of Justice Assistance

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@usdoj.gov>
To: Lewis, David <David.P.Lewis@usdoj.gov>; Shaw, Aloma A <Aloma.A.Shaw@usdoj.gov>
Sent: Fri Aug 05 14:15:34 2005
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

David, Thanks for the excellent talking points. I will endeavor not to butcher them. Will you be attending the conference?
Best, Neil
-----Original Message-----
From: Shaw, Aloma A
Sent: Friday, August 05, 2005 9:13 AM
To: Lewis, David
Cc: Gorsuch, Neil M
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

David:

Thank you for the talking points. I'll get them into Neil right away.

Here is Neil's travel itinerary:

8/8 - Depart National Airport 6:13pm NW Flt 1029
Arrive Minneapolis, MN 7:54pm

Hotel: Doubletree Guest Suites
1101 LaSalle Ave.
(612) 332-6800

8/9 - Depart MN 3:13 pm - NW Flt 0612
Arrive DC 6:40 pm

-----Original Message-----
From: Lewis, David
Sent: Thursday, August 04, 2005 7:37 PM
To: Shaw, Aloma A
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

Aloma,

Sorry about taking so long to get this to you.

I've attached information about the National White Collar Crime Center (NW3C), background on their Economic Summit which is the group Neil will be addressing, information about this year's Summit, and some talking points based on the subjects being addressed at the conference. I've also included the agenda. Please let me know if there is anything else you might need. Thank you for your assistance in the matter, it is greatly appreciated.

Also, I will be meeting him there. Do you know his travel schedule? If you could let me know that would be great.

David

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, August 04, 2005 10:59 AM
To: Lewis, David
Subject: RE: RE: Contact information for National White Collar Crime Center (NW3C)

David:
I just spoke to [redacted] I've forwarded [redacted] Neil's bio. Neil is expected to speak 20-30 minutes. He'd prefer no more than 20 minutes. As soon as you've prepared the talking points, could you please email them to me and I'll get them in to Neil right away.

Thank you,
Aloma

-----Original Message-----
From: Lewis, David
Sent: Wednesday, August 03, 2005 3:32 PM
To: Shaw, Aloma A
Cc: Fowler, Liane
Subject: RE: Contact information for National White Collar Crime Center (NW3C)

Aloma,

The public relations contact for NW3C is [redacted] Her email is [redacted]@nw3c.org . I have already called [redacted] and advised that Principal DAAG Gorsuch will be making the presentation instead of Tracy. [redacted] will be able to give you the particulars about the time, date, etc. [redacted] will probably need a copy of his BIO. I will be preparing some talking points and getting to you first thing in the morning. Let me know if there is anything you need from me.

David

****
David P. Lewis
Senior Policy Advisor
Justice Information Sharing
Department of Justice
Office of Justice Programs
Bureau of Justice Assistance
810 7th Avenue, NW
Washington DC 20531

(202) 616-7829
(202) 616-2421 FAX
****

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 05, 2005 2:33 PM
To: Lewis, David
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

Super. Once you get ensconced just name a convenient time and place. Best, Neil

-----Original Message-----
From: Lewis, David
Sent: Friday, August 05, 2005 2:29 PM
To: Gorsuch, Neil M
Subject: Re: RE: information for National White Collar Crime Center (NW3C) Conference

Yes. I was planning to meet with you prior to the presentation and discuss any last minute questions. I will send you a message when I get on site.

Have a good weekend an safe.

David

Sent from the BlackBerry of:
David P. Lewis
Senior Policy Advisor, Justice Information Sharing
DOJ - Bureau of Justice Assistance

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@usdoj.gov>
To: Lewis, David <David.P.Lewis@usdoj.gov>; Shaw, Aloma A <Aloma.A.Shaw@usdoj.gov>
Sent: Fri Aug 05 14:15:34 2005
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

David, Thanks for the excellent talking points. I will endeavor not to butcher them. Will you be attending the conference?
Best, Neil
-----Original Message-----
From: Shaw, Aloma A
Sent: Friday, August 05, 2005 9:13 AM
To: Lewis, David
Cc: Gorsuch, Neil M
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

David:

Thank you for the talking points. I'll get them into Neil right away.

Here is Neil's travel itinerary:

8/8 - Depart National Airport 6:13pm NW Flt 1029
Arrive Minneapolis, MN 7:54pm

Hotel: Doubletree Guest Suites
1101 LaSalle Ave.
(612) 332-6800

8/9 - Depart MN 3:13 pm - NW Flt 0612
Arrive DC 6:40 pm

-----Original Message-----
From: Lewis, David
Sent: Thursday, August 04, 2005 7:37 PM
To: Shaw, Aloma A
Subject: RE: RE: information for National White Collar Crime Center (NW3C) Conference

Aloma,

Sorry about taking so long to get this to you.

I've attached information about the National White Collar Crime Center (NW3C), background on their Economic Summit which is the group Neil will be addressing, information about this year's Summit, and some talking points based on the subjects being addressed at the conference. I've also included the agenda. Please let me know if there is anything else you might need. Thank you for your assistance in the matter, it is greatly appreciated.

Also, I will be meeting him there. Do you know his travel schedule? If you could let me know that would be great.

David

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, August 04, 2005 10:59 AM
To: Lewis, David
Subject: RE: RE: Contact information for National White Collar Crime Center (NW3C)

David:
I just spoke to [redacted] I've forwarded [redacted] Neil's bio. Neil is expected to speak 20-30 minutes. He'd prefer no more than 20 minutes. As soon as you've prepared the talking points, could you please email them to me and I'll get them in to Neil right away.

Thank you,
Aloma

-----Original Message-----
From: Lewis, David
Sent: Wednesday, August 03, 2005 3:32 PM
To: Shaw, Aloma A
Cc: Fowler, Liane
Subject: RE: Contact information for National White Collar Crime Center (NW3C)

Aloma,

The public relations contact for NW3C is [redacted] Her email is [redacted]@nw3c.org . I have already called [redacted] and advised that Principal DAAG Gorsuch will be making the presentation instead of Tracy. [redacted] will be able to give you the particulars about the time, date, etc. [redacted] will probably need a copy of his BIO. I will be preparing some talking points and getting to you first thing in the morning. Let me know if there is anything you need from me.

David

****
David P. Lewis
Senior Policy Advisor
Justice Information Sharing
Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

Bureau of Justice Assistance
810 7th Avenue, NW
Washington DC 20531

(202) 616-7829
(202) 616-2421 FAX
****

Grimsrud, Amy N

Subject:	Updated: OLP Policy Coordination Meeting
Location:	4234
Start:	Wednesday, August 10, 2005 2:00 PM
End:	Wednesday, August 10, 2005 3:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Grimsrud, Amy N
Required Attendees:	Moschella, William; Hertling, Richard; Acosta, Alex (CRT); Rhodes, Deborah; Seidel, Rebecca; Macklin, Kristi R; Nowacki, John; Scolinos, Tasia; Yanes, Raul; Elwood, Courtney; Henke, Tracy (SMO); Bounds, Ryan W (OLP); Roberts, Crystal; Stuart, Diane; Dhillon, Uttam; Comisac, Rena; Mercer, Bill (ODAG); Macklin, Kristi R; Schofield, Regina; Coughlin, Robert; Goodling, Monica (USAEO); Battle, Michael (USAEO); Gorsuch, Neil M; Reyes, Luis (SMO); Schlozman, Brad (CRT)
Optional Attendees:	'Voris, Natalie'; Fowler, Liane; Stokely, Tangent

When: Wednesday, August 10, 2005 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 4234

~~*~*~*~*~*~*~*~*~*

During the month of August, the OLP Policy Coordination meeting will be moved to Wednesdays.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 5, 2005 5:59 PM
To: Reyes, Luis (SMO)
Subject: any further word on press release?

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Friday, August 05, 2005 6:10 PM
To: Keisler, Peter D. (CIV); Meron, Daniel (CIV); Katsas, Gregory (CIV); Calvert, Chris (CIV); McKenzie, Peggy (CIV); Agarwal, Asheesh; Flentje, August (CIV); Hunt, Jody (CIV); Garvey, Vincent (CIV); Shapiro, Elizabeth (CIV); Azar, Henry (CIV); Baxter, Felix (CIV); Coppolino, Tony (CIV); Goldberg, Arthur (CIV); Gilligan, Jim (CIV); Henry, Terry (CIV); Hirt, Theodore (CIV); Licht, Stuart (CIV); Lieber, Sheila (CIV); Rivera, Jennifer (CIV); Rudy, Susan (CIV); Schraibman, Sandy (CIV); Sitcov, Michael (CIV); Lepley, Richard (CIV); Gorsuch, Neil M; Kaplan, Samuel (CIV); Letter, Douglas (CIV); Katerberg, Robert (CIV)
Subject: Vacation

As I have mentioned to several of you already, I will be out of the office next week, [redacted]. Because cell and blackberry service [redacted] is spotty, the best way to reach me is by calling [redacted]. (If I'm not there, there is a good chance that my cell or blackberry will work, since it is her house's particular location that has bad service.) Because of the various important briefs and related things we have going on next week, please do not hesitate at all to contact me for any reason; I also anticipate checking in fairly frequently.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 05, 2005 7:18 PM
To: Gorsuch, Neil M
Subject: Rebecca

Full Name: Jennifer Brosnahan
Last Name: Brosnahan
First Name: Jennifer

Business: (202) 456-7361

E-mail: Jennifer_R._Brosnahan@who.eop.gov
E-mail Display As: Jennifer Brosnahan (Jennifer_R._Brosnahan@who.eop.gov)

DOJ_NMG_ 0146074

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 08, 2005 9:52 AM
To: Gunn, Currie (SMO)
Subject: RE: Pls let me know if you have any leave to report for pp15 7/24 thru 8/4

n

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Monday, August 08, 2005 9:46 AM
To: Kessler, Elizabeth A; Reyes, Luis (SMO); Gorsuch, Neil M; Swenson, Lily F; Henke, Tracy (SMO)
Subject: Pls let me know if you have any leave to report for pp15 7/24 thru 8/4

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 08, 2005 10:23 AM
To: [redacted]
Subject: RE: Ali

Thank you for the heads-up and my apologies for the confusion.

-----Original Message-----
From: [redacted]
Sent: Monday, August 08, 2005 10:06 AM
To: Gorsuch, Neil M
Subject: Re: Ali

Neil I'M [redacted] in the powerhouse in which this e- mail was for somebody else thanks [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 08, 2005 11:03 AM
To: McCallum, Robert (SMO)
Subject: RE: AUDITING THE NAACP: MISADVENTURES IN TAX ADMINISTRATION

There may be some errors, but the central message seems hard to argue with: "the Service has a great deal to do, and one hopes that it will choose its concerns wisely." As Prof Hill notes, the likelihood that the Service will not impose a serious sanction here may welll embolden others to push the political speech envelope and itself raises questions about why the Service is investing its resources here when it might do better by providing clearer guidance to all about the line between political and nonpolitical speech.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, August 08, 2005 9:37 AM
To: O'Connor, Eileen J. (AAG/TAX)
Cc: Gorsuch, Neil M
Subject: RE: AUDITING THE NAACP: MISADVENTURES IN TAX ADMINISTRATION

Had the lunch with Mark and will fill you in by phone at your convenience. Robt.

-----Original Message-----
From: O'Connor, Eileen J. (AAG/TAX)
Sent: Tuesday, August 02, 2005 4:38 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: AUDITING THE NAACP: MISADVENTURES IN TAX ADMINISTRATION

This article was in today's tax news: Tax Notes Today. I've just skimmed it, but notice a couple of errors:

- the author is unaware of the similar IRS inquiries that have come to light in the past couple of weeks, as exempt organizations have themselves announced that the IRS made similar inquiries and they repsonded to them and the IRS has gone away happy.
- the author supposes that the IRS inquiries are related to a potential termination assessment, when they are merely in furtherance of determining whether an intermediate sanction is in order.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 08, 2005 11:59 AM
To: Wiggins, Mike
Subject: lunch today?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 08, 2005 5:26 PM
To: McCallum, Robert (SMO)
Subject: Rachel

Is generally pro, but doesn't feel like she has the arguments pro and con in hand. I'm going to spend a half hour with her later in the week to get her up to speed.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 08, 2005 5:29 PM
To: Davis, John S (ODAG)
Cc: Swenson, Lily F
Subject: privacy org. mtg

Thanks for setting this up. Should we also include Rachel Brand?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gunn, Currie (SMO)

Subject:	Accepted: Updated: Bi-weekly OJP Meeting
Location:	Main Room 5710
Start:	Tuesday, August 02, 2005 2:00 PM
End:	Tuesday, August 02, 2005 3:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gunn, Currie (SMO)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 10, 2005 11:12 AM
To: Sampson, Kyle
Subject: Napa letter

http://www.usdoj.gov/crt/split/documents/napa_findlet_6-27-05.pdf

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 10, 2005 1:57 PM
To: Reyes, Luis (SMO)
Subject: you going to olp mtg today?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 10, 2005 2:17 PM
To: Lewis, David
Subject: NW3C

David - It was great to meet you finally. [redacted] I really appreciated your help and hope we have the chance to work together again soon. And keep up the good work and new ideas on the nsopr. Best regards, Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: ([redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 10, 2005 2:45 PM
To: Reyes, Luis (SMO)
Subject: RE: you going to olp mtg today?

no worries. let's talk about covering them when you get a chance.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, August 10, 2005 2:44 PM
To: Gorsuch, Neil M
Subject: RE: you going to olp mtg today?

Neil, was overtaken by events man. Sorry to leave you hanging like that. Will catch up with you as I am out tomorrow and Friday (but will be working from the road with bberry and phone if need be).

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, August 10, 2005 1:57 PM
To: Reyes, Luis (SMO)
Subject: you going to olp mtg today?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 10, 2005 4:35 PM
To: Reyes, Luis (SMO)
Subject: RE: Upon further review

No worries at all. Just want to make sure you and I are on same page.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, August 10, 2005 4:33 PM
To: Gorsuch, Neil M
Subject: Upon further review

I stand corrected. The OLP meeting was on my calendar! I had been going off of Robert's and not my own.....I am going to chalk this up to a high blood sugar moment. Sorry about that.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 10, 2005 5:46 PM
To: Shaw, Aloma A
Subject: ojp says i've been asked to go to a 'grilling' tomorrow but i don't see it on my schedule. could you look into this w nick (chief of staff to regina)? thanks

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 11, 2005 9:36 AM
To: Reyes, Luis (SMO)
Subject: RE: any further word on press release?

How does the agency to agency email work?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Saturday, August 06, 2005 12:18 PM
To: Gorsuch, Neil M
Subject: Re: any further word on press release?

Aah yes, my nemisis. Only thing left to do is just walk down there unannounced and just see what is going on.

My recommendation is that we go ahead and send it out as an agency to agency email to all the relevant GC offices. Don't need OPA sign off for that.

In any event, I WILL talk to OPA to make sure the release issue isn't just dangling out there. From a process standpoint, I want to know what guidance OPA has issued to the litigating divisions and the underlying reasons.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Aug 05 17:59:07 2005
Subject: any further word on press release?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 11, 2005 9:57 AM
To: Reyes, Luis (SMO)
Subject: RE: any further word on press release?

A good idea, I think.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, August 11, 2005 9:52 AM
To: Gorsuch, Neil M
Subject: Re: any further word on press release?

I have all the emails of the relevant GCs (and some of their staff) and we shoot out an email under the guise of apprising them of new personnel at the Justice Deaprtment that can serve as possble points of contact. Pretty standard. Email would be from me, you, or Robert.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Thu Aug 11 09:35:58 2005
Subject: RE: any further word on press release?

How does the agency to agency email work?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Saturday, August 06, 2005 12:18 PM
To: Gorsuch, Neil M
Subject: Re: any further word on press release?

Aah yes, my nemisis. Only thing left to do is just walk down there unannounced and just see what is going on.

My recommendation is that we go ahead and send it out as an agency to agency email to all the relevant GC offices. Don't need OPA sign off for that.

In any event, I WILL talk to OPA to make sure the release issue isn't just dangling out there. From a process standpoint, I want to know what guidance OPA has issued to the litigating divisions and the underlying reasons.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Aug 05 17:59:07 2005
Subject: any further word on press release?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 11, 2005 3:02 PM
To: McCallum, Robert (SMO)
Subject: RE: left you a vm re my absence on Monday from the Sen. Man Meeting with the AG

Thanks. As a reminder, I had planned to be out for my sister's wedding and related family reunion starting next Weds (17) through the following Friday (26). But if you'd like to me to return earlier in light of your status as Acting DAG, I remain able and happy to do so.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Thursday, August 11, 2005 2:43 PM
To: Gorsuch, Neil M
Subject: FW: left you a vm re my absence on Monday from the Sen. Man Meeting with the AG

Bill got my vm and will cover at the Sen Man Meeting. Also, heads up on various meetings that I may need to attend as Acting DAG leaving you to cover all the regular OASG meetings and matters. Robt.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Thursday, August 11, 2005 2:41 PM
To: Mercer, Bill (ODAG)
Subject: RE: left you a vm re my absence on Monday from the Sen. Man Meeting with the AG

I did the last time that I was acting DAG but hadn't really focused on it or other aspects of the DAG's schedule yet. Should have but Monday is upon me before I realized it. I am meeting with the security detail on Monday afternoon at 5pm to iron out the details and should consult with you about the DAG schedule on Monday am after I get into the office. What other things are regular obligations for the DAG that I should attend? Any special events next week of which I should be aware? Robt.

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Thursday, August 11, 2005 2:30 PM
To: McCallum, Robert (SMO)
Subject: RE: left you a vm re my absence on Monday from the Sen. Man Meeting with the AG

Got it. Will do.

Are you planning to come to the FBI/CIA briefings beginning Tuesday morning?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Thursday, August 11, 2005 2:12 PM
To: Mercer, Bill (ODAG)
Subject: left you a vm re my absence on Monday from the Sen. Man Meeting with the AG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 11, 2005 3:05 PM
To: McIntosh, Brent
Subject: RE: Draft Memorandum Regarding Waiver Requests

Thanks. I will check to see if someone has considered these.

-----Original Message-----
From: McIntosh, Brent
Sent: Thursday, August 11, 2005 2:46 PM
To: Gorsuch, Neil M
Subject: FW: Draft Memorandum Regarding Waiver Requests

Please find below the comments I was mentioning. These are mostly nits, and we don't insist on any of them.

-----Original Message-----
From: McIntosh, Brent
Sent: Thursday, July 28, 2005 8:36 AM
To: Brand, Rachel
Subject: RE: Draft Memorandum Regarding Waiver Requests

On a macro level, I think this makes a lot of sense. It's sound policy, and it may blunt some (but by no means all) of the criticism DOJ has been taking for its allegedly cavalier attitude toward the attorney-client privilege and the work product protection.

On a micro level, I would suggest the following changes:

1. Last sentence of the second paragraph: I would delete the phrase "clarifies the Thompson Memorandum and". I do not think it's necessary to concede that the Thompson Memorandum is unclear.

2. Third paragraph, second sentence: This should read "the attorney-client privilege and the work product protection," not "the attorney-client and work product privileges."

3. First two full paragraphs, page 2: These paragraphs are written as if federal prosecutors can determine beforehand whether a particular level of disclosure will be sufficient. In most cases, though, this will be an educated guess informed by experience and knowledge of the situation. I would acknowledge this uncertainty by using phrases like "prosecutors believe" when discussing whether, e.g., "alternatives to a waiver are [would be] insufficient to acquire timely and complete information."

4. Page 2, third full paragraph, last sentence: I would refer to "privileged or protected communications," and I would substitute "inquiry" for "intrusion."

5. Last sentence, penultimate paragraph: I would substitute "inquiry" for "intrustion."

6. Last paragraph, sentence beginning with "Prosecutors": I would substitute "events" for "transactions," as there is no certainty that all relevant events will be transactions.

7. Last paragraph, sentence beginning with "Prosecutors": I would add "and compliance" to the end of this sentence to include improvements that do not necessarily implicate corporate governance issues.

-----Original Message-----
From: Brand, Rachel
Sent: Tuesday, July 19, 2005 11:42 AM
To: McIntosh, Brent
Subject: FW: Draft Memorandum Regarding Waiver Requests

Could you take a look at this and let me know what you think/

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 19, 2005 11:35 AM
To: Brand, Rachel
Cc: McCallum, Robert (SMO)
Subject: Draft Memorandum Regarding Waiver Requests

Rachel,
Attached hereto is the proposed memo to which Robert was referring. Please let me know how I can be of further assistance.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, July 05, 2005 12:30 PM
To: Taylor, Jeffrey (OAG); Mercer, Bill (ODAG)
Cc: Gorsuch, Neil M; Buchanan, MaryBeth; Reyes, Luis (SMO)
Subject: RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Bill and Jeff: Here is the draft memo from me and Mary Beth regarding attny/client priv and work/product waivers which I mentioned this am. I have previously mentioned it to Jim. Mary Beth and I would like to discuss it with you and, if you think the memo has merit or that some additional guidance in this area is warranted, get input regarding it from the Corp Fraud Task Force and the subcomm of the AGAC. Robt.

RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 11, 2005 3:29 PM
To: Reyes, Luis (SMO)
Subject: FW: Draft Memorandum Regarding Waiver Requests

Brent sent this along, saying he wasn't sure his suggestions were considered. My recollection is that we took some but not others. Eg - I thought we had taken perhaps everything except pt 1. But looking at the version Robert circulated, those pts seem to me missing. Do you know what happened, or can you help me figure it out when you return? Did Robert change his mind on these, or perhaps accidentally circulate a penultimate version?

-----Original Message-----
From: McIntosh, Brent
Sent: Thursday, August 11, 2005 2:46 PM
To: Gorsuch, Neil M
Subject: FW: Draft Memorandum Regarding Waiver Requests

Please find below the comments I was mentioning. These are mostly nits, and we don't insist on any of them.

-----Original Message-----
From: McIntosh, Brent
Sent: Thursday, July 28, 2005 8:36 AM
To: Brand, Rachel
Subject: RE: Draft Memorandum Regarding Waiver Requests

On a macro level, I think this makes a lot of sense. It's sound policy, and it may blunt some (but by no means all) of the criticism DOJ has been taking for its allegedly cavalier attitude toward the attorney-client privilege and the work product protection.

On a micro level, I would suggest the following changes:

1. Last sentence of the second paragraph: I would delete the phrase "clarifies the Thompson Memorandum and". I do not think it's necessary to concede that the Thompson Memorandum is unclear.

2. Third paragraph, second sentence: This should read "the attorney-client privilege and the work product protection," not "the attorney-client and work product privileges."

3. First two full paragraphs, page 2: These paragraphs are written as if federal prosecutors can determine beforehand whether a particular level of disclosure will be sufficient. In most cases, though, this will be an educated guess informed by experience and knowledge of the situation. I would acknowledge this uncertainty by using phrases like "prosecutors believe" when discussing whether, e.g., "alternatives to a waiver are [would be] insufficient to acquire timely and complete information."

e.g., "alternatives to a waiver are [would be] insufficient to acquire timely and complete information."

4. Page 2, third full paragraph, last sentence: I would refer to "privileged or protected communications," and I would substitute "inquiry" for "intrusion."

5. Last sentence, penultimate paragraph: I would substitute "inquiry" for "intrustion."

6. Last paragraph, sentence beginning with "Prosecutors": I would substitute "events" for "transactions," as there is no certainty that all relevant events will be transactions.

7. Last paragraph, sentence beginning with "Prosecutors": I would add "and compliance" to the end of this sentence to include improvements that do not necessarily implicate corporate governance issues.

-----Original Message-----
From: Brand, Rachel
Sent: Tuesday, July 19, 2005 11:42 AM
To: McIntosh, Brent
Subject: FW: Draft Memorandum Regarding Waiver Requests

Could you take a look at this and let me know what you think/

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 19, 2005 11:35 AM
To: Brand, Rachel
Cc: McCallum, Robert (SMO)
Subject: Draft Memorandum Regarding Waiver Requests

Rachel,
Attached hereto is the proposed memo to which Robert was referring. Please let me know how I can be of further assistance.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, July 05, 2005 12:30 PM
To: Taylor, Jeffrey (OAG); Mercer, Bill (ODAG)
Cc: Gorsuch, Neil M; Buchanan, MaryBeth; Reyes, Luis (SMO)
Subject: RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Bill and Jeff: Here is the draft memo from me and Mary Beth regarding attny/client priv and work/product waivers which I mentioned this am. I have previously mentioned it to Jim. Mary Beth and I would like to discuss it with you and, if you think the memo has merit or that some additional guidance in this area is warranted, get input regarding it from the Corp Fraud Task Force and the subcomm of the AGAC. Robt.

RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 11, 2005 4:03 PM
To: Reyes, Luis (SMO)
Subject: RE: Draft Memorandum Regarding Waiver Requests

Thanks. Worry about this only when you get back!

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, August 11, 2005 3:51 PM
To: Gorsuch, Neil M
Subject: Re: Draft Memorandum Regarding Waiver Requests

Am sure it was just an unintentional discrepancy. We incorporated all his edits and just madr a modification to the one you mention. I will lasso all this together and get everyone on same page.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Thu Aug 11 15:28:46 2005
Subject: FW: Draft Memorandum Regarding Waiver Requests

Brent sent this along, saying he wasn't sure his suggestions were considered. My recollection is that we took some but not others. Eg - I thought we had taken perhaps everything except pt 1. But looking at the version Robert circulated, those pts seem to me missing. Do you know what happened, or can you help me figure it out when you return? Did Robert change his mind on these, or perhaps accidentally circulate a penultimate version?

-----Original Message-----
From: McIntosh, Brent
Sent: Thursday, August 11, 2005 2:46 PM
To: Gorsuch, Neil M
Subject: FW: Draft Memorandum Regarding Waiver Requests

Please find below the comments I was mentioning. These are mostly nits, and we don't insist on any of them.

-----Original Message-----
From: McIntosh, Brent
Sent: Thursday, July 28, 2005 8:36 AM
To: Brand, Rachel
Subject: RE: Draft Memorandum Regarding Waiver Requests

Subject: RE: Draft Memorandum Regarding Waiver Requests

On a macro level, I think this makes a lot of sense. It's sound policy, and it may blunt some (but by no means all) of the criticism DOJ has been taking for its allegedly cavalier attitude toward the attorney-client privilege and the work product protection.

On a micro level, I would suggest the following changes:

1. Last sentence of the second paragraph: I would delete the phrase "clarifies the Thompson Memorandum and". I do not think it's necessary to concede that the Thompson Memorandum is unclear.

2. Third paragraph, second sentence: This should read "the attorney-client privilege and the work product protection," not "the attorney-client and work product privileges."

3. First two full paragraphs, page 2: These paragraphs are written as if federal prosecutors can determine beforehand whether a particular level of disclosure will be sufficient. In most cases, though, this will be an educated guess informed by experience and knowledge of the situation. I would acknowledge this uncertainty by using phrases like "prosecutors believe" when discussing whether, e.g., "alternatives to a waiver are [would be] insufficient to acquire timely and complete information."

4. Page 2, third full paragraph, last sentence: I would refer to "privileged or protected communications," and I would substitute "inquiry" for "intrusion."

5. Last sentence, penultimate paragraph: I would substitute "inquiry" for "intrustion."

6. Last paragraph, sentence beginning with "Prosecutors": I would substitute "events" for "transactions," as there is no certainty that all relevant events will be transactions.

7. Last paragraph, sentence beginning with "Prosecutors": I would add "and compliance" to the end of this sentence to include improvements that do not necessarily implicate corporate governance issues.

-----Original Message-----
From: Brand, Rachel
Sent: Tuesday, July 19, 2005 11:42 AM
To: McIntosh, Brent
Subject: FW: Draft Memorandum Regarding Waiver Requests

Could you take a look at this and let me know what you think/

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, July 19, 2005 11:35 AM
To: Brand, Rachel
Cc: McCallum, Robert (SMO)
Subject: Draft Memorandum Regarding Waiver Requests

Rachel,

Attached hereto is the proposed memo to which Robert was referring. Please let me know how I can be of further assistance.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, July 05, 2005 12:30 PM
To: Taylor, Jeffrey (OAG); Mercer, Bill (ODAG)
Cc: Gorsuch, Neil M; Buchanan, MaryBeth; Reyes, Luis (SMO)
Subject: RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Bill and Jeff: Here is the draft memo from me and Mary Beth regarding attny/client priv and work/product waivers which I mentioned this am. I have previously mentioned it to Jim. Mary Beth and I would like to discuss it with you and, if you think the memo has merit or that some additional guidance in this area is warranted, get input regarding it from the Corp Fraud Task Force and the subcomm of the AGAC. Robt.

RDM revision 4 Memorandum Regarding Waiver Requests.wpd

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 11, 2005 4:25 PM
To: McCallum, Robert (SMO)
Subject: RE: 1:30p conf call - WCC Member List

Just spoke with Rachel. She had a thought I want to share w you before the call. Will stop by in a minute.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Thursday, August 11, 2005 4:21 PM
To: Gorsuch, Neil M
Subject: FW: 1:30p conf call - WCC Member List

Call in number at 4:30 is [redacted] extn [redacted]. List of members is below. Robt.

-----Original Message-----
From: Immergut, Karin
Sent: Thursday, August 11, 2005 4:18 PM
To: McCallum, Robert (SMO)
Subject: FW: 1:30p conf call - WCC Member List

-----Original Message-----
From: Elieson, Dayle (USAEO)
Sent: Thursday, August 11, 2005 8:55 AM
To: Immergut, Karin
Subject: 1:30p conf call - WCC Member List

Please call if you have any questions or something I can do before the 1:30 conf call. I plan to keep a very low profile on the call. For attendance purposes - here is a list of WCC members:

Karin Immergut
Mike Battle
Steven Biskupic
Mary Beth Buchanan
Chris Christie
Tom Colantuono
Colm Connolly
David Dugas
Todd Graves
Jim Greenlee

Jim Greenlee
Tom Heffelfinger
David Kelley
Carol Lam
Tom Marino
Alice Martin
Robert McCampbell
Pat Meehan
Eric Melgren
Jan Paul Miller
Kevin O'Connor
Matt Orwig
Joe Van Bokkelen
Greg Van Tatenhove
Lisa Wood
Maxwell Wood
Deb Yang

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 11, 2005 5:23 PM
To: McCallum, Robert (SMO)
Subject: Am Assn Corp Counsel

Here's a link to an ACCA report that seems to be the one referenced by Mary Beth. Looking at it now. http://www.acca.com/Surveys/attyclient.pdf

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Thursday, August 11, 2005 5:24 PM
To: Gorsuch, Neil M
Subject: Read: Am Assn Corp Counsel

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 11, 2005 5:26 PM
To: McCallum, Robert (SMO)
Subject: RE: Am Assn Corp Counsel

Another such report - http://www.acca.com/Surveys/attyclient_nacdl.pdf

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, August 11, 2005 5:23 PM
To: McCallum, Robert (SMO)
Subject: Am Assn Corp Counsel

Here's a link to an ACCA report that seems to be the one referenced by Mary Beth. Looking at it now.
http://www.acca.com/Surveys/attyclient.pdf

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 11, 2005 5:32 PM
To: Mercer, Bill (ODAG)
Subject: mtg

I know we're supposed to be mtg now and am very sorry, but I am stuck on call. Can we meet at 6?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 11, 2005 5:33 PM
To: Shaw, Aloma A
Subject: RE: What about your 5:30 with Mercer?

i just emailed him to let him know i'm stuck on this call. thanks.

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, August 11, 2005 5:32 PM
To: Gorsuch, Neil M
Subject: What about your 5:30 with Mercer?
Importance: High

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 11, 2005 6:05 PM
To: Mercer, Bill (ODAG)
Subject: RE: mtg

Tomorrow would be great. You name the time, I'm very sorry about today. Also, Robert tells me he hasn't received an invitation to the AGAC. Could you please get him on the agenda? Let's talk about when makes sense.

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Thursday, August 11, 2005 5:40 PM
To: Gorsuch, Neil M
Subject: Re: mtg

Yes.

And tomorrow would be fine if today ain't great.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
Sent: Thu Aug 11 17:31:56 2005
Subject: mtg

I know we're supposed to be mtg now and am very sorry, but I am stuck on call. Can we meet at 6?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 11, 2005 6:12 PM
To: Brand, Rachel
Subject: RE: call me - i'm on the line with marybeth

will do in a sec. on line now w mercer.

-----Original Message-----
From: Brand, Rachel
Sent: Thursday, August 11, 2005 6:12 PM
To: Gorsuch, Neil M
Subject: call me - i'm on the line with marybeth

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 11, 2005 6:48 PM
To: Gorsuch, Neil M

1. I decided to ask EOUSA directly to place you on the agenda for Tuesday at 12:30 (same time as Mary Beth and Karin) rather than ask Bill again.

2. In speaking with Mary Beth, we think the way to go on Tuesday is specifically NOT to ask for a vote, but simply to outline where we are headed and invite any comments on the memo. The AGAC, as it turns out, typically does not vote on things and does so only when asked by the AG. We can and should invite all possible

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 11:30 AM
To: Gunn, Currie (SMO)
Subject: AGAC

Please put on Robert's calendar for Tuesday, at 1230 an appearance at the AGAC, Room 2265. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 11:33 AM
To: Swenson, Lily F
Subject: lunch today?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 11:37 AM
To: Swenson, Lily F
Subject: RE: lunch today?

of course!

-----Original Message-----
From: Swenson, Lily F
Sent: Friday, August 12, 2005 11:34 AM
To: Gorsuch, Neil M
Subject: RE: lunch today?

Oh, would have loved to, but have plans to go today with someone from my former firm. Raincheck, please?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 11:33 AM
To: Swenson, Lily F
Subject: lunch today?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 11:50 AM
To: Jennifer Brosnahan (E-mail)
Subject: FW: personal vouchers
Attachments: Possible OJP Voucher Programs.doc

Jenny - Here's the initial feedback on the voucher inquiry. If you want to discuss this further, don't hesitate to give me or Tracy a call. Best, Neil

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Wednesday, August 10, 2005 6:00 PM
To: Gorsuch, Neil M
Subject: personal vouchers

In response to the DPC request pertaining to personal vouchers I contacted OJP, COPS, and OVW. OVW has not responded. COPS has responded saying that personal vouchers could be possible in some of their programs, but not advisable. OJP has provided the attached. There are issues that would have to be addressed (many of which are identified in the attached) prior to "vouchers" being implemented in any of the programs mentioned.

Issue

Does OJP have any programs where implementing the use of personal choice vouchers may be possible? If so, what, if any, statutory authority would be required?

Response

Office of Juvenile Justice and Delinquency Prevention (OJJDP)

While OJJDP has a number of programs that might present opportunities to test the concept of underwriting the cost of certain services (in whole or in part) through the use of personal choice vouchers, there are issues that would need to be addressed before implementing such a concept. First, certifications may not exist for certain types of services and in some cases may be needed. For example, vouchers for school choice are typically limited to educational programs that have been reviewed and granted certification. Any personal voucher program must include some protection from ineffective or sham programs that simply provide an "easy out" for a price. Second, the best rehabilitation and/or counseling programs may also be the most demanding. This creates a danger that individuals who most need the tougher programs may be the least likely to choose them. Third, it is important to consider the practical and legal issues that may apply to juveniles. In some cases, the "choice" of a represented juvenile may lie with the juvenile himself. In other cases, the choice may belong to his parents. In many cases involving drugs/and or other delinquency issues, neither the parent nor the juvenile may be responsible enough to make appropriate choices.

Assuming that these issues above can be addressed through certification and approved-provider lists, and assuming that the legal issues can be resolved with regard to juvenile decision-making authority, OJJDP has several programs that make service referrals and might be able to test the use of vouchers for services. Those programs are (1) Juvenile Drug Courts; (2) SVORI (and other re-entry efforts); and (3) Truancy reduction sites/truancy courts.

Note that while these programs provide opportunities for the use of vouchers, the vouchers would be used for subordinate services (e.g., drug rehabilitation, mental health services, special education referrals, transportation services to job training or school, day care, transitional housing in support of education or employment opportunities, and job training) rather than for the larger wrap-around program itself. Therefore, we do not believe that OJJDP could provide personal choice vouchers directly to its grantees. It may be possible, however, for an OJJDP grantee to implement the use of vouchers for direct services. OJP's Office of General Counsel (OGC) has reviewed the authorizing statutes for each of the programs and has not found any provisions that it believes would preclude OJJDP grantees from implementing the use of vouchers. If the program were structured in such a way, however, that required OJJDP grantees to use vouchers, OJP/OGC would want to consider whether additional statutory authority may be required/advised.

Bureau of Justice Assistance (BJA)

While BJA has several programs where it might be able to implement the use of vouchers, accounting for the use of vouchers by the target population in these programs would be a challenge. Therefore, several elements must be in place before BJA would want to implement or encourage a voucher concept. One, the use of effective case management would be essential. Case management coordinates and monitors all of the services provided to a client or group of clients thereby limiting problems arising from fragmentation of services, staff turnover, and inadequate coordination between providers. Case management promotes public safety by ensuring continuity of services and coordination with the supervision of offenders so that offenders are held accountable for their participation in the program and that there is swift and certain consequences when they fail to comply. Two, it would be critical that requirements be in place with service providers to assure the continuing efficacy of these programs. The service providers would have to be approved or certified providers according to established evidence-based standards.

If these elements were in place, BJA would support the concept of vouchers and believes that four BJA programs may be candidates for the use of vouchers: Drug Court Discretionary Grant Program, Mental Health Court Program, the Aftercare-Community Integration components of the Residential Substance Abuse Treatment (RSAT) Program and the Prisoner Reentry Initiatives (Reentry). It is important to note, however, that in these programs (with the exception of pre-release programming in RSAT and Reentry) the funding BJA provides is generally not used to pay for direct services, but rather it is seed money to build a collaborative approach. Through this collaboration, the partners (both criminal justice agencies and service providers) seek to leverage other federal, state and local funds to provide the direct services such as substance abuse treatment, mental health services, housing, employment and other direct services. All these types of services could be provided using the vouchers. Therefore, BJA would support the use of vouchers by its grantees in these programs if the vouchers could be purchased using funding that is supplemental to the program funds.

OGC has reviewed the authorizing statutes for each of the programs and has not found any provisions that it believes would preclude BJA grantees from implementing the use of vouchers. If the program were structured in such a way, however, that required BJA grantees to use vouchers, OJP/OGC would want to consider whether additional statutory authority may be required/advised. RSAT is a formula program so it would not be possible to mandate a voucher program with its funding.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 11:54 AM
To: McCallum, Robert (SMO)
Subject: Plame

Just looking through my list of open items and wondered whether Bill got you all of the documentation you needed on this/if there's anything else you wanted me to do at the moment.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 11:54 AM
To: Yanes, Raul
Subject: lunch?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 11:55 AM
To: Yanes, Raul
Subject: RE: lunch?

perfect; i'll stop by then

-----Original Message-----
From: Yanes, Raul
Sent: Friday, August 12, 2005 11:55 AM
To: Gorsuch, Neil M
Subject: RE: lunch?

sure. how about around 1?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 11:54 AM
To: Yanes, Raul
Subject: lunch?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 12:06 PM
To: Yanes, Raul
Subject: RE: lunch?

Just got an unexpected call from [redacted], inviting us to the mess at 1, if we want to go. What think you? I'm happy either way. You should know that Ben has invited another Kellogg Huber type so you'd have to endure a few of us!

-----Original Message-----
From: Yanes, Raul
Sent: Friday, August 12, 2005 11:55 AM
To: Gorsuch, Neil M
Subject: RE: lunch?

sure. how about around 1?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 11:54 AM
To: Yanes, Raul
Subject: lunch?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 12:17 PM
To: 'Benjamin_A._Powell@who.eop.gov'
Subject: RE: lunch

Ben, Thanks so much for the invite, but given my prior commitment with Raul, I will have to give this a pass today. Give Mr C my best regards!

-----Original Message-----
From: Yanes, Raul
Sent: Friday, August 12, 2005 12:12 PM
To: 'Benjamin_A._Powell@who.eop.gov'; Gorsuch, Neil M
Subject: RE: lunch

Thanks Ben, but will probably have to do something quicker for lunch today.

-----Original Message-----
From: Benjamin_A._Powell@who.eop.gov
[mailto:Benjamin_A._Powell@who.eop.gov]
Sent: Friday, August 12, 2005 12:08 PM
To: Gorsuch, Neil M; Yanes, Raul
Subject: lunch

Raul -- I have a table for four at the WH mess at 1pm. having a friend from Kellogg Huber join me, called up Neil to see if he was interested, but said he has a 1pm with you. want to join us all for lunch at 1pm over here?

Johnson, Kelly A. (ENRD)

From: Johnson, Kelly A. (ENRD)
Sent: Friday, August 12, 2005 12:55 PM
To: Gorsuch, Neil M
Subject: Read: Tuna

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 2:22 PM
To: 'Jennifer_R._Brosnahan@who.eop.gov'
Subject: RE: Oops

No worries! I sent you an email this am detailing the info we have so far, so the call isn't really necessary except to answer any questions you have. Have a great weekend.

-----Original Message-----
From: Jennifer_R._Brosnahan@who.eop.gov
[mailto:Jennifer_R._Brosnahan@who.eop.gov]
Sent: Friday, August 12, 2005 2:18 PM
To: Gorsuch, Neil M
Subject: Oops

Neil, I just landed at Dulles (6 am flight from west coast). So sorry about our call today. I completely forgot when my trip had to be extended. Will call you on Monday, ok?

Again, apologies for flaking!

Jenny

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 2:24 PM
To: Bartolomeo, Kelly C
Subject: RE: New Employee Ethics Training

Works for me - many thanks.

-----Original Message-----
From: Bartolomeo, Kelly C
Sent: Friday, August 12, 2005 1:26 PM
To: Gorsuch, Neil M
Subject: RE: New Employee Ethics Training

The next new employee ethics training session is scheduled for :

September 28, 2005, National Place Building (1331 Penn. Avenue, NW) at 10:00am to approx, 11:30am, room 1160.

Note: The National Place building is **not** the same as the National Press Building. You may enter the National Place Building on either Pennsylvania Avenue or F and 13th Streets. If arriving by Metrorail, the stop closest to the National Place Building is Metro Center on the Red line/Blue line. The DOJ shuttle bus also stops at the National Place Building via the Green or Black line.

Please email me with your confirmation.

Thanks!!!

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 1:21 PM
To: Bartolomeo, Kelly C
Subject: RE: New Employee Ethics Training

I'm afraid that I will be out of town that day.

-----Original Message-----
From: Bartolomeo, Kelly C
Sent: Thursday, July 28, 2005 1:17 PM
To: Monheim, Thomas; Gorsuch, Neil M; Collins, David T; Safavi, Nancy; McArthur, Patrick
Subject: New Employee Ethics Training

The next required new employee ethics training session is scheduled for :

August 23, 2005 at 10:00am to approx. 11:30am, in room 1160, National Place

Building,1331 Pennsylvania Avenue.

Note:

The National Place Building is not the same as the National Press Building.
You may enter the National Place Building on either Pennsylvania Avenue or F and 13th Streets. If arriving by Metrorail, the stop closest to the National Place Building is Metro Center on the Red line/Blue line. The DOJ shuttle bus also stops at the National Place Building via the Green or Black line.

Please email me with your confirmation.

Thanks,

Kelly Bartolomeo
U.S. Department of Justice
Departmental Ethics Office- 514-8196
1331 F Street, NW, Suite 1050
Fax Number- 514-3117

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 3:51 PM
To: McCallum, Robert (SMO)
Cc: Senger, Jeffrey M
Subject: FW:

Jeff and I were talking about the $500k Regina freed up at our request. (I am impressed Regina did this so quickly after coming on board. Both Jeff and I had chats with her emphasizing that civ justice stats are a priority of yours, and she quickly made it a priority of hers.) Some of the ideas the proposed grantee has aren't likely to bear on (let alone advance) civil justice reform. Others are downright inimical to that effort. I suggested that Jeff and I speak with [redacted] et al. to see if they can help us outline other possible statistical/empirical studies for our grantee. Any objection to our pursuing this?

Jeff mentioned that [redacted] also had suggested to you a "blue ribbon" panel of some sort. While ambitious, if we aim to do something like this, it would be most effective if it is both high level and ambitious in scope -- perhaps a presidentially or AG-appointed commission to study potential remedies to our civil justice system? We have a presidential cmsn on bioethics, and have had many other similar cmsns in the past; why not one on our broken civil justice system that is instructed to recommend legislation, changes to procedural rules, etc.? Something like this is a super idea, I think, and a potential legacy item. In addition to OLP, Domestic Policy, OAG, and WH Counsel are all offices we should bring into the loop. What do you think?

-----Original Message-----
From: Senger, Jeffrey M
Sent: Friday, August 12, 2005 3:32 PM
To: Gorsuch, Neil M
Subject: Fw:

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Senger, Jeffrey M <Jeffrey.M.Senger@SMOJMD.USDOJ.gov>
Sent: Wed Aug 10 16:55:09 2005
Subject: FW:

[redacted] called me about an idea of forming a blue ribbon panel or commission to consider how our civil justice legal system affects our citizens ability or willingness to act reasonably and take some risks in acting for the betterment of society like volunteering services, etc. Let's talk about how we should respond and who at OLP we might want to talk to about this idea. People that he suggests to be involved include both sides of the aisle like [redacted] and others. Robt.

-----Original Message-----
From: [redacted] mailto: [redacted]
Sent: Monday, August 08, 2005 10:58 AM
To: McCallum, Robert (SMO)
Subject:

Hi Robt,
I enjoyed our chat.
One more thought-- [redacted] wld be perfect on a small panel of the sort we discussed. [redacted] very interested in the broader effects on society.
Best
[redacted]

Otus2005, Ag

Subject:	Accepted: Candid Photos of Component Head Meeting
Start:	Monday, August 15, 2005 9:40 AM
End:	Monday, August 15, 2005 9:45 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:18 PM
To: Sampson, Kyle
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Robert is [redacted] but I will discuss this with him and am certain we can cover. Is Tasia the right pt of contact to see whether we have new info to add to the list of things we are already doing?

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, August 12, 2005 3:55 PM
To: [redacted]
Cc: Ullyot, Theodore; Scolinos, Tasia; Gorsuch, Neil M
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Robert, would you or someone in OASG (I am comfortable with Neil or one of your other deputies) please represent the Department at the White House meeting at 4pm on Monday re Veterans Benefits? The below e-mail sets forth the requirements for the meeting. I've cc'd Tasia, as it appears that OPA has provided info to the White House on this topic before. Thanks; please confirm that OASG will handle.

-----Original Message-----
From: Brian_McDonald@who.eop.gov [mailto:Brian_McDonald@who.eop.gov]
Sent: Friday, August 12, 2005 3:34 PM
To: Ullyot, Theodore; [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@ed.gov; [redacted]@HQ.DOE.GOV; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted]DHS); [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov
Cc: Sampson, Kyle; Williams, Jan; dlwhoocl@who.eop.gov; Lance_B._Leggitt@who.eop.gov; Anna_L._Holand@who.eop.gov; [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@osd.pentagon.mil; [redacted]@ed.gov; [redacted]@hq.doe.gov; [redacted]@epa.gov; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted]@hhs.gov; [redacted](DHS) [redacted]@hud.gov; [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@state.gov; [redacted]@dot.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov; [redacted]@va.gov
Subject: White House Meeting 8.15.05 re: Veterans Benefits Meeting

All

All,

We are hosting a meeting on Monday at 4:00 p.m. in the Cabinet Liaison Conference Room (please enter through EEOB Room 160) regarding services and benefits for veterans who have served in Iraq and Afghanistan and their families. We request that you send a representative from your Department's senior leadership to attend this meeting and ask that your representative have prepared answers to the following questions;

1) What services does your agency provide to support families who currently have loved ones in the military who are serving in Iraq and/or Afghanistan?

2) What services does your agency provide to support families who have lost loved ones in Iraq and/or Afghanistan while serving in the military?

3) What services does your agency provide to support veterans who are returning or who have already returned from serving in Iraq and/or Afghanistan?

4) What new initiatives can you propose to further support and enhance #1, 2, and 3?

Attached please find information your Department previously provided to Cabinet Liaison. We ask that you review the information and provide updates to the services and benefits listed for your Department and bring updated information to the meeting.

Please respond to this email ASAP with the name, date of birth, and social security number of the person you have designated to attend. Let me know if you have any questions.

Brian

456-5933

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:21 PM
To: McCallum, Robert (SMO)
Cc: Senger, Jeffrey M
Subject: RE:

Jeff and I will coordinate a conversation with [redacted] on the grant money issue.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Friday, August 12, 2005 4:18 PM
To: Gorsuch, Neil M
Cc: Senger, Jeffrey M
Subject: Re:

I agree that we need analysis and research in areas that are relevant to the issues being debated and will illuminate with data and research positions and arguments that are only anecdotally based at present. Letjs not waste scarce research dollars on studies that don't address the real issues or have already predictable outcomes based upon the questions posed and the analysis prppoposed. Please do contact folks to get relevant research and analsis proposals. We can talk about [redacted] idea when I get back Mon. Robt.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
CC: Senger, Jeffrey M <Jeffrey.M.Senger@SMOJMD.USDOJ.gov>
Sent: Fri Aug 12 15:50:49 2005
Subject: FW:

Jeff and I were talking about the $500k Regina freed up at our request. (I am impressed Regina did this so quickly after coming on board. Both Jeff and I had chats with her emphasizing that civ justice stats are a priority of yours, and she quickly made it a priority of hers.) Some of the ideas the proposed grantee has aren't likely to bear on (let alone advance) civil justice reform. Others are downright inimical to that effort. I suggested that Jeff and I speak with [redacted] et al. to see if they can help us outline other possible statistical/empirical studies for our grantee. Any objection to our pursuing this?

Jeff mentioned that [redacted] also had suggested to you a "blue ribbon" panel of some sort. While ambitious, if we aim to do something like this, it would be most effective if it is both high level and ambitious in scope -- perhaps a presidentially or AG-appointed commission to study potential remedies to our civil justice system? We have a presidential cmsn on bioethics, and have had many other similar

cmsns in the past; why not one on our broken civil justice system that is instructed to recommend legislation, changes to procedural rules, etc.? Something like this is a super idea, I think, and a potential legacy item. In addition to OLP, Domestic Policy, OAG, and WH Counsel are all offices we should bring into the loop. What do you think?

-----Original Message-----
From: Senger, Jeffrey M
Sent: Friday, August 12, 2005 3:32 PM
To: Gorsuch, Neil M
Subject: Fw:

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Senger, Jeffrey M <Jeffrey.M.Senger@SMOJMD.USDOJ.gov>
Sent: Wed Aug 10 16:55:09 2005
Subject: FW:

[redacted] called me about an idea of forming a blue ribbon panel or commission to consider how our civil justice legal system affects our citizens ability or willingness to act reasonably and take some risks in acting for the betterment of society like volunteering services, etc. Let's talk about how we should respond and who at OLP we might want to talk to about this idea. People that he suggests to be involved include both sides of the aisle like [redacted] and others. Robt.

-----Original Message-----
From: [redacted] [mailto:[redacted]
Sent: Monday, August 08, 2005 10:58 AM
To: McCallum, Robert (SMO)
Subject:

Hi Robt,
I enjoyed our chat.
One more thought-- [redacted] wld be perfect on a small panel of the sort we discussed. [redacted] very interested in the broader effects on society.
Best
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:23 PM
To: McCallum, Robert (SMO)
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Attachments: tmp.htm; Returning from Service2.doc
Importance: High

I think Kyle inadvertently sent this to the wrong person.

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, August 12, 2005 3:55 PM
To: [redacted]
Cc: Ullyot, Theodore; Scolinos, Tasia; Gorsuch, Neil M
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Robert, would you or someone in OASG (I am comfortable with Neil or one of your other deputies) please represent the Department at the White House meeting at 4pm on Monday re Veterans Benefits? The below e-mail sets forth the requirements for the meeting. I've cc'd Tasia, as it appears that OPA has provided info to the White House on this topic before. Thanks; please confirm that OASG will handle.

-----Original Message-----
From: Brian_McDonald@who.eop.gov [mailto:Brian_McDonald@who.eop.gov]
Sent: Friday, August 12, 2005 3:34 PM
To: Ullyot, Theodore; [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@ed.gov [redacted]@HQ.DOE.GOV; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted](DHS); [redacted]@hud.gov [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov
Cc: Sampson, Kyle; Williams, Jan; dlwhoocl@who.eop.gov; Lance_B._Leggitt@who.eop.gov; Anna_L._Holand@who.eop.gov; [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@osd.pentagon.mil [redacted]@ed.gov; [redacted]@hq.doe.gov; [redacted]@epa.gov; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted]@hhs.gov; [redacted](DHS); [redacted]@hud.gov; [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@state.gov; [redacted]@dot.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov; [redacted]@va.gov
Subject: White House Meeting 8.15.05 re: Veterans Benefits Meeting

All,

We are hosting a meeting on Monday at 4:00 p.m. in the Cabinet Liaison Conference Room (please enter through EEOB Room 160) regarding services and benefits for veterans who have served in Iraq and Afghanistan and their families. We request that you send a representative from your Department's senior leadership to attend this meeting and ask that your representative have prepared answers to the following questions;

1) What services does your agency provide to support families who currently have loved ones in the military who are serving in Iraq and/or Afghanistan?

2) What services does your agency provide to support families who have lost loved ones in Iraq and/or Afghanistan while serving in the military?

3) What services does your agency provide to support veterans who are returning or who have already returned from serving in Iraq and/or Afghanistan?

4) What new initiatives can you propose to further support and enhance #1, 2, and 3?

Attached please find information your Department previously provided to Cabinet Liaison. We ask that you review the information and provide updates to the services and benefits listed for your Department and bring updated information to the meeting.

Please respond to this email ASAP with the name, date of birth, and social security number of the person you have designated to attend. Let me know if you have any questions.

Brian

456-5933

DEPARTMENT OF AGRICULTURE (USDA)

USDA's efforts to support military families are designed to help families while troops are away from home and are focused around food assistance programs. USDA does not have specific benefits or considerations for men and women returning from service.

USDA contact for an interagency working group would be: [redacted] to the Under [redacted] Food Nutrion and Consumer Services, at [redacted]

DEPARTMENT OF COMMERCE (DOC)

The DOC is supporting the Department of Defense in the launching of a program for wounded service members from conflicts in Iraq and Afghanistan.

The initiative is to provide short term, temporary assignments of 20 – 30 hours per week, not to exceed 90 days, to provide wounded military personnel with re-entry experience to facilitate their transition from military to civilian service. Federal departments have been invited to provide assignments for the service members. The program will begin with military personnel from Walter Reed Army Medical Center, due to their proximity to Federal agencies in the Washington Metropolitan area. DOD will pay the salaries of the service members.

We anticipate the start dates will be in mid-June or July 2005.

DOC contacts are: [redacted], [redacted] or [redacted], [redacted], Office of Human Capital Management and Strategic Recruitment, [redacted], [redacted]@doc.gov

DEPARTMENT OF DEFENSE (DOD)

DOD is involved in numerous programs supporting our men and women as they return from service. Specifically there is a DOD program called America Supports You, www.americasupportsyou.mil which offers suggestions on how Americans can help support the troops.

DOD contact for an interagency working group would be [redacted], [redacted]@osd.mil

DEPARTMENT OF EDUCATION

The Department of Education does not have programs that provide services to our troops when they return from service. However, the Department uses the authority provided by the Higher Education Relief Opportunities for Students Act of 2003 (HEROES) to provide financial relief to soldiers that have been called to active duty. Specifically, the Department waived or modified a number of requirements in the federal student aid programs to help those called to active duty. The Department has recommended that HEROES be extended in the reauthorization of the Higher Education Act.

The Department also encourages institutions to provide a full refund of tuition, fees, and other institutional charges for the period of instruction a student was unable to complete or for which the student did not receive academic credit because he or she was called to active duty. The Department recommends that institutions consider providing easy and flexible reenrollment options for such students.

DOEd contact for an interagency working group would be: [redacted], Office of Communications, [redacted]

DEPARTMENT OF ENERGY (DOE)

DOE supports returning military reservists by providing 5 days of excused absence (administrative leave) as authorized by the President to all employees upon return from active duty to civil status and honoring all reemployment rights to their same or similar position for all returning employees under the Uniform Services Employment & Reemployment Rights Act (USERRA).

DOE also supports returning wounded veterans at Walter Reed Army Medical Center. DOE has provided four computers so wounded soldiers can search the internet for Federal jobs; is one of four Federal agencies participating in a planning exercise at Walter Reed to strengthen the Walter Reed Transition Assistance Program (TAP) for returning severely wounded service personnel and to plan how the Federal government could assist wounded soldiers in obtaining Federal employment; participated in a April 2005 job fair at Walter Reed for wounded service personnel and provided information on Federal employment as well as DOE specific job opportunities; and has been invited to participate on a regular and recurring basis in the Walter Reed TAP program. DOE's participation will involve our employees volunteering their expertise and experience to returning service personnel in areas such as providing assistance in resume writing, conducting practice interviews and presenting briefings on how to obtain Federal jobs as well as the benefits of Federal employment.

DOE has entered into an agreement with DOD ensuring employees temporarily transferred to DOD because of the Iraq war, will be provided reemployment rights to their same or similar position in DOE upon their return.

DOE contact for an interagency working group is:

ENVIRONMENTAL PROTECTION AGENCY

EPA is supporting our personnel while they are on active duty and also as they make the transition from a war environment back to the civilian workplace and home. EPA has a website that details all the pertinent information our Reservists and National Guard personnel need prior to, during, and upon completion of their deployments.

EPA contact for an interagency working group would be: [redacted], Office of Administration and Resources Management, at [redacted].

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DEPARTMENT OF HOMELAND SECURITY

Federal Law Enforcement Training Center

The Federal Law Enforcement Training Center's Critical Incident Stress Management Office (FLETC/CISM) provides peer and professional counseling for family members while a loved one is deployed, provides traumatic incident reduction counseling for returning soldiers and staff and is currently developing a pre-deployment inoculation program. FLETC/CISM also provides Chaplain Services and pastoral counseling. FLETC/CISM exploring the possibility of providing pre and post deployment traumatic stress assessments. The FLETC/CISM is coordinating efforts with partner Law Enforcement Agencies that have officers who are not in the military but are serving in law enforcement or investigative capacities in combat areas. The outreach/informational programs identified so far include: Facing the Deployment of a Loved One (developing plans of action, tips for coping with change, talking with children, etc), Homecoming (Normal Emotional Reactions, Readjustment to Family life), and Practical Skills for Reservist and Families (Financial readiness, Active Parenting, Couples Communication, Family Violence, General Stress Management).

The Coast Guard provides support programs and services for its own members who deploy to Operation Enduring Freedom/Afghanistan, as well as general support to all military members who participate in these operations.

U.S. Citizenship and Immigration Services (USCIS) has been very involved in the naturalization of military personnel both domestically and internationally, and has conducted numerous naturalization ceremonies around the world. The Director and staff traveled to Afghanistan and Iraq for naturalization ceremonies during the 1st week of October 2004. USCIS is working with DOD to once again perform such events in the near future. USCIS has also worked diligently to take care of veterans when they return, performing naturalization events at Walter Reed and Bethesda Naval Hospitals for veterans wounded in the war zones. USCIS has worked with the military to perform posthumously naturalize military personnel who have lost their lives in the line of duty.

The Trasnportation Security Adminstration is providing liaison support to the Department of Defense Military Severely Injured Joint Support Operations Center (MSIJSOC) by 24/7 TSA contact for anyone wishing receive information, guidance or assistance in regard to severely injured service member travels in the Nation-wide commercial aviation system.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

The HUD Veterans Resource Center (HUDVETS) can also provide information on the Soldiers and Sailors Civil Relief Act and subsequent Service Members Act.

There may be an opportunity for HUD to step up its efforts in consolidating information on the service providers we fund and proactively making it more readily available through our field office structure. We are currently working on a similar outreach effort with regard to Medicare implementation.

HUD contact for an interagency working group would be: [redacted] Special Needs Assistance Programs. [redacted]

DEPARTMENT OF THE INTERIOR (DOI)

DOI has initiated a "Support the Troops" effort described more fully at www.doi.gov/SupportOurTroops.

DOI contact for an interagency working group would be: [redacted]

DEPARTMENT OF JUSTICE (DOJ)

DOJ enforces two laws that protect men and women returning from service:

The Uniformed Services Employment and Reemployment Rights Act (USERRA) prohibits employers from discriminating against employees on the basis of past, current, or future uniformed service. Significantly, USERRA entitles returning service members to return to the same or a comparable job as they left for service, including uninterrupted pay rates and benefits. Complaints are made to the Department of Labor, which investigates them and then refers matters to the Department of Justice for legal action.

The Soldiers and Sailors Civil Relief Act (SSCRA) provides relief for active duty personnel from foreclosures, high interest rates, and similar adverse legal actions. The Department of Justice has the authority to provide publicly funded counsel to federal employees in cases where the individual is sued in their individual capacity but where the suit arises from the employee's official responsibilities.

DOJ contacts for a interagency working group are: Tasia Scolinos or Eric Holland (616-2777)

DEPARTMENT OF LABOR

TAP - The Transition Assistance Program (TAP) helps transitioning service members and military spouses through multi-day workshops, both here and abroad, designed to provide

guidance and information on specific employment services including linkages to employment assistance in their home area.

REALifelines - A program designed specifically to help disabled and wounded service members transition into successful career paths as they return from service. REALifelines provides onsite personal assistance at medical centers and a nationwide referral networking program through Disabled Veterans Outreach Programs (DVOPs). It also includes the REALMentor REALIntern programs which link the troops to appropriate workplace mentors or into temporary intern positions as service members determine their future course of action.

DVOP/LVER - Disabled Veterans Outreach Program staff and Local Veterans Employment Representatives are employment-focused programs located in the Career One Stops. The DVOP and LVER staff members work with transitioning service members or veterans to find gainful and appropriate employment and/or training and other services if needed.

National Emergency Grant Assistance - National Emergency Grants are available to states to provide employment and related assistance to National Guard and Military Reserve personnel returning from deployment in Iraq, Afghanistan or other locations.

DOL contacts for an interagency working group would be: Lisa Kruska, Assistant [redacted] Public [redacted] or [redacted], both reachable at [redacted]

DEPARTMENT OF STATE

The Department of State would be very interested in becoming involved in projects that would support troops returning from overseas. Ideas for possible ways to support the troops include, but are not limited to:

- *Display a sign or banner outside the buildings*
- *Attend official visits and delegations (through Protocol Office)*

State contact for a interagency working group would be: [redacted], [redacted] at: ([redacted]

DEPARTMENT OF TRANSPORTATION (DOT)

DOT has formed a working group to coordinate efforts to assist veterans wounded in Iraq and Afghanistan and determine how DOT can best assist our returning heroes.

DOT is one of the partners working with Walter Reed Army Medical Center (WRAMC) routinely visiting with soldiers and airmen on-site to assist in preparing résumés and applying for government jobs. DOT is also working with the Maratime Administration (MARAD) to collect

frequent flyer miles to donate to patients and their families.

DOT is also part of a program working with WRAMC to identify service members who are available for a short term internship program because of a medical hold at Walter Reed. This program will teach service members new skills as well as help them transfer into a work environment.

Secretary Mineta also visits WRAMC on a regular basis and continues to do his physical therapy at Walter Reed allowing him to interact with wounded veterans on a regular basis.

DOT contact for an interagency working group would be: [redacted], Military Assistant at DOT, phone: [redacted]

DEPARTMENT OF THE TREASURY

There are various tax benefits for Reservists, military members, and soldiers recently in a combat zone:

The election to treat combat pay as earned income for purposes of the earned income tax credit. This rule, which expires at the end of 2005, generally increases the amount of the credit for military personnel by up to 40 percent of the combat pay received during the year. The President's FY 2006 Budget proposes extension of this rule. (Code sec. 32)

Above-the-line deduction for Reservist expenses for travel away from home. (Code sec. 62)

Exclusion from income of various military benefits, including combat pay and housing allowances. (Code sec. 134)

Effective extension, by the period of overseas military service, of the time during which service personnel can take advantage of the home-sale exclusion. (Code sec. 121)

More than ever before, employers are continuing to pay the wages of their employees who are Reservists or National Guardsmen called to active duty. Treasury plans to confirm that these Reservists and National Guardsmen may continue to use §401(k) plans (and similar plans) to save part of their wages for retirement.

The Treasury FY 2006 budget proposes to provide Reserve and National Guard members called to active duty the same administrative relief that is currently available to members of the Armed Forces serving in a combat zone. For Reservists and Guard members, this relief would suspend tax assessment and collection actions during active duty periods, extend the time to comply with tax obligations, such as the filing of returns, generally for six months after active duty ends, and suspend the accrual of interest and penalties on Federal tax liabilities during active duty periods.

DOJ_NMG_ 0146138

The Treasury FY 2006 budget proposes extension through 2006 of the Work Opportunity Tax Credit. This is a credit of up to $2,400 for employers who hire members of certain targeted groups, including veterans eligible for food stamp assistance.

Treasury's Office of Financial Education is very interested in exploring possible opportunities to help returning troops. In particular, Treasury could use its expertise to help improve access to financial education resources, which are customized to meet the unique needs of troops returning from service. Treasury's Office of Financial Education also leads a twenty-agency Federal Commission to improve financial literacy. The Commission recently launched a financial education website, as well as a toll-free hotline (www.mymoney.gov and 1-888-mymoney), which are both available in English and Spanish. It currently features a direct link to the Department of Defense's financial education website.

Treasury contact for an interagency working group would be: [redacted] at, [redacted] or [redacted]@do.treas.gov

DEPARTMENT OF VETERANS AFFAIRS

Our agency is intimately involved and a major supporter of our troops when they leave service. Our programs include the full depth and breath of clinical services that are inherent in the mission of the Department of Veterans Affairs. We also provide a compensation and pension program that is unique in the world.

These programs include: aggressive programs to hire young veterans especially those with disabilities related to service; aggressive programs to ensure information delivery to all separating military personnel to include phone numbers and web sites that will allow them to get further information and services that might be needed following discharge; VA life insurance programs; loan guarantees for servicemembers, reservists, and veterans for the purchase of a home; and education and training benefits are provided through the Montgomery GI Bill Programs for those who serve on active duty and for members of the Selected Reserves.

VA contact for an interagency working group would be: [redacted] at [redacted]

DOJ_NMG_ 0146139

All,

We are hosting a meeting on Monday at 4:00 p.m. in the Cabinet Liaison Conference Room (please enter through EEOB Room 160) regarding services and benefits for veterans who have served in Iraq and Afghanistan and their families. We request that you send a representative from your Department's senior leadership to attend this meeting and ask that your representative have prepared answers to the following questions;

1) What services does your agency provide to support families who currently have loved ones in the military who are serving in Iraq and/or Afghanistan?

2) What services does your agency provide to support families who have lost loved ones in Iraq and/or Afghanistan while serving in the military?

3) What services does your agency provide to support veterans who are returning or who have already returned from serving in Iraq and/or Afghanistan?

4) What new initiatives can you propose to further support and enhance #1, 2, and 3?

Attached please find information your Department previously provided to Cabinet Liaison. We ask that you review the information and provide updates to the services and benefits listed for your Department and bring updated information to the meeting.

Please respond to this email **ASAP** with the name, date of birth, and social security number of the person you have designated to attend. Let me know if you have any questions.

Brian
456-5933

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:23 PM
To: Sampson, Kyle
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Will do; thanks

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, August 12, 2005 4:22 PM
To: Gorsuch, Neil M
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

I'm not sure she'd have any new info on the items in the WH list, but you probably should check with her. Thanks.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:18 PM
To: Sampson, Kyle
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Robert is traveling today, but I will discuss this with him and am certain we can cover. Is Tasia the right pt of contact to see whether we have new info to add to the list of things we are already doing?

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, August 12, 2005 3:55 PM
To: [redacted]
Cc: Ullyot, Theodore; Scolinos, Tasia; Gorsuch, Neil M
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Robert, would you or someone in OASG (I am comfortable with Neil or one of your other deputies) please represent the Department at the White House meeting at 4pm on Monday re Veterans Benefits? The below e-mail sets forth the requirements for the meeting. I've cc'd Tasia, as it appears that OPA has provided info to the White House on this topic before. Thanks; please confirm that OASG will handle.

-----Original Message-----
From: Brian_McDonald@who.eop.gov [mailto:Brian_McDonald@who.eop.gov]
Sent: Friday, August 12, 2005 3:34 PM
To: Ullyot, Theodore; [redacted]@usda.gov; [redacted]@doc.gov;
[redacted]

[redacted]osd.mil; [redacted]@ed.gov; [redacted]@HQ.DOE.GOV;
[redacted]@epa.gov; [redacted]@hhs.gov; [redacted](DHS);
[redacted]@hud.gov; [redacted]@ios.doi.gov;
[redacted]@dol.gov; [redacted]@state.gov; [redacted]@ost.dot.gov;
[redacted]@mail.va.gov
Cc: Sampson, Kyle; Williams, Jan; dlwhoocl@who.eop.gov;
Lance_B._Leggitt@who.eop.gov; Anna_L._Holand@who.eop.gov;
[redacted]@usda.gov; [redacted]@doc.gov [redacted]@osd.mil;
[redacted]@osd.pentagon.mil; [redacted]@ed.gov;
[redacted]@hq.doe.gov; [redacted]@epa.gov; [redacted]@epa.gov;
[redacted]@hhs.gov; [redacted]@hhs.gov; [redacted]
(DHS); [redacted]@hud.gov; [redacted]@hud.gov;
[redacted]@ios.doi.gov [redacted]@ios.doi.gov;
[redacted]@dol.gov; [redacted]@state.gov; [redacted]@state.gov;
[redacted]@dot.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov;
[redacted]@va.gov
Subject: White House Meeting 8.15.05 re: Veterans Benefits Meeting

All,

We are hosting a meeting on Monday at 4:00 p.m. in the Cabinet Liaison Conference Room (please enter through EEOB Room 160) regarding services and benefits for veterans who have served in Iraq and Afghanistan and their families. We request that you send a representative from your Department's senior leadership to attend this meeting and ask that your representative have prepared answers to the following questions;

1) What services does your agency provide to support families who currently have loved ones in the military who are serving in Iraq and/or Afghanistan?

2) What services does your agency provide to support families who have lost loved ones in Iraq and/or Afghanistan while serving in the military?

3) What services does your agency provide to support veterans who are returning or who have already returned from serving in Iraq and/or Afghanistan?

4) What new initiatives can you propose to further support and enhance #1, 2, and 3?

Attached please find information your Department previously provided to Cabinet Liaison. We ask that

you review the information and provide updates to the services and benefits listed for your Department and bring updated information to the meeting.

Please respond to this email ASAP with the name, date of birth, and social security number of the person you have designated to attend. Let me know if you have any questions.

Brian

456-5933

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:23 PM
To: Scolinos, Tasia
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Attachments: tmp.htm; Returning from Service2.doc
Importance: High

Tasia - Do we have any new items to add beyond those already on the list?

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, August 12, 2005 3:55 PM
To: McCallum Jr, Robert L (LEO)
Cc: Ullyot, Theodore; Scolinos, Tasia; Gorsuch, Neil M
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Robert, would you or someone in OASG (I am comfortable with Neil or one of your other deputies) please represent the Department at the White House meeting at 4pm on Monday re Veterans Benefits? The below e-mail sets forth the requirements for the meeting. I've cc'd Tasia, as it appears that OPA has provided info to the White House on this topic before. Thanks; please confirm that OASG will handle.

-----Original Message-----
From: Brian_McDonald@who.eop.gov [mailto:Brian_McDonald@who.eop.gov]
Sent: Friday, August 12, 2005 3:34 PM
To: Ullyot, Theodore; [redacted]@usda.gov [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@ed.gov; [redacted]@HQ.DOE.GOV; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted](DHS); [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov
Cc: Sampson, Kyle; Williams, Jan; dlwhoocl@who.eop.gov; Lance_B._Leggitt@who.eop.gov; Anna_L._Holand@who.eop.gov; [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@osd.pentagon.mil; [redacted]@ed.gov; [redacted]@hq.doe.gov; [redacted]@epa.gov; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted]@hhs.gov; [redacted](DHS); [redacted]@hud.gov; [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@state.gov; [redacted]@dot.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov; [redacted]@va.gov
Subject: White House Meeting 8.15.05 re: Veterans Benefits Meeting

All,

We are hosting a meeting on Monday at 4:00 p.m. in the Cabinet Liaison Conference Room (please enter through EEOB Room 160) regarding services and benefits for veterans who have served in Iraq and Afghanistan and their families. We request that you send a representative from your Department's senior leadership to attend this meeting and ask that your representative have prepared answers to the following questions;

1) What services does your agency provide to support families who currently have loved ones in the military who are serving in Iraq and/or Afghanistan?

2) What services does your agency provide to support families who have lost loved ones in Iraq and/or Afghanistan while serving in the military?

3) What services does your agency provide to support veterans who are returning or who have already returned from serving in Iraq and/or Afghanistan?

4) What new initiatives can you propose to further support and enhance #1, 2, and 3?

Attached please find information your Department previously provided to Cabinet Liaison. We ask that you review the information and provide updates to the services and benefits listed for your Department and bring updated information to the meeting.

Please respond to this email ASAP with the name, date of birth, and social security number of the person you have designated to attend. Let me know if you have any questions.

Brian

456-5933

DEPARTMENT OF AGRICULTURE (USDA)

USDA's efforts to support military families are designed to help families while troops are away from home and are focused around food assistance programs. USDA does not have specific benefits or considerations for men and women returning from service.

USDA contact for an interagency working group would be: [redacted] to the Under [redacted] Food Nutrion and Consumer Services, at [redacted]

DEPARTMENT OF COMMERCE (DOC)

The DOC is supporting the Department of Defense in the launching of a program for wounded service members from conflicts in Iraq and Afghanistan.

The initiative is to provide short term, temporary assignments of 20 – 30 hours per week, not to exceed 90 days, to provide wounded military personnel with re-entry experience to facilitate their transition from military to civilian service. Federal departments have been invited to provide assignments for the service members. The program will begin with military personnel from Walter Reed Army Medical Center, due to their proximity to Federal agencies in the Washington Metropolitan area. DOD will pay the salaries of the service members.

We anticipate the start dates will be in mid-June or July 2005.

DOC contacts are: [redacted] or [redacted], Office of Human Capital Management and Strategic Recruitment, [redacted], [redacted]@doc.gov

DEPARTMENT OF DEFENSE (DOD)

DOD is involved in numerous programs supporting our men and women as they return from service. Specifically there is a DOD program called America Supports You, www.americasupportsyou.mil which offers suggestions on how Americans can help support the troops.

DOD contact for an interagency working group would be [redacted], [redacted]@osd.mil

DEPARTMENT OF EDUCATION

The Department of Education does not have programs that provide services to our troops when they return from service. However, the Department uses the authority provided by the Higher Education Relief Opportunities for Students Act of 2003 (HEROES) to provide financial relief to soldiers that have been called to active duty. Specifically, the Department waived or modified a number of requirements in the federal student aid programs to help those called to active duty. The Department has recommended that HEROES be extended in the reauthorization of the Higher Education Act.

The Department also encourages institutions to provide a full refund of tuition, fees, and other institutional charges for the period of instruction a student was unable to complete or for which the student did not receive academic credit because he or she was called to active duty. The Department recommends that institutions consider providing easy and flexible reenrollment options for such students.

DOEd contact for an interagency working group would be: [redacted], Office of Communications, [redacted]

DEPARTMENT OF ENERGY (DOE)

DOE supports returning military reservists by providing 5 days of excused absence (administrative leave) as authorized by the President to all employees upon return from active duty to civil status and honoring all reemployment rights to their same or similar position for all returning employees under the Uniform Services Employment & Reemployment Rights Act (USERRA).

DOE also supports returning wounded veterans at Walter Reed Army Medical Center. DOE has provided four computers so wounded soldiers can search the internet for Federal jobs; is one of four Federal agencies participating in a planning exercise at Walter Reed to strengthen the Walter Reed Transition Assistance Program (TAP) for returning severely wounded service personnel and to plan how the Federal government could assist wounded soldiers in obtaining Federal employment; participated in a April 2005 job fair at Walter Reed for wounded service personnel and provided information on Federal employment as well as DOE specific job opportunities; and has been invited to participate on a regular and recurring basis in the Walter Reed TAP program. DOE's participation will involve our employees volunteering their expertise and experience to returning service personnel in areas such as providing assistance in resume writing, conducting practice interviews and presenting briefings on how to obtain Federal jobs as well as the benefits of Federal employment.

DOE has entered into an agreement with DOD ensuring employees temporarily transferred to DOD because of the Iraq war, will be provided reemployment rights to their same or similar position in DOE upon their return.

DOE contact for an interagency working group is:

ENVIRONMENTAL PROTECTION AGENCY

EPA is supporting our personnel while they are on active duty and also as they make the transition from a war environment back to the civilian workplace and home. EPA has a website that details all the pertinent information our Reservists and National Guard personnel need prior to, during, and upon completion of their deployments.

EPA contact for an interagency working group would be: [redacted], Office of Administration and Resources Management, at [redacted].

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DEPARTMENT OF HOMELAND SECURITY

Federal Law Enforcement Training Center

The Federal Law Enforcement Training Center's Critical Incident Stress Management Office (FLETC/CISM) provides peer and professional counseling for family members while a loved one is deployed, provides traumatic incident reduction counseling for returning soldiers and staff and is currently developing a pre-deployment inoculation program. FLETC/CISM also provides Chaplain Services and pastoral counseling. FLETC/CISM exploring the possibility of providing pre and post deployment traumatic stress assessments. The FLETC/CISM is coordinating efforts with partner Law Enforcement Agencies that have officers who are not in the military but are serving in law enforcement or investigative capacities in combat areas. The outreach/informational programs identified so far include: Facing the Deployment of a Loved One (developing plans of action, tips for coping with change, talking with children, etc), Homecoming (Normal Emotional Reactions, Readjustment to Family life), and Practical Skills for Reservist and Families (Financial readiness, Active Parenting, Couples Communication, Family Violence, General Stress Management).

The Coast Guard provides support programs and services for its own members who deploy to Operation Enduring Freedom/Afghanistan, as well as general support to all military members who participate in these operations.

U.S. Citizenship and Immigration Services (USCIS) has been very involved in the naturalization of military personnel both domestically and internationally, and has conducted numerous naturalization ceremonies around the world. The Director and staff traveled to Afghanistan and Iraq for naturalization ceremonies during the 1st week of October 2004. USCIS is working with DOD to once again perform such events in the near future. USCIS has also worked diligently to take care of veterans when they return, performing naturalization events at Walter Reed and Bethesda Naval Hospitals for veterans wounded in the war zones. USCIS has worked with the military to perform posthumously naturalize military personnel who have lost their lives in the line of duty.

The Trasnportation Security Adminstration is providing liaison support to the Department of Defense Military Severely Injured Joint Support Operations Center (MSIJSOC) by 24/7 TSA contact for anyone wishing receive information, guidance or assistance in regard to severely injured service member travels in the Nation-wide commercial aviation system.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

The HUD Veterans Resource Center (HUDVETS) can also provide information on the Soldiers and Sailors Civil Relief Act and subsequent Service Members Act.

There may be an opportunity for HUD to step up its efforts in consolidating information on the service providers we fund and proactively making it more readily available through our field office structure. We are currently working on a similar outreach effort with regard to Medicare implementation.

HUD contact for an interagency working group would be: [redacted] Special Needs Assistance Programs. [redacted].

DEPARTMENT OF THE INTERIOR (DOI)

DOI has initiated a "Support the Troops" effort described more fully at www.doi.gov/SupportOurTroops.

DOI contact for an interagency working group would be: [redacted] at [redacted].

DEPARTMENT OF JUSTICE (DOJ)

DOJ enforces two laws that protect men and women returning from service:

The Uniformed Services Employment and Reemployment Rights Act (USERRA) prohibits employers from discriminating against employees on the basis of past, current, or future uniformed service. Significantly, USERRA entitles returning service members to return to the same or a comparable job as they left for service, including uninterrupted pay rates and benefits. Complaints are made to the Department of Labor, which investigates them and then refers matters to the Department of Justice for legal action.

The Soldiers and Sailors Civil Relief Act (SSCRA) provides relief for active duty personnel from foreclosures, high interest rates, and similar adverse legal actions. The Department of Justice has the authority to provide publicly funded counsel to federal employees in cases where the individual is sued in their individual capacity but where the suit arises from the employee's official responsibilities.

DOJ contacts for a interagency working group are: Tasia Scolinos or Eric Holland (616-2777)

DEPARTMENT OF LABOR

TAP - The Transition Assistance Program (TAP) helps transitioning service members and military spouses through multi-day workshops, both here and abroad, designed to provide

guidance and information on specific employment services including linkages to employment assistance in their home area.

REALifelines - A program designed specifically to help disabled and wounded service members transition into successful career paths as they return from service. REALifelines provides onsite personal assistance at medical centers and a nationwide referral networking program through Disabled Veterans Outreach Programs (DVOPs). It also includes the REALMentor REALIntern programs which link the troops to appropriate workplace mentors or into temporary intern positions as service members determine their future course of action.

DVOP/LVER - Disabled Veterans Outreach Program staff and Local Veterans Employment Representatives are employment-focused programs located in the Career One Stops. The DVOP and LVER staff members work with transitioning service members or veterans to find gainful and appropriate employment and/or training and other services if needed.

National Emergency Grant Assistance - National Emergency Grants are available to states to provide employment and related assistance to National Guard and Military Reserve personnel returning from deployment in Iraq, Afghanistan or other locations.

DOL contacts for an interagency working group would be: [redacted] [redacted] Public [redacted] or [redacted], both reachable at [redacted]

DEPARTMENT OF STATE

The Department of State would be very interested in becoming involved in projects that would support troops returning from overseas. Ideas for possible ways to support the troops include, but are not limited to:

- *Display a sign or banner outside the buildings*
- *Attend official visits and delegations (through Protocol Office)*

State contact for a interagency working group would be: [redacted] at: [redacted]

DEPARTMENT OF TRANSPORTATION (DOT)

DOT has formed a working group to coordinate efforts to assist veterans wounded in Iraq and Afghanistan and determine how DOT can best assist our returning heroes.

DOT is one of the partners working with Walter Reed Army Medical Center (WRAMC) routinely visiting with soldiers and airmen on-site to assist in preparing résumés and applying for government jobs. DOT is also working with the Maratime Administration (MARAD) to collect

frequent flyer miles to donate to patients and their families.

DOT is also part of a program working with WRAMC to identify service members who are available for a short term internship program because of a medical hold at Walter Reed. This program will teach service members new skills as well as help them transfer into a work environment.

Secretary Mineta also visits WRAMC on a regular basis and continues to do his physical therapy at Walter Reed allowing him to interact with wounded veterans on a regular basis.

DOT contact for an interagency working group would be: [redacted], Military Assistant at DOT, phone: [redacted]

DEPARTMENT OF THE TREASURY

There are various tax benefits for Reservists, military members, and soldiers recently in a combat zone:

The election to treat combat pay as earned income for purposes of the earned income tax credit. This rule, which expires at the end of 2005, generally increases the amount of the credit for military personnel by up to 40 percent of the combat pay received during the year. The President's FY 2006 Budget proposes extension of this rule. (Code sec. 32)

Above-the-line deduction for Reservist expenses for travel away from home. (Code sec. 62)

Exclusion from income of various military benefits, including combat pay and housing allowances. (Code sec. 134)

Effective extension, by the period of overseas military service, of the time during which service personnel can take advantage of the home-sale exclusion. (Code sec. 121)

More than ever before, employers are continuing to pay the wages of their employees who are Reservists or National Guardsmen called to active duty. Treasury plans to confirm that these Reservists and National Guardsmen may continue to use §401(k) plans (and similar plans) to save part of their wages for retirement.

The Treasury FY 2006 budget proposes to provide Reserve and National Guard members called to active duty the same administrative relief that is currently available to members of the Armed Forces serving in a combat zone. For Reservists and Guard members, this relief would suspend tax assessment and collection actions during active duty periods, extend the time to comply with tax obligations, such as the filing of returns, generally for six months after active duty ends, and suspend the accrual of interest and penalties on Federal tax liabilities during active duty periods.

DOJ_NMG_ 0146151

The Treasury FY 2006 budget proposes extension through 2006 of the Work Opportunity Tax Credit. This is a credit of up to $2,400 for employers who hire members of certain targeted groups, including veterans eligible for food stamp assistance.

Treasury's Office of Financial Education is very interested in exploring possible opportunities to help returning troops. In particular, Treasury could use its expertise to help improve access to financial education resources, which are customized to meet the unique needs of troops returning from service. Treasury's Office of Financial Education also leads a twenty-agency Federal Commission to improve financial literacy. The Commission recently launched a financial education website, as well as a toll-free hotline (www.mymoney.gov and 1-888-mymoney), which are both available in English and Spanish. It currently features a direct link to the Department of Defense's financial education website.

Treasury contact for an interagency working group would be: [redacted] at, [redacted] or [redacted]@do.treas.gov

DEPARTMENT OF VETERANS AFFAIRS

Our agency is intimately involved and a major supporter of our troops when they leave service. Our programs include the full depth and breath of clinical services that are inherent in the mission of the Department of Veterans Affairs. We also provide a compensation and pension program that is unique in the world.

These programs include: aggressive programs to hire young veterans especially those with disabilities related to service; aggressive programs to ensure information delivery to all separating military personnel to include phone numbers and web sites that will allow them to get further information and services that might be needed following discharge; VA life insurance programs; loan guarantees for servicemembers, reservists, and veterans for the purchase of a home; and education and training benefits are provided through the Montgomery GI Bill Programs for those who serve on active duty and for members of the Selected Reserves.

VA contact for an interagency working group would be: [redacted] at [redacted]

All,

We are hosting a meeting on Monday at 4:00 p.m. in the Cabinet Liaison Conference Room (please enter through EEOB Room 160) regarding services and benefits for veterans who have served in Iraq and Afghanistan and their families. We request that you send a representative from your Department's senior leadership to attend this meeting and ask that your representative have prepared answers to the following questions;

1) What services does your agency provide to support families who currently have loved ones in the military who are serving in Iraq and/or Afghanistan?

2) What services does your agency provide to support families who have lost loved ones in Iraq and/or Afghanistan while serving in the military?

3) What services does your agency provide to support veterans who are returning or who have already returned from serving in Iraq and/or Afghanistan?

4) What new initiatives can you propose to further support and enhance #1, 2, and 3?

Attached please find information your Department previously provided to Cabinet Liaison. We ask that you review the information and provide updates to the services and benefits listed for your Department and bring updated information to the meeting.

Please respond to this email **ASAP** with the name, date of birth, and social security number of the person you have designated to attend. Let me know if you have any questions.

Brian
456-5933

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:33 PM
To: Scolinos, Tasia
Cc: Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Thanks so much.

-----Original Message-----
From: Scolinos, Tasia
Sent: Friday, August 12, 2005 4:32 PM
To: Gorsuch, Neil M
Cc: Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Not that I am aware of. I am copying Eric Holland in my office who can also take a look at this and see if there is anything to add.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:23 PM
To: Scolinos, Tasia
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

Tasia - Do we have any new items to add beyond those already on the list?

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, August 12, 2005 3:55 PM
To: McCallum Jr, Robert L (LEO)
Cc: Ullyot, Theodore; Scolinos, Tasia; Gorsuch, Neil M
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Robert, would you or someone in OASG (I am comfortable with Neil or one of your other deputies) please represent the Department at the White House meeting at 4pm on Monday re Veterans Benefits? The below e-mail sets forth the requirements for the meeting. I've cc'd Tasia, as it appears that OPA has provided info to the White House on this topic before. Thanks; please confirm that OASG will handle.

-----Original Message-----
From: Brian_McDonald@who.eop.gov [mailto:Brian_McDonald@who.eop.gov]

Sent: Friday, August 12, 2005 3:34 PM
To: Ullyot, Theodore; [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@ed.gov; [redacted]@HQ.DOE.GOV; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted] (DHS); [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov
Cc: Sampson, Kyle; Williams, Jan; dlwhoocl@who.eop.gov; Lance_B._Leggitt@who.eop.gov; Anna_L._Holand@who.eop.gov; [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@osd.pentagon.mil; [redacted]@ed.gov; [redacted]@hq.doe.gov; [redacted]@epa.gov; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted]@hhs.gov; [redacted] (DHS); [redacted]@hud.gov; [redacted]@hud.gov; [redacted]@ios.doi.gov [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@state.gov; [redacted]@dot.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov; [redacted]@va.gov
Subject: White House Meeting 8.15.05 re: Veterans Benefits Meeting

All,

We are hosting a meeting on Monday at 4:00 p.m. in the Cabinet Liaison Conference Room (please enter through EEOB Room 160) regarding services and benefits for veterans who have served in Iraq and Afghanistan and their families. We request that you send a representative from your Department's senior leadership to attend this meeting and ask that your representative have prepared answers to the following questions;

1) What services does your agency provide to support families who currently have loved ones in the military who are serving in Iraq and/or Afghanistan?

2) What services does your agency provide to support families who have lost loved ones in Iraq and/or Afghanistan while serving in the military?

3) What services does your agency provide to support veterans who are returning or who have already returned from serving in Iraq and/or Afghanistan?

4) What new initiatives can you propose to further support and enhance #1, 2, and 3?

Attached please find information your Department previously provided to Cabinet Liaison. We ask that you review the information and provide updates to the services and benefits listed for your Department and bring updated information to the meeting.

Please respond to this email ASAP with the name, date of birth, and social security number of the person you have designated to attend. Let me know if you have any questions.

Brian

456-5933

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:49 PM
To: Senger, Jeffrey M
Subject: FW:

Let's talk about setting up a call on the grant monies with [redacted] et al., when you have a chance.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Friday, August 12, 2005 4:18 PM
To: Gorsuch, Neil M
Cc: Senger, Jeffrey M
Subject: Re:

I agree that we need analysis and research in areas that are relevant to the issues being debated and will illuminate with data and research positions and arguments that are only anecdotally based at present. Letjs not waste scarce research dollars on studies that don't address the real issues or have already predictable outcomes based upon the questions posed and the analysis prppoposed. Please do contact folks to get relevant research and analsis proposals. We can talk about [redacted] idea when I get back Mon. Robt.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
CC: Senger, Jeffrey M <Jeffrey.M.Senger@SMOJMD.USDOJ.gov>
Sent: Fri Aug 12 15:50:49 2005
Subject: FW:

Jeff and I were talking about the $500k Regina freed up at our request. (I am impressed Regina did this so quickly after coming on board. Both Jeff and I had chats with her emphasizing that civ justice stats are a priority of yours, and she quickly made it a priority of hers.) Some of the ideas the proposed grantee has aren't likely to bear on (let alone advance) civil justice reform. Others are downright inimical to that effort. I suggested that Jeff and I speak with [redacted] et al. to see if they can help us outline other possible statistical/empirical studies for our grantee. Any objection to our pursuing this?

Jeff mentioned that [redacted] also had suggested to you a "blue ribbon" panel of some sort. While ambitious, if we aim to do something like this, it would be most effective if it is both high level and ambitious in scope -- perhaps a presidentially or AG-appointed commission to study potential remedies to our civil justice system? We have a presidential cmsn on bioethics, and have had many other similar cmsns in the past; why not one on our broken civil justice system that is instructed to recommend legislation, changes to procedural rules, etc.? Something like this is a super idea. I think

recommend legislation, changes to procedural rules, etc.? Something like this is a super idea, I think, and a potential legacy item. In addition to OLP, Domestic Policy, OAG, and WH Counsel are all offices we should bring into the loop. What do you think?

-----Original Message-----
From: Senger, Jeffrey M
Sent: Friday, August 12, 2005 3:32 PM
To: Gorsuch, Neil M
Subject: Fw:

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Senger, Jeffrey M <Jeffrey.M.Senger@SMOJMD.USDOJ.gov>
Sent: Wed Aug 10 16:55:09 2005
Subject: FW:

[redacted] called me about an idea of forming a blue ribbon panel or commission to consider how our civil justice legal system affects our citizens ability or willingness to act reasonably and take some risks in acting for the betterment of society like volunteering services, etc. Let's talk about how we should respond and who at OLP we might want to talk to about this idea. People that he suggests to be involved include both sides of the aisle like [redacted] and others. Robt.

-----Original Message-----
From [redacted] [mailto [redacted]
Sent: Monday, August 08, 2005 10:58 AM
To: McCallum, Robert (SMO)
Subject:

Hi Robt,
I enjoyed our chat.
One more thought- [redacted] wld be perfect on a small panel of the sort we discussed. [redacted] very interested in the broader effects on society.
Best
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:50 PM
To: Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Some examples would be great - I'm not familiar with the program.

-----Original Message-----
From: Holland, Eric W
Sent: Friday, August 12, 2005 4:50 PM
To: Gorsuch, Neil M
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

That information is current. If you need examples of how we have used USERRA, let me know. E

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:33 PM
To: Scolinos, Tasia
Cc: Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Thanks so much.

-----Original Message-----
From: Scolinos, Tasia
Sent: Friday, August 12, 2005 4:32 PM
To: Gorsuch, Neil M
Cc: Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Not that I am aware of. I am copying Eric Holland in my office who can also take a look at this and see if there is anything to add.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:23 PM
To: Scolinos, Tasia
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

Tasia - Do we have any new items to add beyond those already on the list?

Tasia - Do we have any new items to add beyond those already on the list?

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, August 12, 2005 3:55 PM
To: McCallum Jr, Robert L (LEO)
Cc: Ullyot, Theodore; Scolinos, Tasia; Gorsuch, Neil M
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Robert, would you or someone in OASG (I am comfortable with Neil or one of your other deputies) please represent the Department at the White House meeting at 4pm on Monday re Veterans Benefits? The below e-mail sets forth the requirements for the meeting. I've cc'd Tasia, as it appears that OPA has provided info to the White House on this topic before. Thanks; please confirm that OASG will handle.

-----Original Message-----
From: Brian_McDonald@who.eop.gov [mailto:Brian_McDonald@who.eop.gov]
Sent: Friday, August 12, 2005 3:34 PM
To: [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@ed.gov; [redacted]@HQ.DOE.GOV; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted]DHS); [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov
Cc: [redacted]@who.eop.gov; [redacted]@who.eop.gov; [redacted]@who.eop.gov; [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@osd.pentagon.mil; [redacted]@ed.gov; [redacted]@hq.doe.gov; [redacted]@epa.gov; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted]@hhs.gov; [redacted](DHS); [redacted]@hud.gov; [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@state.gov; [redacted]@dot.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov; [redacted]@va.gov
Subject: White House Meeting 8.15.05 re: Veterans Benefits Meeting

All,

We are hosting a meeting on Monday at 4:00 p.m. in the Cabinet Liaison Conference Room (please enter through EEOB Room 160) regarding services and benefits for veterans who have served in Iraq and Afghanistan and their families. We request that you send a representative from your Department's senior leadership to attend this meeting and ask that your representative have prepared answers to the following questions;

1) What services does your agency provide to support families who currently have loved ones in the military who are serving in Iraq and/or Afghanistan?

2) What services does your agency provide to support families who have lost loved ones in Iraq and/or Afghanistan while serving in the military?

3) What services does your agency provide to support veterans who are returning or who have already returned from serving in Iraq and/or Afghanistan?

4) What new initiatives can you propose to further support and enhance #1, 2, and 3?

Attached please find information your Department previously provided to Cabinet Liaison. We ask that you review the information and provide updates to the services and benefits listed for your Department and bring updated information to the meeting.

Please respond to this email ASAP with the name, date of birth, and social security number of the person you have designated to attend. Let me know if you have any questions.

Brian

456-5933

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:55 PM
To: McCallum, Robert (SMO)
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Checked with Tasia this afternoon and DOJ has nothing new to add to its report. So it doesn't sound like we'd have much to say at this mtg. I'm very happy to attend if you don't want to.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:23 PM
To: McCallum, Robert (SMO)
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

I think Kyle inadvertently sent this to the wrong person.

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, August 12, 2005 3:55 PM
To: [redacted]
Cc: Ullyot, Theodore; Scolinos, Tasia; Gorsuch, Neil M
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Robert, would you or someone in OASG (I am comfortable with Neil or one of your other deputies) please represent the Department at the White House meeting at 4pm on Monday re Veterans Benefits? The below e-mail sets forth the requirements for the meeting. I've cc'd Tasia, as it appears that OPA has provided info to the White House on this topic before. Thanks; please confirm that OASG will handle.

-----Original Message-----
From: Brian_McDonald@who.eop.gov [mailto:Brian_McDonald@who.eop.gov]
Sent: Friday, August 12, 2005 3:34 PM
To: Ullyot, Theodore; [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@ed.gov; [redacted]@HQ.DOE.GOV; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted] (DHS); [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov
Cc: Sampson, Kyle; Williams, Jan; dlwhoocl@who.eop.gov; Lance_B._Leggitt@who.eop.gov; Anna_L._Holand@who.eop.gov; [redacted]

[redacted]

Subject: White House Meeting 8.15.05 re: Veterans Benefits Meeting

All,

We are hosting a meeting on Monday at 4:00 p.m. in the Cabinet Liaison Conference Room (please enter through EEOB Room 160) regarding services and benefits for veterans who have served in Iraq and Afghanistan and their families. We request that you send a representative from your Department's senior leadership to attend this meeting and ask that your representative have prepared answers to the following questions;

1) What services does your agency provide to support families who currently have loved ones in the military who are serving in Iraq and/or Afghanistan?

2) What services does your agency provide to support families who have lost loved ones in Iraq and/or Afghanistan while serving in the military?

3) What services does your agency provide to support veterans who are returning or who have already returned from serving in Iraq and/or Afghanistan?

4) What new initiatives can you propose to further support and enhance #1, 2, and 3?

Attached please find information your Department previously provided to Cabinet Liaison. We ask that you review the information and provide updates to the services and benefits listed for your Department and bring updated information to the meeting.

Please respond to this email ASAP with the name, date of birth, and social security number of the person you have designated to attend. Let me know if you have any questions.

Brian

456-5933

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:56 PM
To: [redacted] (ENRD)
Subject: RE: CWA Munitions

I think you're right -- if you could forward those materials that would be useful, thanks.

-----Original Message-----
From: [redacted] (ENRD)
Sent: Friday, August 12, 2005 4:47 PM
To: [redacted] (SMO); Gorsuch, Neil M; [redacted]
Subject: CWA Munitions

Let me know if you need any other materials. For comparison purposes, it may be useful to have read the memo done for GC [redacted] by EPA staff, and the draft [redacted] letter from DOD.

I noticed that [redacted] was not invited. Was that inadvertent or should I bring [redacted]?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 5:14 PM
To: McCallum, Robert (SMO)
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Will do

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Friday, August 12, 2005 5:08 PM
To: Gorsuch, Neil M
Subject: Re: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Please attend and let kyle know. Also warn him about the [redacted] which happens with increasing frequency. Robt.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Fri Aug 12 16:55:09 2005
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Checked with Tasia this afternoon and DOJ has nothing new to add to its report. So it doesn't sound like we'd have much to say at this mtg. I'm very happy to attend if you don't want to.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:23 PM
To: McCallum, Robert (SMO)
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

I think Kyle inadvertently sent this to the wrong person.

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, August 12, 2005 3:55 PM
To: [redacted]
Cc: Ullyot, Theodore; Scolinos, Tasia; Gorsuch, Neil M
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Robert, would you or someone in OASG (I am comfortable with Neil or one of your other deputies) please represent the Department at the White House meeting at 4pm on Monday re Veterans Benefits? The below e-mail sets forth the requirements for the meeting. I've cc'd Tasia, as it appears that OPA has provided info to the White House on this topic before. Thanks; please confirm that OASG will handle.

-----Original Message-----
From: Brian_McDonald@who.eop.gov [mailto:Brian_McDonald@who.eop.gov]
Sent: Friday, August 12, 2005 3:34 PM
To: Ullyot, Theodore; [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@ed.gov; [redacted]@HQ.DOE.GOV; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted](DHS); [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov
Cc: Sampson, Kyle; Williams, Jan; dlwhoocl@who.eop.gov; Lance_B._Leggitt@who.eop.gov; Anna_L._Holand@who.eop.gov; [redacted]
Subject: White House Meeting 8.15.05 re: Veterans Benefits Meeting

All,

We are hosting a meeting on Monday at 4:00 p.m. in the Cabinet Liaison Conference Room (please enter through EEOB Room 160) regarding services and benefits for veterans who have served in Iraq and Afghanistan and their families. We request that you send a representative from your Department's senior leadership to attend this meeting and ask that your representative have prepared answers to the following questions;

1) What services does your agency provide to support families who currently have loved ones in the military who are serving in Iraq and/or Afghanistan?

2) What services does your agency provide to support families who have lost loved ones in Iraq and/or Afghanistan while serving in the military?

3) What services does your agency provide to support veterans who are returning or who have already returned from serving in Iraq and/or Afghanistan?

4) What new initiatives can you propose to further support and enhance #1, 2, and 3?

Attached please find information your Department previously provided to Cabinet Liaison. We ask that you review the information and provide updates to the services and benefits listed for your Department and bring updated information to the meeting.

Please respond to this email ASAP with the name, date of birth, and social security number of the person you have designated to attend. Let me know if you have any questions.

Brian

456-5933

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 5:17 PM
To: [redacted]
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

[redacted] - Conferred with [redacted] adn I will attend in his stead. And, just fyi, your original email was addressed to the wrong [redacted] (LEO); I redirected it, so we're fine on this one, but I thought you might want to beware that there are two folks on the system w/the same name! Have a great weekend. - Neil

-----Original Message-----
From: [redacted]
Sent: Friday, August 12, 2005 3:55 PM
To: [redacted]
Cc: [redacted] Gorsuch, Neil M
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

[redacted] would you or someone in OASG (I am comfortable with Neil or one of your other deputies) please represent the Department at the White House meeting at 4pm on Monday re Veterans Benefits? The below e-mail sets forth the requirements for the meeting. I've cc'd [redacted] as it appears that OPA has provided info to the White House on this topic before. Thanks; please confirm that OASG will handle.

-----Original Message-----
From: [redacted]@who.eop.gov [mailto[redacted]@who.eop.gov]
Sent: Friday, August 12, 2005 3:34 PM
To: [redacted] dwm@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@ed.gov; [redacted]@HQ.DOE.GOV; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted](DHS); [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov
Cc: [redacted]@who.eop.gov; [redacted]@who.eop.gov; [redacted]@who.eop.gov; [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@osd.pentagon.mil; [redacted]@ed.gov; [redacted]@hq.doe.gov; [redacted]@epa.gov; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted]@hhs.gov; [redacted] (DHS); [redacted]@hud.gov; [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@state.gov; [redacted]@dot.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov; [redacted]@va.gov
Subject: White House Meeting 8.15.05 re: Veterans Benefits Meeting

All,

We are hosting a meeting on Monday at 4:00 p.m. in the Cabinet Liaison Conference Room (please enter through EEOB Room 160) regarding services and benefits for veterans who have served in Iraq and Afghanistan and their families. We request that you send a representative from your Department's senior leadership to attend this meeting and ask that your representative have prepared answers to the following questions;

1) What services does your agency provide to support families who currently have loved ones in the military who are serving in Iraq and/or Afghanistan?

2) What services does your agency provide to support families who have lost loved ones in Iraq and/or Afghanistan while serving in the military?

3) What services does your agency provide to support veterans who are returning or who have already returned from serving in Iraq and/or Afghanistan?

4) What new initiatives can you propose to further support and enhance #1, 2, and 3?

Attached please find information your Department previously provided to Cabinet Liaison. We ask that you review the information and provide updates to the services and benefits listed for your Department and bring updated information to the meeting.

Please respond to this email ASAP with the name, date of birth, and social security number of the person you have designated to attend. Let me know if you have any questions.

[redacted]

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 5:40 PM
To: Grimsrud, Amy N
Subject: RE: Swearing-In for Rachel Brand

Would love to be there, but am traveling that day [redacted]. Please give Rachel my sincere regrets. -Neil Gorsuch

-----Original Message-----
From: Grimsrud, Amy N
Sent: Friday, August 12, 2005 5:39 PM
To: Grimsrud, Amy N
Subject: Swearing-In for Rachel Brand

Please join the Office of Legal Policy for the swearing-in of Assistant Attorney General Rachel Brand. The reception will be held on Friday, August 26th, from 3pm to 5pm at the U.S. Department of Justice. (RFK 4525)
The swearing-in will take place at 3:30pm.

Please RSVP by August 19th to 202-514-2737 or amy.n.grimsrud@usdoj.gov

<< File: swearing-in invitation.pdf >>

Amy Grimsrud
Confidential Assistant
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 514-2737 (ph)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 5:56 PM
To: Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

thanks very much

-----Original Message-----
From: Holland, Eric W
Sent: Friday, August 12, 2005 5:54 PM
To: Gorsuch, Neil M
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

We have filed six total lawsuits under the statute.

Lawsuit -
http://www.usdoj.gov/crt/emp/documents/goodreaucomp.pdf
consent decree for this case - http://www.usdoj.gov/crt/emp/documents/goodreaucd.pdf

Two other suits:
http://www.usdoj.gov/crt/emp/documents/coloncomp.pdf

http://www.usdoj.gov/crt/emp/documents/lincolncompl.pdf

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:50 PM
To: Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Some examples would be great - I'm not familiar with the program.

-----Original Message-----
From: Holland, Eric W
Sent: Friday, August 12, 2005 4:50 PM
To: Gorsuch, Neil M
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

That information is current. If you need examples of how we have used USERRA, let me know. E

-----Original Message-----
From: Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:33 PM
To: Scolinos, Tasia
Cc: Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Thanks so much.

-----Original Message-----
From: Scolinos, Tasia
Sent: Friday, August 12, 2005 4:32 PM
To: Gorsuch, Neil M
Cc: Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Not that I am aware of. I am copying Eric Holland in my office who can also take a look at this and see if there is anything to add.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:23 PM
To: Scolinos, Tasia
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

Tasia - Do we have any new items to add beyond those already on the list?

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, August 12, 2005 3:55 PM
To: McCallum Jr, Robert L (LEO)
Cc: Ullyot, Theodore; Scolinos, Tasia; Gorsuch, Neil M
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Robert, would you or someone in OASG (I am comfortable with Neil or one of your other deputies) please represent the Department at the White House meeting at 4pm on Monday re Veterans Benefits? The below e-mail sets forth the requirements for the meeting. I've cc'd Tasia, as it appears that OPA has provided info to the White House on this topic before. Thanks; please confirm that OASG will handle.

-----Original Message-----
From: Brian_McDonald@who.eop.gov [mailto:Brian_McDonald@who.eop.gov]
Sent: Friday, August 12, 2005 3:34 PM
To: [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@ed.gov; [redacted]@HQ.DOE.GOV; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted]@hud.gov; [redacted]@ios.doi.gov;

[redacted]@dol.gov; [redacted]@state.gov; [redacted]@ost.dot.gov;
[redacted]@mail.va.gov
[redacted] dlwhoocl@who.eop.gov;
Lance_B._Leggitt@who.eop.gov; Anna_L._Holand@who.eop.gov;
[redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil;
[redacted]@osd.pentagon.mil; [redacted]@ed.gov;
[redacted]@hq.doe.gov; [redacted]@epa.gov [redacted]@epa.gov;
[redacted]@hhs.gov; [redacted]@hhs.gov; [redacted]
[redacted]@hud.gov; [redacted]@hud.gov;
[redacted]@ios.doi.gov; [redacted]@ios.doi.gov;
[redacted]@dol.gov; [redacted]@state.gov; [redacted]@state.gov;
[redacted]@dot.gov; [redacted]@ost.dot.gov [redacted]@mail.va.gov;
[redacted]@va.gov
Subject: White House Meeting 8.15.05 re: Veterans Benefits Meeting

All,

We are hosting a meeting on Monday at 4:00 p.m. in the Cabinet Liaison Conference Room (please enter through EEOB Room 160) regarding services and benefits for veterans who have served in Iraq and Afghanistan and their families. We request that you send a representative from your Department's senior leadership to attend this meeting and ask that your representative have prepared answers to the following questions;

1) What services does your agency provide to support families who currently have loved ones in the military who are serving in Iraq and/or Afghanistan?

2) What services does your agency provide to support families who have lost loved ones in Iraq and/or Afghanistan while serving in the military?

3) What services does your agency provide to support veterans who are returning or who have already returned from serving in Iraq and/or Afghanistan?

4) What new initiatives can you propose to further support and enhance #1, 2, and 3?

Attached please find information your Department previously provided to Cabinet Liaison. We ask that you review the information and provide updates to the services and benefits listed for your Department and bring updated information to the meeting.

Please respond to this email ASAP with the name, date of birth, and social security number of the person you have designated to attend. Let me know if you have any questions.

Brian

456-5933

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 8:29 AM
To: McCallum, Robert (SMO)
Cc: Reyes, Luis (SMO)
Subject: RE: 11 am components meeting

Will do.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, August 15, 2005 8:03 AM
To: Gorsuch, Neil M
Cc: Reyes, Luis (SMO)
Subject: 11 am components meeting

My flight back to dc looks like it will be a little late heading out so please go ahead with the meeting without me if I am late. Robt.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 8:30 AM
To: Reyes, Luis (SMO)
Subject: RE: 11 am components meeting

No problem. Any chance you can stand in for me at a mtg this afternoon (4)? I am 'double booked' with a base closure mtg and terrorism lit mtg. Let's talk when you arrive about this - [redacted] I expect there will be other things that need coverage and I'd appreciate your guidance.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Monday, August 15, 2005 8:10 AM
To: Gorsuch, Neil M
Subject: Re: 11 am components meeting

Neil, looks like I get in around noon as well, so I will get a download from you this afternoon. Hope all is well sir.

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Mon Aug 15 08:02:43 2005
Subject: 11 am components meeting

My flight back to dc looks like it will be a little late heading out so please go ahead with the meeting without me if I am late. Robt.

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, August 15, 2005 8:32 AM
To:	Moschella, William; Mercer, Bill (ODAG); Brand, Rachel; Seidel, Rebecca; Hertling, Richard; Reyes, Luis (SMO)
Cc:	Bounds, Ryan W (OLP); Henderson, Charles V; Owen, Peter B
Subject:	RE: report tracking

Am adding Luis Reyes b/c I will be out of the office this Wednesday and Thursday and will ask Luis to attend in my stead.

-----Original Message-----
From: Moschella, William
Sent: Sunday, August 14, 2005 9:47 AM
To: Mercer, Bill (ODAG); Brand, Rachel; Seidel, Rebecca; Hertling, Richard
Cc: Bounds, Ryan W (OLP); Henderson, Charles V; Gorsuch, Neil M; Owen, Peter B
Subject: Re: report tracking

Yes, both Rebecca and Peter should attend. Also, someone from exec sec. Should be there.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
To: Brand, Rachel <Rachel.Brand@SMOJMD.USDOJ.gov>; Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>; Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>
CC: Bounds, Ryan W (OLP) <Ryan.W.Bounds@SMOJMD.USDOJ.gov>; Henderson, Charles V <Charles.V.Henderson@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Aug 12 19:22:15 2005
Subject: RE: report tracking

Charles: Can you set up a mtg on this for Wednesday or Thursday of next week, including Neal? Rachel, will you let us know who from OLP should attend. Will, should both Rebecca and Peter be included in this meeting?

Rebecca: Can you and Peter do a bit more of a scoping document on the breadth of the problem in advance of the meeting?

-----Original Message-----
From: Brand, Rachel
Sent: Friday, August 12, 2005 6:13 PM

To: Moschella, William; Seidel, Rebecca; Hertling, Richard
Cc: Bounds, Ryan W (OLP); Mercer, Bill (ODAG)
Subject: RE: report tracking

Ok. We can help open the discussion with whatever Gormsen has compiled.

-----Original Message-----
From: Moschella, William
Sent: Friday, August 12, 2005 6:08 PM
To: Brand, Rachel; Seidel, Rebecca; Hertling, Richard
Cc: Bounds, Ryan W (OLP); Mercer, Bill (ODAG)
Subject: RE: report tracking

This has been a frustration for me since I have been here. There is no mechanism in place that ensures timely compliance with reporting requirements or review of reports. Furthermore, there is no central repository for reports that go to the Hill as far as I can tell. This is a management issue that ODAG should take a look at.

-----Original Message-----
From: Brand, Rachel
Sent: Friday, August 12, 2005 6:04 PM
To: Seidel, Rebecca; Hertling, Richard
Cc: Bounds, Ryan W (OLP); Mercer, Bill (ODAG); Moschella, William
Subject: RE: report tracking

Makes sense.

-----Original Message-----
From: Seidel, Rebecca
Sent: Friday, August 12, 2005 5:52 PM
To: Brand, Rachel; Hertling, Richard
Cc: Bounds, Ryan W (OLP); Mercer, Bill (ODAG); Moschella, William
Subject: Re: report tracking

It isn't just tracking so that we comply with deadlies, but some sort of mechanism so that we ensure reports are getting appropriate review. Ie there are reports out od OVW or OJP that go straight to hill and at times may have policy implications. Winnie just brought to my attention a report on DNA and JFAA that was was required of DOJ by an approps bill (and also required that we contact with outside groups to do). It was ready to go to hill with only review by JMD. This is something that should have OLP / ODAG review.

-----Original Message-----
From: Brand, Rachel <Rachel.Brand@SMOJMD.USDOJ.gov>
To: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>

CC: Bounds, Ryan W (OLP) <Ryan.W.Bounds@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
Sent: Fri Aug 12 17:44:40 2005
Subject: RE: report tracking

I think Eric Gormsen in our office already tracks this sort of thing. We should check with him before creating a whole new working group. I know he's been working with a law clerk lately on this. Ryan, on Monday can you figure out the status of this.

-----Original Message-----
From: Seidel, Rebecca
Sent: Friday, August 12, 2005 5:32 PM
To: Brand, Rachel; Hertling, Richard
Cc: Bounds, Ryan W (OLP)
Subject: FW: report tracking

wanted to loop you guys in on this too. :)

-----Original Message-----
From: Seidel, Rebecca
Sent: Thursday, August 11, 2005 10:01 AM
To: Mercer, Bill (ODAG)
Cc: Owen, Peter B
Subject: report tracking

Bill - Will wanted me to bring this to your attention. We currently have no adequate means of tracking reports, no mechanism - what reports are required by Congress, when they are provided to the Hill, etc. Also, we really need to establish a procedure for review- what kind of review process is needed for them to go through internally to DOJ (i.e. Associate's / ODAG review etc), and when is it ok for them to go straight from component. There is much confusion here, and we need more oversight. Will suggested that ODAG convene a group (ODAG, OASC, Exec Sec, OLP, Associate's office, for starters) to discuss and establish mechanism / procedures. OLA would be happy to participate as well. thoughts?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 8:39 AM
To: Kessler, Elizabeth A
Subject: RE: briefly

Good question! What exactly is the FOIA Exec order? I'm starting from ground zero!

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Monday, August 15, 2005 8:34 AM
To: Brand, Rachel
Cc: Gorsuch, Neil M
Subject: FW: briefly

Can you let us know what you know, if anything, about the state of that FOIA executive order? As you can see from the below, Dick and Dan want to talk to Robert about it (among a host of other things.) Just want to make sure Robert knows whatever you/DOJ knows. Thanks.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Sunday, August 14, 2005 4:07 PM
To: Metcalfe, Daniel J
Cc: Huff, Richard L; Gunn, Currie (SMO); Kessler, Elizabeth A; Gorsuch, Neil M; Mercer, Bill (ODAG)
Subject: Re: briefly

Let's try to put it on the calendar for Wed afternoon. CCing Mercer et al so Currie can coordinate. Robt.

-----Original Message-----
From: Metcalfe, Daniel J <Daniel.J.Metcalfe@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
CC: Huff, Richard L <Richard.L.Huff@SMOJMD.USDOJ.gov>; Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>
Sent: Sun Aug 14 14:26:04 2005
Subject: briefly

Robert: Dick and I have an accumulation of things that we need to talk over with you, including further concerns with any possible FOIA executive order, and we were hoping that we could catch you about that briefly after the DAG farewell this past week. We're not looking to impinge on your time unduly, especially recognizing that it likely will be tighter now as Acting DAG, but one unusual item actually is a pending ODAG one (on which we've recently met with Glenn Fine, David Margolis, and Bill Mercer)

a pending ODAG one (on which we've recently met with Glenn Fine, David Margolis, and Bill Mercer) having to do with IG/DAG relations that we want to make sure we brief you on as soon as we can just in case. Dick and I will both be in town only Monday through Thursday of this coming week; is it OK with you if we try to get on your calendar for just about 15-20 minutes anytime morning, afternoon, or evening on one of those four days? Thanks in advance. Dan

cc: Currie

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, August 15, 2005 8:40 AM
To:	Shaw, Aloma A
Subject:	FW: The President's Economic Adjustment Committee (EAC) Meeting Agen da for 8/16
Attachments:	tmp.htm; Blank Bkgrd.gif; EAC Meeting Agenda 8-16-05.doc

could you add this to the calendar? thanks

-----Original Message-----
From: [redacted]@wso.whs.mil [mailto:[redacted]@wso.whs.mil]
Sent: Sunday, August 14, 2005 11:25 AM
To: Orr, David M; Gorsuch, Neil M; [redacted]@mail.va.gov;
[redacted] (DHS); [redacted]@ios.doi.gov; gblank@cea.eop.gov;
[redacted]@gsa.gov; [redacted]@hhs.gov; [redacted]@epamail.epa.gov;
[redacted]@osd.mil; [redacted]@ed.gov; [redacted]@opm.gov;
[redacted]@hud.gov; [redacted]@sba.gov;
Ruben_S._Barrales@who.eop.gov; [redacted]@state.gov;
[redacted]@usda.gov; [redacted]@eda.doc.gov; [redacted]@cdfi.treas.gov;
[redacted]@dol.gov; [redacted]@dot.gov; [redacted]@osd.mil;
[redacted]@achp.gov; [redacted]@mail.va.gov;
[redacted]@ios.doi.gov; [redacted]@ed.gov;
[redacted]@hq.doe.gov; [redacted]@osd.mil;
[redacted]@usda.gov; [redacted]@wso.whs.mil; [redacted]@eda.doc.gov;
dfalaschetti@cea.eop.gov; John_G._Burke@who.eop.gov;
[redacted]@sba.gov; [redacted]@mail.va.gov; [redacted] DHS);
[redacted]@achp.gov; [redacted]@opm.gov; [redacted]@hud.gov;
[redacted]@mail.va.gov; [redacted]@hhs.gov;
[redacted]@epamail.epa.gov; [redacted]@dol.gov;
[redacted]@wso.whs.mil; [redacted]@ed.gov;
[redacted]@gsa.gov; [redacted]@usps.gov;
Terrence_Blackburne@omb.eop.gov; [redacted]@state.gov;
[redacted]@state.gov; [redacted]@ed.gov; [redacted]@gsa.gov
Cc: [redacted]@gsa.gov; [redacted]@osd.mil;
[redacted]@usps.gov; [redacted]@dol.gov;
[redacted]@faa.gov [redacted]@dol.gov; [redacted]@ios.doi.gov;
[redacted] (DHS); [redacted]@sba.vov; [redacted]@wdc.usda.gov;
[redacted]@opm.gov; [redacted]@sba.gov;
Kathryn_E._Rust@who.eop.gov; [redacted]@eda.doc.gov; sdaigle@cea.eop.gov;
[redacted]@dol.gov [redacted]@dol.gov;
[redacted]@usda.gov; [redacted]@va.gov;
[redacted]@hud.gov; [redacted]@wso.whs.mil;
[redacted]@wso.whs.mil; [redacted]@wso.whs.mil;
[redacted]@wso.whs.mil; [redacted]@wso.whs.mil;
[redacted]@wso.whs.mil; [redacted]@wso.whs.mil;

[redacted]@wso.whs.mil; [redacted]@wso.whs.mil; [redacted]@wso.whs.mil;
[redacted]@wso.whs.mil; [redacted]@wso.whs.mil;
[redacted]@wso.whs.mil
Subject: The President's Economic Adjustment Committee (EAC) Meeting
Agen da for 8/16

Agenda and Reminder

The President's Economic Adjustment Committee (EAC) will convene with the Advisory and Working Group Members on Tuesday, August 16, at 10:00 am, in the Horizon Room of the Ronald Reagan Building/International Trade Center, located at 1300 Pennsylvania Avenue, Washington, D.C., (on the Metro Orange-Line at Federal Triangle Station). The meeting Agenda is attached.

During the Federal Roundtable Discussion portion of the Agenda, Federal Agencies are invited to briefly comment on their BRAC 05 preparations and activities to date, and to identify specific topics and issues that the EAC should undertake.

Questions concerning the EAC meeting may be addressed to Mr. [redacted] or at <mailto:[redacted]@wso.whs.mil> [redacted]@wso.whs.mil; or to [redacted] or at <mailto:[redacted]@wso.whs.mil> [redacted]@wso.whs.mil.

Thank you for your support of the President's Defense Economic Adjustment Program. We look forward to seeing you Tuesday.

[redacted]
[redacted]
Office of Economic Adjustment
400 Army Navy, Ste. 200
Arlington, VA 22202
703-604-5164 (w)
[redacted](c)
www.oea.gov <http://www.oea.gov/>
[redacted]@wso.whs.mil <mailto[redacted]@wso.whs.mil>

ECONOMIC ADJUSTMENT COMMITTEE
ADVISORY GROUP MEETING

AUGUST 16, 2005
10:00 am – 12:00pm

HORIZON ROOM
Ronald Reagan Building / International Trade Center
1300 Pennsylvania Avenue
Washington, D.C. 20004

AGENDA

- **Welcome and Introductions – DUSD(I&E), DOC & DOL**
- **BRAC 05 Overview – (DUSD(I&E))**
- **Department of Labor BRAC Response – AS/ETA**
- **Defense Economic Adjustment Program – (OEA)**
  - **Overview & Mission of the Economic Adjustment Committee**
  - **Executing the BRAC 05 Defense Economic Adjustment Program**
- **Federal Agency Roundtable Discussion**
- **Next Steps**
- **Adjourn**

Agenda and Reminder

The President's Economic Adjustment Committee (EAC) will convene with the **Advisory** and **Working** Group Members on **Tuesday, August 16, at 10:00 am, in the Horizon Room of the Ronald Reagan Building/International Trade Center, located at 1300 Pennsylvania Avenue, Washington, D.C.**, (on the Metro Orange-Line at Federal Triangle Station). **The meeting Agenda is attached.**

During the Federal Roundtable Discussion portion of the Agenda, Federal Agencies are invited to briefly comment on their BRAC 05 preparations and activities to date, and to identify specific topics and issues that the EAC should undertake.

Questions concerning the EAC meeting may be addressed to [redacted] or at [redacted]@wso.whs.mil or to [redacted] or a[redacted]@wso.whs.mil

Thank you for your support of the President's Defense Economic Adjustment Program. We look forward to seeing you Tuesday.

[redacted]
Office of the Secretary of Defense
[redacted]
400 Army Navy, Ste. 200
Arlington, VA 22202
703-604-5164 (w)
[redacted]
www.oea.gov
[redacted]@wso.whs.mil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 8:42 AM
To: Henke, Tracy (SMO)
Subject: body armor

OJP's "final" recommendation arrived in my in box Friday but I see you haven't yet reviewed it. Are you going to have a chance to do so?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 8:54 AM
To: Henke, Tracy (SMO)
Subject: RE: body armor

[redacted] I certainly didn't mean to interrupt with more body armor! I am happy to handle it, unless you want to review the materials yourself.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 15, 2005 8:52 AM
To: Gorsuch, Neil M
Subject: Re: body armor

If they can email it to my blackberry or currie overnight it to where [redacted]

[redacted]

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 15 08:42:16 2005
Subject: body armor

OJP's "final" recommendation arrived in my in box Friday but I see you haven't yet reviewed it. Are you going to have a chance to do so?

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 8:54 AM
To: Kessler, Elizabeth A
Subject: RE: briefly

Thanks!

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Monday, August 15, 2005 8:52 AM
To: Gorsuch, Neil M
Subject: RE: briefly

Ugh. It was a very tightly held draft executive order that Jennifer Newstead and Harriet Miers were talking to the hill about. I gather that the thinking was that this could stave off legislative action. It would have required agencies to designate a chief FOIA officer and facilitate FOIA processing. (I can try to dig up an earlier draft, but I don't really think you need to see it.)

You won't be surprised to hear that, shortly after Rachel shared with a very few people in DOJ a draft to be "tightly held," Dick and Dan sent Robert comments on the draft. (Oops. We didn't give it to them, though; someone in Civil did.) At some point, DOJ seemed to have been taken out of the loop on this. Dick and Dan were hearing that it seemed to have leaked all over the rest of the government. We did let the WH know that this didn't seem to be all that tightly held.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 8:39 AM
To: Kessler, Elizabeth A
Subject: RE: briefly

Good question! What exactly is the FOIA Exec order? I'm starting from ground zero!

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Monday, August 15, 2005 8:34 AM
To: Brand, Rachel
Cc: Gorsuch, Neil M
Subject: FW: briefly

Can you let us know what you know, if anything, about the state of that FOIA executive order? As you can see from the below, Dick and Dan want to talk to Robert about it (among a host of other things.)

can see from the below, Dick and Dan want to talk to Robert about it (among a host of other things.) Just want to make sure Robert knows whatever you/DOJ knows. Thanks.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Sunday, August 14, 2005 4:07 PM
To: Metcalfe, Daniel J
Cc: Huff, Richard L; Gunn, Currie (SMO); Kessler, Elizabeth A; Gorsuch, Neil M; Mercer, Bill (ODAG)
Subject: Re: briefly

Let's try to put it on the calendar for Wed afternoon. CCing Mercer et al so Currie can coordinate. Robt.

-----Original Message-----
From: Metcalfe, Daniel J <Daniel.J.Metcalfe@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
CC: Huff, Richard L <Richard.L.Huff@SMOJMD.USDOJ.gov>; Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>
Sent: Sun Aug 14 14:26:04 2005
Subject: briefly

Robert: Dick and I have an accumulation of things that we need to talk over with you, including further concerns with any possible FOIA executive order, and we were hoping that we could catch you about that briefly after the DAG farewell this past week. We're not looking to impinge on your time unduly, especially recognizing that it likely will be tighter now as Acting DAG, but one unusual item actually is a pending ODAG one (on which we've recently met with Glenn Fine, David Margolis, and Bill Mercer) having to do with IG/DAG relations that we want to make sure we brief you on as soon as we can just in case. Dick and I will both be in town only Monday through Thursday of this coming week; is it OK with you if we try to get on your calendar for just about 15-20 minutes anytime morning, afternoon, or evening on one of those four days? Thanks in advance. Dan

cc: Currie

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 9:57 AM
To: Nichols, Carl (CIV)
Subject: DHS HR reg ruling

Heads up that you're likely to be questioned about this when you meet with OAG today. I gave a 50,000 ft summary as I understand the issue, but I think they'd like your more detailed analysis.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 10:21 AM
To: Shaw, Aloma A
Subject: FW: body armor

tracy's contact info below

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 15, 2005 8:56 AM
To: Gorsuch, Neil M
Subject: Re: body armor

I am use to being interrupted. No problem. Happy to let you review however. Would like a copy for my files.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 15 08:53:32 2005
Subject: RE: body armor

[redacted] I certainly didn't mean to interrupt with more body armor! I am happy to handle it, unless you want to review the materials yourself.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Monday, August 15, 2005 8:52 AM
To: Gorsuch, Neil M
Subject: Re: body armor

If they can email it to my blackberry or currie overnight [redacted] are the only ways.

[redacted]

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Mon Aug 15 08:42:16 2005
Subject: body armor

OJP's "final" recommendation arrived in my in box Friday but I see you haven't yet reviewed it. Are you going to have a chance to do so?

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, August 15, 2005 11:40 AM
To:	Shaw, Aloma A
Subject:	FW: Postponement of Tuesday, August 16th, President's Economic Adjus tment Committee (EAC) Meeting
Attachments:	tmp.htm; Blank Bkgrd.gif

fyi

-----Original Message-----
From: [redacted]@wso.whs.mil [mailto[redacted]@wso.whs.mil]
Sent: Monday, August 15, 2005 11:35 AM
To: Orr, David M; Gorsuch, Neil M; [redacted]@mail.va.gov;
[redacted](DHS); [redacted]@ios.doi.gov; gblank@cea.eop.gov;
[redacted]@gsa.gov; [redacted]@hhs.gov; [redacted]@epamail.epa.gov;
[redacted]@osd.mil; [redacted]@ed.gov; [redacted]@opm.gov;
[redacted]@hud.gov; [redacted]@sba.gov;
Ruben_S._Barrales@who.eop.gov; [redacted]@state.gov;
[redacted]@usda.gov; [redacted]@eda.doc.gov; [redacted]@cdfi.treas.gov;
[redacted]@dol.gov; [redacted]@dot.gov; [redacted]@osd.mil;
[redacted]@achp.gov; [redacted]@mail.va.gov;
[redacted]@ios.doi.gov; [redacted]@ed.gov;
[redacted]@hq.doe.gov; [redacted]@osd.mil;
[redacted]@usda.gov; [redacted]@wso.whs.mil; [redacted]@eda.doc.gov;
dfalaschetti@cea.eop.gov; John_G._Burke@who.eop.gov;
[redacted]@sba.gov; [redacted]@mail.va.gov; [redacted](DHS);
[redacted]@achp.gov; [redacted]@opm.gov; [redacted]@hud.gov;
[redacted]@mail.va.gov; [redacted]@hhs.gov; [redacted]@epa.gov;
[redacted]@dol.gov; [redacted]@wso.whs.mil;
[redacted]@ed.gov; [redacted]@gsa.gov [redacted]@usps.gov;
[redacted]@omb.eop.gov; [redacted]@state.gov;
[redacted]@state.gov; [redacted]@ed.gov; [redacted]@gsa.gov
Cc: [redacted]@gsa.gov; [redacted]@osd.mil;
[redacted]@usps.gov; [redacted]@dol.gov;
[redacted]@faa.gov; [redacted]@dol.gov; [redacted]@ios.doi.gov;
[redacted](DHS); [redacted]@sba.vov; [redacted]@wdc.usda.gov;
[redacted]@opm.gov; [redacted]@sba.gov;
Kathryn_E._Rust@who.eop.gov; [redacted]@eda.doc.gov; sdaigle@cea.eop.gov;
[redacted]@dol.gov [redacted]@dol.gov;
[redacted]@usda.gov; [redacted]@va.gov; [redacted]@ed.gov;
[redacted]@hud.gov; [redacted]@wso.whs.mil;
[redacted]@wso.whs.mil; [redacted]@wso.whs.mil;
[redacted]@wso.whs.mil; [redacted]@wso.whs.mil;
[redacted]@wso.whs.mil; [redacted]@wso.whs.mil;
[redacted]@wso.whs.mil; [redacted]@wso.whs.mil; [redacted]@wso.whs.mil;

[redacted]@wso.whs.mil; [redacted]@wso.whs.mil;
[redacted]@wso.whs.mil
Subject: Postponement of Tuesday, August 16th, President's Economic
Adjus tment Committee (EAC) Meeting

To All EAC Members:

We sincerely apologize for the inconvenience, but due to additional requirements in support of the department's BRAC initiative, the EAC Meeting scheduled for August 16, 2005, at 10:00 a.m. is postponed until after Labor Day. As soon as a new date is established, we will advise the EAC Members.

Sincerely,

[redacted]
400 Army Navy, Ste. 200
Arlington, VA 22202
703-604-5164 (w)
[redacted]
www.oea.gov <http://www.oea.gov/>
[redacted]@wso.whs.mil <mailto[redacted]@wso.whs.mil>

To All EAC Members:

We sincerely apologize for the inconvenience, but due to additional requirements in support of the department's BRAC initiative, the EAC Meeting scheduled for August 16, 2005, at 10:00 a.m. is postponed until after Labor Day. As soon as a new date is established, we will advise the EAC Members.

Sincerely,

[redacted]

400 Army Navy, Ste. 200
Arlington, VA 22202
703-604-5164 (w)
[redacted]
www.oea.gov
[redacted]@wso.whs.mil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 11:42 AM
To: Elwood, Courtney; Henke, Tracy (SMO)
Subject: RE: Body Armor Package

It arrived late Friday. Tracy is out of the office, but I'm overnighting a copy to her. I will also look at it asap. Hope to have it to you by mid-week at latest. Beyond the policy formulation itself, have you already reviewed the proposed AG letter and other materials?

-----Original Message-----
From: Elwood, Courtney
Sent: Monday, August 15, 2005 10:46 AM
To: Henke, Tracy (SMO); Gorsuch, Neil M
Subject: Body Armor Package

Have you received the materials from OJP on body armor? Rafe said they should have been sent to your office on Friday. I just want to keep this moving along asap, so I can brief AG before I leave for vacation next week.

Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 11:46 AM
To: Schlozman, Brad (CRT)

sorry i got detained. did you want to talk with me and/or robt about something?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 11:59 AM
To: Elwood, Courtney; Henke, Tracy (SMO)
Subject: RE: Body Armor Package

I'm happy to alert Bill and send him a copy now. For purposes of expediting my review, have you had a chance to review the proposed AG letter and other materials beyond the policy proposals themselves?

-----Original Message-----
From: Elwood, Courtney
Sent: Monday, August 15, 2005 11:57 AM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject: RE: Body Armor Package

I am a little nervous that we are going to get held up when it goes to ODAG -- since they haven't had the introduction and time with it that we have. Do you think we can/should send it to ODAG while you are reviewing? We really need to get the AG's sign off no later than Friday, which means getting it through your office and ODAG by mid-day on Thursday.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 11:42 AM
To: Elwood, Courtney; Henke, Tracy (SMO)
Subject: RE: Body Armor Package

It arrived late Friday. Tracy is out of the office, but I'm overnighting a copy to her. I will also look at it asap. Hope to have it to you by mid-week at latest. Beyond the policy formulation itself, have you already reviewed the proposed AG letter and other materials?

-----Original Message-----
From: Elwood, Courtney
Sent: Monday, August 15, 2005 10:46 AM
To: Henke, Tracy (SMO); Gorsuch, Neil M
Subject: Body Armor Package

Have you received the materials from OJP on body armor? Rafe said they should have been sent to your office on Friday. I just want to keep this moving along asap, so I can brief AG before I leave for vacation next week.

Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 12:01 PM
To: Mercer, Bill (ODAG)
Cc: Elwood, Courtney; Henke, Tracy (SMO)
Subject: FW: Body Armor Package

Bill, Given the short time fuse on this, I will forward a copy of OJP's body armor report and proposal now while we are also reviewing it. If you have any questions about the background on this, feel free to give me a ring, though Courtney and Tracy are the real experts on this one. Neil

-----Original Message-----
From: Elwood, Courtney
Sent: Monday, August 15, 2005 11:57 AM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject: RE: Body Armor Package

I am a little nervous that we are going to get held up when it goes to ODAG -- since they haven't had the introduction and time with it that we have. Do you think we can/should send it to ODAG while you are reviewing? We really need to get the AG's sign off no later than Friday, which means getting it through your office and ODAG by mid-day on Thursday.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 11:42 AM
To: Elwood, Courtney; Henke, Tracy (SMO)
Subject: RE: Body Armor Package

It arrived late Friday. Tracy is out of the office, but I'm overnighting a copy to her. I will also look at it asap. Hope to have it to you by mid-week at latest. Beyond the policy formulation itself, have you already reviewed the proposed AG letter and other materials?

-----Original Message-----
From: Elwood, Courtney
Sent: Monday, August 15, 2005 10:46 AM
To: Henke, Tracy (SMO); Gorsuch, Neil M
Subject: Body Armor Package

Have you received the materials from OJP on body armor? Rafe said they should have been sent to your office on Friday. I just want to keep this moving along asap, so I can brief AG before I leave for vacation next week.

Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 12:07 PM
To: Schlozman, Brad (CRT)
Subject: 130 it is - Currie should be sending confirming email soon

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 12:07 PM
To: Nichols, Carl (CIV)
Subject: RE: DHS HR reg ruling

what's the answer to that question? appeal, i suppose?

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Monday, August 15, 2005 10:28 AM
To: Gorsuch, Neil M
Subject: RE: DHS HR reg ruling

thanks, raul gave me a head's up. i gave them the basics, though they seemed to want a 50,000 ft discussion of what DHS might want to do now.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 9:57 AM
To: Nichols, Carl (CIV)
Subject: DHS HR reg ruling

Heads up that you're likely to be questioned about this when you meet with OAG today. I gave a 50,000 ft summary as I understand the issue, but I think they'd like your more detailed analysis.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 12:13 PM
To: Gorsuch, Neil M; Elwood, Courtney; Henke, Tracy (SMO)
Subject: RE: Body Armor Package

Also, Courtney, do you have a copy of the package? If not, I'd like to ship a copy to you now, as well.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 11:59 AM
To: Elwood, Courtney; Henke, Tracy (SMO)
Subject: RE: Body Armor Package

I'm happy to alert Bill and send him a copy now. For purposes of expediting my review, have you had a chance to review the proposed AG letter and other materials beyond the policy proposals themselves?

-----Original Message-----
From: Elwood, Courtney
Sent: Monday, August 15, 2005 11:57 AM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject: RE: Body Armor Package

I am a little nervous that we are going to get held up when it goes to ODAG -- since they haven't had the introduction and time with it that we have. Do you think we can/should send it to ODAG while you are reviewing? We really need to get the AG's sign off no later than Friday, which means getting it through your office and ODAG by mid-day on Thursday.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 11:42 AM
To: Elwood, Courtney; Henke, Tracy (SMO)
Subject: RE: Body Armor Package

It arrived late Friday. Tracy is out of the office, but I'm overnighting a copy to her. I will also look at it asap. Hope to have it to you by mid-week at latest. Beyond the policy formulation itself, have you already reviewed the proposed AG letter and other materials?

-----Original Message-----
From: Elwood, Courtney
Sent: Monday, August 15, 2005 10:46 AM
To: Henke, Tracy (SMO); Gorsuch, Neil M
Subject: Body Armor Package

Have you received the materials from OJP on body armor? Rafe said they should have been sent to your office on Friday. I just want to keep this moving along asap, so I can brief AG before I leave for vacation next week.

Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 4:01 PM
To: 'Benjamin_A._Powell@who.eop.gov'
Subject: Free circa 5?

Am in oeob and finishing mtg then. Thought I might drop by quickly to say howdy. What's your rm no?

Benjamin_A._Powell@who.eop.gov

From: Benjamin_A._Powell@who.eop.gov
Sent: Monday, August 15, 2005 4:01 PM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: Free circa 5?

I will be out of the office until Monday, August 29. I can be contacted through the Counsel's Office at 456-2632.

Benjamin_A._Powell@who.eop.gov

From: Benjamin_A._Powell@who.eop.gov
Sent: Monday, August 15, 2005 4:02 PM
To: Gorsuch, Neil M
Subject: Re: Free circa 5?

Out of office next 2 weeks.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: Powell, Benjamin A. <Benjamin_A._Powell@who.eop.gov>
Sent: Mon Aug 15 16:01:23 2005
Subject: Free circa 5?

Am in oeob and finishing mtg then. Thought I might drop by quickly to say howdy. What's your rm no?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 4:08 PM
To: 'Benjamin_A._Powell@who.eop.gov'
Subject: Re: Free circa 5?

Delighted to hear that! Get some rest!

-----Original Message-----
From: Benjamin_A._Powell@who.eop.gov <Benjamin_A._Powell@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Aug 15 16:02:12 2005
Subject: Re: Free circa 5?

Out of office next 2 weeks.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: Powell, Benjamin A. <Benjamin_A._Powell@who.eop.gov>
Sent: Mon Aug 15 16:01:23 2005
Subject: Free circa 5?

Am in oeob and finishing mtg then. Thought I might drop by quickly to say howdy. What's your rm no?

Sours, Raquel

Subject:	Updated: Component Coordination Meeting
Start:	Tuesday, August 16, 2005 9:20 AM
End:	Tuesday, August 16, 2005 9:40 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Comey, James (ODAG); McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)

When: Tuesday, August 16, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: DAG Jim Comey, Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Monday, August 15, 2005 4:57 PM
To: USDOJ- Office of Public Affairs
Subject: Prepared Remarks of Attorney General Alberto R. Gonzales at the Farewell for Deputy Attorney General Jim Comey

Prepared Remarks of Attorney General Alberto R. Gonzales at the Farewell for Deputy Attorney General Jim Comey

Washington, D.C.
August 15, 2005-3:00 pm

Good afternoon.

Like many of you in this room, I have mixed emotions on this occasion.

It's a privilege to be here with you to honor Deputy Attorney General James Comey. Jim has been such a valuable member of the President's team.

But I am also sad today-sad that we will be losing such an outstanding public servant here at the Department of Justice.

When President Bush appointed Jim he chose a man distinguished by a lifetime of achievement and accomplishment.

Since his move to Washington, D.C., Jim has headed our Corporate Fraud Task Force, he has helped lead our Nation's war on terror, and he has helped to drive down violent crime to records lows.

As Deputy Attorney General, Jim sought to make our DOJ team

stronger in every way. He has traveled far and wide-visiting more than 60 of our U.S. Attorney's Offices.

That meant sacrifices for a man 6-feet, 8-inches tall crammed into tiny planes on the way to so many districts.

Jim has a reputation as a tough, hard-charging prosecutor, but I'm sure he won't mind me saying that he has a softer side as well. I often talk about the importance of DOJ employees spending time with their families. Jim is a model husband and father. You can see it by the way he interacts with his family.

Jim's service to our Nation extends beyond just his two years here in Washington.

For two decades now, Jim has been an integral part of this Department's war on terror, our fight against drugs and crime, and our struggle to build a better, safer America.

Jim has given most of his adult life to this cause-and he has made a difference.

Of course, we will miss Jim. And we are going to have to brace for some changes here at the Department.

For instance, we don't have to worry about Jim taking up all the room in the DOJ suburban, so we can finally put the middle seat back in.

The DOJ basketball team is going to have to adjust, too. As I understand it, the Vegas odds of us beating Homeland Security have skyrocketed to 300 to 1. Dave Margolis is now the tallest-and fastest-guy on our team.

With Jim leaving we will also lose his trademark good humor-which means we might finally get some work done in meetings. I can't count the number of meetings where Jim had us laughing.

Of course, at those meetings, we also became accustomed to an equal number of insights and bold ideas.

For more than four years, the President has challenged all of us in public service to dare great things on behalf of the American people. We are not here-as the President would say-to play "little ball." We are here to play "big ball."

Jim has dared great things during his service. Throughout his life, everywhere he has served, as many of you know, Jim has proven there was never a case too tough or too complex for him. If he thought trying a case would result in safer streets, safer homes, or more opportunity for all, he'd take it.

Whether he was prosecuting gun crime and drug deals in Richmond or corporate fraud and terrorism in New York, Jim Comey has devoted himself to the cause of justice.

We will miss Jim's boundless energy and action. We will miss Jim's eloquence and personal example. They are reminders of the high ideals we uphold and the American people we serve.

Thanks to Jim, I believe America is safer, our fight against terrorism is stronger, and every American now lives in a society more just and more fair and filled with greater hope and opportunity.

Thank you, Jim Comey. And as a small token of appreciation

and respect, I present the Edmund Randolph Award.

###

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, August 15, 2005 5:03 PM
To: Gorsuch, Neil M
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

I presume it was a non-event. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 5:14 PM
To: McCallum, Robert (SMO)
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Will do

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Friday, August 12, 2005 5:08 PM
To: Gorsuch, Neil M
Subject: Re: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Please attend and let kyle know. Also warn him about the LEO address mistake which happens with increasing frequency. Robt.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Fri Aug 12 16:55:09 2005
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Checked with Tasia this afternoon and DOJ has nothing new to add to its report. So it doesn't sound like we'd have much to say at this mtg. I'm very happy to attend if you don't want to.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:23 PM
To: McCallum, Robert (SMO)
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

I think Kyle inadvertently sent this to the wrong person.

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, August 12, 2005 3:55 PM
To: McCallum Jr, Robert L (LEO)
Cc: Ullyot, Theodore; Scolinos, Tasia; Gorsuch, Neil M
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Robert, would you or someone in OASG (I am comfortable with Neil or one of your other deputies) please represent the Department at the White House meeting at 4pm on Monday re Veterans Benefits? The below e-mail sets forth the requirements for the meeting. I've cc'd Tasia, as it appears that OPA has provided info to the White House on this topic before. Thanks; please confirm that OASG will handle.

-----Original Message-----
From: Brian_McDonald@who.eop.gov [mailto:Brian_McDonald@who.eop.gov]
Sent: Friday, August 12, 2005 3:34 PM
To: [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@ed.gov; [redacted]@HQ.DOE.GOV; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted](DHS); [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov
Cc: Sampson, Kyle; Williams, Jan; dlwhoocl@who.eop.gov; Lance_B._Leggitt@who.eop.gov; Anna_L._Holand@who.eop.gov; [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@osd.pentagon.mil; [redacted]@ed.gov; [redacted]@hq.doe.gov; [redacted]@epa.gov; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted]@hhs.gov; [redacted](DHS); [redacted]@hud.gov [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@state.gov; [redacted]@dot.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov; [redacted]@va.gov
Subject: White House Meeting 8.15.05 re: Veterans Benefits Meeting

All,

We are hosting a meeting on Monday at 4:00 p.m. in the Cabinet Liaison Conference Room (please enter through EEOB Room 160) regarding services and benefits for veterans who have served in Iraq and Afghanistan and their families. We request that you send a representative from your Department's senior leadership to attend this meeting and ask that your representative have prepared answers to the following questions;

1) What services does your agency provide to support families who currently have loved ones in the military who are serving in Iraq and/or Afghanistan?

2) What services does your agency provide to support families who have lost loved ones in Iraq and/or Afghanistan while serving in the military?

3) What services does your agency provide to support veterans who are returning or who have already returned from serving in Iraq and/or Afghanistan?

4) What new initiatives can you propose to further support and enhance #1, 2, and 3?

Attached please find information your Department previously provided to Cabinet Liaison. We ask that you review the information and provide updates to the services and benefits listed for your Department and bring updated information to the meeting.

Please respond to this email ASAP with the name, date of birth, and social security number of the person you have designated to attend. Let me know if you have any questions.

Brian

456-5933

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 5:06 PM
To: McCallum, Robert (SMO)
Subject: Re: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Ongoing still (with much still to go and ac off...) but your estimatation is exactly right. Will need to come up w some bullets outlining what we are doing for vets but that should be easy and I'm on it w help of Tasia's shop.

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Aug 15 17:02:46 2005
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

I presume it was a non-event. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 5:14 PM
To: McCallum, Robert (SMO)
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Will do

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Friday, August 12, 2005 5:08 PM
To: Gorsuch, Neil M
Subject: Re: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Please attend and let kyle know. Also warn him about the LEO address mistake which happens with increasing frequency. Robt.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Fri Aug 12 16:55:09 2005
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Checked with Tasia this afternoon and DOJ has nothing new to add to its report. So it doesn't sound like we'd have much to say at this mtg. I'm very happy to attend if you don't want to.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:23 PM
To: McCallum, Robert (SMO)
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

I think Kyle inadvertently sent this to the wrong person.

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, August 12, 2005 3:55 PM
To: McCallum Jr, Robert L (LEO)
Cc: Ullyot, Theodore; Scolinos, Tasia; Gorsuch, Neil M
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Robert, would you or someone in OASG (I am comfortable with Neil or one of your other deputies) please represent the Department at the White House meeting at 4pm on Monday re Veterans Benefits? The below e-mail sets forth the requirements for the meeting. I've cc'd Tasia, as it appears that OPA has provided info to the White House on this topic before. Thanks; please confirm that OASG will handle.

-----Original Message-----
From: Brian_McDonald@who.eop.gov [mailto:Brian_McDonald@who.eop.gov]
Sent: Friday, August 12, 2005 3:34 PM
To: [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@ed.gov; [redacted]@HQ.DOE.GOV; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted](DHS); [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov
Cc: Sampson, Kyle; Williams, Jan; dlwhoocl@who.eop.gov; Lance_B._Leggitt@who.eop.gov; Anna_L._Holand@who.eop.gov; [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@osd.pentagon.mil; [redacted]@ed.gov; [redacted]@hq.doe.gov; [redacted]@epa.gov; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted]@hhs.gov; [redacted](DHS); [redacted]@hud.gov; [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@state.gov; [redacted]@dot.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov; [redacted]@va.gov
Subject: White House Meeting 8.15.05 re: Veterans Benefits Meeting

All,

We are hosting a meeting on Monday at 4:00 p.m. in the Cabinet Liaison Conference Room (please enter through EEOB Room 160) regarding services and benefits for veterans who have served in Iraq and Afghanistan and their families. We request that you send a representative from your Department's senior leadership to attend this meeting and ask that your representative have prepared answers to the following questions;

1) What services does your agency provide to support families who currently have loved ones in the military who are serving in Iraq and/or Afghanistan?

2) What services does your agency provide to support families who have lost loved ones in Iraq and/or Afghanistan while serving in the military?

3) What services does your agency provide to support veterans who are returning or who have already returned from serving in Iraq and/or Afghanistan?

4) What new initiatives can you propose to further support and enhance #1, 2, and 3?

Attached please find information your Department previously provided to Cabinet Liaison. We ask that you review the information and provide updates to the services and benefits listed for your Department and bring updated information to the meeting.

Please respond to this email ASAP with the name, date of birth, and social security number of the person you have designated to attend. Let me know if you have any questions.

Brian

456-5933

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, August 15, 2005 5:18 PM
To: Gorsuch, Neil M
Subject: The driver had to leave - please take a taxi back to DOJ

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 5:19 PM
To: Shaw, Aloma A
Subject: Return car

Mtg going long. Should be done in ten to fifteen mins. If it makes sense cld you let driver know. Sorry to keep him waiting.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 5:20 PM
To: Shaw, Aloma A
Subject: Re: The driver had to leave - please take a taxi back to DOJ

Our emails just crossed. Will do. My apologies to the driver. This shouldve been over but it is dragging on...

-----Original Message-----
From: Shaw, Aloma A <Aloma.A.Shaw@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Aug 15 17:18:07 2005
Subject: The driver had to leave - please take a taxi back to DOJ

McDowell, Cynthia

From: McDowell, Cynthia
Sent: Monday, August 15, 2005 5:24 PM
To: Andrea Bottner; Andrew Emrich; Brad Schlozman; Bruce Mcdonald; Carl Nichols; Carl Peed; Cheri Nolan; Clifford White; Crystal Roberts; Cybele Daley; Dan Meron; Deborah Rhodes; Deborah Spagnoli; Domingo Herraiz; Donald Gambatesa; Edward McNally; Elizabeth Kessler; Gregory Katsas; Jeffrey Bucholtz; Jeffrey Clark; Jeffrey Taylor; John Richter; Jonathan Cohn; Joseph Bianco; Kelly Johnson; Kristi Macklin; Kyle Sampson; Laura Parsky; Lily Swenson; Luis Reyes; Michael Battle; Monica Goodling; Neil Gorsuch; Nicholas Tzitzon; Pat O'Brien; Patrick Hofer; Patrick Philbin; Paul Clement; Rachel Brand; Raul Yanes; Rebecca Seidel; Richard Hertling; Richard Morrison; Robert Flores; Sean McLaughlin; Sharee Freeman; Steve Bradbury; Steven McFarland; Stuart Nash; Tasia Scolinos; Theodore Ullyot; Thomas Barnett; Tracy Henke; Uttam Dhillon; Wan Kim
Cc: Williams, Jan
Subject: INVITATION: Last SES Briefing, September 14, 2005

Dear DOJ Senior Executive Service Appointees,

On September 14th, the last Senior Executive Service Briefing of 2005 will be held at the Ronald Reagan Building. OPM, in partnership with the White House, has planned an exciting one-day program for new SES members featuring high-ranking Administration officials and government policy makers. These speakers will provide insightful information regarding their experiences in the Federal government and discuss the goals that our Executive Branch Agencies, under the leadership of President George W. Bush, are currently pursuing.

Past speakers have included Secretary Elaine Chao, Secretary Norman Mineta, Deputy Director for Management at the Office of Management and Budget, Clay Johnson, and Counsel to the President, Harriet Miers. This SES Briefing will also be a unique opportunity for Senior Executives to network with other Senior Executives from across government.

Online registrations are already being accepted at, www.opm.gov/ses/sesbriefing.asp, so sign up today! The deadline for registration is September 7, 2005. If you have any questions, please feel free to contact Cinnamon Huie via email at cinnamon.huie@opm.gov or by phone at 304-870-8018.

Regards,

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice

950 Pennsylvania Avenue, N.W., Room 5317
Washington, D.C. 20530
Tel: (202) 514-9376, Fax: (202) 514-3546

Mercer, Bill (ODAG)

From: Mercer, Bill (ODAG)
Sent: Monday, August 15, 2005 6:28 PM
To: Gorsuch, Neil M
Subject: Read: KPMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 6:40 PM
To: Holland, Eric W; Schlozman, Brad (CRT)
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

I returned from the White House meeting on Vet Benefits. They would like from us a set of bullets detailing anything we are doing that helps servicemen or their families, either while in service abroad, or after they return. A very broad order. And they want the bullets by tomorrow night!

Eric, I would appreciate your help with some bullets outlining what USERRA is and how we've employed it? Also, if you could do some bullets on the Soldiers and Sailors Civil Relief Act, and how we've employed it? Finally, are there any other things you know of that the Dept is doing for vets or the military, however apparently small? Eg, some departments have adopted a base, or raised funds for families of wounded soldiers, etc.

Brad, Since so much of this has a civil rights overlay, I would appreciate any bullets your shop might add. Eg, what about our efforts in the 2004 elections to ensure the military had a meaningful right to vote under the Uniformed and Overseas Absentee Voting Act? A bullet on the law, and some additional ones on our suits would be very helpful. Also, have we brought any discrimination actions on behalf of disabled Iraqui vets? Anything your folks can think of would be very helpful.

Many thanks!

Neil
-----Original Message-----
From: Holland, Eric W
Sent: Friday, August 12, 2005 4:50 PM
To: Gorsuch, Neil M
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

That information is current. If you need examples of how we have used USERRA, let me know. E

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:33 PM
To: Scolinos, Tasia
Cc: Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Thanks so much.

-----Original Message-----

From: Scolinos, Tasia
Sent: Friday, August 12, 2005 4:32 PM
To: Gorsuch, Neil M
Cc: Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Not that I am aware of. I am copying Eric Holland in my office who can also take a look at this and see if there is anything to add.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:23 PM
To: Scolinos, Tasia
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

Tasia - Do we have any new items to add beyond those already on the list?

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, August 12, 2005 3:55 PM
To: McCallum Jr, Robert L (LEO)
Cc: Ullyot, Theodore; Scolinos, Tasia; Gorsuch, Neil M
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Robert, would you or someone in OASG (I am comfortable with Neil or one of your other deputies) please represent the Department at the White House meeting at 4pm on Monday re Veterans Benefits? The below e-mail sets forth the requirements for the meeting. I've cc'd Tasia, as it appears that OPA has provided info to the White House on this topic before. Thanks; please confirm that OASG will handle.

-----Original Message-----
From: Brian_McDonald@who.eop.gov [mailto:Brian_McDonald@who.eop.gov]
Sent: Friday, August 12, 2005 3:34 PM
[redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@ed.gov; [redacted]@HQ.DOE.GOV; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted](DHS); [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov
Cc: Sampson, Kyle; Williams, Jan; dlwhoocl@who.eop.gov; Lance_B._Leggitt@who.eop.gov; Anna_L._Holand@who.eop.gov; [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@osd.pentagon.mil; [redacted]@ed.gov; [redacted]@hq.doe.gov; [redacted]@epa.gov; [redacted]@epa.gov; [redacted]@hhs.gov [redacted]@hhs.gov; [redacted](DHS); [redacted]@hud.gov; [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@ios.doi.gov;

[redacted]@dol.gov; [redacted]@state.gov; [redacted]@state.gov;
[redacted]@dot.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov;
[redacted]va.gov
Subject: White House Meeting 8.15.05 re: Veterans Benefits Meeting

All,

We are hosting a meeting on Monday at 4:00 p.m. in the Cabinet Liaison Conference Room (please enter through EEOB Room 160) regarding services and benefits for veterans who have served in Iraq and Afghanistan and their families. We request that you send a representative from your Department's senior leadership to attend this meeting and ask that your representative have prepared answers to the following questions;

1) What services does your agency provide to support families who currently have loved ones in the military who are serving in Iraq and/or Afghanistan?

2) What services does your agency provide to support families who have lost loved ones in Iraq and/or Afghanistan while serving in the military?

3) What services does your agency provide to support veterans who are returning or who have already returned from serving in Iraq and/or Afghanistan?

4) What new initiatives can you propose to further support and enhance #1, 2, and 3?

Attached please find information your Department previously provided to Cabinet Liaison. We ask that you review the information and provide updates to the services and benefits listed for your Department and bring updated information to the meeting.

Please respond to this email ASAP with the name, date of birth, and social security number of the person you have designated to attend. Let me know if you have any questions.

Brian

[redacted]

456-5933

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 7:21 PM
To: McCallum, Robert (SMO); Gunn, Currie (SMO)
Cc: Henke, Tracy (SMO)
Subject: RE: Bi-weekly OJP meeting

No objection here, and I believe Tracy is out anyway.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, August 15, 2005 7:13 PM
To: Gunn, Currie (SMO)
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject: Bi-weekly OJP meeting

Since we just met last week with OJP, let's cancel the one for tomorrow unless Tracy or Neil objects. Robt.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, August 15, 2005 7:23 PM
To: Gorsuch, Neil M; Gunn, Currie (SMO)
Cc: Henke, Tracy (SMO)
Subject: RE: Bi-weekly OJP meeting

Cancel it. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 7:21 PM
To: McCallum, Robert (SMO); Gunn, Currie (SMO)
Cc: Henke, Tracy (SMO)
Subject: RE: Bi-weekly OJP meeting

No objection here, and I believe Tracy is out anyway.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, August 15, 2005 7:13 PM
To: Gunn, Currie (SMO)
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject: Bi-weekly OJP meeting

Since we just met last week with OJP, let's cancel the one for tomorrow unless Tracy or Neil objects. Robt.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 7:42 PM
To: McCallum, Robert (SMO)
Cc: Buchanan, MaryBeth; Reyes, Luis (SMO)
Subject: Call with Mary Beth

Just got off the phone with Mary Beth who reports that she has now spoken with Richter and Coleman and Margolis; all are apparently on board with the memo conceptually, though obviously they've not vetted and signed off on all of our proposed language. Alice Fisher, as you know, falls in the same category. You and/or Mary Beth may wish to make use of some or all of the foregoing tomorrow in your talks. (Richter is concerned, rightly, with the press message we craft introducing any new policy.)

Rachel today apparently made a strong impression at the AGAC, driving home the point that, while others may not be hearing criticisms, she is hearing them loud and clear and thinks something should be done to put DOJ in a better light.

Mary Beth also reported that Pat Fitzgerald has weighed in with a lukewarm response -- he personally sees no need for a statement, but if others do, then he can see some benefits flowing from such a statement. It is significant, I think, that he is not a staunch opponent.

Mary Beth expects Mike Battle and Roslynn Mauskopf to speak up in favor of the memo at tomorrow's meeting.

I continue to worry that Karin and others may wish to push for a "vote" or announce a "vote" of the subcommittee. From our conversation Friday, I believe that Paul knows that isn't what we have in mind. But you may want to make the point yourself not only to Paul, but also to the whole gathering, so there isn't any ambiguity once you leave the room about what the committee has been asked to do, explaining in the gentlest possible way that a vote isn't what you have in mind b/c: (a) this is a work in progress; and (b) the AG is the one who decides policy here, you've merely been asked to advise on this issue, and in turn you think the process would benefit from any and all advice this group wishes to share with you. To provide further direction, it might be a good idea to invite for all comments of any kind within a week, or say 10 days.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 7:53 PM
To: Shaw, Aloma A
Subject: FW: INVITATION: Last SES Briefing, September 14, 2005

I might go if it is a very slow day! Would you mind registering me?

-----Original Message-----
From: McDowell, Cynthia
Sent: Monday, August 15, 2005 5:24 PM
To: Andrea Bottner; Andrew Emrich; Brad Schlozman; Bruce Mcdonald; Carl Nichols; Carl Peed; Cheri Nolan; Clifford White; Crystal Roberts; Cybele Daley; Dan Meron; Deborah Rhodes; Deborah Spagnoli; Domingo Herraiz; Donald Gambatesa; Edward McNally; Elizabeth Kessler; Gregory Katsas; Jeffrey Bucholtz; Jeffrey Clark; Jeffrey Taylor; John Richter; Jonathan Cohn; Joseph Bianco; Kelly Johnson; Kristi Macklin; Kyle Sampson; Laura Parsky; Lily Swenson; Luis Reyes; Michael Battle; Monica Goodling; Neil Gorsuch; Nicholas Tzitzon; Pat O'Brien; Patrick Hofer; Patrick Philbin; Paul Clement; Rachel Brand; Raul Yanes; Rebecca Seidel; Richard Hertling; Richard Morrison; Robert Flores; Sean McLaughlin; Sharee Freeman; Steve Bradbury; Steven McFarland; Stuart Nash; Tasia Scolinos; Theodore Ullyot; Thomas Barnett; Tracy Henke; Uttam Dhillon; Wan Kim
Cc: Williams, Jan
Subject: INVITATION: Last SES Briefing, September 14, 2005

Dear DOJ Senior Executive Service Appointees,

On September 14th, the last Senior Executive Service Briefing of 2005 will be held at the Ronald Reagan Building. OPM, in partnership with the White House, has planned an exciting one-day program for new SES members featuring high-ranking Administration officials and government policy makers. These speakers will provide insightful information regarding their experiences in the Federal government and discuss the goals that our Executive Branch Agencies, under the leadership of President George W. Bush, are currently pursuing.

Past speakers have included Secretary Elaine Chao, Secretary Norman Mineta, Deputy Director for Management at the Office of Management and Budget, Clay Johnson, and Counsel to the President, Harriet Miers. This SES Briefing will also be a unique opportunity for Senior Executives to network with other Senior Executives from across government.

Online registrations are already being accepted at, www.opm.gov/ses/sesbriefing.asp, so sign up today! The deadline for registration is September 7, 2005. If you have any questions, please feel free to contact [redacted] via email at [redacted]@opm.gov or by phone at [redacted].

Regards,

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317

Washington, D.C. 20530
Tel: (202) 514-9376, Fax: (202) 514-3546

Holland, Eric W

From: Holland, Eric W
Sent: Monday, August 15, 2005 7:58 PM
To: Gorsuch, Neil M
Subject: Re: White House Meeting 8.15.05 re: Veterans Benefits Meeting

We'll organize bullet points. Eric

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Holland, Eric W <Eric.W.Holland@SMOJMD.USDOJ.gov>; Schlozman, Brad (CRT) <Brad.Schlozman@crt.usdoj.gov>
Sent: Mon Aug 15 18:40:12 2005
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

I returned from the White House meeting on Vet Benefits. They would like from us a set of bullets detailing anything we are doing that helps servicemen or their families, either while in service abroad, or after they return. A very broad order. And they want the bullets by tomorrow night!

Eric, I would appreciate your help with some bullets outlining what USERRA is and how we've employed it? Also, if you could do some bullets on the Soldiers and Sailors Civil Relief Act, and how we've employed it? Finally, are there any other things you know of that the Dept is doing for vets or the military, however apparently small? Eg, some departments have adopted a base, or raised funds for families of wounded soldiers, etc.

Brad, Since so much of this has a civil rights overlay, I would appreciate any bullets your shop might add. Eg, what about our efforts in the 2004 elections to ensure the military had a meaningful right to vote under the Uniformed and Overseas Absentee Voting Act? A bullet on the law, and some additional ones on our suits would be very helpful. Also, have we brought any discrimination actions on behalf of disabled Iraqui vets? Anything your folks can think of would be very helpful.

Many thanks!

Neil
-----Original Message-----
From: Holland, Eric W
Sent: Friday, August 12, 2005 4:50 PM
To: Gorsuch, Neil M
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

That information is current. If you need examples of how we have used USERRA, let me know. E

-----Original Message-----
From: Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:33 PM
To: Scolinos, Tasia
Cc: Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Thanks so much.

-----Original Message-----
From: Scolinos, Tasia
Sent: Friday, August 12, 2005 4:32 PM
To: Gorsuch, Neil M
Cc: Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Not that I am aware of. I am copying Eric Holland in my office who can also take a look at this and see if there is anything to add.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, August 12, 2005 4:23 PM
To: Scolinos, Tasia
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

Tasia - Do we have any new items to add beyond those already on the list?

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, August 12, 2005 3:55 PM
To: McCallum Jr, Robert L (LEO)
Cc: Ullyot, Theodore; Scolinos, Tasia; Gorsuch, Neil M
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Robert, would you or someone in OASG (I am comfortable with Neil or one of your other deputies) please represent the Department at the White House meeting at 4pm on Monday re Veterans Benefits? The below e-mail sets forth the requirements for the meeting. I've cc'd Tasia, as it appears that OPA has provided info to the White House on this topic before. Thanks; please confirm that OASG will handle.

-----Original Message-----
From: Brian_McDonald@who.eop.gov [mailto:Brian_McDonald@who.eop.gov]
Sent: Friday, August 12, 2005 3:34 PM
To: [redacted]@usda.gov; [redacted]@doc.gov;
[redacted]@osd.mil; [redacted]@ed.gov; [redacted]@HQ.DOE.GOV;
[redacted]@epa.gov; [redacted]@hhs.gov; [redacted](DHS);
[redacted]@hud.gov; [redacted]@ios.doi.gov;

[redacted]@dol.gov; [redacted]@state.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov
Cc: Sampson, Kyle; Williams, Jan; dlwhoocl@who.eop.gov; Lance_B._Leggitt@who.eop.gov; Anna_L._Holand@who.eop.gov; [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@osd.mil; [redacted]@osd.pentagon.mil; [redacted]@ed.gov; [redacted]@hq.doe.gov; [redacted]@epa.gov; [redacted]@epa.gov; [redacted]@hhs.gov; [redacted]@hhs.gov; [redacted] (DHS); [redacted]@hud.gov; [redacted]@hud.gov; [redacted]@ios.doi.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@state.gov; [redacted]@dot.gov; [redacted]@ost.dot.gov; [redacted]@mail.va.gov; [redacted]@va.gov
Subject: White House Meeting 8.15.05 re: Veterans Benefits Meeting

All,

We are hosting a meeting on Monday at 4:00 p.m. in the Cabinet Liaison Conference Room (please enter through EEOB Room 160) regarding services and benefits for veterans who have served in Iraq and Afghanistan and their families. We request that you send a representative from your Department's senior leadership to attend this meeting and ask that your representative have prepared answers to the following questions;

1) What services does your agency provide to support families who currently have loved ones in the military who are serving in Iraq and/or Afghanistan?

2) What services does your agency provide to support families who have lost loved ones in Iraq and/or Afghanistan while serving in the military?

3) What services does your agency provide to support veterans who are returning or who have already returned from serving in Iraq and/or Afghanistan?

4) What new initiatives can you propose to further support and enhance #1, 2, and 3?

Attached please find information your Department previously provided to Cabinet Liaison. We ask that you review the information and provide updates to the services and benefits listed for your Department and bring updated information to the meeting.

Please respond to this email ASAP with the name, date of birth, and social security number of the person you have designated to attend. Let me know if you have any questions.

Brian

456-5933

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, August 16, 2005 8:19 AM
To: Gorsuch, Neil M
Subject: Read: INVITATION: Last SES Briefing, September 14, 2005

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 8:35 AM
To: Mercer, Bill (ODAG); McCallum, Robert (SMO)
Subject: RE: Body Armor Package

Thanks. If you or someone from ODAG wants to weigh in, I know it would only add value, though I don't think it's imperative given how many rounds we and Courtney have gone through with OJP.

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Tuesday, August 16, 2005 8:33 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: RE: Body Armor Package

Neal, thanks for this. Tracy has noted that Uttam was involved in this for ODAG. Unfortunately, he's out of the country. If Robert sees no need for additional ODAG review on this, we will stay out of it given the timing and involvement of y'all and Regina.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 12:01 PM
To: Mercer, Bill (ODAG)
Cc: Elwood, Courtney; Henke, Tracy (SMO)
Subject: FW: Body Armor Package

Bill, Given the short time fuse on this, I will forward a copy of OJP's body armor report and proposal now while we are also reviewing it. If you have any questions about the background on this, feel free to give me a ring, though Courtney and Tracy are the real experts on this one. Neil

-----Original Message-----
From: Elwood, Courtney
Sent: Monday, August 15, 2005 11:57 AM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject: RE: Body Armor Package

I am a little nervous that we are going to get held up when it goes to ODAG -- since they haven't had the introduction and time with it that we have. Do you think we can/should send it to ODAG while you are reviewing? We really need to get the AG's sign off no later than Friday, which means getting it through your office and ODAG by mid-day on Thursday.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 11:42 AM
To: Elwood, Courtney; Henke, Tracy (SMO)
Subject: RE: Body Armor Package

It arrived late Friday. Tracy is out of the office, but I'm overnighting a copy to her. I will also look at it asap. Hope to have it to you by mid-week at latest. Beyond the policy formulation itself, have you already reviewed the proposed AG letter and other materials?

-----Original Message-----
From: Elwood, Courtney
Sent: Monday, August 15, 2005 10:46 AM
To: Henke, Tracy (SMO); Gorsuch, Neil M
Subject: Body Armor Package

Have you received the materials from OJP on body armor? Rafe said they should have been sent to your office on Friday. I just want to keep this moving along asap, so I can brief AG before I leave for vacation next week.

Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 8:38 AM
To: McCallum, Robert (SMO)
Cc: Reyes, Luis (SMO)
Subject: RE: Body Armor Package

Can I get 15 mins of your time this afternoon to bring you up to speed on where things stand? I want to make sure you have the background before I leave for Colorado, esp. with Tracy out. Nothing controversial remains, but we are coming close to the finish line.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 8:35 AM
To: Mercer, Bill (ODAG); McCallum, Robert (SMO)
Subject: RE: Body Armor Package

Thanks. If you or someone from ODAG wants to weigh in, I know it would only add value, though I don't think it's imperative given how many rounds we and Courtney have gone through with OJP.

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Tuesday, August 16, 2005 8:33 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: RE: Body Armor Package

Neal, thanks for this. Tracy has noted that Uttam was involved in this for ODAG. Unfortunately, he's out of the country. If Robert sees no need for additional ODAG review on this, we will stay out of it given the timing and involvement of y'all and Regina.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 12:01 PM
To: Mercer, Bill (ODAG)
Cc: Elwood, Courtney; Henke, Tracy (SMO)
Subject: FW: Body Armor Package

Bill, Given the short time fuse on this, I will forward a copy of OJP's body armor report and proposal now while we are also reviewing it. If you have any questions about the background on this, feel free to give me a ring, though Courtney and Tracy are the real experts on this one. Neil

-----Original Message-----
From: Elwood, Courtney
Sent: Monday, August 15, 2005 11:57 AM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject: RE: Body Armor Package

I am a little nervous that we are going to get held up when it goes to ODAG -- since they haven't had the introduction and time with it that we have. Do you think we can/should send it to ODAG while you are reviewing? We really need to get the AG's sign off no later than Friday, which means getting it through your office and ODAG by mid-day on Thursday.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 11:42 AM
To: Elwood, Courtney; Henke, Tracy (SMO)

Subject: RE: Body Armor Package

It arrived late Friday. Tracy is out of the office, but I'm overnighting a copy to her. I will also look at it asap. Hope to have it to you by mid-week at latest. Beyond the policy formulation itself, have you already reviewed the proposed AG letter and other materials?

-----Original Message-----
From: Elwood, Courtney
Sent: Monday, August 15, 2005 10:46 AM
To: Henke, Tracy (SMO); Gorsuch, Neil M
Subject: Body Armor Package

Have you received the materials from OJP on body armor? Rafe said they should have been sent to your office on Friday. I just want to keep this moving along asap, so I can brief AG before I leave for vacation next week.

Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 8:51 AM
To: Todd, Gordon (CRT)
Cc: Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Perfect, thanks!

-----Original Message-----
From: Todd, Gordon (CRT)
Sent: Tuesday, August 16, 2005 8:49 AM
To: Gorsuch, Neil M
Cc: Holland, Eric W
Subject: Fw: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

Neil - these are actually fully CRT subjects, and have been the subject of talking points before. Absent objection, we'll dust off what we have, update it for you and run it past Eric.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schlozman, Brad (CRT) <Brad.Schlozman@crt.usdoj.gov>
To: Gadzichowski, John M (CRT) <John.M.Gadzichowski@crt.usdoj.gov>; Todd, Gordon (CRT) <Gordon.Todd@crt.usdoj.gov>
CC: Longwitz, Tobi (CRT) <Tobi.Longwitz@crt.usdoj.gov>
Sent: Mon Aug 15 18:50:39 2005
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

I am swamped with Judge Roberts tomorrow. Gordon, can you coordinate this tomorrow with John. Thx

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 6:40 PM
To: Holland, Eric W; Schlozman, Brad (CRT)
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

I returned from the White House meeting on Vet Benefits. They would like from us a set of bullets detailing anything we are doing that helps servicemen or their families, either while in service abroad, or after they return. A very broad order. And they want the bullets by tomorrow night!

Eric, I would appreciate your help with some bullets outlining what USERRA is and how we've employed it? Also, if you could do some bullets on the Soldiers and Sailors Civil Relief Act, and how we've employed it? Finally, are there any other things you know of that the Dept is doing for vets or the military, however apparently small? Eg, some departments have adopted a base, or raised funds for families of wounded soldiers, etc.

Brad, Since so much of this has a civil rights overlay, I would appreciate any bullets your shop might add. Eg, what about our efforts in the 2004 elections to ensure the military had a meaningful right to vote under the Uniformed and Overseas Absentee Voting Act? A bullet on the law, and some additional ones on our suits would be very helpful. Also, have we brought any discrimination actions on behalf of disabled Iraqui vets? Anything your folks can think of would be very helpful.

Many thanks!

Neil
-----Original Message-----
From: Holland, Eric W
Sent: Friday, August 12, 2005 4:50 PM
To: Gorsuch, Neil M
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

That information is current. If you need examples of how we have used USERRA, let me know. E

-

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, August 16, 2005 10:39 AM
To: Gorsuch, Neil M
Subject: Read: Mtg w/USA Steve Murphy (ED Michigan)

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, August 16, 2005 10:57 AM
To: Gorsuch, Neil M
Subject: Read: Mtg w/USA Steve Murphy (ED Michigan)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 1:56 PM
To: Shaw, Aloma A
Subject: RE: Plse could you

Yes please. Say 415?

-----Original Message-----
From: Shaw, Aloma A
Sent: Tuesday, August 16, 2005 1:55 PM
To: Gorsuch, Neil M
Subject: RE: Plse could you

Dan & Carl are available after 4:00 today. Did we want to set up a meeting?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 1:12 PM
To: Shaw, Aloma A
Subject: Plse could you

Let dan meron know that I am still running behind but will try to catch up w him later today? Thanks

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 2:02 PM
To: Shaw, Aloma A
Subject: RE: Has Tracy contacted you regarding the document I FedEx to her yesterday?

No.

-----Original Message-----
From: Shaw, Aloma A
Sent: Tuesday, August 16, 2005 2:02 PM
To: Gorsuch, Neil M
Subject: Has Tracy contacted you regarding the document I FedEx to her yesterday?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 3:53 PM
To: White, Jana
Cc: Schofield, Regina; Tzitzon, Nicholas
Subject: RE: OJP anti-methamphetamine activities

Thanks so much!

-----Original Message-----
From: White, Jana
Sent: Tuesday, August 16, 2005 2:21 PM
To: Gorsuch, Neil M
Cc: Schofield, Regina; Tzitzon, Nicholas
Subject: OJP anti-methamphetamine activities

Neil,

Nick asked that I pass along the attached information regarding OJP's anti-meth activities. Please let us know if you have any questions.

Jana Sinclair White
Senior Policy Advisor
Office of the Assistant Attorney General
Office of Justice Programs
U.S. Department of Justice
Office: (202) 353-4343
Fax: (202) 514-7805

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 4:03 PM
To: Yanes, Raul; Scolinos, Tasia
Subject: OJP anti-methamphetamine activities
Attachments: OJP Meth Response one-pager August 2005.doc

Given the AG's inquiry about what he could do/say about our meth initiatives at upcoming events, it struck me that OJP is doing quite a bit of "real" work that he could highlight. You may be aware of all this but, if not, I thought you might want to have a brief summary. The attached is just that, a very brief summary, but I am sure OJP would be very glad to give you much more detail if you want it.

-----Original Message-----
From: White, Jana
Sent: Tuesday, August 16, 2005 2:21 PM
To: Gorsuch, Neil M
Cc: Schofield, Regina; Tzitzon, Nicholas
Subject: OJP anti-methamphetamine activities

Neil,

Nick asked that I pass along the attached information regarding OJP's anti-meth activities. Please let us know if you have any questions.

Jana Sinclair White
Senior Policy Advisor
Office of the Assistant Attorney General
Office of Justice Programs
U.S. Department of Justice
Office: (202) 353-4343
Fax: (202) 514-7805

METHAMPHETAMINE

The Office of Justice Programs does not have funding specifically devoted to combating methamphetamine (meth), but funds anti-meth initiatives through several programs:

- **Residential Substance Abuse Treatment (RSAT):** The Bureau of Justice Assistance (BJA) administers the RSAT Program, which assists states and local governments in developing and implementing residential substance abuse treatment programs in state and local correctional and detention facilities. This program provides the ability to offer long term drug treatment to those addicted to meth.

- **Justice Assistance Grant (JAG):** BJA launched the Byrne JAG Program in FY05, which is a formula grant program that allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system. Byrne funds can be used to support task force meth enforcement, pseudoephedrine monitoring, and prevention, education, and treatment programs across the nation.

In addition, OJP addresses the meth problem by developing resources and providing training and technical assistance that support our state and local law enforcement partners:

- **Drug Courts:** BJA recently released a report, *Drug Courts: An Effective Strategy for Communities Facing Methamphetamine*, which documents the successes of drug courts in addressing meth and provides recommendations for addressing meth through drug courts.

- **Task Force Training:** BJA provides training to drug task force commanders on meth and drug task force management and operations through its Center for Task Force Management (CenTF). BJA has provided funds to triple the number of CenTF meth training courses provided to law enforcement through FY 06.

- **Prosecutor Training:** BJA has partnered with the National District Attorney's Association (NDAA) to provide local prosecutors with training related to handling drug cases. "Illegal Drugs: New Problems, New Solutions for Prosecutors" is a two-day course that covers meth and other drug issues including drug endangered children, the links between drug trafficking and terrorism, and the connection between drugs, gangs, and guns. This course will be provided through FY 06.

- **Repository/Technical Assistance:** BJA works closely with the Office of National Drug Control Policy (ONDCP) and the National Alliance on Model State Drug Laws (NAMSDL) to establish a repository of information on current state laws addressing meth and its precursor chemicals. Technical assistance on developing model state statutes is also provided through NAMSDL and a National Summit on methamphetamine is planned for December 2005.

- **Information Sharing:** BJA supports the Regional Information Sharing System (RISS) to provide secure communication capabilities and other support to address multi-jurisdictional criminal activity. Support services provided free-of-charge to law enforcement member agencies include information sharing resources, analytical services, loan of specialized investigative and surveillance equipment, confidential funds for drug investigations, and training conferences and technical assistance. RISS operates a secure intranet, known as RISSNET™, to facilitate law enforcement communications and information sharing nationwide.

- **MethResources.gov:** BJA is working in partnership with ONDCP to develop and launch a new national meth resource, MethResources.gov, which will provide a centralized resource for the most current and reliable information on meth. MethResources.gov will link policymakers, practitioners, researchers, and community members with information on the most promising research, policy, and practices around the country and ways to prevent meth abuse.

- **Victim Resources:** The Office for Victims of Crime (OVC) released a bulletin in 2003 focusing on victims of methamphetamine use who are too often overlooked – children found living or visiting methamphetamine laboratories. These children face severe health and safety risks, including fires and explosions. The bulletin, *Children at Clandestine Methamphetamine Labs: Helping Meth's Youngest Victims*, explains that the best way to help these children is through coordinated multi-disciplinary efforts, such as, medical/mental health services, child protective services, law enforcement, prosecutors, and public safety officials.

- **Drug Endangered Children programs:** A number of communities have addressed the immediate crisis presented when children are found at meth lab sites by instituting Drug Endangered Children (DEC) programs. In September of 2003, OVC provided funding to the United States Attorney's Office in the Southern District of California (USAO/SDCA) to hire a National DEC training coordinator. The National DEC coordinator develops a standardized curriculum, draws upon expertise in a number of regions with effective DEC programs, establishes methods to evaluate and respond to training requests from communities, develops performance measures, and shares information regarding best practices. OVC provided the USAO/SDCA with $133,000 in 2003 and an additional $100,000 in 2005 to continue to support training efforts across the country.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 4:03 PM
To: McCallum, Robert (SMO)
Subject: FW: OJP anti-methamphetamine activities
Attachments: OJP Meth Response one-pager August 2005.doc

FYI

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 4:03 PM
To: Yanes, Raul; Scolinos, Tasia
Subject: OJP anti-methamphetamine activities

Given the AG's inquiry about what he could do/say about our meth initiatives at upcoming events, it struck me that OJP is doing quite a bit of "real" work that he could highlight. You may be aware of all this but, if not, I thought you might want to have a brief summary. The attached is just that, a very brief summary, but I am sure OJP would be very glad to give you much more detail if you want it.

-----Original Message-----
From: White, Jana
Sent: Tuesday, August 16, 2005 2:21 PM
To: Gorsuch, Neil M
Cc: Schofield, Regina; Tzitzon, Nicholas
Subject: OJP anti-methamphetamine activities

Neil,

Nick asked that I pass along the attached information regarding OJP's anti-meth activities. Please let us know if you have any questions.

Jana Sinclair White
Senior Policy Advisor
Office of the Assistant Attorney General
Office of Justice Programs
U.S. Department of Justice
Office: (202) 353-4343
Fax: (202) 514-7805

METHAMPHETAMINE

The Office of Justice Programs does not have funding specifically devoted to combating methamphetamine (meth), but funds anti-meth initiatives through several programs:

- **Residential Substance Abuse Treatment (RSAT):** The Bureau of Justice Assistance (BJA) administers the RSAT Program, which assists states and local governments in developing and implementing residential substance abuse treatment programs in state and local correctional and detention facilities. This program provides the ability to offer long term drug treatment to those addicted to meth.

- **Justice Assistance Grant (JAG):** BJA launched the Byrne JAG Program in FY05, which is a formula grant program that allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system. Byrne funds can be used to support task force meth enforcement, pseudoephedrine monitoring, and prevention, education, and treatment programs across the nation.

In addition, OJP addresses the meth problem by developing resources and providing training and technical assistance that support our state and local law enforcement partners:

- **Drug Courts:** BJA recently released a report, *Drug Courts: An Effective Strategy for Communities Facing Methamphetamine*, which documents the successes of drug courts in addressing meth and provides recommendations for addressing meth through drug courts.

- **Task Force Training:** BJA provides training to drug task force commanders on meth and drug task force management and operations through its Center for Task Force Management (CenTF). BJA has provided funds to triple the number of CenTF meth training courses provided to law enforcement through FY 06.

- **Prosecutor Training:** BJA has partnered with the National District Attorney's Association (NDAA) to provide local prosecutors with training related to handling drug cases. "Illegal Drugs: New Problems, New Solutions for Prosecutors" is a two-day course that covers meth and other drug issues including drug endangered children, the links between drug trafficking and terrorism, and the connection between drugs, gangs, and guns. This course will be provided through FY 06.

- **Repository/Technical Assistance:** BJA works closely with the Office of National Drug Control Policy (ONDCP) and the National Alliance on Model State Drug Laws (NAMSDL) to establish a repository of information on current state laws addressing meth and its precursor chemicals. Technical assistance on developing model state statutes is also provided through NAMSDL and a National Summit on methamphetamine is planned for December 2005.

- **Information Sharing:** BJA supports the Regional Information Sharing System (RISS) to provide secure communication capabilities and other support to address multi-jurisdictional criminal activity. Support services provided free-of-charge to law enforcement member agencies include information sharing resources, analytical services, loan of specialized investigative and surveillance equipment, confidential funds for drug investigations, and training conferences and technical assistance. RISS operates a secure intranet, known as RISSNET™, to facilitate law enforcement communications and information sharing nationwide.

- **MethResources.gov:** BJA is working in partnership with ONDCP to develop and launch a new national meth resource, MethResources.gov, which will provide a centralized resource for the most current and reliable information on meth. MethResources.gov will link policymakers, practitioners, researchers, and community members with information on the most promising research, policy, and practices around the country and ways to prevent meth abuse.

- **Victim Resources:** The Office for Victims of Crime (OVC) released a bulletin in 2003 focusing on victims of methamphetamine use who are too often overlooked – children found living or visiting methamphetamine laboratories. These children face severe health and safety risks, including fires and explosions. The bulletin, *Children at Clandestine Methamphetamine Labs: Helping Meth's Youngest Victims*, explains that the best way to help these children is through coordinated multi-disciplinary efforts, such as, medical/mental health services, child protective services, law enforcement, prosecutors, and public safety officials.

- **Drug Endangered Children programs:** A number of communities have addressed the immediate crisis presented when children are found at meth lab sites by instituting Drug Endangered Children (DEC) programs. In September of 2003, OVC provided funding to the United States Attorney's Office in the Southern District of California (USAO/SDCA) to hire a National DEC training coordinator. The National DEC coordinator develops a standardized curriculum, draws upon expertise in a number of regions with effective DEC programs, establishes methods to evaluate and respond to training requests from communities, develops performance measures, and shares information regarding best practices. OVC provided the USAO/SDCA with $133,000 in 2003 and an additional $100,000 in 2005 to continue to support training efforts across the country.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 5:01 PM
To: Meron, Daniel (CIV)
Subject: FW: Pls call Carl Nichols or Dan Meron and let them know when they can come up to meet. They were delayed for the 4:30.

I have a 5pm with Robert, but should free up by 530. Work for you?

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Tuesday, August 16, 2005 4:49 PM
To: Gorsuch, Neil M
Cc: Shaw, Aloma A
Subject: Pls call Carl Nichols or Dan Meron and let them know when they can come up to meet. They were delayed for the 4:30.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 5:04 PM
To: Todd, Gordon (CRT)
Cc: Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Sorry to press, but given the rather unreasonable deadline we were given, have you had a chance to put anything together today?

-----Original Message-----
From: Todd, Gordon (CRT)
Sent: Tuesday, August 16, 2005 8:49 AM
To: Gorsuch, Neil M
Cc: Holland, Eric W
Subject: Fw: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

Neil - these are actually fully CRT subjects, and have been the subject of talking points before. Absent objection, we'll dust off what we have, update it for you and run it past Eric.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schlozman, Brad (CRT) <Brad.Schlozman@crt.usdoj.gov>
To: Gadzichowski, John M (CRT) <John.M.Gadzichowski@crt.usdoj.gov>; Todd, Gordon (CRT) <Gordon.Todd@crt.usdoj.gov>
CC: Longwitz, Tobi (CRT) <Tobi.Longwitz@crt.usdoj.gov>
Sent: Mon Aug 15 18:50:39 2005
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

I am swamped with Judge Roberts tomorrow. Gordon, can you coordinate this tomorrow with John. Thx

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 6:40 PM
To: Holland, Eric W; Schlozman, Brad (CRT)
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

I returned from the White House meeting on Vet Benefits. They would like from us a set of bullets detailing anything we are doing that helps servicemen or their families, either while in service abroad,

or after they return. A very broad order. And they want the bullets by tomorrow night!

Eric, I would appreciate your help with some bullets outlining what USERRA is and how we've employed it? Also, if you could do some bullets on the Soldiers and Sailors Civil Relief Act, and how we've employed it? Finally, are there any other things you know of that the Dept is doing for vets or the military, however apparently small? Eg, some departments have adopted a base, or raised funds for families of wounded soldiers, etc.

Brad, Since so much of this has a civil rights overlay, I would appreciate any bullets your shop might add. Eg, what about our efforts in the 2004 elections to ensure the military had a meaningful right to vote under the Uniformed and Overseas Absentee Voting Act? A bullet on the law, and some additional ones on our suits would be very helpful. Also, have we brought any discrimination actions on behalf of disabled Iraqui vets? Anything your folks can think of would be very helpful.

Many thanks!

Neil
-----Original Message-----
From: Holland, Eric W
Sent: Friday, August 12, 2005 4:50 PM
To: Gorsuch, Neil M
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

That information is current. If you need examples of how we have used USERRA, let me know. E

-

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 5:05 PM
To: Holland, Eric W; Todd, Gordon (CRT)
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Thanks so much - and sorry for the irrational deadline!

-----Original Message-----
From: Holland, Eric W
Sent: Tuesday, August 16, 2005 5:05 PM
To: Gorsuch, Neil M; Todd, Gordon (CRT)
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

CRT is in the process of finalizing bullet points.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 5:04 PM
To: Todd, Gordon (CRT)
Cc: Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Sorry to press, but given the rather unreasonable deadline we were given, have you had a chance to put anything together today?

-----Original Message-----
From: Todd, Gordon (CRT)
Sent: Tuesday, August 16, 2005 8:49 AM
To: Gorsuch, Neil M
Cc: Holland, Eric W
Subject: Fw: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

Neil - these are actually fully CRT subjects, and have been the subject of talking points before. Absent objection, we'll dust off what we have, update it for you and run it past Eric.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schlozman, Brad (CRT) <Brad.Schlozman@crt.usdoj.gov>
To: Gadzichowski, John M (CRT) <John.M.Gadzichowski@crt.usdoj.gov>; Todd, Gordon (CRT)

To: Gadzichowski, John M (CRT) <John.M.Gadzichowski@crt.usdoj.gov>; Todd, Gordon (CRT) <Gordon.Todd@crt.usdoj.gov>
CC: Longwitz, Tobi (CRT) <Tobi.Longwitz@crt.usdoj.gov>
Sent: Mon Aug 15 18:50:39 2005
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

I am swamped with Judge Roberts tomorrow. Gordon, can you coordinate this tomorrow with John. Thx

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 6:40 PM
To: Holland, Eric W; Schlozman, Brad (CRT)
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

I returned from the White House meeting on Vet Benefits. They would like from us a set of bullets detailing anything we are doing that helps servicemen or their families, either while in service abroad, or after they return. A very broad order. And they want the bullets by tomorrow night!

Eric, I would appreciate your help with some bullets outlining what USERRA is and how we've employed it? Also, if you could do some bullets on the Soldiers and Sailors Civil Relief Act, and how we've employed it? Finally, are there any other things you know of that the Dept is doing for vets or the military, however apparently small? Eg, some departments have adopted a base, or raised funds for families of wounded soldiers, etc.

Brad, Since so much of this has a civil rights overlay, I would appreciate any bullets your shop might add. Eg, what about our efforts in the 2004 elections to ensure the military had a meaningful right to vote under the Uniformed and Overseas Absentee Voting Act? A bullet on the law, and some additional ones on our suits would be very helpful. Also, have we brought any discrimination actions on behalf of disabled Iraqui vets? Anything your folks can think of would be very helpful.

Many thanks!

Neil
-----Original Message-----
From: Holland, Eric W
Sent: Friday, August 12, 2005 4:50 PM
To: Gorsuch, Neil M
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

That information is current. If you need examples of how we have used USERRA, let me know. E

-

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 5:05 PM
To: Meron, Daniel (CIV)
Subject: yet another change --

Robt just pushed back our mtg to 530. Want to talk now?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 5:15 PM
To: Gorsuch, Neil M
Subject: SHANNON BURKHARDT

sburkhardt@who.eop.gov

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 6:43 PM
To: Longwitz, Tobi (CRT); Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

very many thanks for the super quick turnaround.

-----Original Message-----
From: Longwitz, Tobi (CRT)
Sent: Tuesday, August 16, 2005 6:02 PM
To: Holland, Eric W; Gorsuch, Neil M
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

My apologies, one addition that I have added below (attached document also incorporates correction). It clarifies that the Civil Rights Division assumed responsibility in September 2004. Please let us know if you need more information or more details on anything provided. Thank you.

-----Original Message-----
From: Holland, Eric W
Sent: Tuesday, August 16, 2005 5:50 PM
To: Gorsuch, Neil M
Cc: Scolinos, Tasia; Longwitz, Tobi (CRT); Todd, Gordon (CRT)
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Attached are bullet points prepares by CRT. Said bullet points are included in the email's text as well.

Department of Justice Civil Rights Division
August 16, 2005

Uniform Services Employment and Reemployment Rights Act (USERRA)

USERRA was enacted to protect veterans of the Armed Services of the United States when they seek to resume the job they left to serve their country. The goal is to protect those in the uniformed services and their families from financial hardship because they chose to serve their country.

USERRA recognizes the sacrifice made by those in the uniformed services who are often separated from their work and families for training, National Guard duty, and active service. USERRA enables those who serve their country to return to their civilian positions with the seniority, status, rate of pay, health and pension benefits they would have received if they had worked continuously for their employer.

The Department of Justice represents these service men and women personally, they do not have to hire outside lawyers. Among the remedies DOJ pursues are reinstatement to the prior position and all

hire outside lawyers. Among the remedies DOJ pursues are reinstatement to the prior position and all benefits of employment including lost wages (and interest on the wages) and pension contributions. These remedies are important because if these veterans had not sacrificed their time to serve, they would have been earning these benefits at their places of employment.

Because our country's service men and women come from a wide range of career fields - they are our teachers, government employees, computer technicians and law enforcement community- USERRA protects all jobs, regardless of whether the business is large or small, public or private.

The Civil Rights Division assumed responsibility for USERRA in September 2004. Since that time, the Civil Rights Division has filed 6 cases this fiscal year and successfully negotiated three settlement agreements resulting in reemployment for veterans and a recovery of lost wages. The Division currently has more than twenty USERRA investigations it is actively and aggressively pursuing, so that uniformed service men and women will quickly be placed back into the life and career they put on hold for service to their country.

Tennessee - The Division successfully resolved a USERRA complaint filed against Bridgestone/Firestone, on behalf of Charles Goodreau in March 2005. The company agreed to pay Mr. Goodreau $6,128.00 in back pay and interest for the time he was performing his obligated service in the Army National Guard.

New Jersey - Upon completion of active military service, Anthony Lincoln's employer, First Express, Inc., refused to promptly reemploy him. The Department of Labor successfully persuaded the company to reinstate Mr. Lincoln, but he was refused the lost wages owed to him had he been reinstated immediately. Following our lawsuit, the employer agreed to provide $3,740 in lost wages.

Indiana - The Indiana Department of Corrections suspended and then terminated James Lowell AmRhein for violating the leave policy while participating in uniformed service. The Division filed suit on behalf of Mr. AmRhein in August 2005, and the parties have agreed to a settlement that will compensate Mr. AmRhein for lost wages, reinstate seniority and related benefits, and remove the suspension and termination for his records.

Servicemembers Civil Relief Act (SCRA)

The Servicemembers Civil Relief Act provides a number of benefits to servicemembers with financial hardships caused by their military service. It can, for example, provide relief from civil default judgments, and reduce the interest rate on some loans to 6%.

Any servicemember can claim the relief provided by the SCRA. They can also seek the assistance of military lawyers to invoke the SCRA's protections.

The Civil Rights Division is the DOJ component with principal authority to enforce the SCRA. We have been working with DOD to establish a mechanism for litigating the SCRA, where appropriate. While the SCRA does not provide for enforcement by DOJ, we have long opined that 28 USC 517 authorizes us to represent individuals in certain instances, as with the SCRA.

Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)

Protecting the Voting Rights of Military and Civilian Citizens Overseas. UOCAVA requires states to allow uniformed services voters and other overseas citizens to register to vote and vote absentee for all elections for federal office. With respect to enforcement of UOCAVA, we obtained a preliminary

injunction in April, 2004 from a district court against the Commonwealth of Pennsylvania in an action alleging that the time schedule for mailing absentee ballots for the June primary election violated UOCAVA. In May 2004, the Division worked with Alabama state and local officials to remedy a violation in Tuscaloosa County, which was successfully resolved by a state court order to extend the deadline for receipt of overseas ballots. On July 15, 2004, the Division obtained an emergency order in a suit against Georgia, providing broad relief for its failure to ensure overseas voters could vote in the 2004 primary and run-off elections. In July 2005, the Department reached a court approved settlement agreement with Georgia providing permanent remedy for overseas voters. The Division has also engaged in extensive outreach to states in 2004 about their duties under UOCAVA.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 5:05 PM
To: Holland, Eric W; Todd, Gordon (CRT)
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Thanks so much - and sorry for the irrational deadline!

-----Original Message-----
From: Holland, Eric W
Sent: Tuesday, August 16, 2005 5:05 PM
To: Gorsuch, Neil M; Todd, Gordon (CRT)
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

CRT is in the process of finalizing bullet points.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 5:04 PM
To: Todd, Gordon (CRT)
Cc: Holland, Eric W
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Sorry to press, but given the rather unreasonable deadline we were given, have you had a chance to put anything together today?

-----Original Message-----
From: Todd, Gordon (CRT)
Sent: Tuesday, August 16, 2005 8:49 AM
To: Gorsuch, Neil M
Cc: Holland, Eric W
Subject: Fw: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

Neil - these are actually fully CRT subjects, and have been the subject of talking points before. Absent

Neil - these are actually fully CRT subjects, and have been the subject of talking points before. Absent objection, we'll dust off what we have, update it for you and run it past Eric.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schlozman, Brad (CRT) <Brad.Schlozman@crt.usdoj.gov>
To: Gadzichowski, John M (CRT) <John.M.Gadzichowski@crt.usdoj.gov>; Todd, Gordon (CRT) <Gordon.Todd@crt.usdoj.gov>
CC: Longwitz, Tobi (CRT) <Tobi.Longwitz@crt.usdoj.gov>
Sent: Mon Aug 15 18:50:39 2005
Subject: FW: White House Meeting 8.15.05 re: Veterans Benefits Meeting

I am swamped with Judge Roberts tomorrow. Gordon, can you coordinate this tomorrow with John. Thx

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, August 15, 2005 6:40 PM
To: Holland, Eric W; Schlozman, Brad (CRT)
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting
Importance: High

I returned from the White House meeting on Vet Benefits. They would like from us a set of bullets detailing anything we are doing that helps servicemen or their families, either while in service abroad, or after they return. A very broad order. And they want the bullets by tomorrow night!

Eric, I would appreciate your help with some bullets outlining what USERRA is and how we've employed it? Also, if you could do some bullets on the Soldiers and Sailors Civil Relief Act, and how we've employed it? Finally, are there any other things you know of that the Dept is doing for vets or the military, however apparently small? Eg, some departments have adopted a base, or raised funds for families of wounded soldiers, etc.

Brad, Since so much of this has a civil rights overlay, I would appreciate any bullets your shop might add. Eg, what about our efforts in the 2004 elections to ensure the military had a meaningful right to vote under the Uniformed and Overseas Absentee Voting Act? A bullet on the law, and some additional ones on our suits would be very helpful. Also, have we brought any discrimination actions on behalf of disabled Iraqui vets? Anything your folks can think of would be very helpful.

Many thanks!

Neil
-----Original Message-----
From: Holland, Eric W
Sent: Friday, August 12, 2005 4:50 PM
To: Gorsuch, Neil M
Subject: RE: White House Meeting 8.15.05 re: Veterans Benefits Meeting

That information is current. If you need examples of how we have used USERRA, let me know. E

-

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 6:51 PM
To: 'sburkhardt@who.eop.gov'
Cc: Reyes, Luis (SMO)
Subject: Veterans

Shannon - Below are some bullets regarding DOJ programmatic efforts on behalf of US service personnel and veterans. If you need anything more, don't hesitate to let me know. Neil

Uniform Services Employment and Reemployment Rights Act (USERRA)

USERRA was enacted to protect veterans of the Armed Services of the United States when they seek to resume the job they left to serve their country. The goal is to protect those in the uniformed services and their families from financial hardship because they chose to serve their country.

USERRA recognizes the sacrifice made by those in the uniformed services who are often separated from their work and families for training, National Guard duty, and active service. USERRA enables those who serve their country to return to their civilian positions with the seniority, status, rate of pay, health and pension benefits they would have received if they had worked continuously for their employer.

The Department of Justice represents these service men and women personally, they do not have to hire outside lawyers. Among the remedies DOJ pursues are reinstatement to the prior position and all benefits of employment including lost wages (and interest on the wages) and pension contributions. These remedies are important because if these veterans had not sacrificed their time to serve, they would have been earning these benefits at their places of employment.

Because our country's service men and women come from a wide range of career fields - they are our teachers, government employees, computer technicians and law enforcement community- USERRA protects all jobs, regardless of whether the business is large or small, public or private.

The Civil Rights Division assumed responsibility for USERRA in September 2004. Since that time, the Civil Rights Division has filed 6 cases this fiscal year and successfully negotiated three settlement agreements resulting in reemployment for veterans and a recovery of lost wages. The Division currently has more than twenty USERRA investigations it is actively and aggressively pursuing, so that uniformed service men and women will quickly be placed back into the life and career they put on hold for service to their country.

Tennessee - The Department successfully resolved a USERRA complaint filed against Bridgestone/Firestone, on behalf of [redacted]. The company agreed to pay [redacted] and interest for the time [redacted] was performing [redacted] obligated service in the Army National Guard.

New Jersey - Upon completion of active military service, [redacted]

employer, [redacted]., refused to promptly reemploy [redacted]. The Department of Labor successfully persuaded the company to reinstate [redacted], but [redacted] was refused the lost wages owed to [redacted] had [redacted] been reinstated immediately. Following our lawsuit, the employer agreed to provide [redacted] in lost wages.

Indiana - The Indiana Department of Corrections suspended and then terminated [redacted] for violating the leave policy while participating in uniformed service. The Department filed suit on behalf of [redacted], and the parties have agreed to a settlement that will compensate [redacted] for lost wages, reinstate seniority and related benefits, and remove the suspension and termination for [redacted] records.

Servicemembers Civil Relief Act (SCRA)

The Servicemembers Civil Relief Act provides a number of benefits to servicemembers with financial hardships caused by their military service. It can, for example, provide relief from civil default judgments, and reduce the interest rate on some loans to 6%.

Any servicemember can claim the relief provided by the SCRA. They can also seek the assistance of military lawyers to invoke the SCRA's protections.

We have been working with DOD to establish a mechanism for litigating the SCRA, where appropriate. While the SCRA does not provide for enforcement by DOJ, we have opined that 28 USC 517 authorizes us to represent individuals in certain instances, as with the SCRA.

Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)

Protecting the Voting Rights of Military and Civilian Citizens Overseas. UOCAVA requires states to allow uniformed services voters and other overseas citizens to register to vote and vote absentee for all elections for federal office.

We obtained a preliminary injunction in April, 2004 from a district court against the Commonwealth of Pennsylvania in an action alleging that the time schedule for mailing absentee ballots for the June primary election violated UOCAVA.

In May 2004, the Division worked with Alabama state and local officials to remedy a violation in Tuscaloosa County, which was successfully resolved by a state court order to extend the deadline for receipt of overseas ballots. On

On July 15, 2004, the Division obtained an emergency order in a suit against Georgia, providing broad relief for its failure to ensure overseas voters could vote in the 2004 primary and run-off elections. The Department reached a court approved settlement agreement with Georgia providing permanent remedy for overseas voters.

The Department has also engaged in extensive outreach to states in 2004 about their duties under UOCAVA.

Neil M. Gorsuch
Principal Deputy Associate Attorney General

U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 6:52 PM
To: Shaw, Aloma A
Subject: RE: !

Many thanks. Gotta like that smiling sunshine!

-----Original Message-----
From: Shaw, Aloma A
Sent: Tuesday, August 16, 2005 5:44 PM
To: Gorsuch, Neil M
Subject: !

Neil:

Have a great vacation! Please try not to be burdened with too much office activity. If I can assist you in any way, do not hesitate, to call or shoot me an email. Enjoy!

Aloma

<< OLE Object: WordPerfect 9 Document >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 6:54 PM
To: 'sburkhart@who.eop.gov'
Subject: FW: Veterans

Shannon - Below are some bullets regarding DOJ programmatic efforts on behalf of US service personnel and veterans. If you need anything more, don't hesitate to let me know. Neil

Uniform Services Employment and Reemployment Rights Act (USERRA)

USERRA was enacted to protect veterans of the Armed Services of the United States when they seek to resume the job they left to serve their country. The goal is to protect those in the uniformed services and their families from financial hardship because they chose to serve their country.

USERRA recognizes the sacrifice made by those in the uniformed services who are often separated from their work and families for training, National Guard duty, and active service. USERRA enables those who serve their country to return to their civilian positions with the seniority, status, rate of pay, health and pension benefits they would have received if they had worked continuously for their employer.

The Department of Justice represents these service men and women personally, they do not have to hire outside lawyers. Among the remedies DOJ pursues are reinstatement to the prior position and all benefits of employment including lost wages (and interest on the wages) and pension contributions. These remedies are important because if these veterans had not sacrificed their time to serve, they would have been earning these benefits at their places of employment.

Because our country's service men and women come from a wide range of career fields - they are our teachers, government employees, computer technicians and law enforcement community- USERRA protects all jobs, regardless of whether the business is large or small, public or private.

The Civil Rights Division assumed responsibility for USERRA in September 2004. Since that time, the Civil Rights Division has filed 6 cases this fiscal year and successfully negotiated three settlement agreements resulting in reemployment for veterans and a recovery of lost wages. The Division currently has more than twenty USERRA investigations it is actively and aggressively pursuing, so that uniformed service men and women will quickly be placed back into the life and career they put on hold for service to their country.

Tennessee - The Department successfully resolved a USERRA complaint filed against Bridgestone/Firestone, on behalf of [redacted] in March 2005. The company agreed to pay [redacted] $6,128.00 in back pay and interest for the time he was performing his obligated service in the Army National Guard.

New Jersey - Upon completion of active military service, [redacted]'s

employer, First Express, Inc., refused to promptly reemploy him. The Department of Labor successfully persuaded the company to reinstate [redacted], but he was refused the lost wages owed to him had he been reinstated immediately. Following our lawsuit, the employer agreed to provide $3,740 in lost wages.

Indiana - The Indiana Department of Corrections suspended and then terminated [redacted] for violating the leave policy while participating in uniformed service. The Department filed suit on behalf of [redacted] in August 2005, and the parties have agreed to a settlement that will compensate [redacted] for lost wages, reinstate seniority and related benefits, and remove the suspension and termination for his records.

Servicemembers Civil Relief Act (SCRA)

The Servicemembers Civil Relief Act provides a number of benefits to servicemembers with financial hardships caused by their military service. It can, for example, provide relief from civil default judgments, and reduce the interest rate on some loans to 6%.

Any servicemember can claim the relief provided by the SCRA. They can also seek the assistance of military lawyers to invoke the SCRA's protections.

We have been working with DOD to establish a mechanism for litigating the SCRA, where appropriate. While the SCRA does not provide for enforcement by DOJ, we have opined that 28 USC 517 authorizes us to represent individuals in certain instances, as with the SCRA.

Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)

Protecting the Voting Rights of Military and Civilian Citizens Overseas. UOCAVA requires states to allow uniformed services voters and other overseas citizens to register to vote and vote absentee for all elections for federal office.

We obtained a preliminary injunction in April, 2004 from a district court against the Commonwealth of Pennsylvania in an action alleging that the time schedule for mailing absentee ballots for the June primary election violated UOCAVA.

In May 2004, the Division worked with Alabama state and local officials to remedy a violation in Tuscaloosa County, which was successfully resolved by a state court order to extend the deadline for receipt of overseas ballots. On

On July 15, 2004, the Division obtained an emergency order in a suit against Georgia, providing broad relief for its failure to ensure overseas voters could vote in the 2004 primary and run-off elections. The Department reached a court approved settlement agreement with Georgia providing permanent remedy for overseas voters.

The Department has also engaged in extensive outreach to states in 2004 about their duties under UOCAVA.

Neil M. Gorsuch
Principal Deputy Associate Attorney General

U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 7:28 PM
To: Mercer, Bill (ODAG)
Subject: RE: Out of Office

[redacted]

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Tuesday, August 16, 2005 7:23 PM
To: Gorsuch, Neil M
Subject: RE: Out of Office

[redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, August 16, 2005 4:27 PM
To: Yanes, Raul; Ullyot, Theodore; Elwood, Courtney; Sampson, Kyle; Taylor, Jeffrey (OAG); Mercer, Bill (ODAG)
Cc: McCallum, Robert (SMO); Reyes, Luis (SMO); Shaw, Aloma A
Subject: Out of Office

As many of you already know, I will be out, and thus miss morning meetings, starting tomorrow through next Friday (26th). [redacted] I will be checking email, though, and will be reachable by cell phone ([redacted]). Don't hesitate to be in touch if you need anything. Luis Reyes will also be available in OASG help cover my docket.

Mercer, Bill (ODAG)

From: Mercer, Bill (ODAG)
Sent: Tuesday, August 16, 2005 7:42 PM
To: Gorsuch, Neil M
Subject: Read: Out of Office

Longwitz, Tobi (CRT)

From: Longwitz, Tobi (CRT)
Sent: Tuesday, August 16, 2005 11:09 PM
To: Gorsuch, Neil M
Subject: Read: White House Meeting 8.15.05 re: Veterans Benefits Meeting

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, August 17, 2005 8:11 AM
To: Gorsuch, Neil M
Subject: Read: !

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 01, 2005 7:13 AM
To: Keisler, Peter D. (CIV)
Subject: Re: The State Dept call

Sorry to hear this! I will be around all day - absolutely no rush.

-----Original Message-----
From: Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Aug 31 21:21:55 2005
Subject: The State Dept call

had JUST ENDED. I didn't think it would take that long. Would you like to talk tonight, or first thing tomorrow morning? I am going home now -- should be there about 10:00 -- and could talk either then or tomorrow, whichever works better for you.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 01, 2005 7:14 AM
To: Tzitzon, Nicholas
Subject: Re: Katrina

Thanks for the heads up.

-----Original Message-----
From: Tzitzon, Nicholas <Nicholas.Tzitzon@usdoj.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
CC: Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Daley, Cybele <Cybele.Daley@usdoj.gov>
Sent: Wed Aug 31 21:04:33 2005
Subject: RE: Katrina

Neil/Tracy:

Regina asked that the OJP bureaus and program offices submit additional suggestions for how OJP might contribute to the DOJ Katrina response. The attached document, still very much a draft, is a good collection of ideas from each of the bureaus. We've sent it over to JMD as they are collecting similar information from all of the components (we sent it under draft cover).

As always, let us know if you have any questions or would like any additional information.

Many thanks,
Nick

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Wednesday, August 31, 2005 10:06 AM
To: Daley, Cybele; Tzitzon, Nicholas
Cc: Gorsuch, Neil M
Subject: FW: Katrina

Cybele/Nick:
See below. Wanted to make certain you were aware since Regina is on vacation.
Tracy

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, August 31, 2005 9:43 AM
To: Schofield, Regina

To: Schofield, Regina
Cc: McCallum, Robert (SMO); Henke, Tracy (SMO)
Subject: Katrina

Regina,

Is OJP considering whether to direct or redirect any grant money toward the hurricane-affected region? Do you know whether, in similar past disasters (eg Andrew), OJP done anything of this sort?

Best,

NMG

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, September 01, 2005 7:46 AM
To: Gorsuch, Neil M
Subject: Fw: CRS / New Orleans

This is where we are on this one.

-----Original Message-----
From: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 01:54:23 2005
Subject: Re: CRS / New Orleans

Lou: I agree with you. Thx.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Schlozman, Brad (CRT) <Brad.Schlozman@crt.usdoj.gov>; Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>; Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>; Roberts, Crystal <Crystal.Roberts@SMOJMD.USDOJ.gov>
Sent: Wed Aug 31 18:16:14 2005
Subject: CRS / New Orleans

Bill, Courtney:

FYI:

Just wanted to advise that the DOJ Community Relations Service has asked for clearance/guidance on whether or not to deploy to New Orleans. We have advised them to standby. CRS's mandate is to deploy to areas where there are "existing" racial conflicts (typically with law enforcement) and help in conciliation efforts. Of particluar note, Congress specifically stated in a '99 Conference Report that CRS should not be involved in emergency disaster planning absent an existing racial conflict or a request by local law enforcement. Law enforcement in the affected areas has not requested a CRS presence at this time, and while there is unrest, an "existing" racial conflict is not readily identifiable. Additionally, there would need to be close coordination with relevant USAOs and DHS before prematurely throwing more folks into the mix of an already confusing situation. As a result, OASG has advised CRS to closely monitor and standby as the situation develops, but no more. It may be that as the water resides and the call to restore order comes it would be appropriate for CRS to infuse, but at this point, I believe the course is to monitor and observe.

this point, I believe the course is to monitor and observe.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 01, 2005 7:56 AM
To: 'Lily.f.swenson@usdoj.gov'
Subject: Fw: Options for a DOJ Privacy Office
Attachments: DOJ Privacy Office Proposal - OLP Comments.doc

What do you think of this? Perhaps spin off foia functions to civ and put privacy functions into a new office in jmd or elsewhere?

-----Original Message-----
From: McIntosh, Brent <Brent.McIntosh@SMOJMD.USDOJ.gov>
To: Davis, John S (ODAG) <John.S.Davis@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>; Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
CC: Connor, Mark <Mark.Connor@SMOJMD.USDOJ.gov>; Burton, Dawn (ODAG) <Dawn.Burton@SMOJMD.USDOJ.gov>; Rybicki, James E <James.E.Rybicki@SMOJMD.USDOJ.gov>; Brand, Rachel <Rachel.Brand@SMOJMD.USDOJ.gov>
Sent: Wed Aug 31 20:40:03 2005
Subject: RE: Options for a DOJ Privacy Office

In anticipation of tomorrow's meeting, we've put some of OLP's thoughts on paper. Please see the attached.

BJMcI

-----Original Message-----
From: Davis, John S (ODAG)
Sent: Thursday, August 25, 2005 9:38 AM
To: Gorsuch, Neil M; Yanes, Raul; Kessler, Elizabeth A; Swenson, Lily F; Brand, Rachel; Mercer, Bill (ODAG); McIntosh, Brent
Cc: Connor, Mark; Burton, Dawn (ODAG); Rybicki, James E
Subject: Options for a DOJ Privacy Office

Draft memo attached. Sorry it took so long. I would appreciate receiving any comments by COB Monday, August 29, and will try to schedule a meeting for Tuesday or Wednesday. I would like to involve OIP and OCIO as soon as we can.

Thanks.

John << File: Privacy options mem.wpd >>

DOJ Privacy Office Proposal

OLP Comments

We agree that there is value in bolstering the Department's ability to manage information privacy issues. We also agree with many of the concerns articulated in John's draft memo. In particular, we agree that any restructuring of DOJ's information privacy efforts should be careful to avoid the creation of a "mini-IG's office" and that care should be taken to avoid combining information privacy and "civil liberties" responsibilities. We suggest enforcing this distinction by using the term "information privacy," not just "privacy."

With respect to structural options for addressing information privacy issues, we do not support creating another Assistant Attorney General position. In addition, we have the following comments:

Enhancing OIP's mandate to include all information privacy issues doesn't make sense if OIP maintains all of its existing responsibilities. Currently, it handles issues related to both FOIA and the Privacy Act, but the vast majority of its work is FOIA compliance. FOIA compliance responsibilities do not need to reside in an office dedicated to information privacy issues. The FOIA administration functions of OIP could be placed in JMD, either as a new unit or under one of the current DAAGs. A new OIP (which should be called the "Office of Information Privacy," instead of the "Office of Information and Privacy"), if it is retained at all, could retain its Privacy Act functions and take on additional information privacy-related issues.

We don't have strong feelings about where the Department's senior information privacy officer should be administratively located, but we don't think reporting through the CIO would be workable. The CIO handles technical information management issues that don't involve the same policy considerations that an information privacy officer would handle. The information privacy officer could be an ADAG with a small staff reporting to him or her in the DAG's office, a Deputy Associate AG, also with a small staff, or a DAAG in JMD.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 01, 2005 7:58 AM
To: Reyes, Luis (SMO)
Subject: Re: CRS / New Orleans

I defer to the collective judgment but continue to think that if crs finds evidence of racial strife or receives a request from state or local officials we should make all resources available.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 07:46:28 2005
Subject: Fw: CRS / New Orleans

This is where we are on this one.

-----Original Message-----
From: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 01:54:23 2005
Subject: Re: CRS / New Orleans

Lou: I agree with you. Thx.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Schlozman, Brad (CRT) <Brad.Schlozman@crt.usdoj.gov>; Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>; Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>; Roberts, Crystal <Crystal.Roberts@SMOJMD.USDOJ.gov>
Sent: Wed Aug 31 18:16:14 2005
Subject: CRS / New Orleans

Bill, Courtney:

FYI:

Just wanted to advise that the DOJ Community Relations Service has asked for clearance/guidance on

Just wanted to advise that the DOJ Community Relations Service has asked for clearance/guidance on whether or not to deploy to New Orleans. We have advised them to standby. CRS's mandate is to deploy to areas where there are "existing" racial conflicts (typically with law enforcement) and help in conciliation efforts. Of particluar note, Congress specifically stated in a '99 Conference Report that CRS should not be involved in emergency disaster planning absent an existing racial conflict or a request by local law enforcement. Law enforcement in the affected areas has not requested a CRS presence at this time, and while there is unrest, an "existing" racial conflict is not readily identifiable. Additionally, there would need to be close coordination with relevant USAOs and DHS before prematurely throwing more folks into the mix of an already confusing situation. As a result, OASG has advised CRS to closely monitor and standby as the situation develops, but no more. It may be that as the water resides and the call to restore order comes it would be appropriate for CRS to infuse, but at this point, I believe the course is to monitor and observe.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, September 01, 2005 8:23 AM
To: Gorsuch, Neil M
Subject: RE: CRS / New Orleans

That's consistent with where we are. As soon as there is evidence or a request deployment will be imminent.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 01, 2005 7:58 AM
To: Reyes, Luis (SMO)
Subject: Re: CRS / New Orleans

I defer to the collective judgment but continue to think that if crs finds evidence of racial strife or receives a request from state or local officials we should make all resources available.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 07:46:28 2005
Subject: Fw: CRS / New Orleans

This is where we are on this one.

-----Original Message-----
From: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 01:54:23 2005
Subject: Re: CRS / New Orleans

Lou: I agree with you. Thx.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Schlozman, Brad (CRT) <Brad.Schlozman@crt.usdoj.gov>; Kim, Wan (CRT)

CC: Schlozman, Brad (CRT) <Brad.Schlozman@crt.usdoj.gov>; Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>; Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>; Roberts, Crystal <Crystal.Roberts@SMOJMD.USDOJ.gov>
Sent: Wed Aug 31 18:16:14 2005
Subject: CRS / New Orleans

Bill, Courtney:

FYI:

Just wanted to advise that the DOJ Community Relations Service has asked for clearance/guidance on whether or not to deploy to New Orleans. We have advised them to standby. CRS's mandate is to deploy to areas where there are "existing" racial conflicts (typically with law enforcement) and help in conciliation efforts. Of particluar note, Congress specifically stated in a '99 Conference Report that CRS should not be involved in emergency disaster planning absent an existing racial conflict or a request by local law enforcement. Law enforcement in the affected areas has not requested a CRS presence at this time, and while there is unrest, an "existing" racial conflict is not readily identifiable. Additionally, there would need to be close coordination with relevant USAOs and DHS before prematurely throwing more folks into the mix of an already confusing situation. As a result, OASG has advised CRS to closely monitor and standby as the situation develops, but no more. It may be that as the water resides and the call to restore order comes it would be appropriate for CRS to infuse, but at this point, I believe the course is to monitor and observe.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 01, 2005 9:12 AM
To: Shaw, Aloma A
Subject: please cancel 5pm oasg mtg - thanks

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 1, 2005 9:20 AM
To: Elwood, Courtney; Sampson, Kyle
Cc: McCallum, Robert (SMO); Henke, Tracy (SMO)
Subject: FW: Katrina
Attachments: OJP Katrina Response.doc

Further information about OJP's plans, FYI.

-----Original Message-----
From: Tzitzon, Nicholas
Sent: Wednesday, August 31, 2005 9:05 PM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Cc: Schofield, Regina; Daley, Cybele
Subject: RE: Katrina

Neil/Tracy:

Regina asked that the OJP bureaus and program offices submit additional suggestions for how OJP might contribute to the DOJ Katrina response. The attached document, still very much a draft, is a good collection of ideas from each of the bureaus. We've sent it over to JMD as they are collecting similar information from all of the components (we sent it under draft cover).

As always, let us know if you have any questions or would like any additional information.

Many thanks,
Nick

> -----Original Message-----
> **From:** Henke, Tracy (SMO)
> **Sent:** Wednesday, August 31, 2005 10:06 AM
> **To:** Daley, Cybele; Tzitzon, Nicholas
> **Cc:** Gorsuch, Neil M
> **Subject:** FW: Katrina
>
> Cybele/Nick:
> See below. Wanted to make certain you were aware since Regina is on vacation.
> Tracy
>
> -----Original Message-----
> **From:** Gorsuch, Neil M
> **Sent:** Wednesday, August 31, 2005 9:43 AM
> **To:** Schofield, Regina
> **Cc:** McCallum, Robert (SMO); Henke, Tracy (SMO)
> **Subject:** Katrina
>
> Regina,
>
> Is OJP considering whether to direct or redirect any grant money toward the hurricane-affected region? Do

you know whether, in similar past disasters (eg Andrew), OJP done anything of this sort?

Best,

NMG

DRAFT 2/15/2017

OJP Contributions to DOJ Hurricane Katrina Response
August 31, 2005

Summary

The Office of Justice Programs is prepared to facilitate for the Attorney General approximately $5 million in additional, immediate grant funding to state/local law enforcement in the affected areas. The Bureau of Justice Assistance, through the Byrne/JAG grant program, is capable of directing additional funds at the request of the Attorney General within 24 to 48 hours.

Additionally, OJP grant offices have sought to ease reporting requirements and other administrative requirements on the one thousand-plus DOJ grantees in the affected areas, thus allowing maximum flexibility for grantees to use existing federal funds in the course of responding to and recovering from the hurricane.

Finally, OJP bureaus and program offices have raised numerous suggestions/ideas, outlined below, for additional response to the disaster.

Bureau of Justice Assistance (BJA)

1) Facilitate, provide for, and/or fund from LLEBG accounts the use of used mobile homes from neighboring states to be converted to police centers, youth programming facilities, classrooms, etc. These homes can be placed directly in neighborhoods to allow for more immediate contact with residents. This has been done many years ago so there has been precedence.

2) Technical and Direct Assistance – BJA has been working with our partners at American University and Justice Management Institute (our ongoing funding) who can assist the Courts in handling continuity of operations issues, including assessing damage to records/reinstatement of records; location to operate court operations, especially hearings given the news that we have heard with regard to looting; and long term needs for court operations. These partners could assist with the planning and strategy development.

3) VOI/TIS Funds (Violent Offender Incarceration Truth In Sentencing) – we have previously sent letters to states that have funds remaining in this account to allow them to use the funds for monitoring of sexual offenders in their communities. However, given the specific situation in these three states, BJA could permit these funds to be used for short term privatization and prisoner transportation. These funds must be spent by September 2006, and many states have no approved plans to expend the money. The current remaining balances for the affected states are: MS – 500,000; LA – 31.7 million; and AL - 6.8 million.

4) Volunteers in Police Services (VIPS). This is a program of BJA implemented by the International Association of Chiefs of Police Association in partnership with DHS and Citizen Corps. DHS has many of the citizen corps pieces in place, however VIPS has been involved in Hurricane relief in Florida in years past.

Currently over 30,000 people are being evacuated from the Superdome in New Orleans to the Astrodome in Houston. Since there is a security issue with large crowds, one suggestion would be to pull the VIPS in Houston (and the Houston area) to assist with both the evacuation, resettlement and the security. They have been trained for this type of situation.

We have already been in contact with DHS as they are sending their Medical Reserve Corps teams down to the area to assist those injured. They coordinate with the Red Cross in this mission on where to go etc. MRC said that VIPS would be of assistance to them as security in some of the medical facilities that are set up. This could be facilitated in a joint DOJ/DHS/Red Cross mission and be very effective.

Additionally, VIPS could poll the registered VIPS groups to see what organizations are available to assist (who has what, who can travel, etc.) from around the country. This has been implemented before and often times are more costly than the benefit. Due to liability issues, they need to be federalized and then would need to be coordinated on site and housed in order to be effective. Again, an option I mention, but not easily accomplished. The most effective utilization of VIPS is on site in Houston and in surrounding communities where evacuees are being taken. This requires less support.

5) Outreach to Tribal Nations within the identified states that may be affected by the hurricane to assess damage and provide special assistance via special programming funds directed toward Tribal communities.

Office of Juvenile Justice and Delinquency Prevention (OJJDP)

OJJDP Strategies:

1) Coordinating Council on Juvenile Justice and Delinquency Prevention (Council) is a forum for coordinating child and youth focused efforts across fed agencies. As an existing coordinating body with membership comprised of the Departments of Labor, HHS, HUD, Justice, Education, CNCS, the Immigration and Customs Enforcement bureau in Homeland Security, and the Office of National Drug Control Policy, the Council is well suited to be used as a forum for coordinating efforts to support child, youth and families displaced by Katrina. Staff of the member agencies already work together in formal sessions, ancillary working groups and informal associations to address at-risk children and youth by joining program efforts and coordinating policy. The DHS is already marshaling resources focused on disaster relief. As the immediate needs of evacuation, clean water, food, medical care, temporary shelter and clean up are addressed, the Council can be used to coordinate efforts to address the immediate, intermediate and longer term needs of children and families that address their educational, emotional, and social needs.

The first opportunity to do so will take place on September 9th. That morning, the Council is scheduled to meet in Main Justice. Ex-officio members are the cabinet and agency heads of the member agencies. The Attorney General could use this opportunity to initiate plans for collective work and plans to reallocate each agency's resources for children and families displaced from affected areas.

2) The Federal Advisory Committee on Juvenile Justice (FACJJ) is a vehicle for coordinating child and youth focused efforts at the state level. The FACJJ is another vehicle for marshaling resources. This group is comprised of representatives of the governors and juvenile justice advisory groups in each state and six territories. Through this forum the FACJJ members can be challenged to work within their states and networks to identify state resources that could be directed to assist at-risk youth in the affected states, and most importantly, to coordinate that with the other states.

   The FACJJ's next formal meeting is October 24-25, but membership can be convened and accessed prior to that through conference calls and email.

OJJDP Programs:

3) Gang Technical Assistance

   The Office of Juvenile Justice and Delinquency Prevention will be able to offer any local law enforcement agency that has jurisdiction over the area where displaced residents are a being sent, training, technical assistance and access to gang prevention and intervention materials. In addition to making this available through the Nation Youth Gang Center in Tallahassee, Florida, OJJDP will be able to provide assistance to local law enforcement agencies to share gang related intelligence between agencies. This may be particularly helpful for New Orleans PD to share their intelligence with other LE agencies where many of these youth are resettling

4) National Youth Gang Center

   The proliferation of gang problems in large and small cities, suburbs, and even rural areas over the last two decades led to the development of a comprehensive, coordinated response to America's gang problem by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). The OJJDP response involves five major components, one of which is the implementation and operation of the National Youth Gang Center (NYGC).

   The purpose of the NYGC is to assist policymakers, practitioners, and researchers in their efforts to reduce youth gang involvement and crime by contributing information, resources, practical tools, and expertise towards the development and implementation of effective gang prevention, intervention, and suppression strategies. To accomplish this mission, the Center conducts assessments of the scope and characteristics of youth gang activity in the United States, develops resources and makes them available to the field, and provides training and technical assistance in support of community-based prevention, intervention, and suppression efforts.

5) PAL

OJJDP has talked to the National Police Athletic League located in North Palm Beach, Florida and they re willing to dedicate some of the grant resources received from OJJDP in FY 2004 to supporting temporary services for relocated youth from South Eastern Louisiana, Southern Mississippi, and Southern Alabama. They have sites in the region and will work with existing PALs to absorb incoming youth from the disaster region.

The National Association of Police Athletic Leagues (NAPAL) will provide services by creating new PAL chapters to support community based and out of school time programming. The NAPAL will implement programs during non school hours that increase the participation of juveniles involved in delinquent activity. These programs include mentoring, academic assistance recreational and athletic activities, and technology training. NAPAL will also provide drug, alcohol and gang prevention activities, health and nutritional counseling, cultural and social programs, conflict resolution training, anger management, peer pressure training and job skill preparation. NAPAL outcomes will focus on improved academic success and reduced negative behaviors of the participants, increased knowledge and improved health of the youth in these programs.

6) Boys and Girls Club of America

OJJDP has talked to the Boys and Girls Club of America located in Atlanta, Georgia. And they are agreeable to dedicating some of the grant resources received from OJJDP in FY 2005 to supporting temporary services for relocated youth from South Eastern Louisiana, Southern Mississippi, and Southern Alabama. They will work with us to determine the extent of what they can do and where.

7) The Family, Career, and Community Leaders of America (FCCLA) and Youth Courts could mobilize to make a significant difference to help the hurricane victims. About 7,100 FCCLA programs have 225,000 youth volunteers involved and about 1,100 youth courts have 115,000 youth volunteers involved with another 20,000 adult volunteers and youthful offenders at about 120,000.

8) "Art in a Bag" projects. Local programs like FCCLA and Youth Court could prepare and send "art in a bag" projects for multiple age ranges to the 3 or 4 states most affected. These projects would help keep children occupied. Survival kits with such things as tooth paste, tooth brushes, granola and power bars, hard candy and gum, deodorant and soap, etc. could also be prepared by FCCLA and Youth Court volunteers in the regions. Funds for the supplies and the transportation could perhaps be donated by corporate sponsors.

9) National Center for Missing and Exploited Children: The Center's capacity to provide assistance in identifying and locating missing children could be used to assist affected areas to set up systems for identifying, locating and reunifying family members separated through the evacuation process or by the hurricane. We already have requested the Texas and Arkansas Missing Children State

Clearinghouses to assist with calls for the Mississippi, Louisana and Alabama Clearinghouses that are not functional at this time. We are waiting for FEMA to give us direction on specifics for assistance.

10) National Center for Children Exposed to Violence: The National Center for Children Exposed to Violence (NCCEV) has significant experience helping individuals and communities to reduce the incidence and impact of violence on children and families. They can be expected to be available to assist in providing crisis counseling, to train police and mental health clinicians to work together to support traumatized families, and to provide information and education to help parents, teachers, youth workers and care takers to deal effectively with the aftermath of this tragedy.

National Institute of Justice (NIJ)

Technological:

1) Through an Interagency Agreement with the Department of Energy's Savannah River National Laboratory (SRNL), NIJ funds can be applied to having SRNL remote control submersible vehicles made available for underwater search and rescue and recovery operations.

2) NIJ can provide replacement equipment through its excess Federal Property Program.

3) The NIJ National Law Enforcement and Corrections Technology Center System can provide technical and engineering support to local criminal justice agencies. Most specifically, NIJ's Southeast Center, operated through a cooperative agreement with the South Carolina Research Authority, can provide particular expertise in the area of information technology.

Forensic Sciences:

4) NIJ can redirect funding to the University of North Texas Health Center (UNTHC) to provide DNA analysis assistance in the identification of victims and unidentified remains. In addition the UNTHC can provide family reference collection kits that can be given to law enforcement authorities to assist in the identification process. UNTHC can also provide technical assistance in the collection and identification process.

5) NIJ can provide the resources of the Forensic Resource Network (FRN) to assist in the identification process and the recovery process for forensic laboratories.

6) NIJ can provide authorities with copies of a working draft of NIJ's Kinship and Data Analysis (KADAP) Report for mass fatalities and critical incidents and technical assistance in its use. (This report is still in draft format but as a draft it has been provided to tsunami emergency response teams.)

7) NIJ can provide authorities with copies of the NIJ Mass Fatality Guide and technical assistance in its use.

Bureau of Justice Statistics (BJS)

BJS will advise the Criminal History Records Repository Directors in Louisiana, Mississippi, and Alabama that they may utilize FY 2005 NCHIP funds and unobligated prior year NCHIP balances for insuring proper backups and relocation of existing criminal history records from any vulnerable locations and to insure connectivity between the State and FBI records systems (NCIC, IAFIS, III, NICS, etc.). The States will submit a simple GAN request to us, via telephone and subsequently in writing at the earliest opportunity, to re-task their projects to maintain and protect their record systems.

Office for Victims of Crime (OVC)

OVC is inventorying all grantees in the affected areas and will adjust reporting requirements to allow flexibility for appropriate use of federal funds.

Community Capacity Development Office (CCDO)

CCDO would proposed to give all communities from a county designated a federal disaster by the President an extension in submitting applications, reports, etc. CCDO did the same last year for the folks in Florida and it worked out well. CCDO has also suggested planning their major annual conference (1500 attendees) to be in New Orleans next year if the community is prepared to host such events.

Office of Police Corps and Law Enforcement Education (OPCLEE)

The Hurricane has had a major impact on the training academy that is to begin in Missippissi at Camp Shelby this Saturday. Most of the Mississippi Police Corps staff fled Hattisburg and FEMA and the Red Cross has taken over Camp Shelby as a command post for relief efforts. OCPLEE has been unable to contact any of the Mississippi staff to determine how they will proceed with training the nine recruits they were to begin training.

OPCLEE could consult to determine if the North Carolina Training Academy currently in session might be dispatched to assist with clean up in Mississippi (each academy has in the past had a community service component).

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 1, 2005 9:31 AM
To: Swenson, Lily F
Subject: RE: OASG responsibilities

I view that as part of the CIV docket, and you have all of CIV except for the enumerated carve-outs. Okay?

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, September 01, 2005 9:29 AM
To: Gorsuch, Neil M
Subject: RE: OASG responsibilities

Thanks, Neil. You might put "Health Care Fraud Task Force" on my list as well for completeness' sake.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, August 31, 2005 3:53 PM
To: Swenson, Lily F; Henke, Tracy (SMO); Kessler, Elizabeth A; Reyes, Luis (SMO); Senger, Jeffrey M
Cc: McCallum, Robert (SMO)
Subject: OASG responsibilities

After our various discussions and a chance to consult Robert briefly, I've tried in the attached to summarize component responsibilities after Mike's departure, and I pass it along for your review and reference. If I've made any mistakes, please stop by and let me know. No doubt we will be reshuffling this all too soon as our numbers grow smaller still. NMG

<< File: OASG Component Responsibilities.doc >>

Swenson, Lily F

From: Swenson, Lily F
Sent: Thursday, September 01, 2005 9:38 AM
To: Gorsuch, Neil M
Subject: RE: OASG responsibilities

It doesn't really matter to me so much -- but for posterity, and potentially for upcoming reshuffling purposes, it'd be useful for the successor to my portfolio (or parts thereof) to know that there is a separate working group that meets with ODAG, CRIM and EOUSA on a bi-monthly basis, and that attending those meetings is a separate duty from monitoring CIV's activities. It's like the Intellectual Property Task Force, which is also part of the CIV docket in the sense that CIV lawyers handle IP matters.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 01, 2005 9:31 AM
To: Swenson, Lily F
Subject: RE: OASG responsibilities

I view that as part of the CIV docket, and you have all of CIV except for the enumerated carve-outs. Okay?

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, September 01, 2005 9:29 AM
To: Gorsuch, Neil M
Subject: RE: OASG responsibilities

Thanks, Neil. You might put "Health Care Fraud Task Force" on my list as well for completeness' sake.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, August 31, 2005 3:53 PM
To: Swenson, Lily F; Henke, Tracy (SMO); Kessler, Elizabeth A; Reyes, Luis (SMO); Senger, Jeffrey M
Cc: McCallum, Robert (SMO)
Subject: OASG responsibilities

After our various discussions and a chance to consult Robert briefly, I've tried in the attached to summarize component responsibilities after Mike's departure, and I pass it along for your review and reference. If I've made any mistakes, please stop by and let me know. No doubt we will be reshuffling this all too soon as our numbers grow smaller still. NMG

<< File: OASG Component Responsibilities.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 01, 2005 9:42 AM
To: Swenson, Lily F
Subject: RE: OASG responsibilities

I will add it to the list the next time we reshuffle, which may be sooner rather than later.

Have you had a chance to review OLP's privacy proposal? I hope you're able to attend the privacy office meeting today.

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, September 01, 2005 9:38 AM
To: Gorsuch, Neil M
Subject: RE: OASG responsibilities

It doesn't really matter to me so much -- but for posterity, and potentially for upcoming reshuffling purposes, it'd be useful for the successor to my portfolio (or parts thereof) to know that there is a separate working group that meets with ODAG, CRIM and EOUSA on a bi-monthly basis, and that attending those meetings is a separate duty from monitoring CIV's activities. It's like the Intellectual Property Task Force, which is also part of the CIV docket in the sense that CIV lawyers handle IP matters.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 01, 2005 9:31 AM
To: Swenson, Lily F
Subject: RE: OASG responsibilities

I view that as part of the CIV docket, and you have all of CIV except for the enumerated carve-outs. Okay?

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, September 01, 2005 9:29 AM
To: Gorsuch, Neil M
Subject: RE: OASG responsibilities

Thanks, Neil. You might put "Health Care Fraud Task Force" on my list as well for completeness' sake.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, August 31, 2005 3:53 PM
To: Swenson, Lily F; Henke, Tracy (SMO); Kessler, Elizabeth A; Reyes, Luis (SMO); Senger, Jeffrey M
Cc: McCallum, Robert (SMO)
Subject: OASG responsibilities

After our various discussions and a chance to consult Robert briefly, I've tried in the attached to summarize component responsibilities after Mike's departure, and I pass it along for your review and reference. If I've made any mistakes, please stop by and let me know. No doubt we will be reshuffling this all too soon as our numbers grow smaller still. NMG

<< File: OASG Component Responsibilities.doc >>

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, September 1, 2005 11:00 AM
To: Gorsuch, Neil M
Subject: Call Patrick Philbin 4-3744

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, September 1, 2005 11:25 AM
To: Schlozman, Brad (CRT); Kim, Wan (CRT); Todd, Gordon (CRT); Torchinsky, Jason (CRT)
Cc: Gorsuch, Neil M; Holland, Eric W
Subject: Article re: CRT

As published at:
http://www.legalaffairs.org/issues/September-October-2005/argument_yeomans_sepoct05.msp

An Uncivil Division

Political appointees to the Justice Department's civil rights division are driving career lawyers to retirement—then skipping the retirement parties.

By William R. Yeomans

"MAY IT PLEASE THE COURT, MY NAME IS WILLIAM YEOMANS, and I represent the United States." With those words, I began my first presentation in court for the civil rights division of the United States Department of Justice some 23 years ago. In the years that followed, as a career attorney at Justice, I used that opening on many occasions and always with pride, as did my career colleagues.

We shared in a tradition of public service that included attorneys who had successfully prosecuted Deputy Sheriff Cecil Ray Price and others for conspiring to kill Michael Schwerner, Andrew Goodman, and James Cheney in Mississippi, but failed to persuade a jury there to convict Ray Killen (a failure recently corrected); risked life and limb and suffered untold insults to bring desegregation to schools across the South and to metropolitan areas of the North; and prosecuted racists who burned crosses, churches, and homes. This tradition of public service and its attorneys brought to justice hundreds of abusive police officers, including those who beat Rodney King; challenged egregious conditions of confinement in prisons and psychiatric hospitals; and helped win passage of the Americans with Disabilities Act enforcing it in ways that made the daily activities of life easier for millions of people. As a trial lawyer and a manager, I was humbled every day to be a part of this tradition.

During the change from the Clinton to Bush administrations, however, the tradition began to be undermined. Political appointees who arrived in the division lacked experience in enforcement of the nation's civil rights laws or in managing a large organization, yet they were convinced that the career attorneys greeting them could not be trusted. As a result, the political leadership embarked on a very different path from the one marked by past Republican and Democratic administrations.

Rather than emerge from open discussion, decisions increasingly were made in isolation from career attorneys and were communicated as orders. Attorneys who sought to engage in discussion or propose alternative approaches were viewed as disloyal and suffered the consequences. Not too long after the change of administrations, a long-serving deputy chief of the employment section, which enforces federal prohibitions against discrimination in public employment, was told that he would be reassigned to the civil division, the unit at the Department of Justice that defends the government against such charges. Career attorneys widely perceived the move as an effort to punish him for leading litigation teams that defended affirmative action programs and that pursued large cases challenging discrimination by public employers, and for his attempts to discuss those issues with the new arrivals.

Many longtime career leaders of the division have left or have been removed, and personnel practices have been revamped to foster the removal of attorneys viewed as insufficiently loyal and replace them with attorneys selected because of ideology. Recently, one attorney with sterling credentials, who was hired into the division in the Clinton Administration, was told that she would be transferred involuntarily out of the appellate section. Another, also hired in that administration, was told that she would no longer be permitted to work on civil rights cases. If she stayed, she would be assigned a steady diet of deportation orders from the criminal division to defend.

It is the duty of career attorneys to follow the instructions of the political leadership, so long as they are lawful and ethical. It is also a duty to ensure that political leaders are fully informed about the law and facts and have been presented relevant options before deciding on a course of conduct. Career attorneys owe the political leadership the full benefit of their expertise and their experience. They owe a duty to political leaders and the institution they serve to maintain the confidentiality of the advice they give political leaders. Occasionally, career attorneys in various parts of the government have lost sight of these obligations, meriting rebuke from political appointees.

Personnel practices in the civil rights division during the current administration, however, have gone far beyond responding to those rare situations. As a result, the dialogue between career and political appointees has been stifled. Political appointees are not getting the benefit of the career staff's expertise and experience. Morale among career attorneys has plummeted, the division's productivity has suffered, and the pace of civil rights enforcement has slowed.

This is not the first period of tension I have witnessed between political and career appointees. Notably, during the 1980s, career and political attorneys differed on a number of issues—the lawfulness of affirmative action plans, for example, and the scope of school desegregation decrees. During that period, the political leadership occasionally felt the need to rule by directive. It sometimes assigned to political appointees particularly sensitive matters that would normally have been handled by career attorneys, tasks like the argument of a particularly contentious case in a court of appeals challenging race-conscious relief in employment.

However, the conversation between the political and career attorneys never broke down completely. The assistant attorney general in charge of the civil rights division, William Bradford Reynolds, who was regarded by many as having curtailed the enforcement efforts of career attorneys, was nonetheless an accomplished lawyer who avidly discussed the law and individual cases with career lawyers. Despite the commitment of the Reagan era political leadership to change civil rights law in fundamental ways, there was no comparable effort to exclude career attorneys and replace them based on ideology.

AS IN OTHER COMPONENTS OF THE DEPARTMENT OF JUSTICE, the president appoints the top layer of leadership, which usually includes a half dozen to a dozen lawyers. These political appointees come and go with changes in administrations. One such appointee used to refer to her colleagues and herself as the Christmas help. In reality, of course, the political leadership is empowered to make ultimate decisions regarding the division's activities. Over the years, some extraordinary people have led the division, including Burke Marshall, who shepherded it through the tumultuous years of the early 1960s and began to make the federal government an effective force for civil rights, and John Doar, who led the charge to enforce the newly enacted Civil Rights Act of 1964, the Voting Rights Act, and the mandate of *Brown v. Board of Education* to desegregate public schools. These men and their successors helped to reshape our society by opening opportunities to many who had been excluded because of race, color, religion, national origin, sex, or disability.

By convention, one or more senior career attorneys have served alongside the political appointees to assist in managing the civil rights division. Below the political leadership work the 700 career employees of the division, roughly 300 of them attorneys. The career employees work in 10 substantive sections, each led by a chief and a variable number of deputy chiefs. Traditionally, litigation and other legal activities have been conducted by trial attorneys under the immediate supervision of a career person. Major decisions, such as the initiation of a large civil investigation, the empaneling of a grand jury, or the determination to file a lawsuit or an appellate brief have been approved by political appointees based on recommendations from the career staff.

Historically, this arrangement has worked because there has been considerable interaction between career and political staff in the division. For much of the division's existence, major decisions have been discussed extensively between career and political attorneys. This conversation—dubbed "government by discussion" by former Attorney General Edward Levi—has encompassed law and policy.

The collapse of the conversation was brought home poignantly to me recently when I attended the retirement party for Joe Rich, a senior career attorney who was serving as chief of the voting section and leaving after almost 37 years in the division. A podium had been erected in front of the fountain in the center of the courtyard, and the afternoon's speakers were seated in chairs near the podium when I arrived. Scanning the crowd, I saw Jim Turner, the longtime career deputy assistant attorney general who

led the failed effort to indict the Alabama law enforcement officers who beat civil rights marchers as they attempted to march from Selma to Montgomery on the day known as Bloody Sunday, before becoming the paragon of career attorneys in the division and retiring a decade ago. I saw Paul Hancock, the longtime chief of the housing section, who left the division several years ago after leading the effort to fulfill the promise of the Fair Housing Act.

At the dozens of similar events I'd attended over the past generation, political leaders in the division always used the occasion to reinforce the ties between political and career appointees. It was especially moving when a leader who had clashed with career attorneys expressed his admiration and reminded us of our common purpose. But there was not a single political appointee at the event to celebrate a decorated career that had been dedicated to enforcing the nation's civil rights laws, from leading the effort to desegregate the schools of Texas to enforcing the Voting Rights Act through the tumultuous election of 2000. Whether because none was invited or none chose to come, the absence of political appointees spoke volumes.

Sadly, career attorneys at the event seemed relieved. Many attorneys were upset—stunned and frightened—by the working conditions that they face. One career manager proclaimed in exasperation: "It's like working for Caligula!" He meant that he never knows what the rules are or when he will fall out of favor. The line between loyal disagreement and disloyal dispute is narrow. Another career manager said he felt lucky because he and his section seemed to be under the radar, and he estimated that he saw the political head of the division roughly once a year. He hoped that he could keep it that way and survive.

THE EFFORT TO SILENCE THE CONVERSATION between the career attorneys and the political appointees has been taken to an unprecedented level in the division's hiring practices. Traditionally, career attorneys were hired into the division in two ways. First, every year a handful of applicants who had just graduated from law school or finished a judicial clerkship were hired through the Attorney General's honors program. This program was conducted department-wide and was extremely competitive, attracting some of the nation's top recent law graduates. To identify these people, the division established a hiring committee composed of career attorneys from the division's various sections. The career attorneys traveled the country, interviewing applicants, and on their return made a committee recommendation to the assistant attorney general about who should be offered career positions in the division. These recommendations were almost always accepted without further examination of the applicants. Through this process, the experienced career attorneys, who knew best what it took to do their jobs well, were able to provide a steady flow of outstanding young civil rights attorneys into the division. I participated in this process for a number of years and supervised it for several more. It produced and maintained a corps of talented and dedicated career attorneys.

In 2003, the assistant attorney general abolished the hiring committee. Since then, only political appointees have reviewed incoming resumes and interviewed applicants for the honors program. Gradually, this process has largely taken over the hiring of

experienced attorneys as well. Political officials screen resumes and interview applicants. Section chiefs are told that attorneys they have never met will report for work in their sections. Increasingly, experienced hires have been identified because they are friends or former associates of political appointees. Few bring any experience in enforcing civil rights laws. Most bring an ideological commitment that is inconsistent with vigorous enforcement of civil rights laws. Overall, career managers say, their records and preparation do not compare well with the hires made when career attorneys were more involved.

Declining morale and talent drain have contributed to a decline in the division's enforcement activity. Part of the decline reflects a policy determination to reduce the vigor of civil rights enforcement. Many attorneys have expressed frustration at delays in getting work approved at the political level, and they complain that they are not permitted to pursue investigations or court filings that would have been undertaken in the past.

Some of these complaints result from legitimate decisions to emphasize different priorities. For example, the division has been more active in prosecuting individuals for trafficking in persons, which includes forcing individuals to engage against their will in commercial sex, or farm, factory, or domestic labor, and it has emphasized ensuring that individuals of limited proficiency in English receive the language services to which they are entitled. It is plain, however, that the loss of experience and talent, combined with decisions to de-emphasize enforcement in a number of areas, has made the division less productive.

TRAC, the Transactional Records Access Clearinghouse at Syracuse University, recently released a report showing that the division has misreported the number of cases it has pursued in recent years. TRAC concluded that the division's enforcement activity has dropped off, despite protestations from political appointees to the contrary. Among career attorneys, there is no doubt that enforcement activity has declined, except in those few areas emphasized as priorities. They report that not only are fewer cases being pursued, but that those being pursued are generally smaller and designed to have less impact than in previous years.

A look at the division's appellate section is instructive. The section handles the appellate work generated by litigation in the other sections of the division, and it files briefs as amicus curiae at the appellate level in civil rights cases in which the United States has an interest. The number of cases coming up from the other sections is small by historic standards because of the decline in enforcement activity. Similarly, the number of amicus filings in the Courts of Appeals for 2004 (6) was less than a third of the number filed five years before (22), even though the number of attorneys in the section has increased.

These discretionary filings are a good barometer of the division's enforcement activity. The division filed no amicus brief in an appeals court addressing, much less opposing, such things as discrimination in housing, employment, or education on the basis of race

or gender. Perhaps most disturbingly, the section has been drafted into the business of filing briefs in cases rising out of the criminal division's office of immigration litigation. These are briefs in support of deportation orders, decidedly not a traditional civil rights function.

CIVIL RIGHTS ENFORCEMENT HAS ALWAYS BEEN CONTROVERSIAL. First, that was largely because of geography: The division was launched in 1957 in the wake of *Brown*, when Southern states determinedly resisted the Supreme Court's ruling. Later, it was because the field became a prime subject for partisan politics: Either the division was doing too much or too little, depending on the administration and the era.

Career attorneys who stayed through political changes have provided the stability, consistency, and expertise necessary to the credibility of any civil rights enforcement program. They have reassured courts and the public that enforcement was grounded in the law rather than in the prevailing partisan political mood. They have supplied the experience needed for navigating difficult questions that inevitably confront political leaders of the division. The conversation between those leaders and career attorneys is as necessary today as it has been since the division was founded.

William R. Yeomans *served in the Justice Department's civil rights division from 1981 until this year.*

http://www.legalaffairs.org/issues/September-October-2005/argument_yeomans_sepoct05.msp

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Thursday, September 1, 2005 2:04 PM
To: Corts, Paul R
Cc: Gorsuch, Neil M; Lofthus, Lee J
Subject: Hurricane suggestion

Dr. Corts:
Can you call me regarding a possible hurricane assistance effort? 6-4715. Thanks.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, September 1, 2005 3:50 PM
To: Gorsuch, Neil M
Subject: FW: Is there a Senior Mgmt meeting tomorrow (9/2)?

-----Original Message-----
From: Beach, Andrew
Sent: Thursday, September 01, 2005 3:47 PM
To: Shaw, Aloma A; Sours, Raquel
Subject: RE: Is there a Senior Mgmt meeting tomorrow (9/2)?

no. it has been canceled.

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, September 01, 2005 3:45 PM
To: Sours, Raquel; Beach, Andrew
Subject: Is there a Senior Mgmt meeting tomorrow (9/2)?

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, September 1, 2005 3:51 PM
To: Gorsuch, Neil M
Subject: FW: 9/2/05: No Senior Management or Component Coordination meetings tomorrow.

-----Original Message-----
From: Beach, Andrew
Sent: Thursday, September 01, 2005 3:49 PM
To: Gunn, Currie (SMO); Washington, Tracy T; Walker, Shelia M; Bennett, Catherine T; Shaw, Aloma A; Henderson, Charles V; Webb, Lauren; Donlin, Molly; Martinson, Wanda; Roberts, Crystal
Subject: 9/2/05: No Senior Management or Component Coordination meetings tomorrow.

Andrew Beach
Assistant to the Attorney General
& Director of Scheduling
US Department of Justice
951 Constitution Ave., NW
Washington, DC 20530
Tel: (202) 514-4195; FAX: (202) 307-2825
E-mail: andrew.beach@usdoj.gov

From: Reyes, Luis (SMO)
Sent: Thursday, September 01, 2005 5:57 PM
To: Nowacki, John
Cc: Roehrkasse, Brian; Scolinos, Tasia; Gorsuch, Neil M
Subject: FW: ANTITRUST DIVISION NAMES NEW DEPUTY ASSISTANT ATTORNEY GENERAL

Guys, please help me in understanding why the Principal Deputy Associate Attorney General did not have a similar release cleared as the one for an ATR Deputy when we were discussing this several weeks back. John, your past email and my unreplied to response is pasted below. Thanks. --LR

Luis A. Reyes
Chief of Staff and Deputy Associate Attorney General
United States Department of Justice
950 Pennsylvania Ave NW
Washington, DC 20530
(202) 514-9500

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, July 08, 2005 6:45 PM
To: Nowacki, John; Gorsuch, Neil M; Swenson, Lily F
Cc: Scolinos, Tasia
Subject: Re: Proposed OASG Press Release (Re: New Deputies)

Just curious, didn't we issue a release for the arrival of the Principal in the Deputy's Office? I believe there is value in announcing for Neil, the new Principal Deputy Associate, who just arrived in June.
As to the other two folks on the release, there is a plus factor value, but no need to make exceptions to newly established procedures. Please let me and Neil know what you advise. Thanks.

-----Original Message-----
From: Nowacki, John <John.Nowacki@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
CC: Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 18:14:43 2005
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Luis,

I think you're right in that it's too late to put this out; we would have to include something in the release about the date of the appointments. Also, we've standardized our release criteria for all offices and components, and -- while there have been a few exceptions in the past -- we are now issuing releases for component head matters (resignations, for example; appointments are usually announced by the White House) only.

John

From: Scolinos, Tasia
Sent: Friday, July 08, 2005 4:07 PM
To: Nowacki, John
Subject: FW: Proposed OASG Press Release (Re: New Deputies)

can you handle this - thanks

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, July 08, 2005 4:06 PM
To: Scolinos, Tasia; Madden, Kevin
Cc: Gorsuch, Neil M
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Know your swamped and/or traveling, but please let me know where we stand on this one way or the other. May be close to stale. If you recommend keeping Robert's name out we could change to the AG or the DOJ. Thanks.

<< File: OASG Press Release1.doc >>
-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 29, 2005 6:25 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Tasia, Kevin:
Touching base with you on this. Let me get your thoughts on release or changes so I can get back to the Associate. Thanks as always..
<< File: OASG Press Release1.doc >>

Lou

Luis A. Reyes,
Chief of Staff and Deputy Associate Attorney General
Office of the Associate Attorney General
United States Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530
Phone: (202) 514-9500
Fax: (202) 514-0238
Email: Luis.A.Reyes@usdoj.gov

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 15, 2005 8:16 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: Proposed OASG Press Release (Re: New Deputies)

Attached is the proposed release. Query whether we should hold off on this or excise Robert's name from all of this and just do it from the "Department of Justice"?

<< File: OASG Press Release.doc >>

ASSOCIATE ATTORNEY GENERAL ROBERT D. MCCALLUM, JR. ANNOUNCES APPOINTMENT OF NEW DEPUTY ASSOCIATE ATTORNEYS GENERAL

WASHINGTON, D.C. - Associate Attorney General Robert D. McCallum, Jr. announced today the appointment of three new Deputy Associate Attorneys General in the Office of the Associate Attorney General (OASG).
In announcing the new appointments to his office, Associate Attorney General Robert D. McCallum, Jr. said, "Our new Deputy Associate Attorneys General bring considerable practical experience and legal skills of the highest caliber to the Associate Attorney General's Office. We are excited to have them aboard."

Neil M. Gorsuch has been appointed Principal Deputy Associate Attorney General. Prior to his appointment, Mr. Gorsuch was a partner at the Washington firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, where his practice focused on complex trial and appellate litigation, including antitrust and securities matters. Mr. Gorsuch served as a law clerk to the Honorable Byron R. White and the Honorable Anthony M. Kennedy of the U.S. Supreme Court, as well as to the Honorable David B. Sentelle of the U.S. Court of Appeals for the D.C. Circuit. Mr. Gorsuch holds a doctorate in legal philosophy from Oxford, where he was a Marshall scholar; a J.D. from the Harvard Law School, where he studied as a Truman scholar; and a B.A. from Columbia University. Among other items in his new portfolio, Mr. Gorsuch will oversee terrorism-related litigation matters and advise the Associate Attorney General on all issues that reach the office for consideration.

Luis A. Reyes has been appointed Chief of Staff and Deputy Associate Attorney General. From 2003 to 2005, Mr. Reyes served as Counselor to the Assistant Attorney General for the Department's Civil Rights Division. As the Assistant Attorney General's senior legal counsel he was involved in a wide range of litigation, legislative, and policy-related matters. Mr. Reyes was heavily involved in the Department's efforts to combat human trafficking, appearing before state legislative bodies and civil rights groups to speak on the topic. Prior to joining the Civil Rights Division, Mr. Reyes served as Counsel to the Assistant Attorney General for the Civil Division where he advised on administrative and litigation related matters. Mr. Reyes joined the Department of Justice in 2001, after serving as an Assistant Attorney General for the State of Texas for three years under then state Attorney General John Cornyn. Mr. Reyes is a graduate of the University of Texas at Austin, and the University of Texas School of Law. In his new role, Mr. Reyes will work with the Department's Tax Division, the Community Relations Service, and will be involved in internal and organizational issues as assigned by the Associate Attorney General.

Lily Fu Swenson has been appointed Deputy Associate Attorney General. Ms. Swenson joins the OASG from the Washington office of Mayer, Brown, Rowe and Maw LLP where she served as hiring partner and a member of the firm's antitrust and litigation practice groups. Ms. Swenson's practice focused primarily on class action and appellate litigation, including antitrust, securities and professional liability matters. Ms. Swenson graduated from the University of Minnesota School of Law in 1993 and the University of Wisconsin at Madison in 1990. Prior to joining Mayer, Brown, Rowe & Maw, she clerked for the Honorable Michael S. Kanne of the United States Court of Appeals for the Seventh Circuit. In her new post, Ms. Swenson will oversee antitrust as well as commercial, health care fraud and immigration litigation matters.

-----Original Message-----
From: USDOJ- Office of Public Affairs
Sent: Thursday, September 01, 2005 5:38 PM
Subject: ANTITRUST DIVISION NAMES NEW DEPUTY ASSISTANT ATTORNEY GENERAL

Department of Justice

ANTITRUST DIVISION NAMES NEW DEPUTY ASSISTANT ATTORNEY GENERAL

WASHINGTON D.C. -- Thomas O. Barnett, Acting Assistant Attorney General for the Antitrust Division, today announced that Gerald F. Masoudi has been appointed to serve as the Deputy Assistant Attorney General in charge of International, Policy, and Appellate Matters for the Division.

"Jerry's antitrust experience, including his extensive background in appellate litigation, will be a valued asset to the Division," Barnett said. "The Department is fortunate to have someone of his expertise to lead our international, appellate, and policy efforts."

Masoudi currently serves as Deputy Chief Counsel at the United States Food and Drug Administration (FDA), where he also served for a time as Acting Chief Counsel. Before joining the FDA in 2004, Masoudi was a partner in the trial and appellate litigation group at Kirkland and Ellis, L.L.P. in Washington, D.C. Masoudi's practice included matters in the areas of antitrust, pharmaceuticals, telecommunications, and toxic torts.

Masoudi earned his B.A. in economics from Amherst College in 1990. In 1993, he graduated with high honors from the University of Chicago Law School, where he served as an editor of the University of Chicago Law Review and was a John M. Olin Fellow in Law and Economics. Masoudi clerked for Judge Frank H. Easterbrook of the U.S. Court of Appeals for the Seventh Circuit.

DOJ_NMG_ 0146319

Image not available for this document, ID: 0.7.10316.69808-000001

Image not available for this document, ID: 0.7.10316.69808-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 01, 2005 6:11 PM
To: Scolinos, Tasia
Cc: Reyes, Luis (SMO)
Subject: RE: ANTITRUST DIVISION NAMES NEW DEPUTY ASSISTANT ATTORNEY GENERAL

Tasia - Personally this doesn't matter much to me. But, if policy does permit it -- and it seems to given the ATR announcement -- I do think it might be helpful to alert the legal community to the three talented new deputies in this office. I note that similar releases have been done for new deputies in the Associates office in the recent past. I believe Luis has already forwarded a draft release to you for consideration. Thanks. Neil

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, September 01, 2005 5:57 PM
To: Nowacki, John
Cc: Roehrkasse, Brian; Scolinos, Tasia; Gorsuch, Neil M
Subject: FW: ANTITRUST DIVISION NAMES NEW DEPUTY ASSISTANT ATTORNEY GENERAL

Guys, please help me in understanding why the Principal Deputy Associate Attorney General did not have a similar release cleared as the one for an ATR Deputy when we were discussing this several weeks back. John, your past email and my unreplied to response is pasted below. Thanks. --LR

Luis A. Reyes
Chief of Staff and Deputy Associate Attorney General
United States Department of Justice
950 Pennsylvania Ave NW
Washington, DC 20530
(202) 514-9500

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, July 08, 2005 6:45 PM
To: Nowacki, John; Gorsuch, Neil M; Swenson, Lily F
Cc: Scolinos, Tasia
Subject: Re: Proposed OASG Press Release (Re: New Deputies)

Just curious, didn't we issue a release for the arrival of the Principal in the Deputy's Office? I believe there is value in announcing for Neil, the new Principal Deputy Associate, who just arrived in June.
As to the other two folks on the release, there is a plus factor value, but no need to make exceptions to newly established procedures. Please let me and Neil know what you advise. Thanks.

-----Original Message-----
From: Nowacki, John <John.Nowacki@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
CC: Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 18:14:43 2005
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Luis,

I think you're right in that it's too late to put this out; we would have to include something in the release about the date of the appointments. Also, we've standardized our release criteria for all offices and components, and -- while there have been a few exceptions in the past -- we are now issuing releases for component head matters (resignations, for example; appointments are usually announced by the White House) only.

John

_____

From: Scolinos, Tasia
Sent: Friday, July 08, 2005 4:07 PM
To: Nowacki, John
Subject: FW: Proposed OASG Press Release (Re: New Deputies)

can you handle this - thanks

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, July 08, 2005 4:06 PM
To: Scolinos, Tasia; Madden, Kevin
Cc: Gorsuch, Neil M
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Know your swamped and/or traveling, but please let me know where we stand on this one way or the other. May be close to stale. If you recommend keeping Robert's name out we could change to the AG or the DOJ. Thanks.

<< File: OASG Press Release1.doc >>
-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 29, 2005 6:25 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Tasia, Kevin:
Touching base with you on this. Let me get your thoughts on release or changes so I can get back to the Associate. Thanks as always..
<< File: OASG Press Release1.doc >>

Lou

_____

Luis A. Reyes,

Chief of Staff and Deputy Associate Attorney General
Office of the Associate Attorney General
United States Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530
Phone: (202) 514-9500
Fax: (202) 514-0238
Email: Luis.A.Reyes@usdoj.gov

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 15, 2005 8:16 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: Proposed OASG Press Release (Re: New Deputies)

Attached is the proposed release. Query whether we should hold off on this or excise Robert's name from all of this and just do it from the "Department of Justice"?

<< File: OASG Press Release.doc >>

ASSOCIATE ATTORNEY GENERAL ROBERT D. MCCALLUM, JR. ANNOUNCES APPOINTMENT OF NEW DEPUTY ASSOCIATE ATTORNEYS GENERAL

WASHINGTON, D.C. - Associate Attorney General Robert D. McCallum, Jr. announced today the appointment of three new Deputy Associate Attorneys General in the Office of the Associate Attorney General (OASG).
In announcing the new appointments to his office, Associate Attorney General Robert D. McCallum, Jr. said, "Our new Deputy Associate Attorneys General bring considerable practical experience and legal skills of the highest caliber to the Associate Attorney General's Office. We are excited to have them aboard."

Neil M. Gorsuch has been appointed Principal Deputy Associate Attorney General. Prior to his appointment, Mr. Gorsuch was a partner at the Washington firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, where his practice focused on complex trial and appellate litigation, including antitrust and securities matters. Mr. Gorsuch served as a law clerk to the Honorable Byron R. White and the Honorable Anthony M. Kennedy of the U.S. Supreme Court, as well as to the Honorable David B. Sentelle of the U.S. Court of Appeals for the D.C. Circuit. Mr. Gorsuch holds a doctorate in legal philosophy from Oxford, where he was a Marshall scholar; a J.D. from the Harvard Law School, where he studied as a Truman scholar; and a B.A. from Columbia University. Among other items in his new portfolio, Mr. Gorsuch will oversee terrorism-related litigation matters and advise the Associate Attorney General on all issues that reach the office for consideration.

Luis A. Reyes has been appointed Chief of Staff and Deputy Associate Attorney General. From 2003 to 2005, Mr. Reyes served as Counselor to the Assistant Attorney General for the Department's Civil Rights Division. As the Assistant Attorney General's senior legal counsel he was involved in a wide range of litigation, legislative, and policy-related matters. Mr. Reyes was heavily involved in the Department's efforts to combat human trafficking, appearing before state legislative bodies and civil rights groups to speak on the topic. Prior to joining the Civil Rights Division, Mr. Reyes served as Counsel to the Assistant Attorney General for the Civil Division where he advised on administrative and litigation

related matters. Mr. Reyes joined the Department of Justice in 2001, after serving as an Assistant Attorney General for the State of Texas for three years under then state Attorney General John Cornyn. Mr. Reyes is a graduate of the University of Texas at Austin, and the University of Texas School of Law. In his new role, Mr. Reyes will work with the Department's Tax Division, the Community Relations Service, and will be involved in internal and organizational issues as assigned by the Associate Attorney General.

Lily Fu Swenson has been appointed Deputy Associate Attorney General. Ms. Swenson joins the OASG from the Washington office of Mayer, Brown, Rowe and Maw LLP where she served as hiring partner and a member of the firm's antitrust and litigation practice groups. Ms. Swenson's practice focused primarily on class action and appellate litigation, including antitrust, securities and professional liability matters. Ms. Swenson graduated from the University of Minnesota School of Law in 1993 and the University of Wisconsin at Madison in 1990. Prior to joining Mayer, Brown, Rowe & Maw, she clerked for the Honorable Michael S. Kanne of the United States Court of Appeals for the Seventh Circuit. In her new post, Ms. Swenson will oversee antitrust as well as commercial, health care fraud and immigration litigation matters.

-----Original Message-----
From: USDOJ- Office of Public Affairs
Sent: Thursday, September 01, 2005 5:38 PM
Subject: ANTITRUST DIVISION NAMES NEW DEPUTY ASSISTANT ATTORNEY GENERAL

<< OLE Object: Picture (Metafile) >> << OLE Object: Picture (Metafile) >>

ANTITRUST DIVISION NAMES NEW DEPUTY ASSISTANT ATTORNEY GENERAL

WASHINGTON D.C. -- Thomas O. Barnett, Acting Assistant Attorney General for the Antitrust Division, today announced that Gerald F. Masoudi has been appointed to serve as the Deputy Assistant Attorney General in charge of International, Policy, and Appellate Matters for the Division.

"Jerry's antitrust experience, including his extensive background in appellate litigation, will be a valued asset to the Division," Barnett said. "The Department is fortunate to have someone of his expertise to lead our international, appellate, and policy efforts."

Masoudi currently serves as Deputy Chief Counsel at the United States Food and Drug Administration (FDA), where he also served for a time as Acting Chief Counsel. Before joining the FDA in 2004, Masoudi was a partner in the trial and appellate litigation group at Kirkland and Ellis, L.L.P. in Washington, D.C. Masoudi's practice included matters in the areas of antitrust, pharmaceuticals, telecommunications, and toxic torts.

Masoudi earned his B.A. in economics from Amherst College in 1990. In 1993, he graduated with high honors from the University of Chicago Law School, where he served as an editor of the University of Chicago Law Review and was a John M. Olin Fellow in Law and Economics. Masoudi clerked for Judge Frank H. Easterbrook of the U.S. Court of Appeals for the Seventh Circuit.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 1, 2005 6:13 PM
To: Nowacki, John
Cc: Reyes, Luis (SMO); Scolinos, Tasia
Subject: FW: ANTITRUST DIVISION NAMES NEW DEPUTY ASSISTANT ATTORNEY GENERAL

John - Meant to include you. Thanks, Neil

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 01, 2005 6:11 PM
To: Scolinos, Tasia
Cc: Reyes, Luis (SMO)
Subject: RE: ANTITRUST DIVISION NAMES NEW DEPUTY ASSISTANT ATTORNEY GENERAL

Tasia - Personally this doesn't matter much to me. But, if policy does permit it -- and it seems to given the ATR announcement -- I do think it might be helpful to alert the legal community to the three talented new deputies in this office. I note that similar releases have been done for new deputies in the Associates office in the recent past. I believe Luis has already forwarded a draft release to you for consideration. Thanks. Neil

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, September 01, 2005 5:57 PM
To: Nowacki, John
Cc: Roehrkasse, Brian; Scolinos, Tasia; Gorsuch, Neil M
Subject: FW: ANTITRUST DIVISION NAMES NEW DEPUTY ASSISTANT ATTORNEY GENERAL

Guys, please help me in understanding why the Principal Deputy Associate Attorney General did not have a similar release cleared as the one for an ATR Deputy when we were discussing this several weeks back. John, your past email and my unreplied to response is pasted below. Thanks. --LR

Luis A. Reyes
Chief of Staff and Deputy Associate Attorney General
United States Department of Justice
950 Pennsylvania Ave NW
Washington, DC 20530
(202) 514-9500

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, July 08, 2005 6:45 PM
To: Nowacki, John; Gorsuch, Neil M; Swenson, Lily F
Cc: Scolinos, Tasia
Subject: Re: Proposed OASG Press Release (Re: New Deputies)

Just curious, didn't we issue a release for the arrival of the Principal in the Deputy's Office? I believe there is value in announcing for Neil, the new Principal Deputy Associate, who just arrived in June.
As to the other two folks on the release, there is a plus factor value, but no need to make exceptions to newly established procedures. Please let me and Neil know what you advise. Thanks.

-----Original Message-----
From: Nowacki, John <John.Nowacki@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
CC: Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>
Sent: Fri Jul 08 18:14:43 2005
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Luis,

I think you're right in that it's too late to put this out; we would have to include something in the release about the date of the appointments. Also, we've standardized our release criteria for all offices and components, and -- while there have been a few exceptions in the past -- we are now issuing releases for component head matters (resignations, for example; appointments are usually announced by the White House) only.

John

_____
From: Scolinos, Tasia
Sent: Friday, July 08, 2005 4:07 PM
To: Nowacki, John
Subject: FW: Proposed OASG Press Release (Re: New Deputies)

can you handle this - thanks

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, July 08, 2005 4:06 PM
To: Scolinos, Tasia; Madden, Kevin
Cc: Gorsuch, Neil M
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Know your swamped and/or traveling, but please let me know where we stand on this one way or the other. May be close to stale. If you recommend keeping Robert's name out we could change to the AG or the DOJ. Thanks.

<< File: OASG Press Release1.doc >>
-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 29, 2005 6:25 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: RE: Proposed OASG Press Release (Re: New Deputies)

Tasia, Kevin:
Touching base with you on this. Let me get your thoughts on release or changes so I can get back to the Associate. Thanks as always..

<< File: OASG Press Release1.doc >>

Lou

_____
Luis A. Reyes,
Chief of Staff and Deputy Associate Attorney General
Office of the Associate Attorney General
United States Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530
Phone: (202) 514-9500
Fax: (202) 514-0238
Email: Luis.A.Reyes@usdoj.gov
_____

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, June 15, 2005 8:16 PM
To: Scolinos, Tasia; Madden, Kevin
Subject: Proposed OASG Press Release (Re: New Deputies)

Attached is the proposed release. Query whether we should hold off on this or excise Robert's name from all of this and just do it from the "Department of Justice"?

<< File: OASG Press Release.doc >>

ASSOCIATE ATTORNEY GENERAL ROBERT D. MCCALLUM, JR. ANNOUNCES APPOINTMENT OF NEW DEPUTY ASSOCIATE ATTORNEYS GENERAL

WASHINGTON, D.C. - Associate Attorney General Robert D. McCallum, Jr. announced today the appointment of three new Deputy Associate Attorneys General in the Office of the Associate Attorney General (OASG).
In announcing the new appointments to his office, Associate Attorney General Robert D. McCallum, Jr. said, "Our new Deputy Associate Attorneys General bring considerable practical experience and legal skills of the highest caliber to the Associate Attorney General's Office. We are excited to have them aboard."

Neil M. Gorsuch has been appointed Principal Deputy Associate Attorney General. Prior to his appointment, Mr. Gorsuch was a partner at the Washington firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, where his practice focused on complex trial and appellate litigation, including antitrust and securities matters. Mr. Gorsuch served as a law clerk to the Honorable Byron R. White and the Honorable Anthony M. Kennedy of the U.S. Supreme Court, as well as to the Honorable David B. Sentelle of the U.S. Court of Appeals for the D.C. Circuit. Mr. Gorsuch holds a doctorate in legal philosophy from Oxford, where he was a Marshall scholar; a J.D. from the Harvard Law School, where he studied as a Truman scholar; and a B.A. from Columbia University. Among other items in his new portfolio, Mr. Gorsuch will oversee terrorism-related litigation matters and advise the Associate Attorney General on all issues that reach the office for consideration.

Luis A. Reyes has been appointed Chief of Staff and Deputy Associate Attorney

General. From 2003 to 2005, Mr. Reyes served as Counselor to the Assistant Attorney General for the Department's Civil Rights Division. As the Assistant Attorney General's senior legal counsel he was involved in a wide range of litigation, legislative, and policy-related matters. Mr. Reyes was heavily involved in the Department's efforts to combat human trafficking, appearing before state legislative bodies and civil rights groups to speak on the topic. Prior to joining the Civil Rights Division, Mr. Reyes served as Counsel to the Assistant Attorney General for the Civil Division where he advised on administrative and litigation related matters. Mr. Reyes joined the Department of Justice in 2001, after serving as an Assistant Attorney General for the State of Texas for three years under then state Attorney General John Cornyn. Mr. Reyes is a graduate of the University of Texas at Austin, and the University of Texas School of Law. In his new role, Mr. Reyes will work with the Department's Tax Division, the Community Relations Service, and will be involved in internal and organizational issues as assigned by the Associate Attorney General.

Lily Fu Swenson has been appointed Deputy Associate Attorney General. Ms. Swenson joins the OASG from the Washington office of Mayer, Brown, Rowe and Maw LLP where she served as hiring partner and a member of the firm's antitrust and litigation practice groups. Ms. Swenson's practice focused primarily on class action and appellate litigation, including antitrust, securities and professional liability matters. Ms. Swenson graduated from the University of Minnesota School of Law in 1993 and the University of Wisconsin at Madison in 1990. Prior to joining Mayer, Brown, Rowe & Maw, she clerked for the Honorable Michael S. Kanne of the United States Court of Appeals for the Seventh Circuit. In her new post, Ms. Swenson will oversee antitrust as well as commercial, health care fraud and immigration litigation matters.

-----Original Message-----
From: USDOJ- Office of Public Affairs
Sent: Thursday, September 01, 2005 5:38 PM
Subject: ANTITRUST DIVISION NAMES NEW DEPUTY ASSISTANT ATTORNEY GENERAL

<< OLE Object: Picture (Metafile) >> << OLE Object: Picture (Metafile) >>

ANTITRUST DIVISION NAMES NEW DEPUTY ASSISTANT ATTORNEY GENERAL

WASHINGTON D.C. -- Thomas O. Barnett, Acting Assistant Attorney General for the Antitrust Division, today announced that Gerald F. Masoudi has been appointed to serve as the Deputy Assistant Attorney General in charge of International, Policy, and Appellate Matters for the Division.

"Jerry's antitrust experience, including his extensive background in appellate litigation, will be a valued asset to the Division," Barnett said. "The Department is fortunate to have someone of his expertise to lead our international, appellate, and policy efforts."

Masoudi currently serves as Deputy Chief Counsel at the United States Food and Drug Administration (FDA), where he also served for a time as Acting Chief Counsel. Before joining the FDA in 2004, Masoudi was a partner in the trial and appellate litigation group at Kirkland and Ellis, L.L.P. in Washington, D.C. Masoudi's practice included matters in the areas of antitrust, pharmaceuticals, telecommunications, and toxic torts.

Masoudi earned his B.A. in economics from Amherst College in 1990. In 1993, he graduated with high honors from the University of Chicago Law School, where he served as an editor of the University of Chicago Law Review and was a John M. Olin Fellow in Law and Economics. Masoudi clerked for Judge Frank H. Easterbrook of the U.S. Court of Appeals for the Seventh Circuit.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 1, 2005 6:16 PM
To: Metcalf, Mark H (CRT)
Subject: RE:

Happy to - anytime

-----Original Message-----
From: Metcalf, Mark H (CRT)
Sent: Thursday, September 01, 2005 6:14 PM
To: Gorsuch, Neil M
Subject:

Thanks for your time late yesterday afternoon.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 1, 2005 7:16 PM
To: Reyes, Luis (SMO)
Subject: Crs

What I'm hearing on the news this evening seems to confirm further the legitimacy of concerns about potential racial strife in New Orleans and, thus, CRS's request.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 1, 2005 7:38 PM
To: Gorsuch, Neil M

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, September 1, 2005 11:45 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: CRS Deployment

Looks like my Bberry is down so I have come back to the office. Hopefully yours is up and running.

With the strong caveat that proper and meticulous coordination is done with the relevant USAO and DHS/FEMA personnel, I believe that deployment of CRS is appropriate and justified at this time. I am recommending that we run the proper traps and have CRS deploy. Neil, I believe Neil concurs in this thought.

I can be reached at [redacted]ll night or (202) 353-2811 (office for a good while longer). Time is 11:42 pm (in case you get this via delayed email).

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 01, 2005 7:16 PM
To: Reyes, Luis (SMO)
Subject: Crs

What I'm hearing on the news this evening seems to confirm further the legitimacy of concerns about potential racial strife in New Orleans and, thus, CRS's request.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 12:25 AM
To: Reyes, Luis (SMO); McCallum, Robert (SMO); Gorsuch, Neil M
Subject: RE: CRS Deployment / Follow-Up

I have talked to Sharee tonight. I am circling back with the proper contact point in FEMA myself in response to an inquiry that they had about CRS.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, September 01, 2005 11:45 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: CRS Deployment

Looks like my Bberry is down so I have come back to the office. Hopefully yours is up and running.

With the strong caveat that proper and meticulous coordination is done with the relevant USAO and DHS/FEMA personnel, I believe that deployment of CRS is appropriate and justified at this time. I am recommending that we run the proper traps and have CRS deploy. Neil, I believe Neil concurs in this thought.

I can be reached at [redacted] all night or (202) 353-2811 (office for a good while longer). Time is 11:42 pm (in case you get this via delayed email).

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 01, 2005 7:16 PM
To: Reyes, Luis (SMO)
Subject: Crs

What I'm hearing on the news this evening seems to confirm further the legitimacy of concerns about potential racial strife in New Orleans and, thus, CRS's request.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 12:26 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: BBerry down, here is my cell

No action or decision needed before morning. Nevertheless, my blackberry continues to be down so if you need to contact me for any reason, the number is [redacted].

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 2, 2005 9:05 AM
To: Reyes, Luis (SMO); McCallum, Robert (SMO)
Subject: RE: CRS Deployment / Follow-Up

Thanks, Lou. Let me know how FEMA calls go; if you want my involvement, just let me know.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 12:25 AM
To: Reyes, Luis (SMO); McCallum, Robert (SMO); Gorsuch, Neil M
Subject: RE: CRS Deployment / Follow-Up

I have talked to Sharee tonight. I am circling back with the proper contact point in FEMA myself in response to an inquiry that they had about CRS.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, September 01, 2005 11:45 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: CRS Deployment

Looks like my Bberry is down so I have come back to the office. Hopefully yours is up and running.

With the strong caveat that proper and meticulous coordination is done with the relevant USAO and DHS/FEMA personnel, I believe that deployment of CRS is appropriate and justified at this time. I am recommending that we run the proper traps and have CRS deploy. Neil, I believe Neil concurs in this thought.

I can be reached at [redacted]all night or (202) 353-2811 (office for a good while longer). Time is 11:42 pm (in case you get this via delayed email).

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 01, 2005 7:16 PM
To: Reyes, Luis (SMO)
Subject: Crs

What I'm hearing on the news this evening seems to confirm further the legitimacy of concerns about potential racial strife in New Orleans and, thus, CRS's request.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 2, 2005 9:06 AM
To: Gorsuch, Neil M

Beach, Andrew

Subject:	Updated: Senior Management Meeting
Start:	Tuesday, September 6, 2005 9:00 AM
End:	Tuesday, September 6, 2005 9:20 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG)

When: Tuesday, September 06, 2005 9:00 AM-9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer

Beach, Andrew

Subject:	Updated: Component Coordination Meeting
Start:	Tuesday, September 6, 2005 9:20 AM
End:	Tuesday, September 6, 2005 9:40 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); Roehrkasse, Brian

When: Tuesday, September 06, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Will Moschella, Brian Roehrkasse, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 10:04 AM
To: Henke, Tracy (SMO); Senger, Jeffrey M
Subject: MOV

Courtney called asking for us to help Jan Williams with 911 MOV event details. I suggested that Jan contact both of you since Jeff may help work on some of Tracy's issues after her departure. If Jan calls one or other of you, please coordinate so both are in the loop, and please keep me in the loop as well. Thanks.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Friday, September 2, 2005 10:09 AM
To: Gorsuch, Neil M
Subject: crs latest

Neil, Sharee has now come back and said that she does not want me to contact the FEMA contact because it would some how chance a negative reaction, to which I responded below. The person at FEMA is [redacted]The phone number Sharee gave me for her last night was bogus when I tried it this morning, so I found her email and reached out to her. Will forward you a copy of that. I find Sharee's behavior slightly odd, unless FEMA had not been contacting her or requesting her assistance in the first place.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 10:01 AM
To: Freeman, Sharee
Subject: RE: NO Deployment

Why would there be a negative reaction to my circling back on behalf of the Associate Attorney General to just say, do you have the information you need, let us know how we can be of help?

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 9:57 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

Because they reached to CRS and it is a delicate situation and honestly I do not want you to chance a negative reaction. I am in a session with. USA Perez and the SAC with their community now.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:47:48 2005
Subject: Re: NO Deployment

Please call either me or Neil at [redacted] and tell me why we shouldn't touch base with FEMA after they reached out to us. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 09:44:05 2005
Subject: Re: NO Deployment

I would prefer if you did not call [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:31:13 2005
Subject: NO Deployment

Sharee, could you please give me [redacted] ontact number. I have [redacted] but that is not working. I just want to call [redacted] and touch base.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 12:44 AM
To: Reyes, Luis (SMO)
Subject: Re: Coverage getting worse

I am thinking we should not call [redacted] We should wait until [redacted] calls us back ---
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 23:39:55 2005
Subject: RE: Coverage getting worse

Sharee, have been trying to get a hold of you. Blackberry service is down, I am now at the office. Please call me if you get this [redacted] Will have something for you in short order, in the meantime, please advise by phone if FEMA as requested your presence. Thanks. --LR

-----Original Message-----
From: Freeman, Sharee
Sent: Thursday, September 01, 2005 7:26 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: Fw: Coverage getting worse

CRS is still waiting and FEMA is thinking about asking us to join them. It is not done yet. As CRS Director, the below newsarticle is more than enough to deploy. Where are we today?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Thu Sep 01 19:13:30 2005
Subject: Fw: Coverage getting worse

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schneider, P Diane <P.Schneider@CRS.USDOJ.GOV>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Thu Sep 01 18:10:08 2005
Subject: Coverage getting worse

<<image001.jpg>>
<<image002.gif>>

Cries for help spread across New Orleans
Local official blames FEMA for 'national disgrace'; mayor issues 'SOS'

NBC, MSNBC and news services

Updated: 4:58 p.m. ET Sept. 1, 2005

NEW ORLEANS - Fights and fires broke out, corpses lay out in the open, and rescue helicopters and law enforcement officers were shot at as flood-stricken New Orleans slipped toward anarchy Thursday.

"This is a desperate SOS," the mayor said.

While a mass evacuation got under way at the city's Superdome, where thousands of restless people were waiting for help, there was desperation and mounting anger at a separate refuge, the city's convention center, where storm victims grew increasingly hungry and thirsty and pleaded for relief.

Officials said thousands more National Guardsmen were being sent to the city, and Congress planned a special session Thursday night to approve emergency aid. But across the city, residents complained that aid was not arriving and a local official blamed the Federal Emergency Management Agency.

"This is a national disgrace," said Terry Ebbert, head of New Orleans' emergency operations. "FEMA has been here three days, yet there is no command and control," Ebbert said. "We can send massive amounts of aid to tsunami victims but we can't bail out the city of New Orleans."

amounts of aid to tsunami victims but we can't bail out the city of New Orleans."

"We have got a mayor who has been pushing and asking but we're not getting supplies," he said. He said the evacuation was almost entirely a Louisiana operation. "This is not a FEMA operation. I haven't seen a single FEMA guy."

Mayor Ray Nagin, in issuing his dire plea in a statement to CNN, said: "Right now we are out of resources at the convention center and don't anticipate enough buses. Currently the convention center is unsanitary and unsafe and we are running out of supplies for 15,000 to 25,000 people."

Dead bodies outside center

Outside the center, people complained that they were evacuated, taken to the convention hall by bus, dropped off and given nothing.

At least seven bodies were scattered outside, and hungry people broke through the steel doors to a food service entrance and began pushing out pallets of water and juice and whatever else they could find.

An old man in a chaise lounge lay dead in a grassy median as hungry babies wailed around him. Around the corner, an elderly woman lay dead in her wheelchair, covered with a blanket, and another body lay beside her wrapped in a sheet.

"I don't treat my dog like that," Daniel Edwards said as he pointed at the woman in the wheelchair. "I buried my dog."

"You can do everything for other countries but you can't do nothing for your own people," he said. "You can go overseas with the military but you can't get them down here."

The street outside the center, above the floodwaters, smelled of urine and feces, and was choked with dirty diapers, old bottles and garbage.

"We are out here like pure animals. We don't have help," said the Rev. Isaac Clark, 68.

People there, some holding crying babies or elderly barely able to stand up, shouted for help as TV news crews passed by.

A sea of pain

On the front steps of the convention center, one woman, screaming, led the crowd in reciting the 23rd Psalm.

John Murray, 52, said: "It's like they're punishing us."

The Superdome, where some 25,000 people were being evacuated by bus to the Houston Astrodome, descended into chaos as well.

Huge crowds, hoping to finally escape the stifling confines of the stadium, jammed the main concourse outside the dome, spilling out over the ramp to the Hyatt hotel next door — a seething sea of tense, unhappy, people packed shoulder-to-shoulder up to the barricades where heavily armed National Guard troops stood.

At the front of the line, heavily armed policemen and guardsmen stood watch and handed out water as

tense and exhausted crowds struggled onto buses. At the back end of the line, people jammed against police barricades in the rain. Luggage, bags of clothes, pillows, blankets were strewn in the puddles.

Many people had dogs and they cannot take them on the bus. A police officer took one from a little boy, who cried until he vomited. "Snowball, snowball," he cried. The policeman told a reporter he didn't know what would happen to the dog.

Other parts of the city saw similar desperation. "We need help," Polly Boudreaux, clerk of the St. Bernard Parish Council, told WAFB-TV in a phone interview in which she broke down crying.

"We're just been absolutely devastated," she said, and many residents still need to be rescued.

Little outside aid has reached the parish, she added. "We are not seeing it."

Doctors at two desperately crippled hospitals with 360 patients called The Associated Press pleading for rescue, saying they were nearly out of food and power and had been forced to move patients to higher floors to escape looters.

"We have been trying to call the mayor's office, we have been trying to call the governor's office. ... We have tried to use any inside pressure we can. We are turning to you. Please help us," said Dr. Norman McSwain, chief of trauma surgery at Charity Hospital.

Mob fears, gunshots

While most stranded residents were orderly, police warned reporters to be careful given the desperation.

"We were told don't drink or eat in public as it could lead to a mob situation," NBC's Michelle Hofland said. "We were told that by sundown to get out of here."

Federal rescue workers were pulled back from some areas of the city where gunfire was heard or reported, a Department of Homeland Security official told NBC News.

"Hospitals are trying to evacuate," said Coast Guard Lt. Cmdr. Cheri Ben-Iesan, spokesman at the city emergency operations center. "At every one of them, there are reports that as the helicopters come in people are shooting at them. There are people just taking potshots at police and at helicopters, telling them, "You better come get my family."

Police Capt. Ernie Demmo said a National Guard military policeman was shot in the leg as the two scuffled for the MP's rifle. The man was arrested.

"These are good people. These are just scared people," Demmo said.

'We need a thousand' National Guard

Earlier, as the situation at the Superdome deteriorated. Paramedics were alarmed by the sight of people with guns.

An air ambulance service official said helicopter transfers of the sick and injured were suspended after report of a helicopter being fired on overnight.

Able-bodied evacuees were still being moved by bus to Houston's Astrodome, the National Guard said, correcting a Guard official who said that operation was on hold as well.

correcting a Guard official who said that operation was on hold as well.

Texas on Thursday announced that it would house 25,000 more evacuees in San Antonio.

The Superdome helicopter operation was suspended "until they gain control of the Superdome," said Richard Zuschlag, head of Acadian Ambulance, which was handling the evacuation of sick and injured people.

He said the National Guard told him that it was sending 100 military police officers to gain control. "That's not enough," Zuschlag. "We need a thousand."

Medics were calling him and crying for help because they were so scared of people with guns at the Superdome, he added.

Zuschlag said shots were fired at a military helicopter over the Superdome before daybreak, but a National Guard officer said he had a report of just one shot being fired at the helicopter.

Zuschlag added that when another evacuation helicopter tried to land at a hospital in the outlying town of Kenner overnight, the pilot reported that 100 people were on the landing pad, and some of them had guns.

"He was frightened and would not land," Zuschlag said.

Bush to visit Friday

President Bush will tour <http://msnbc.msn.com/id/9157866/> the hurricane-devastated Gulf Coast region on Friday and has asked former Presidents Clinton and Bush to lead a private fund-raising campaign to help victims recover, the White House said Thursday.

An additional 10,000 National Guard troops from across the country were ordered into the Gulf Coast to shore up security, rescue and relief operations. The new units brought the number of troops dedicated to the effort to more than 28,000, in what may be the largest military response to a natural disaster.

Looting has also been a problem in Mississippi.

"The truth is, a terrible tragedy like this brings out the best in most people, brings out the worst in some people," said Mississippi Gov. Haley Barbour on NBC's "Today" show Thursday. "We're trying to deal with looters as ruthlessly as we can get our hands on them."

New Orleans police focus on looters

In New Orleans, Nagin on Wednesday night ordered the city's 1,500 police officers to leave their search-and-rescue mission and focus on stopping the looting.

Police were asking residents to give up any firearms before they evacuated neighborhoods because officers desperately needed the firepower: Some officers who had been stranded on the roof of a hotel said they were shot at.

Nagin called for an all-out evacuation of the city's remaining residents. Asked how many people died, he said: "Minimum, hundreds. Most likely, thousands."

Struggle to plug the breached levees

With most of the city under water, Army engineers struggled to plug New Orleans' breached levees with giant sandbags and concrete barriers, and authorities drew up plans to clear out the tens of thousands of remaining people and practically abandon the below-sea-level city.

Nagin said there will be a "total evacuation of the city. We have to. The city will not be functional for two or three months." And he said people would not be allowed back into their homes for at least a month or two.

If the mayor's death-toll estimate holds true, it would make Katrina the worst natural disaster in the United States since at least the 1906 San Francisco earthquake and fire, which have blamed for anywhere from about 500 to 6,000 deaths. Katrina would also be the nation's deadliest hurricane since 1900, when a storm in Galveston, Texas, killed between 6,000 and 12,000 people.

In Mississippi, meantime, bodies are starting to pile up at the morgue in hard-hit Harrison County. Forty corpses have been brought to the morgue already, and officials expect the death toll in the county to climb well above 100.

Tempers were beginning to flare in the aftermath of the storm. Police said a man fatally shot his sister in the head over a bag of ice in Hattiesburg, Miss.

Full magnitude unclear

The federal government dispatched helicopters, warships and elite SEAL water-rescue teams in one of the biggest relief operations in U.S. history, aimed at plucking residents from rooftops in the last of the "golden 72 hours" rescuers say is crucial to saving lives.

In addition to the Astrodome solution, the Federal Emergency Management Agency was considering putting people on cruise ships, in tent cities, mobile home parks, and so-called floating dormitories.

The death toll has reached at least 121 in Mississippi alone. But the full magnitude of the disaster had been unclear for days — in part, because some areas in both coastal Mississippi and New Orleans are still unreachable, but also because authorities' first priority has been the living.

In Mississippi, for example, ambulances roamed through the passable streets of devastated places such as Biloxi, Gulfport, Waveland and Bay St. Louis, in some cases speeding past corpses in hopes of saving people trapped in flooded and crumbled buildings.

The Associated Press and Reuters contributed to this report.

© 2005 MSNBC.com

URL: http://msnbc.msn.com/id/9156612/

P. Diane Schneider

Senior Conciliation Specialist

Senior Conciliation Specialist

Community Relations Service

USDOJ

Tel 206 220 6709

[redacted]

www.usdoj.gov/crs/crs.htm

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 2, 2005 10:20 AM
To: Reyes, Luis (SMO)
Subject: RE: crs latest

Puzzling. I would think and trust that direct contact from this Office to FEMA eagerly offering CRS's assistance would help smooth the way for interagency cooperation, not the reverse. I think you're right to reach out to FEMA, keeping Sharee in the loop. We should aim to get CRS deployed TODAY.

Per our discussion earlier, I left a voice mail message this morning on Sharee's cell phone indicating that I concur in her deployment recommendation and asking her to ensure that her deployment is coordinated with FEMA so that we don't do anything that might, albeit inadvertently, divert FEMA's attention our resources from rescue efforts. I haven't heard back from Sharee.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 10:09 AM
To: Gorsuch, Neil M
Subject: crs latest

Neil, Sharee has now come back and said that she does not want me to contact the FEMA contact because it would some how chance a negative reaction, to which I responded below. The person at [redacted] The phone number Sharee gave me for her last night was bogus when I tried it this morning, so I found her email and reached out to her. Will forward you a copy of that. I find Sharee's behavior slightly odd, unless FEMA had not been contacting her or requesting her assistance in the first place.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 10:01 AM
To: Freeman, Sharee
Subject: RE: NO Deployment

Why would there be a negative reaction to my circling back on behalf of the Associate Attorney General to just say, do you have the information you need, let us know how we can be of help?

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 9:57 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

Because they reached to CRS and it is a delicate situation and honestly I do not want you to chance a

Because they reached to CRS and it is a delicate situation and honestly I do not want you to chance a negative reaction. I am in a session with. USA Perez and the SAC with their community now.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:47:48 2005
Subject: Re: NO Deployment

Please call either me or Neil at [redacted] and tell me why we shouldn't touch base with FEMA after they reached out to us. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 09:44:05 2005
Subject: Re: NO Deployment

I would prefer if you did not call [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:31:13 2005
Subject: NO Deployment

Sharee, could you please give me [redacted] contact number. I have [redacted] but that is not working. I just want to call [redacted] and touch base.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 12:44 AM
To: Reyes, Luis (SMO)
Subject: Re: Coverage getting worse

I am thinking we should not call [redacted] We should wait until [redacted] calls us back ----------
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>

CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 23:39:55 2005
Subject: RE: Coverage getting worse

Sharee, have been trying to get a hold of you. Blackberry service is down, I am now at the office. Please call me if you get this [redacted] Will have something for you in short order, in the meantime, please advise by phone if FEMA as requested your presence. Thanks. --LR

-----Original Message-----
From: Freeman, Sharee
Sent: Thursday, September 01, 2005 7:26 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: Fw: Coverage getting worse

CRS is still waiting and FEMA is thinking about asking us to join them. It is not done yet. As CRS Director, the below newsarticle is more than enough to deploy. Where are we today?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Thu Sep 01 19:13:30 2005
Subject: Fw: Coverage getting worse

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schneider, P Diane <P.Schneider@CRS.USDOJ.GOV>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Thu Sep 01 18:10:08 2005
Subject: Coverage getting worse

<<image001.jpg>>
<<image002.gif>>

Cries for help spread across New Orleans
Local official blames FEMA for 'national disgrace'; mayor issues 'SOS'

NBC, MSNBC and news services

Updated: 4:58 p.m. ET Sept. 1, 2005

NEW ORLEANS - Fights and fires broke out, corpses lay out in the open, and rescue helicopters and law enforcement officers were shot at as flood-stricken New Orleans slipped toward anarchy Thursday.

"This is a desperate SOS," the mayor said.

While a mass evacuation got under way at the city's Superdome, where thousands of restless people were waiting for help, there was desperation and mounting anger at a separate refuge, the city's convention center, where storm victims grew increasingly hungry and thirsty and pleaded for relief.

Officials said thousands more National Guardsmen were being sent to the city, and Congress planned a special session Thursday night to approve emergency aid. But across the city, residents complained that aid was not arriving and a local official blamed the Federal Emergency Management Agency.

"This is a national disgrace," said Terry Ebbert, head of New Orleans' emergency operations. "FEMA has been here three days, yet there is no command and control," Ebbert said. "We can send massive amounts of aid to tsunami victims but we can't bail out the city of New Orleans."

"We have got a mayor who has been pushing and asking but we're not getting supplies," he said. He said the evacuation was almost entirely a Louisiana operation. "This is not a FEMA operation. I haven't seen a single FEMA guy."

Mayor Ray Nagin, in issuing his dire plea in a statement to CNN, said: "Right now we are out of resources at the convention center and don't anticipate enough buses. Currently the convention center is unsanitary and unsafe and we are running out of supplies for 15,000 to 25,000 people."

Dead bodies outside center

Outside the center, people complained that they were evacuated, taken to the convention hall by bus, dropped off and given nothing.

At least seven bodies were scattered outside, and hungry people broke through the steel doors to a food service entrance and began pushing out pallets of water and juice and whatever else they could find.

An old man in a chaise lounge lay dead in a grassy median as hungry babies wailed around him. Around the corner, an elderly woman lay dead in her wheelchair, covered with a blanket, and another body lay beside her wrapped in a sheet.

"I don't treat my dog like that," Daniel Edwards said as he pointed at the woman in the wheelchair. "I buried my dog."

"You can do everything for other countries but you can't do nothing for your own people," he said. "You can go overseas with the military but you can't get them down here."

The street outside the center, above the floodwaters, smelled of urine and feces, and was choked with dirty diapers, old bottles and garbage.

"We are out here like pure animals. We don't have help," said the Rev. Isaac Clark, 68.

People there, some holding crying babies or elderly barely able to stand up, shouted for help as TV news crews passed by.

A sea of pain
On the front steps of the convention center, one woman, screaming, led the crowd in reciting the 23rd Psalm.

John Murray, 52, said: "It's like they're punishing us."

The Superdome, where some 25,000 people were being evacuated by bus to the Houston Astrodome, descended into chaos as well.

Huge crowds, hoping to finally escape the stifling confines of the stadium, jammed the main concourse outside the dome, spilling out over the ramp to the Hyatt hotel next door — a seething sea of tense, unhappy, people packed shoulder-to-shoulder up to the barricades where heavily armed National Guard troops stood.

At the front of the line, heavily armed policemen and guardsmen stood watch and handed out water as tense and exhausted crowds struggled onto buses. At the back end of the line, people jammed against police barricades in the rain. Luggage, bags of clothes, pillows, blankets were strewn in the puddles.

Many people had dogs and they cannot take them on the bus. A police officer took one from a little boy, who cried until he vomited. "Snowball, snowball," he cried. The policeman told a reporter he didn't know what would happen to the dog.

Other parts of the city saw similar desperation. "We need help," Polly Boudreaux, clerk of the St. Bernard Parish Council, told WAFB-TV in a phone interview in which she broke down crying.

"We're just been absolutely devastated," she said, and many residents still need to be rescued.

Little outside aid has reached the parish, she added. "We are not seeing it."

Doctors at two desperately crippled hospitals with 360 patients called The Associated Press pleading for rescue, saying they were nearly out of food and power and had been forced to move patients to higher floors to escape looters.

"We have been trying to call the mayor's office, we have been trying to call the governor's office. ... We have tried to use any inside pressure we can. We are turning to you. Please help us," said Dr. Norman McSwain, chief of trauma surgery at Charity Hospital.

Mob fears, gunshots
While most stranded residents were orderly, police warned reporters to be careful given the desperation.

"We were told don't drink or eat in public as it could lead to a mob situation," NBC's Michelle Hofland said. "We were told that by sundown to get out of here."

Federal rescue workers were pulled back from some areas of the city where gunfire was heard or reported, a Department of Homeland Security official told NBC News.

"Hospitals are trying to evacuate," said Coast Guard Lt. Cmdr. Cheri Ben-Iesan, spokesman at the city emergency operations center. "At every one of them, there are reports that as the helicopters come in people are shooting at them. There are people just taking potshots at police and at helicopters, telling

people are shooting at them. There are people just taking potshots at police and at helicopters, telling them, "You better come get my family."

Police Capt. Ernie Demmo said a National Guard military policeman was shot in the leg as the two scuffled for the MP's rifle. The man was arrested.

"These are good people. These are just scared people," Demmo said.

'We need a thousand' National Guard
Earlier, as the situation at the Superdome deteriorated. Paramedics were alarmed by the sight of people with guns.

An air ambulance service official said helicopter transfers of the sick and injured were suspended after report of a helicopter being fired on overnight.

Able-bodied evacuees were still being moved by bus to Houston's Astrodome, the National Guard said, correcting a Guard official who said that operation was on hold as well.

Texas on Thursday announced that it would house 25,000 more evacuees in San Antonio.

The Superdome helicopter operation was suspended "until they gain control of the Superdome," said Richard Zuschlag, head of Acadian Ambulance, which was handling the evacuation of sick and injured people.

He said the National Guard told him that it was sending 100 military police officers to gain control. "That's not enough," Zuschlag. "We need a thousand."

Medics were calling him and crying for help because they were so scared of people with guns at the Superdome, he added.

Zuschlag said shots were fired at a military helicopter over the Superdome before daybreak, but a National Guard officer said he had a report of just one shot being fired at the helicopter.

Zuschlag added that when another evacuation helicopter tried to land at a hospital in the outlying town of Kenner overnight, the pilot reported that 100 people were on the landing pad, and some of them had guns.

"He was frightened and would not land," Zuschlag said.

Bush to visit Friday
President Bush will tour <http://msnbc.msn.com/id/9157866/> the hurricane-devastated Gulf Coast region on Friday and has asked former Presidents Clinton and Bush to lead a private fund-raising campaign to help victims recover, the White House said Thursday.

An additional 10,000 National Guard troops from across the country were ordered into the Gulf Coast to shore up security, rescue and relief operations. The new units brought the number of troops dedicated to the effort to more than 28,000, in what may be the largest military response to a natural disaster.

Looting has also been a problem in Mississippi.

"The truth is, a terrible tragedy like this brings out the best in most people, brings out the worst in some people," said Mississippi Gov. Haley Barbour on NBC's "Today" show Thursday. "We're trying to deal with looters as ruthlessly as we can get our hands on them."

New Orleans police focus on looters

In New Orleans, Nagin on Wednesday night ordered the city's 1,500 police officers to leave their search-and-rescue mission and focus on stopping the looting.

Police were asking residents to give up any firearms before they evacuated neighborhoods because officers desperately needed the firepower: Some officers who had been stranded on the roof of a hotel said they were shot at.

Nagin called for an all-out evacuation of the city's remaining residents. Asked how many people died, he said: "Minimum, hundreds. Most likely, thousands."

Struggle to plug the breached levees

With most of the city under water, Army engineers struggled to plug New Orleans' breached levees with giant sandbags and concrete barriers, and authorities drew up plans to clear out the tens of thousands of remaining people and practically abandon the below-sea-level city.

Nagin said there will be a "total evacuation of the city. We have to. The city will not be functional for two or three months." And he said people would not be allowed back into their homes for at least a month or two.

If the mayor's death-toll estimate holds true, it would make Katrina the worst natural disaster in the United States since at least the 1906 San Francisco earthquake and fire, which have blamed for anywhere from about 500 to 6,000 deaths. Katrina would also be the nation's deadliest hurricane since 1900, when a storm in Galveston, Texas, killed between 6,000 and 12,000 people.

In Mississippi, meantime, bodies are starting to pile up at the morgue in hard-hit Harrison County. Forty corpses have been brought to the morgue already, and officials expect the death toll in the county to climb well above 100.

Tempers were beginning to flare in the aftermath of the storm. Police said a man fatally shot his sister in the head over a bag of ice in Hattiesburg, Miss.

Full magnitude unclear

The federal government dispatched helicopters, warships and elite SEAL water-rescue teams in one of the biggest relief operations in U.S. history, aimed at plucking residents from rooftops in the last of the "golden 72 hours" rescuers say is crucial to saving lives.

In addition to the Astrodome solution, the Federal Emergency Management Agency was considering putting people on cruise ships, in tent cities, mobile home parks, and so-called floating dormitories.

The death toll has reached at least 121 in Mississippi alone. But the full magnitude of the disaster had been unclear for days — in part, because some areas in both coastal Mississippi and New Orleans are still unreachable, but also because authorities' first priority has been the living.

In Mississippi, for example, ambulances roamed through the passable streets of devastated places such as Biloxi, Gulfport, Waveland and Bay St. Louis, in some cases speeding past corpses in hopes of saving people trapped in flooded and crumbled buildings.

saving people trapped in flooded and crumbled buildings.

The Associated Press and Reuters contributed to this report.

© 2005 MSNBC.com

URL: http://msnbc.msn.com/id/9156612/

P. Diane Schneider

Senior Conciliation Specialist

Community Relations Service

USDOJ

Tel 206 220 6709

[redacted]

www.usdoj.gov/crs/crs.htm

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 11:04 AM
To: Buchanan, MaryBeth
Cc: Reyes, Luis (SMO); McCallum, Robert (SMO)
Subject: FW: A/C Waiver Memo
Attachments: DRAFT PRIVILEGE WAIVER Memo REDLINE (8-30-05).doc

Mary Beth,

Following up on our conversation Wednesday morning, I've sought to move some of your very good changes up to the top of the memo, seeking to emphasize right up front our confidence that the Thompson memo has been applied correctly in most cases. I've made a few other wordsmithing edits, and would very much appreciate your additional views. Your edits are in red; mine are in blue.

You should know that Robert has not yet had a chance to review this, and probably won't be able to get to it until Tuesday. To keep things moving, however, I thought I would forward my tentative edits to you now for any comments you may have.

All the best,

NMG

DRAFT DRAFT DRAFT DRAFT DRAFT

MEMORANDUM

To: ALL UNITED STATES ATTORNEYS AND DEPARTMENT COMPONENT HEADS

From: Robert D. McCallum, Jr.
Acting Deputy Attorney General

Subject: Guidance for Federal Prosecutors Regarding Requests for Corporate Waiver of the Attorney-Client Privilege and Work Product Protection

In recent years, the Department has placed significant emphasis on the prosecution of corporate crimes, with historic rises in the number and scale of those prosecutions. In connection with the Department's initiative in this area, on January 20, 2003, former Deputy Attorney General Larry D. Thompson issued a Memorandum to all United States Attorneys' Offices regarding Principles of Federal Prosecution of Business Organizations. This memorandum, commonly known as the Thompson Memorandum, found at USAM 9-162, remains the Department's policy on charging business organizations and includes factors to be considered in making charging decisions.

One of the nine factors the Thompson Memorandum sets forth in determining whether to charge a corporation or other business organization is "the corporation's timely and voluntary disclosure of wrongdoing and its willingness to cooperate in the investigation of its agents, including, if necessary, the waiver of corporate attorney-client and work product protection." Thompson Memorandum, Section II.B.4. The Thompson Memorandum elaborates on this factor by providing that a federal prosecutor may ensure the complete and truthful cooperation of a corporation by requesting, "in appropriate circumstances[,]" that the corporation waive the attorney-client privilege and attorney work-product protection, which the Memorandum recognizes also may be "critical in enabling the government to evaluate the completeness of a corporation's voluntary disclosure and cooperation." Id., Section VI.B.

Since this guidance was issued, the Department has periodically reviewed its use and application. These examinations strongly suggest that the federal prosecutors have taken an appropriate and measured approach in seeking waivers of the attorney-client privilege and work-product protection. For example, the Department recently conducted a study of corporate charging decisions at 28 United States Attorneys' Offices and the Criminal Division's Fraud Section and Asset Forfeiture and Money Laundering Section. The study revealed that, out of 52 cases involving corporate entities reported, in 25 cases prosecutors decided not to charge the entities while in 14 cases dispositions were negotiated with the entities. The negotiated dispositions include seven cases that resulted in deferred prosecution agreements, four that resulted in cooperation/non-prosecution agreements, and three that resulted in guilty pleas. Of the 14 negotiated dispositions, in only nine cases was a privilege waiver reported to play a significant role.

DRAFT DRAFT DRAFT DRAFT DRAFT

The Department's periodic examinations of practices under the Thompson Memorandum have also provided insights into a number of preferred practices with respect to waiver requests. This memorandum provides further guidance to federal prosecutors regarding waiver requests consistent with the Thompson Memorandum and the preferred practices that have emerged since the Thompson Memorandum's adoption.

In applying the factors set forth in the Thompson Memorandum, federal prosecutors have always considered and should continue to consider carefully whether and the extent to which a request to a business entity for a waiver of attorney-client privilege or attorney work-product protection is necessary to establish corporate cooperation in an investigation. While cooperation is an important factor in the Department's charging decision regarding a corporate target, the Thompson Memorandum recognizes that the attorney-client privilege and work product protections serve important, long-recognized public policies encouraging candid communications between counsel and client and promoting sound corporate governance. Accordingly, the Thompson memorandum acknowledges that a business organization's full cooperation does not always require a waiver, expressly stating that the Department "does not . . . consider waiver of a corporation's attorney-client and work product protection an absolute requirement, and prosecutors should consider the willingness of a corporation to waive such protection *when necessary to provide timely and complete information* as one factor in evaluating the corporation's cooperation." Id. (emphasis added).

By its terms, the Thompson Memorandum, without in any way limiting the ability of federal prosecutors to obtain relevant evidence, instructs prosecutors to consider carefully whether available alternatives exist before deciding to seek a waiver. . At the most basic level, a business organization may, for example, provide complete access to its employees, business records, organizational charts, compliance program, and any third-party witnesses over which it may have influence, such as customers, vendors, accountants, and former employees. In many cases, such action may be sufficient for the government to obtain timely and complete information concerning a suspected crime. In other instances involving complex business organizations or large volumes of evidence, obtaining timely and complete information may require the corporation to take additional steps, such as identifying for investigators specific witnesses and documents central to the suspected criminal conduct. A business organization could, without providing counsel's notes or reports, identify promptly and make available to investigators all of the witnesses and documents involved in its own internal investigation by corporate counsel and provide assurances that the witnesses will make full disclosure. If such actions would be adequate for federal investigators to determine timely the complete underlying facts, then the federal prosecutors should, consistent with the Thompson Memorandum, consider them before requesting a waiver.

If the alternatives to a waiver are believed to be insufficient to acquire timely and complete information, federal prosecutors should seek supervisory approval before requesting that attorney-client privilege or work-product protection be waived. United States Attorneys and Department officials who oversee corporate prosecutions should institute a system of supervisory review in their offices for this purpose.

If approval for a waiver request is obtained, the Thompson Memorandum instructs that the "waiver should ordinarily be limited to the factual internal investigation and any contemporaneous advice given to the corporation concerning the conduct at issue." Id., Section VI.B, n.3. The Thompson Memorandum further provides that, "[e]xcept in unusual circumstances, prosecutors should not seek a waiver with respect to communications and work product related to advice concerning the government's criminal investigation." Id. The Thompson Memorandum, therefore, draws an important distinction between underlying factual information and factual work product, on the one hand, and opinion work product or attorney-client communications, on the other hand. It also draws a significant distinction between legal advice rendered "contemporaneous[ly]" with "the conduct at issue" and "advice concerning the government's criminal investigation." Id. By drawing these distinctions, the Thompson Memorandum seeks to balance the interests associated with long-recognized legal privileges and those required for the vigorous enforcement of the federal criminal law.

Consistent with the Thompson Memorandum, a waiver, when deemed necessary, should be limited in most cases to factual information gleaned by the corporation's own investigation, including, where warranted by the circumstances, corporate counsel's interview notes and other factual findings, as opposed to privileged communications or counsel's opinion work product.

As the Thompson Memorandum outlines, a waiver request seeking privileged communications or opinion work product created contemporaneously with the underlying conduct under investigation may also be sometimes appropriate. Id. (discussing "contemporaneous advice"). The need for such information, however, should be evaluated independently from the necessity of factual findings, interview notes, and other fact work product. Frequently, inquiry into "contemporaneous advice" may not be necessary.

Finally, the Thompson Memorandum indicates that a waiver request for opinion work product or attorney-client communications concerning the government's criminal investigation itself may be warranted. The Memorandum instructs, however, that "prosecutors should not seek a waiver with respect" to such information except in "unusual circumstances." Id. Prosecutors should exercise similar care when evaluating the need for a waiver for opinion work product or attorney-client communications that were created after the events under investigation and involve self-evaluation activities, so that companies are not discouraged from candidly engaging in self-evaluation and assessing ways to improve corporate governance and compliance. Of course, there may be cases in which even information falling into these categories may benecessary. One example would be a case in which there is strong reason to believe that counsel's advice about the government's current investigation constitutes an obstruction of justice, though undoubtedly there will be others as well.

DRAFT DRAFT DRAFT DRAFT DRAFT

DRAFT DRAFT DRAFT DRAFT DRAFT

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 2:25 PM
To: Reyes, Luis (SMO); Freeman, Sharee
Subject: RE: FEMA

Sharee,

Just want to reiterate, as I expressed on our call this morning, that we are counting on you to deploy asap -- and to make sure that CRS does so in close coordination with FEMA. I know (as you said) that this is your arena of expertise and that you're working your own contacts at FEMA to ensure close coordination, but if we can provide any further support please don't hesitate to let me know. As indicated below, Lu is trying to help support your coordination efforts.

Please do keep us apprised of your deployments and coordination with FEMA.

Many thanks again,

Neil

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 2:04 PM
To: Freeman, Sharee
Cc: Gorsuch, Neil M
Subject: Re: FEMA

At this time, all of our involvement will go through DHS/FEMA. Please let me know if they have circled back with you.

Also, as soon as possible please have forwarded to me what you sent to FEMA about CRS and who it was sent to.

Thank you.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 13:54:41 2005
Subject: Re: FEMA

For starters, CRS just wants to get in the command center room.

Sent from my BlackBerry Wireless Handheld

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 10:24:45 2005
Subject: FEMA

Sharee, I wanted to let you know that I have circled back via email to [redacted] who is at DHS Headquarters) and others up the chain at DHS to inform them of OASG support and left them a number to call me. I suspect either you or I will hear from DHS today and go from there. Thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 10:10 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

They do not need you to do that. If you want to help figure out the level that corresponds to the Associates level and call that person at FEMA or DHS to help turn the wheel at a level higher than [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 10:01:19 2005
Subject: RE: NO Deployment

Why would there be a negative reaction to my circling back on behalf of the Associate Attorney General to just say, do you have the information you need, let us know how we can be of help?

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 9:57 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

Because they reached to CRS and it is a delicate situation and honestly I do not want you to chance a negative reaction. I am in a session with. USA Perez and the SAC with their community now.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:47:48 2005
Subject: Re: NO Deployment

Please call either me or Neil at [redacted] and tell me why we shouldn't touch base with FEMA after they reached out to us. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 09:44:05 2005
Subject: Re: NO Deployment

I would prefer if you did not call [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:31:13 2005
Subject: NO Deployment

Sharee, could you please give me [redacted] contact number. I have [redacted] but that is not working. I just want to call [redacted] and touch base.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 12:44 AM
To: Reyes, Luis (SMO)
Subject: Re: Coverage getting worse

I am thinking we should not call [redacted] We should wait until [redacted] calls us back ----------
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 23:39:55 2005
Subject: RE: Coverage getting worse

Sharee, have been trying to get a hold of you. Blackberry service is down, I am now at the office. Please call me if you get this [redacted] Will have something for you in short order, in the meantime, please advise by phone if FEMA as requested your presence. Thanks. --LR

order, in the meantime, please advise by phone if FEMA as requested your presence. Thanks. --LR

-----Original Message-----
From: Freeman, Sharee
Sent: Thursday, September 01, 2005 7:26 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: Fw: Coverage getting worse

CRS is still waiting and FEMA is thinking about asking us to join them. It is not done yet. As CRS Director, the below newsarticle is more than enough to deploy. Where are we today?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Thu Sep 01 19:13:30 2005
Subject: Fw: Coverage getting worse

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schneider, P Diane <P.Schneider@CRS.USDOJ.GOV>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Thu Sep 01 18:10:08 2005
Subject: Coverage getting worse

<<image001.jpg>>
<<image002.gif>>

Cries for help spread across New Orleans
Local official blames FEMA for 'national disgrace'; mayor issues 'SOS'

NBC, MSNBC and news services

Updated: 4:58 p.m. ET Sept. 1, 2005

NEW ORLEANS - Fights and fires broke out, corpses lay out in the open, and rescue helicopters and law enforcement officers were shot at as flood-stricken New Orleans slipped toward anarchy Thursday.

"This is a desperate SOS," the mayor said.

While a mass evacuation got under way at the city's Superdome, where thousands of restless people

were waiting for help, there was desperation and mounting anger at a separate refuge, the city's convention center, where storm victims grew increasingly hungry and thirsty and pleaded for relief.

Officials said thousands more National Guardsmen were being sent to the city, and Congress planned a special session Thursday night to approve emergency aid. But across the city, residents complained that aid was not arriving and a local official blamed the Federal Emergency Management Agency.

"This is a national disgrace," said Terry Ebbert, head of New Orleans' emergency operations. "FEMA has been here three days, yet there is no command and control," Ebbert said. "We can send massive amounts of aid to tsunami victims but we can't bail out the city of New Orleans."

"We have got a mayor who has been pushing and asking but we're not getting supplies," he said. He said the evacuation was almost entirely a Louisiana operation. "This is not a FEMA operation. I haven't seen a single FEMA guy."

Mayor Ray Nagin, in issuing his dire plea in a statement to CNN, said: "Right now we are out of resources at the convention center and don't anticipate enough buses. Currently the convention center is unsanitary and unsafe and we are running out of supplies for 15,000 to 25,000 people."

Dead bodies outside center

Outside the center, people complained that they were evacuated, taken to the convention hall by bus, dropped off and given nothing.

At least seven bodies were scattered outside, and hungry people broke through the steel doors to a food service entrance and began pushing out pallets of water and juice and whatever else they could find.

An old man in a chaise lounge lay dead in a grassy median as hungry babies wailed around him. Around the corner, an elderly woman lay dead in her wheelchair, covered with a blanket, and another body lay beside her wrapped in a sheet.

"I don't treat my dog like that," Daniel Edwards said as he pointed at the woman in the wheelchair. "I buried my dog."

"You can do everything for other countries but you can't do nothing for your own people," he said. "You can go overseas with the military but you can't get them down here."

The street outside the center, above the floodwaters, smelled of urine and feces, and was choked with dirty diapers, old bottles and garbage.

"We are out here like pure animals. We don't have help," said the Rev. Isaac Clark, 68.

People there, some holding crying babies or elderly barely able to stand up, shouted for help as TV news crews passed by.

A sea of pain

On the front steps of the convention center, one woman, screaming, led the crowd in reciting the 23rd Psalm.

John Murray, 52, said: "It's like they're punishing us."

The Superdome, where some 25,000 people were being evacuated by bus to the Houston Astrodome, descended into chaos as well.

Huge crowds, hoping to finally escape the stifling confines of the stadium, jammed the main concourse outside the dome, spilling out over the ramp to the Hyatt hotel next door — a seething sea of tense, unhappy, people packed shoulder-to-shoulder up to the barricades where heavily armed National Guard troops stood.

At the front of the line, heavily armed policemen and guardsmen stood watch and handed out water as tense and exhausted crowds struggled onto buses. At the back end of the line, people jammed against police barricades in the rain. Luggage, bags of clothes, pillows, blankets were strewn in the puddles.

Many people had dogs and they cannot take them on the bus. A police officer took one from a little boy, who cried until he vomited. "Snowball, snowball," he cried. The policeman told a reporter he didn't know what would happen to the dog.

Other parts of the city saw similar desperation. "We need help," Polly Boudreaux, clerk of the St. Bernard Parish Council, told WAFB-TV in a phone interview in which she broke down crying.

"We're just been absolutely devastated," she said, and many residents still need to be rescued.

Little outside aid has reached the parish, she added. "We are not seeing it."

Doctors at two desperately crippled hospitals with 360 patients called The Associated Press pleading for rescue, saying they were nearly out of food and power and had been forced to move patients to higher floors to escape looters.

"We have been trying to call the mayor's office, we have been trying to call the governor's office. ... We have tried to use any inside pressure we can. We are turning to you. Please help us," said Dr. Norman McSwain, chief of trauma surgery at Charity Hospital.

Mob fears, gunshots

While most stranded residents were orderly, police warned reporters to be careful given the desperation.

"We were told don't drink or eat in public as it could lead to a mob situation," NBC's Michelle Hofland said. "We were told that by sundown to get out of here."

Federal rescue workers were pulled back from some areas of the city where gunfire was heard or reported, a Department of Homeland Security official told NBC News.

"Hospitals are trying to evacuate," said Coast Guard Lt. Cmdr. Cheri Ben-Iesan, spokesman at the city emergency operations center. "At every one of them, there are reports that as the helicopters come in people are shooting at them. There are people just taking potshots at police and at helicopters, telling them, "You better come get my family."

Police Capt. Ernie Demmo said a National Guard military policeman was shot in the leg as the two scuffled for the MP's rifle. The man was arrested.

"These are good people. These are just scared people," Demmo said.

'We need a thousand' National Guard
Earlier, as the situation at the Superdome deteriorated. Paramedics were alarmed by the sight of people with guns.

An air ambulance service official said helicopter transfers of the sick and injured were suspended after report of a helicopter being fired on overnight.

Able-bodied evacuees were still being moved by bus to Houston's Astrodome, the National Guard said, correcting a Guard official who said that operation was on hold as well.

Texas on Thursday announced that it would house 25,000 more evacuees in San Antonio.

The Superdome helicopter operation was suspended "until they gain control of the Superdome," said Richard Zuschlag, head of Acadian Ambulance, which was handling the evacuation of sick and injured people.

He said the National Guard told him that it was sending 100 military police officers to gain control. "That's not enough," Zuschlag. "We need a thousand."

Medics were calling him and crying for help because they were so scared of people with guns at the Superdome, he added.

Zuschlag said shots were fired at a military helicopter over the Superdome before daybreak, but a National Guard officer said he had a report of just one shot being fired at the helicopter.

Zuschlag added that when another evacuation helicopter tried to land at a hospital in the outlying town of Kenner overnight, the pilot reported that 100 people were on the landing pad, and some of them had guns.

"He was frightened and would not land," Zuschlag said.

Bush to visit Friday
President Bush will tour <http://msnbc.msn.com/id/9157866/> the hurricane-devastated Gulf Coast region on Friday and has asked former Presidents Clinton and Bush to lead a private fund-raising campaign to help victims recover, the White House said Thursday.

An additional 10,000 National Guard troops from across the country were ordered into the Gulf Coast to shore up security, rescue and relief operations. The new units brought the number of troops dedicated to the effort to more than 28,000, in what may be the largest military response to a natural disaster.

Looting has also been a problem in Mississippi.

"The truth is, a terrible tragedy like this brings out the best in most people, brings out the worst in some people," said Mississippi Gov. Haley Barbour on NBC's "Today" show Thursday. "We're trying to deal with looters as ruthlessly as we can get our hands on them."

New Orleans police focus on looters
In New Orleans, Nagin on Wednesday night ordered the city's 1,500 police officers to leave their search-and-rescue mission and focus on stopping the looting.

search and rescue mission and focus on stopping the looting.

Police were asking residents to give up any firearms before they evacuated neighborhoods because officers desperately needed the firepower: Some officers who had been stranded on the roof of a hotel said they were shot at.

Nagin called for an all-out evacuation of the city's remaining residents. Asked how many people died, he said: "Minimum, hundreds. Most likely, thousands."

Struggle to plug the breached levees

With most of the city under water, Army engineers struggled to plug New Orleans' breached levees with giant sandbags and concrete barriers, and authorities drew up plans to clear out the tens of thousands of remaining people and practically abandon the below-sea-level city.

Nagin said there will be a "total evacuation of the city. We have to. The city will not be functional for two or three months." And he said people would not be allowed back into their homes for at least a month or two.

If the mayor's death-toll estimate holds true, it would make Katrina the worst natural disaster in the United States since at least the 1906 San Francisco earthquake and fire, which have blamed for anywhere from about 500 to 6,000 deaths. Katrina would also be the nation's deadliest hurricane since 1900, when a storm in Galveston, Texas, killed between 6,000 and 12,000 people.

In Mississippi, meantime, bodies are starting to pile up at the morgue in hard-hit Harrison County. Forty corpses have been brought to the morgue already, and officials expect the death toll in the county to climb well above 100.

Tempers were beginning to flare in the aftermath of the storm. Police said a man fatally shot his sister in the head over a bag of ice in Hattiesburg, Miss.

Full magnitude unclear

The federal government dispatched helicopters, warships and elite SEAL water-rescue teams in one of the biggest relief operations in U.S. history, aimed at plucking residents from rooftops in the last of the "golden 72 hours" rescuers say is crucial to saving lives.

In addition to the Astrodome solution, the Federal Emergency Management Agency was considering putting people on cruise ships, in tent cities, mobile home parks, and so-called floating dormitories.

The death toll has reached at least 121 in Mississippi alone. But the full magnitude of the disaster had been unclear for days — in part, because some areas in both coastal Mississippi and New Orleans are still unreachable, but also because authorities' first priority has been the living.

In Mississippi, for example, ambulances roamed through the passable streets of devastated places such as Biloxi, Gulfport, Waveland and Bay St. Louis, in some cases speeding past corpses in hopes of saving people trapped in flooded and crumbled buildings.

The Associated Press and Reuters contributed to this report.

© 2005 MSNBC.com

URL: http://msnbc.msn.com/id/9156612/

P. Diane Schneider

Senior Conciliation Specialist

Community Relations Service

USDOJ

Tel 206 220 6709

[redacted]

www.usdoj.gov/crs/crs.htm

Freeman, Sharee

From: Freeman, Sharee
Sent: Friday, September 2, 2005 2:50 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

Absolutely, thanks.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 14:24:45 2005
Subject: RE: FEMA

Sharee,

Just want to reiterate, as I expressed on our call this morning, that we are counting on you to deploy asap -- and to make sure that CRS does so in close coordination with FEMA. I know (as you said) that this is your arena of expertise and that you're working your own contacts at FEMA to ensure close coordination, but if we can provide any further support please don't hesitate to let me know. As indicated below, Lu is trying to help support your coordination efforts.

Please do keep us apprised of your deployments and coordination with FEMA.

Many thanks again,

Neil

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 2:04 PM
To: Freeman, Sharee
Cc: Gorsuch, Neil M
Subject: Re: FEMA

At this time, all of our involvement will go through DHS/FEMA. Please let me know if they have circled back with you.

Also, as soon as possible please have forwarded to me what you sent to FEMA about CRS and who it was sent to.

Thank you

Thank you.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 13:54:41 2005
Subject: Re: FEMA

For starters, CRS just wants to get in the command center room.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 10:24:45 2005
Subject: FEMA

Sharee, I wanted to let you know that I have circled back via email to [redacted] (who is at DHS Headquarters) and others up the chain at DHS to inform them of OASG support and left them a number to call me. I suspect either you or I will hear from DHS today and go from there. Thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 10:10 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

They do not need you to do that. If you want to help figure out the level that corresponds to the Associates level and call that person at FEMA or DHS to help turn the wheel at a level higher than [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 10:01:19 2005
Subject: RE: NO Deployment

Why would there be a negative reaction to my circling back on behalf of the Associate Attorney General to just say, do you have the information you need, let us know how we can be of help?

-----Original Message-----
From: Freeman, Sharee

Sent: Friday, September 02, 2005 9:57 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

Because they reached to CRS and it is a delicate situation and honestly I do not want you to chance a negative reaction. I am in a session with. USA Perez and the SAC with their community now.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:47:48 2005
Subject: Re: NO Deployment

Please call either me or Neil at [redacted] and tell me why we shouldn't touch base with FEMA after they reached out to us. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 09:44:05 2005
Subject: Re: NO Deployment

I would prefer if you did not call [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:31:13 2005
Subject: NO Deployment

Sharee, could you please give me [redacted] contact number. I have [redacted] but that is not working. I just want to call [redacted] and touch base.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 12:44 AM
To: Reyes, Luis (SMO)
Subject: Re: Coverage getting worse

I am thinking we should not call [redacted] We should wait until [redacted] calls us back ----------
Sent from my BlackBerry Wireless Handheld

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 23:39:55 2005
Subject: RE: Coverage getting worse

Sharee, have been trying to get a hold of you. Blackberry service is down, I am now at the office. Please call me if you get this [redacted] Will have something for you in short order, in the meantime, please advise by phone if FEMA as requested your presence. Thanks. --LR

-----Original Message-----
From: Freeman, Sharee
Sent: Thursday, September 01, 2005 7:26 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: Fw: Coverage getting worse

CRS is still waiting and FEMA is thinking about asking us to join them. It is not done yet. As CRS Director, the below newsarticle is more than enough to deploy. Where are we today?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Thu Sep 01 19:13:30 2005
Subject: Fw: Coverage getting worse

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schneider, P Diane <P.Schneider@CRS.USDOJ.GOV>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Thu Sep 01 18:10:08 2005
Subject: Coverage getting worse

<<image001.jpg>>
<<image002.gif>>

Cries for help spread across New Orleans
Local official blames FEMA for 'national disgrace'; mayor issues 'SOS'

NBC, MSNBC and news services

Updated: 4:58 p.m. ET Sept. 1, 2005

NEW ORLEANS - Fights and fires broke out, corpses lay out in the open, and rescue helicopters and law enforcement officers were shot at as flood-stricken New Orleans slipped toward anarchy Thursday.

"This is a desperate SOS," the mayor said.

While a mass evacuation got under way at the city's Superdome, where thousands of restless people were waiting for help, there was desperation and mounting anger at a separate refuge, the city's convention center, where storm victims grew increasingly hungry and thirsty and pleaded for relief.

Officials said thousands more National Guardsmen were being sent to the city, and Congress planned a special session Thursday night to approve emergency aid. But across the city, residents complained that aid was not arriving and a local official blamed the Federal Emergency Management Agency.

"This is a national disgrace," said Terry Ebbert, head of New Orleans' emergency operations. "FEMA has been here three days, yet there is no command and control," Ebbert said. "We can send massive amounts of aid to tsunami victims but we can't bail out the city of New Orleans."

"We have got a mayor who has been pushing and asking but we're not getting supplies," he said. He said the evacuation was almost entirely a Louisiana operation. "This is not a FEMA operation. I haven't seen a single FEMA guy."

Mayor Ray Nagin, in issuing his dire plea in a statement to CNN, said: "Right now we are out of resources at the convention center and don't anticipate enough buses. Currently the convention center is unsanitary and unsafe and we are running out of supplies for 15,000 to 25,000 people."

Dead bodies outside center

Outside the center, people complained that they were evacuated, taken to the convention hall by bus, dropped off and given nothing.

At least seven bodies were scattered outside, and hungry people broke through the steel doors to a food service entrance and began pushing out pallets of water and juice and whatever else they could find.

An old man in a chaise lounge lay dead in a grassy median as hungry babies wailed around him. Around the corner, an elderly woman lay dead in her wheelchair, covered with a blanket, and another body lay beside her wrapped in a sheet.

"I don't treat my dog like that," Daniel Edwards said as he pointed at the woman in the wheelchair. "I buried my dog."

"You can do everything for other countries but you can't do nothing for your own people," he said. "You can go overseas with the military but you can't get them down here."

The street outside the center, above the floodwaters, smelled of urine and feces, and was choked with dirty diapers, old bottles and garbage.

dirty diapers, old bottles and garbage.

"We are out here like pure animals. We don't have help," said the Rev. Isaac Clark, 68.

People there, some holding crying babies or elderly barely able to stand up, shouted for help as TV news crews passed by.

A sea of pain
On the front steps of the convention center, one woman, screaming, led the crowd in reciting the 23rd Psalm.

John Murray, 52, said: "It's like they're punishing us."

The Superdome, where some 25,000 people were being evacuated by bus to the Houston Astrodome, descended into chaos as well.

Huge crowds, hoping to finally escape the stifling confines of the stadium, jammed the main concourse outside the dome, spilling out over the ramp to the Hyatt hotel next door — a seething sea of tense, unhappy, people packed shoulder-to-shoulder up to the barricades where heavily armed National Guard troops stood.

At the front of the line, heavily armed policemen and guardsmen stood watch and handed out water as tense and exhausted crowds struggled onto buses. At the back end of the line, people jammed against police barricades in the rain. Luggage, bags of clothes, pillows, blankets were strewn in the puddles.

Many people had dogs and they cannot take them on the bus. A police officer took one from a little boy, who cried until he vomited. "Snowball, snowball," he cried. The policeman told a reporter he didn't know what would happen to the dog.

Other parts of the city saw similar desperation. "We need help," Polly Boudreaux, clerk of the St. Bernard Parish Council, told WAFB-TV in a phone interview in which she broke down crying.

"We're just been absolutely devastated," she said, and many residents still need to be rescued.

Little outside aid has reached the parish, she added. "We are not seeing it."

Doctors at two desperately crippled hospitals with 360 patients called The Associated Press pleading for rescue, saying they were nearly out of food and power and had been forced to move patients to higher floors to escape looters.

"We have been trying to call the mayor's office, we have been trying to call the governor's office. ... We have tried to use any inside pressure we can. We are turning to you. Please help us," said Dr. Norman McSwain, chief of trauma surgery at Charity Hospital.

Mob fears, gunshots
While most stranded residents were orderly, police warned reporters to be careful given the desperation.

"We were told don't drink or eat in public as it could lead to a mob situation," NBC's Michelle Hofland said. "We were told that by sundown to get out of here."

Federal rescue workers were pulled back from some areas of the city where gunfire was heard or reported, a Department of Homeland Security official told NBC News.

"Hospitals are trying to evacuate," said Coast Guard Lt. Cmdr. Cheri Ben-Iesan, spokesman at the city emergency operations center. "At every one of them, there are reports that as the helicopters come in people are shooting at them. There are people just taking potshots at police and at helicopters, telling them, "You better come get my family."

Police Capt. Ernie Demmo said a National Guard military policeman was shot in the leg as the two scuffled for the MP's rifle. The man was arrested.

"These are good people. These are just scared people," Demmo said.

'We need a thousand' National Guard

Earlier, as the situation at the Superdome deteriorated. Paramedics were alarmed by the sight of people with guns.

An air ambulance service official said helicopter transfers of the sick and injured were suspended after report of a helicopter being fired on overnight.

Able-bodied evacuees were still being moved by bus to Houston's Astrodome, the National Guard said, correcting a Guard official who said that operation was on hold as well.

Texas on Thursday announced that it would house 25,000 more evacuees in San Antonio.

The Superdome helicopter operation was suspended "until they gain control of the Superdome," said Richard Zuschlag, head of Acadian Ambulance, which was handling the evacuation of sick and injured people.

He said the National Guard told him that it was sending 100 military police officers to gain control. "That's not enough," Zuschlag. "We need a thousand."

Medics were calling him and crying for help because they were so scared of people with guns at the Superdome, he added.

Zuschlag said shots were fired at a military helicopter over the Superdome before daybreak, but a National Guard officer said he had a report of just one shot being fired at the helicopter.

Zuschlag added that when another evacuation helicopter tried to land at a hospital in the outlying town of Kenner overnight, the pilot reported that 100 people were on the landing pad, and some of them had guns.

"He was frightened and would not land," Zuschlag said.

Bush to visit Friday

President Bush will tour <http://msnbc.msn.com/id/9157866/> the hurricane-devastated Gulf Coast region on Friday and has asked former Presidents Clinton and Bush to lead a private fund-raising campaign to help victims recover, the White House said Thursday.

An additional 10,000 National Guard troops from across the country were ordered into the Gulf Coast to shore up security, rescue and relief operations. The new units brought the number of troops

to shore up security, rescue and relief operations. The new units brought the number of troops dedicated to the effort to more than 28,000, in what may be the largest military response to a natural disaster.

Looting has also been a problem in Mississippi.

"The truth is, a terrible tragedy like this brings out the best in most people, brings out the worst in some people," said Mississippi Gov. Haley Barbour on NBC's "Today" show Thursday. "We're trying to deal with looters as ruthlessly as we can get our hands on them."

New Orleans police focus on looters

In New Orleans, Nagin on Wednesday night ordered the city's 1,500 police officers to leave their search-and-rescue mission and focus on stopping the looting.

Police were asking residents to give up any firearms before they evacuated neighborhoods because officers desperately needed the firepower: Some officers who had been stranded on the roof of a hotel said they were shot at.

Nagin called for an all-out evacuation of the city's remaining residents. Asked how many people died, he said: "Minimum, hundreds. Most likely, thousands."

Struggle to plug the breached levees

With most of the city under water, Army engineers struggled to plug New Orleans' breached levees with giant sandbags and concrete barriers, and authorities drew up plans to clear out the tens of thousands of remaining people and practically abandon the below-sea-level city.

Nagin said there will be a "total evacuation of the city. We have to. The city will not be functional for two or three months." And he said people would not be allowed back into their homes for at least a month or two.

If the mayor's death-toll estimate holds true, it would make Katrina the worst natural disaster in the United States since at least the 1906 San Francisco earthquake and fire, which have blamed for anywhere from about 500 to 6,000 deaths. Katrina would also be the nation's deadliest hurricane since 1900, when a storm in Galveston, Texas, killed between 6,000 and 12,000 people.

In Mississippi, meantime, bodies are starting to pile up at the morgue in hard-hit Harrison County. Forty corpses have been brought to the morgue already, and officials expect the death toll in the county to climb well above 100.

Tempers were beginning to flare in the aftermath of the storm. Police said a man fatally shot his sister in the head over a bag of ice in Hattiesburg, Miss.

Full magnitude unclear

The federal government dispatched helicopters, warships and elite SEAL water-rescue teams in one of the biggest relief operations in U.S. history, aimed at plucking residents from rooftops in the last of the "golden 72 hours" rescuers say is crucial to saving lives.

In addition to the Astrodome solution, the Federal Emergency Management Agency was considering putting people on cruise ships, in tent cities, mobile home parks, and so-called floating dormitories.

The death toll has reached at least 121 in Mississippi alone. But the full magnitude of the disaster had

been unclear for days — in part, because some areas in both coastal Mississippi and New Orleans are still unreachable, but also because authorities' first priority has been the living.

In Mississippi, for example, ambulances roamed through the passable streets of devastated places such as Biloxi, Gulfport, Waveland and Bay St. Louis, in some cases speeding past corpses in hopes of saving people trapped in flooded and crumbled buildings.

The Associated Press and Reuters contributed to this report.

© 2005 MSNBC.com

URL: http://msnbc.msn.com/id/9156612/

P. Diane Schneider

Senior Conciliation Specialist

Community Relations Service

USDOJ

Tel 206 220 6709

[redacted]

www.usdoj.gov/crs/crs.htm

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 2:51 PM
To: McCallum, Robert (SMO)
Cc: Reyes, Luis (SMO)
Subject: CRS

Robert, Thinking that doing more is better than doing less in response to Katrina, and seeing the news unfold suggesting some racial overtones to the tensions in LA, I told Sharee that we supported deployment but instructed her to ensure close coordination with FEMA. Lu is helping Sharee run traps with FEMA. Courtney is informed and concurs. If you have any questions, let us know. NMG

Freeman, Sharee

From: Freeman, Sharee
Sent: Friday, September 2, 2005 3:46 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

If DOJ is drafting protocols for agencies going onsite is there a need for CRS. Input?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 14:24:45 2005
Subject: RE: FEMA

Sharee,

Just want to reiterate, as I expressed on our call this morning, that we are counting on you to deploy asap -- and to make sure that CRS does so in close coordination with FEMA. I know (as you said) that this is your arena of expertise and that you're working your own contacts at FEMA to ensure close coordination, but if we can provide any further support please don't hesitate to let me know. As indicated below, Lu is trying to help support your coordination efforts.

Please do keep us apprised of your deployments and coordination with FEMA.

Many thanks again,

Neil

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 2:04 PM
To: Freeman, Sharee
Cc: Gorsuch, Neil M
Subject: Re: FEMA

At this time, all of our involvement will go through DHS/FEMA. Please let me know if they have circled back with you.

Also, as soon as possible please have forwarded to me what you sent to FEMA about CRS and who it was sent to.

Thank you

Thank you.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 13:54:41 2005
Subject: Re: FEMA

For starters, CRS just wants to get in the command center room.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 10:24:45 2005
Subject: FEMA

Sharee, I wanted to let you know that I have circled back via email to [redacted] (who is at DHS Headquarters) and others up the chain at DHS to inform them of OASG support and left them a number to call me. I suspect either you or I will hear from DHS today and go from there. Thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 10:10 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

They do not need you to do that. If you want to help figure out the level that corresponds to the [redacted] level and call that person at FEMA or DHS to help turn the wheel at a level higher than [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 10:01:19 2005
Subject: RE: NO Deployment

Why would there be a negative reaction to my circling back on behalf of the Associate Attorney General to just say, do you have the information you need, let us know how we can be of help?

-----Original Message-----
From: Freeman, Sharee

Sent: Friday, September 02, 2005 9:57 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

Because they reached to CRS and it is a delicate situation and honestly I do not want you to chance a negative reaction. I am in a session with. USA Perez and the SAC with their community now.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:47:48 2005
Subject: Re: NO Deployment

Please call either me or Neil at [redacted] and tell me why we shouldn't touch base with FEMA after they reached out to us. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 09:44:05 2005
Subject: Re: NO Deployment

I would prefer if you did not call [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:31:13 2005
Subject: NO Deployment

Sharee, could you please give me [redacted] contact number. I have [redacted] but that is not working. I just want to call [redacted] and touch base.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 12:44 AM
To: Reyes, Luis (SMO)
Subject: Re: Coverage getting worse

I am thinking we should not call [redacted] We should wait until [redacted] calls us back ----------
Sent from my BlackBerry Wireless Handheld

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 23:39:55 2005
Subject: RE: Coverage getting worse

Sharee, have been trying to get a hold of you. Blackberry service is down, I am now at the office. Please call me if you get this [redacted]. Will have something for you in short order, in the meantime, please advise by phone if FEMA as requested your presence. Thanks. --LR

-----Original Message-----
From: Freeman, Sharee
Sent: Thursday, September 01, 2005 7:26 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: Fw: Coverage getting worse

CRS is still waiting and FEMA is thinking about asking us to join them. It is not done yet. As CRS Director, the below newsarticle is more than enough to deploy. Where are we today?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Thu Sep 01 19:13:30 2005
Subject: Fw: Coverage getting worse

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schneider, P Diane <P.Schneider@CRS.USDOJ.GOV>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Thu Sep 01 18:10:08 2005
Subject: Coverage getting worse

<<image001.jpg>>
<<image002.gif>>

Cries for help spread across New Orleans
Local official blames FEMA for 'national disgrace'; mayor issues 'SOS'

NBC, MSNBC and news services

Updated: 4:58 p.m. ET Sept. 1, 2005

NEW ORLEANS - Fights and fires broke out, corpses lay out in the open, and rescue helicopters and law enforcement officers were shot at as flood-stricken New Orleans slipped toward anarchy Thursday.

"This is a desperate SOS," the mayor said.

While a mass evacuation got under way at the city's Superdome, where thousands of restless people were waiting for help, there was desperation and mounting anger at a separate refuge, the city's convention center, where storm victims grew increasingly hungry and thirsty and pleaded for relief.

Officials said thousands more National Guardsmen were being sent to the city, and Congress planned a special session Thursday night to approve emergency aid. But across the city, residents complained that aid was not arriving and a local official blamed the Federal Emergency Management Agency.

"This is a national disgrace," said Terry Ebbert, head of New Orleans' emergency operations. "FEMA has been here three days, yet there is no command and control," Ebbert said. "We can send massive amounts of aid to tsunami victims but we can't bail out the city of New Orleans."

"We have got a mayor who has been pushing and asking but we're not getting supplies," he said. He said the evacuation was almost entirely a Louisiana operation. "This is not a FEMA operation. I haven't seen a single FEMA guy."

Mayor Ray Nagin, in issuing his dire plea in a statement to CNN, said: "Right now we are out of resources at the convention center and don't anticipate enough buses. Currently the convention center is unsanitary and unsafe and we are running out of supplies for 15,000 to 25,000 people."

Dead bodies outside center

Outside the center, people complained that they were evacuated, taken to the convention hall by bus, dropped off and given nothing.

At least seven bodies were scattered outside, and hungry people broke through the steel doors to a food service entrance and began pushing out pallets of water and juice and whatever else they could find.

An old man in a chaise lounge lay dead in a grassy median as hungry babies wailed around him. Around the corner, an elderly woman lay dead in her wheelchair, covered with a blanket, and another body lay beside her wrapped in a sheet.

"I don't treat my dog like that," Daniel Edwards said as he pointed at the woman in the wheelchair. "I buried my dog."

"You can do everything for other countries but you can't do nothing for your own people," he said. "You can go overseas with the military but you can't get them down here."

The street outside the center, above the floodwaters, smelled of urine and feces, and was choked with dirty diapers, old bottles and garbage.

dirty diapers, old bottles and garbage.

"We are out here like pure animals. We don't have help," said the Rev. Isaac Clark, 68.

People there, some holding crying babies or elderly barely able to stand up, shouted for help as TV news crews passed by.

A sea of pain
On the front steps of the convention center, one woman, screaming, led the crowd in reciting the 23rd Psalm.

John Murray, 52, said: "It's like they're punishing us."

The Superdome, where some 25,000 people were being evacuated by bus to the Houston Astrodome, descended into chaos as well.

Huge crowds, hoping to finally escape the stifling confines of the stadium, jammed the main concourse outside the dome, spilling out over the ramp to the Hyatt hotel next door — a seething sea of tense, unhappy, people packed shoulder-to-shoulder up to the barricades where heavily armed National Guard troops stood.

At the front of the line, heavily armed policemen and guardsmen stood watch and handed out water as tense and exhausted crowds struggled onto buses. At the back end of the line, people jammed against police barricades in the rain. Luggage, bags of clothes, pillows, blankets were strewn in the puddles.

Many people had dogs and they cannot take them on the bus. A police officer took one from a little boy, who cried until he vomited. "Snowball, snowball," he cried. The policeman told a reporter he didn't know what would happen to the dog.

Other parts of the city saw similar desperation. "We need help," Polly Boudreaux, clerk of the St. Bernard Parish Council, told WAFB-TV in a phone interview in which she broke down crying.

"We're just been absolutely devastated," she said, and many residents still need to be rescued.

Little outside aid has reached the parish, she added. "We are not seeing it."

Doctors at two desperately crippled hospitals with 360 patients called The Associated Press pleading for rescue, saying they were nearly out of food and power and had been forced to move patients to higher floors to escape looters.

"We have been trying to call the mayor's office, we have been trying to call the governor's office. ... We have tried to use any inside pressure we can. We are turning to you. Please help us," said Dr. Norman McSwain, chief of trauma surgery at Charity Hospital.

Mob fears, gunshots
While most stranded residents were orderly, police warned reporters to be careful given the desperation.

"We were told don't drink or eat in public as it could lead to a mob situation," NBC's Michelle Hofland said. "We were told that by sundown to get out of here."

Federal rescue workers were pulled back from some areas of the city where gunfire was heard or reported, a Department of Homeland Security official told NBC News.

"Hospitals are trying to evacuate," said Coast Guard Lt. Cmdr. Cheri Ben-Iesan, spokesman at the city emergency operations center. "At every one of them, there are reports that as the helicopters come in people are shooting at them. There are people just taking potshots at police and at helicopters, telling them, "You better come get my family."

Police Capt. Ernie Demmo said a National Guard military policeman was shot in the leg as the two scuffled for the MP's rifle. The man was arrested.

"These are good people. These are just scared people," Demmo said.

'We need a thousand' National Guard

Earlier, as the situation at the Superdome deteriorated. Paramedics were alarmed by the sight of people with guns.

An air ambulance service official said helicopter transfers of the sick and injured were suspended after report of a helicopter being fired on overnight.

Able-bodied evacuees were still being moved by bus to Houston's Astrodome, the National Guard said, correcting a Guard official who said that operation was on hold as well.

Texas on Thursday announced that it would house 25,000 more evacuees in San Antonio.

The Superdome helicopter operation was suspended "until they gain control of the Superdome," said Richard Zuschlag, head of Acadian Ambulance, which was handling the evacuation of sick and injured people.

He said the National Guard told him that it was sending 100 military police officers to gain control. "That's not enough," Zuschlag. "We need a thousand."

Medics were calling him and crying for help because they were so scared of people with guns at the Superdome, he added.

Zuschlag said shots were fired at a military helicopter over the Superdome before daybreak, but a National Guard officer said he had a report of just one shot being fired at the helicopter.

Zuschlag added that when another evacuation helicopter tried to land at a hospital in the outlying town of Kenner overnight, the pilot reported that 100 people were on the landing pad, and some of them had guns.

"He was frightened and would not land," Zuschlag said.

Bush to visit Friday

President Bush will tour <http://msnbc.msn.com/id/9157866/> the hurricane-devastated Gulf Coast region on Friday and has asked former Presidents Clinton and Bush to lead a private fund-raising campaign to help victims recover, the White House said Thursday.

An additional 10,000 National Guard troops from across the country were ordered into the Gulf Coast to shore up security, rescue and relief operations. The new units brought the number of troops

to shore up security, rescue and relief operations. The new units brought the number of troops dedicated to the effort to more than 28,000, in what may be the largest military response to a natural disaster.

Looting has also been a problem in Mississippi.

"The truth is, a terrible tragedy like this brings out the best in most people, brings out the worst in some people," said Mississippi Gov. Haley Barbour on NBC's "Today" show Thursday. "We're trying to deal with looters as ruthlessly as we can get our hands on them."

New Orleans police focus on looters

In New Orleans, Nagin on Wednesday night ordered the city's 1,500 police officers to leave their search-and-rescue mission and focus on stopping the looting.

Police were asking residents to give up any firearms before they evacuated neighborhoods because officers desperately needed the firepower: Some officers who had been stranded on the roof of a hotel said they were shot at.

Nagin called for an all-out evacuation of the city's remaining residents. Asked how many people died, he said: "Minimum, hundreds. Most likely, thousands."

Struggle to plug the breached levees

With most of the city under water, Army engineers struggled to plug New Orleans' breached levees with giant sandbags and concrete barriers, and authorities drew up plans to clear out the tens of thousands of remaining people and practically abandon the below-sea-level city.

Nagin said there will be a "total evacuation of the city. We have to. The city will not be functional for two or three months." And he said people would not be allowed back into their homes for at least a month or two.

If the mayor's death-toll estimate holds true, it would make Katrina the worst natural disaster in the United States since at least the 1906 San Francisco earthquake and fire, which have blamed for anywhere from about 500 to 6,000 deaths. Katrina would also be the nation's deadliest hurricane since 1900, when a storm in Galveston, Texas, killed between 6,000 and 12,000 people.

In Mississippi, meantime, bodies are starting to pile up at the morgue in hard-hit Harrison County. Forty corpses have been brought to the morgue already, and officials expect the death toll in the county to climb well above 100.

Tempers were beginning to flare in the aftermath of the storm. Police said a man fatally shot his sister in the head over a bag of ice in Hattiesburg, Miss.

Full magnitude unclear

The federal government dispatched helicopters, warships and elite SEAL water-rescue teams in one of the biggest relief operations in U.S. history, aimed at plucking residents from rooftops in the last of the "golden 72 hours" rescuers say is crucial to saving lives.

In addition to the Astrodome solution, the Federal Emergency Management Agency was considering putting people on cruise ships, in tent cities, mobile home parks, and so-called floating dormitories.

The death toll has reached at least 121 in Mississippi alone. But the full magnitude of the disaster had

been unclear for days — in part, because some areas in both coastal Mississippi and New Orleans are still unreachable, but also because authorities' first priority has been the living.

In Mississippi, for example, ambulances roamed through the passable streets of devastated places such as Biloxi, Gulfport, Waveland and Bay St. Louis, in some cases speeding past corpses in hopes of saving people trapped in flooded and crumbled buildings.

The Associated Press and Reuters contributed to this report.

© 2005 MSNBC.com

URL: http://msnbc.msn.com/id/9156612/

P. Diane Schneider

Senior Conciliation Specialist

Community Relations Service

USDOJ

Tel 206 220 6709

[redacted]

www.usdoj.gov/crs/crs.htm

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 2, 2005 3:48 PM
To: Freeman, Sharee
Subject: RE: FEMA

I'm not clear on what you mean by protocols for agencies going on site. We certainly do want you to coordinate closely with FEMA. Separately, I will be asking a number of components, shortly, for an explanation of what their plans are re: Katrina both short term and long term, and would very much appreciate a short insert from CRS on its work. Many thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 3:46 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

If DOJ is drafting protocols for agencies going onsite is there a need for CRS. Input?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 14:24:45 2005
Subject: RE: FEMA

Sharee,

Just want to reiterate, as I expressed on our call this morning, that we are counting on you to deploy asap -- and to make sure that CRS does so in close coordination with FEMA. I know (as you said) that this is your arena of expertise and that you're working your own contacts at FEMA to ensure close coordination, but if we can provide any further support please don't hesitate to let me know. As indicated below, Lu is trying to help support your coordination efforts.

Please do keep us apprised of your deployments and coordination with FEMA.

Many thanks again,

Neil

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 2:04 PM

Sent: Friday, September 02, 2005 2:04 PM
To: Freeman, Sharee
Cc: Gorsuch, Neil M
Subject: Re: FEMA

At this time, all of our involvement will go through DHS/FEMA. Please let me know if they have circled back with you.

Also, as soon as possible please have forwarded to me what you sent to FEMA about CRS and who it was sent to.

Thank you.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 13:54:41 2005
Subject: Re: FEMA

For starters, CRS just wants to get in the command center room.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 10:24:45 2005
Subject: FEMA

Sharee, I wanted to let you know that I have circled back via email to [redacted] who is at DHS Headquarters) and others up the chain at DHS to inform them of OASG support and left them a number to call me. I suspect either you or I will hear from DHS today and go from there. Thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 10:10 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

They do not need you to do that. If you want to help figure out the level that corresponds to the Associates level and call that person at FEMA or DHS to help turn the wheel at a level higher than [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 10:01:19 2005
Subject: RE: NO Deployment

Why would there be a negative reaction to my circling back on behalf of the Associate Attorney General to just say, do you have the information you need, let us know how we can be of help?

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 9:57 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

Because they reached to CRS and it is a delicate situation and honestly I do not want you to chance a negative reaction. I am in a session with. USA Perez and the SAC with their community now.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:47:48 2005
Subject: Re: NO Deployment

Please call either me or Neil at [redacted] and tell me why we shouldn't touch base with FEMA after they reached out to us. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 09:44:05 2005
Subject: Re: NO Deployment

I would prefer if you did not call [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:31:13 2005
Subject: NO Deployment

Sharee, could you please give me [redacted] contact number. I have [redacted] but that is not working. I just want to call her and touch base.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 12:44 AM
To: Reyes, Luis (SMO)
Subject: Re: Coverage getting worse

I am thinking we should not call [redacted] We should wait until [redacted] calls us back ----------
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 23:39:55 2005
Subject: RE: Coverage getting worse

Sharee, have been trying to get a hold of you. Blackberry service is down, I am now at the office. Please call me if you get this [redacted] Will have something for you in short order, in the meantime, please advise by phone if FEMA as requested your presence. Thanks. --LR

-----Original Message-----
From: Freeman, Sharee
Sent: Thursday, September 01, 2005 7:26 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: Fw: Coverage getting worse

CRS is still waiting and FEMA is thinking about asking us to join them. It is not done yet. As CRS Director, the below newsarticle is more than enough to deploy. Where are we today?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Thu Sep 01 19:13:30 2005
Subject: Fw: Coverage getting worse

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schneider, P Diane <P.Schneider@CRS.USDOJ.GOV>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Thu Sep 01 18:10:08 2005
Subject: Coverage getting worse

<<image001.jpg>>
<<image002.gif>>

Cries for help spread across New Orleans
Local official blames FEMA for 'national disgrace'; mayor issues 'SOS'

NBC, MSNBC and news services

Updated: 4:58 p.m. ET Sept. 1, 2005

NEW ORLEANS - Fights and fires broke out, corpses lay out in the open, and rescue helicopters and law enforcement officers were shot at as flood-stricken New Orleans slipped toward anarchy Thursday.

"This is a desperate SOS," the mayor said.

While a mass evacuation got under way at the city's Superdome, where thousands of restless people were waiting for help, there was desperation and mounting anger at a separate refuge, the city's convention center, where storm victims grew increasingly hungry and thirsty and pleaded for relief.

Officials said thousands more National Guardsmen were being sent to the city, and Congress planned a special session Thursday night to approve emergency aid. But across the city, residents complained that aid was not arriving and a local official blamed the Federal Emergency Management Agency.

"This is a national disgrace," said Terry Ebbert, head of New Orleans' emergency operations. "FEMA has been here three days, yet there is no command and control," Ebbert said. "We can send massive amounts of aid to tsunami victims but we can't bail out the city of New Orleans."

"We have got a mayor who has been pushing and asking but we're not getting supplies," he said. He said the evacuation was almost entirely a Louisiana operation. "This is not a FEMA operation. I haven't seen a single FEMA guy."

Mayor Ray Nagin, in issuing his dire plea in a statement to CNN, said: "Right now we are out of resources at the convention center and don't anticipate enough buses. Currently the convention center is unsanitary and unsafe and we are running out of supplies for 15,000 to 25,000 people."

Dead bodies outside center
Outside the center, people complained that they were evacuated, taken to the convention hall by bus, dropped off and given nothing.

At least seven bodies were scattered outside, and hungry people broke through the steel doors to a food service entrance and began pushing out pallets of water and juice and whatever else they could find.

An old man in a chaise lounge lay dead in a grassy median as hungry babies wailed around him. Around the corner, an elderly woman lay dead in her wheelchair, covered with a blanket, and another body lay beside her wrapped in a sheet.

"I don't treat my dog like that," Daniel Edwards said as he pointed at the woman in the wheelchair. "I buried my dog."

"You can do everything for other countries but you can't do nothing for your own people," he said. "You can go overseas with the military but you can't get them down here."

The street outside the center, above the floodwaters, smelled of urine and feces, and was choked with dirty diapers, old bottles and garbage.

"We are out here like pure animals. We don't have help," said the Rev. Isaac Clark, 68.

People there, some holding crying babies or elderly barely able to stand up, shouted for help as TV news crews passed by.

A sea of pain
On the front steps of the convention center, one woman, screaming, led the crowd in reciting the 23rd Psalm.

John Murray, 52, said: "It's like they're punishing us."

The Superdome, where some 25,000 people were being evacuated by bus to the Houston Astrodome, descended into chaos as well.

Huge crowds, hoping to finally escape the stifling confines of the stadium, jammed the main concourse outside the dome, spilling out over the ramp to the Hyatt hotel next door — a seething sea of tense, unhappy, people packed shoulder-to-shoulder up to the barricades where heavily armed National Guard troops stood.

At the front of the line, heavily armed policemen and guardsmen stood watch and handed out water as tense and exhausted crowds struggled onto buses. At the back end of the line, people jammed against police barricades in the rain. Luggage, bags of clothes, pillows, blankets were strewn in the puddles.

Many people had dogs and they cannot take them on the bus. A police officer took one from a little boy, who cried until he vomited. "Snowball, snowball," he cried. The policeman told a reporter he didn't know what would happen to the dog.

Other parts of the city saw similar desperation. "We need help," Polly Boudreaux, clerk of the St. Bernard Parish Council, told WAFB-TV in a phone interview in which she broke down crying.

"We're just been absolutely devastated," she said, and many residents still need to be rescued.

Little outside aid has reached the parish, she added. "We are not seeing it."

Doctors at two desperately crippled hospitals with 360 patients called The Associated Press pleading for rescue, saying they were nearly out of food and power and had been forced to move patients to higher floors to escape looters.

"We have been trying to call the mayor's office, we have been trying to call the governor's office. ... We have tried to use any inside pressure we can. We are turning to you. Please help us," said Dr. Norman McSwain, chief of trauma surgery at Charity Hospital.

Mob fears, gunshots

While most stranded residents were orderly, police warned reporters to be careful given the desperation.

"We were told don't drink or eat in public as it could lead to a mob situation," NBC's Michelle Hofland said. "We were told that by sundown to get out of here."

Federal rescue workers were pulled back from some areas of the city where gunfire was heard or reported, a Department of Homeland Security official told NBC News.

"Hospitals are trying to evacuate," said Coast Guard Lt. Cmdr. Cheri Ben-Iesan, spokesman at the city emergency operations center. "At every one of them, there are reports that as the helicopters come in people are shooting at them. There are people just taking potshots at police and at helicopters, telling them, "You better come get my family."

Police Capt. Ernie Demmo said a National Guard military policeman was shot in the leg as the two scuffled for the MP's rifle. The man was arrested.

"These are good people. These are just scared people," Demmo said.

'We need a thousand' National Guard

Earlier, as the situation at the Superdome deteriorated. Paramedics were alarmed by the sight of people with guns.

An air ambulance service official said helicopter transfers of the sick and injured were suspended after report of a helicopter being fired on overnight.

Able-bodied evacuees were still being moved by bus to Houston's Astrodome, the National Guard said, correcting a Guard official who said that operation was on hold as well.

Texas on Thursday announced that it would house 25,000 more evacuees in San Antonio.

The Superdome helicopter operation was suspended "until they gain control of the Superdome," said Richard Zuschlag, head of Acadian Ambulance, which was handling the evacuation of sick and injured people.

He said the National Guard told him that it was sending 100 military police officers to gain control. "That's not enough," Zuschlag. "We need a thousand."

Medics were calling him and crying for help because they were so scared of people with guns at the Superdome, he added.

Zuschlag said shots were fired at a military helicopter over the Superdome before daybreak, but a National Guard officer said he had a report of just one shot being fired at the helicopter.

Zuschlag added that when another evacuation helicopter tried to land at a hospital in the outlying

Zuschlag added that when another evacuation helicopter tried to land at a hospital in the outlying town of Kenner overnight, the pilot reported that 100 people were on the landing pad, and some of them had guns.

"He was frightened and would not land," Zuschlag said.

Bush to visit Friday

President Bush will tour <http://msnbc.msn.com/id/9157866/> the hurricane-devastated Gulf Coast region on Friday and has asked former Presidents Clinton and Bush to lead a private fund-raising campaign to help victims recover, the White House said Thursday.

An additional 10,000 National Guard troops from across the country were ordered into the Gulf Coast to shore up security, rescue and relief operations. The new units brought the number of troops dedicated to the effort to more than 28,000, in what may be the largest military response to a natural disaster.

Looting has also been a problem in Mississippi.

"The truth is, a terrible tragedy like this brings out the best in most people, brings out the worst in some people," said Mississippi Gov. Haley Barbour on NBC's "Today" show Thursday. "We're trying to deal with looters as ruthlessly as we can get our hands on them."

New Orleans police focus on looters

In New Orleans, Nagin on Wednesday night ordered the city's 1,500 police officers to leave their search-and-rescue mission and focus on stopping the looting.

Police were asking residents to give up any firearms before they evacuated neighborhoods because officers desperately needed the firepower: Some officers who had been stranded on the roof of a hotel said they were shot at.

Nagin called for an all-out evacuation of the city's remaining residents. Asked how many people died, he said: "Minimum, hundreds. Most likely, thousands."

Struggle to plug the breached levees

With most of the city under water, Army engineers struggled to plug New Orleans' breached levees with giant sandbags and concrete barriers, and authorities drew up plans to clear out the tens of thousands of remaining people and practically abandon the below-sea-level city.

Nagin said there will be a "total evacuation of the city. We have to. The city will not be functional for two or three months." And he said people would not be allowed back into their homes for at least a month or two.

If the mayor's death-toll estimate holds true, it would make Katrina the worst natural disaster in the United States since at least the 1906 San Francisco earthquake and fire, which have blamed for anywhere from about 500 to 6,000 deaths. Katrina would also be the nation's deadliest hurricane since 1900, when a storm in Galveston, Texas, killed between 6,000 and 12,000 people.

In Mississippi, meantime, bodies are starting to pile up at the morgue in hard-hit Harrison County. Forty corpses have been brought to the morgue already, and officials expect the death toll in the county to climb well above 100.

Tempers were beginning to flare in the aftermath of the storm. Police said a man fatally shot his sister in the head over a bag of ice in Hattiesburg, Miss.

Full magnitude unclear
The federal government dispatched helicopters, warships and elite SEAL water-rescue teams in one of the biggest relief operations in U.S. history, aimed at plucking residents from rooftops in the last of the "golden 72 hours" rescuers say is crucial to saving lives.

In addition to the Astrodome solution, the Federal Emergency Management Agency was considering putting people on cruise ships, in tent cities, mobile home parks, and so-called floating dormitories.

The death toll has reached at least 121 in Mississippi alone. But the full magnitude of the disaster had been unclear for days — in part, because some areas in both coastal Mississippi and New Orleans are still unreachable, but also because authorities' first priority has been the living.

In Mississippi, for example, ambulances roamed through the passable streets of devastated places such as Biloxi, Gulfport, Waveland and Bay St. Louis, in some cases speeding past corpses in hopes of saving people trapped in flooded and crumbled buildings.

The Associated Press and Reuters contributed to this report.

© 2005 MSNBC.com

URL: http://msnbc.msn.com/id/9156612/

P. Diane Schneider

Senior Conciliation Specialist

Community Relations Service

USDOJ

Tel 206 220 6709

[redacted]

www.usdoj.gov/crs/crs.htm

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 2, 2005 4:01 PM
To: Schofield, Regina; Freeman, Sharee; Keisler, Peter D. (CIV); Schlozman, Brad (CRT); O'Connor, Eileen J. (AAG/TAX); Barnett, Thomas O.; White, Clifford; Stuart, Diane; Johnson, Kelly A. (ENRD); Peed, Carl
Cc: McCallum, Robert (SMO); Mercer, Bill (ODAG); Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: Katrina
Importance: High

ODAG has asked all components to supply, by 10 am tomorrow, a very short statement of any programmatic initiatives they have underway, or may be contemplating, to assist those affected by Katrina, both in the short term and in the long term. Obviously, the need is great and all efforts are appreciated. Please forward statements (distinguishing between short and long term plans) to Bill Mercer and me and feel free to call me if you have any questions.

Many thanks,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:02 PM
To: Henke, Tracy (SMO)
Subject: RE: Katrina

Where do your efforts stand on getting additional OJP reprogrammed money for Katrina?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:01 PM
To: Schofield, Regina; Freeman, Sharee; Keisler, Peter D. (CIV); Schlozman, Brad (CRT); O'Connor, Eileen J. (AAG/TAX); Barnett, Thomas O.; White, Clifford; Stuart, Diane; Johnson, Kelly A. (ENRD); Peed, Carl
Cc: McCallum, Robert (SMO); Mercer, Bill (ODAG); Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: Katrina
Importance: High

ODAG has asked all components to supply, by 10 am tomorrow, a very short statement of any programmatic initiatives they have underway, or may be contemplating, to assist those affected by Katrina, both in the short term and in the long term. Obviously, the need is great and all efforts are appreciated. Please forward statements (distinguishing between short and long term plans) to Bill Mercer and me and feel free to call me if you have any questions.

Many thanks,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Freeman, Sharee

From: Freeman, Sharee
Sent: Friday, September 2, 2005 4:02 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

Ok, can what we sent over to Luis today on CRS' role suffice? CNN is reporting DOJ is doing "protocols" NAACP national has lodged a number of calls to me. They want CRS to faciliate a Baton Rouge meeting tomorrow for powerbrokers. I am on line with my regional directors and then need to call you folks before calling them back so we are on the same note. I am on my way back to DC at 610 arrival at 8 ----
---
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 15:48:21 2005
Subject: RE: FEMA

I'm not clear on what you mean by protocols for agencies going on site. We certainly do want you to coordinate closely with FEMA. Separately, I will be asking a number of components, shortly, for an explanation of what their plans are re: Katrina both short term and long term, and would very much appreciate a short insert from CRS on its work. Many thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 3:46 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

If DOJ is drafting protocols for agencies going onsite is there a need for CRS. Input?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 14:24:45 2005
Subject: RE: FEMA

Sharee,

Just want to reiterate, as I expressed on our call this morning, that we are counting on you to deploy

Just want to reiterate, as I expressed on our call this morning, that we are counting on you to deploy asap -- and to make sure that CRS does so in close coordination with FEMA. I know (as you said) that this is your arena of expertise and that you're working your own contacts at FEMA to ensure close coordination, but if we can provide any further support please don't hesitate to let me know. As indicated below, Lu is trying to help support your coordination efforts.

Please do keep us apprised of your deployments and coordination with FEMA.

Many thanks again,

Neil

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 2:04 PM
To: Freeman, Sharee
Cc: Gorsuch, Neil M
Subject: Re: FEMA

At this time, all of our involvement will go through DHS/FEMA. Please let me know if they have circled back with you.

Also, as soon as possible please have forwarded to me what you sent to FEMA about CRS and who it was sent to.

Thank you.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 13:54:41 2005
Subject: Re: FEMA

For starters, CRS just wants to get in the command center room.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 10:24:45 2005
Subject: FEMA

Sharee, I wanted to let you know that I have circled back via email to [redacted] who is at DHS Headquarters) and others up the chain at DHS to inform them of OASG support and left them a number to call me. I suspect either you or I will hear from DHS today and go from there. Thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 10:10 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

They do not need you to do that. If you want to help figure out the level that corresponds to the Associates level and call that person at FEMA or DHS to help turn the wheel at a level higher than [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 10:01:19 2005
Subject: RE: NO Deployment

Why would there be a negative reaction to my circling back on behalf of the Associate Attorney General to just say, do you have the information you need, let us know how we can be of help?

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 9:57 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

Because they reached to CRS and it is a delicate situation and honestly I do not want you to chance a negative reaction. I am in a session with. USA Perez and the SAC with their community now.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:47:48 2005
Subject: Re: NO Deployment

Please call either me or Neil at [redacted] and tell me why we shouldn't touch base with FEMA after they reached out to us. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>

To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 09:44:05 2005
Subject: Re: NO Deployment

I would prefer if you did not call her.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:31:13 2005
Subject: NO Deployment

Sharee, could you please give me [redacted] contact number. I have [redacted] but that is not working. I just want to call [redacted] and touch base.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 12:44 AM
To: Reyes, Luis (SMO)
Subject: Re: Coverage getting worse

I am thinking we should not call [redacted] We should wait until [redacted] calls us back ---
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 23:39:55 2005
Subject: RE: Coverage getting worse

Sharee, have been trying to get a hold of you. Blackberry service is down, I am now at the office. Please call me if you get this [redacted] Will have something for you in short order, in the meantime, please advise by phone if FEMA as requested your presence. Thanks. --LR

-----Original Message-----
From: Freeman, Sharee
Sent: Thursday, September 01, 2005 7:26 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: Fw: Coverage getting worse

CRS is still waiting and FEMA is thinking about asking us to join them. It is not done yet. As CRS Director, the below newsarticle is more than enough to deploy. Where are we today?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Thu Sep 01 19:13:30 2005
Subject: Fw: Coverage getting worse

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schneider, P Diane <P.Schneider@CRS.USDOJ.GOV>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Thu Sep 01 18:10:08 2005
Subject: Coverage getting worse

<<image001.jpg>>
<<image002.gif>>

Cries for help spread across New Orleans
Local official blames FEMA for 'national disgrace'; mayor issues 'SOS'

NBC, MSNBC and news services

Updated: 4:58 p.m. ET Sept. 1, 2005

NEW ORLEANS - Fights and fires broke out, corpses lay out in the open, and rescue helicopters and law enforcement officers were shot at as flood-stricken New Orleans slipped toward anarchy Thursday.

"This is a desperate SOS," the mayor said.

While a mass evacuation got under way at the city's Superdome, where thousands of restless people were waiting for help, there was desperation and mounting anger at a separate refuge, the city's convention center, where storm victims grew increasingly hungry and thirsty and pleaded for relief.

Officials said thousands more National Guardsmen were being sent to the city, and Congress planned a special session Thursday night to approve emergency aid. But across the city, residents complained that aid was not arriving and a local official blamed the Federal Emergency Management Agency.

"This is a national disgrace," said Terry Ebbert, head of New Orleans' emergency operations. "FEMA has been here three days, yet there is no command and control," Ebbert said. "We can send massive amounts of aid to tsunami victims but we can't bail out the city of New Orleans."

"We have got a mayor who has been pushing and asking but we're not getting supplies," he said. He said the evacuation was almost entirely a Louisiana operation. "This is not a FEMA operation. I haven't

said the evacuation was almost entirely a Louisiana operation. "This is not a FEMA operation. I haven't seen a single FEMA guy."

Mayor Ray Nagin, in issuing his dire plea in a statement to CNN, said: "Right now we are out of resources at the convention center and don't anticipate enough buses. Currently the convention center is unsanitary and unsafe and we are running out of supplies for 15,000 to 25,000 people."

Dead bodies outside center

Outside the center, people complained that they were evacuated, taken to the convention hall by bus, dropped off and given nothing.

At least seven bodies were scattered outside, and hungry people broke through the steel doors to a food service entrance and began pushing out pallets of water and juice and whatever else they could find.

An old man in a chaise lounge lay dead in a grassy median as hungry babies wailed around him. Around the corner, an elderly woman lay dead in her wheelchair, covered with a blanket, and another body lay beside her wrapped in a sheet.

"I don't treat my dog like that," Daniel Edwards said as he pointed at the woman in the wheelchair. "I buried my dog."

"You can do everything for other countries but you can't do nothing for your own people," he said. "You can go overseas with the military but you can't get them down here."

The street outside the center, above the floodwaters, smelled of urine and feces, and was choked with dirty diapers, old bottles and garbage.

"We are out here like pure animals. We don't have help," said the Rev. Isaac Clark, 68.

People there, some holding crying babies or elderly barely able to stand up, shouted for help as TV news crews passed by.

A sea of pain

On the front steps of the convention center, one woman, screaming, led the crowd in reciting the 23rd Psalm.

John Murray, 52, said: "It's like they're punishing us."

The Superdome, where some 25,000 people were being evacuated by bus to the Houston Astrodome, descended into chaos as well.

Huge crowds, hoping to finally escape the stifling confines of the stadium, jammed the main concourse outside the dome, spilling out over the ramp to the Hyatt hotel next door — a seething sea of tense, unhappy, people packed shoulder-to-shoulder up to the barricades where heavily armed National Guard troops stood.

At the front of the line, heavily armed policemen and guardsmen stood watch and handed out water as tense and exhausted crowds struggled onto buses. At the back end of the line, people jammed against police barricades in the rain. Luggage, bags of clothes, pillows, blankets were strewn in the puddles.

Many people had dogs and they cannot take them on the bus. A police officer took one from a little boy, who cried until he vomited. "Snowball, snowball," he cried. The policeman told a reporter he didn't know what would happen to the dog.

Other parts of the city saw similar desperation. "We need help," Polly Boudreaux, clerk of the St. Bernard Parish Council, told WAFB-TV in a phone interview in which she broke down crying.

"We're just been absolutely devastated," she said, and many residents still need to be rescued.

Little outside aid has reached the parish, she added. "We are not seeing it."

Doctors at two desperately crippled hospitals with 360 patients called The Associated Press pleading for rescue, saying they were nearly out of food and power and had been forced to move patients to higher floors to escape looters.

"We have been trying to call the mayor's office, we have been trying to call the governor's office. ... We have tried to use any inside pressure we can. We are turning to you. Please help us," said Dr. Norman McSwain, chief of trauma surgery at Charity Hospital.

Mob fears, gunshots

While most stranded residents were orderly, police warned reporters to be careful given the desperation.

"We were told don't drink or eat in public as it could lead to a mob situation," NBC's Michelle Hofland said. "We were told that by sundown to get out of here."

Federal rescue workers were pulled back from some areas of the city where gunfire was heard or reported, a Department of Homeland Security official told NBC News.

"Hospitals are trying to evacuate," said Coast Guard Lt. Cmdr. Cheri Ben-Iesan, spokesman at the city emergency operations center. "At every one of them, there are reports that as the helicopters come in people are shooting at them. There are people just taking potshots at police and at helicopters, telling them, "You better come get my family."

Police Capt. Ernie Demmo said a National Guard military policeman was shot in the leg as the two scuffled for the MP's rifle. The man was arrested.

"These are good people. These are just scared people," Demmo said.

'We need a thousand' National Guard

Earlier, as the situation at the Superdome deteriorated. Paramedics were alarmed by the sight of people with guns.

An air ambulance service official said helicopter transfers of the sick and injured were suspended after report of a helicopter being fired on overnight.

Able-bodied evacuees were still being moved by bus to Houston's Astrodome, the National Guard said, correcting a Guard official who said that operation was on hold as well.

Texas on Thursday announced that it would house 25,000 more evacuees in San Antonio.

The Superdome helicopter operation was suspended "until they gain control of the Superdome," said Richard Zuschlag, head of Acadian Ambulance, which was handling the evacuation of sick and injured people.

He said the National Guard told him that it was sending 100 military police officers to gain control. "That's not enough," Zuschlag. "We need a thousand."

Medics were calling him and crying for help because they were so scared of people with guns at the Superdome, he added.

Zuschlag said shots were fired at a military helicopter over the Superdome before daybreak, but a National Guard officer said he had a report of just one shot being fired at the helicopter.

Zuschlag added that when another evacuation helicopter tried to land at a hospital in the outlying town of Kenner overnight, the pilot reported that 100 people were on the landing pad, and some of them had guns.

"He was frightened and would not land," Zuschlag said.

Bush to visit Friday

President Bush will tour <http://msnbc.msn.com/id/9157866/> the hurricane-devastated Gulf Coast region on Friday and has asked former Presidents Clinton and Bush to lead a private fund-raising campaign to help victims recover, the White House said Thursday.

An additional 10,000 National Guard troops from across the country were ordered into the Gulf Coast to shore up security, rescue and relief operations. The new units brought the number of troops dedicated to the effort to more than 28,000, in what may be the largest military response to a natural disaster.

Looting has also been a problem in Mississippi.

"The truth is, a terrible tragedy like this brings out the best in most people, brings out the worst in some people," said Mississippi Gov. Haley Barbour on NBC's "Today" show Thursday. "We're trying to deal with looters as ruthlessly as we can get our hands on them."

New Orleans police focus on looters

In New Orleans, Nagin on Wednesday night ordered the city's 1,500 police officers to leave their search-and-rescue mission and focus on stopping the looting.

Police were asking residents to give up any firearms before they evacuated neighborhoods because officers desperately needed the firepower: Some officers who had been stranded on the roof of a hotel said they were shot at.

Nagin called for an all-out evacuation of the city's remaining residents. Asked how many people died, he said: "Minimum, hundreds. Most likely, thousands."

Struggle to plug the breached levees

With most of the city under water, Army engineers struggled to plug New Orleans' breached levees with giant sandbags and concrete barriers, and authorities drew up plans to clear out the tens of thousands of remaining people and practically abandon the below-sea-level city.

Nagin said there will be a "total evacuation of the city. We have to. The city will not be functional for two or three months." And he said people would not be allowed back into their homes for at least a month or two.

If the mayor's death-toll estimate holds true, it would make Katrina the worst natural disaster in the United States since at least the 1906 San Francisco earthquake and fire, which have blamed for anywhere from about 500 to 6,000 deaths. Katrina would also be the nation's deadliest hurricane since 1900, when a storm in Galveston, Texas, killed between 6,000 and 12,000 people.

In Mississippi, meantime, bodies are starting to pile up at the morgue in hard-hit Harrison County. Forty corpses have been brought to the morgue already, and officials expect the death toll in the county to climb well above 100.

Tempers were beginning to flare in the aftermath of the storm. Police said a man fatally shot his sister in the head over a bag of ice in Hattiesburg, Miss.

Full magnitude unclear

The federal government dispatched helicopters, warships and elite SEAL water-rescue teams in one of the biggest relief operations in U.S. history, aimed at plucking residents from rooftops in the last of the "golden 72 hours" rescuers say is crucial to saving lives.

In addition to the Astrodome solution, the Federal Emergency Management Agency was considering putting people on cruise ships, in tent cities, mobile home parks, and so-called floating dormitories.

The death toll has reached at least 121 in Mississippi alone. But the full magnitude of the disaster had been unclear for days — in part, because some areas in both coastal Mississippi and New Orleans are still unreachable, but also because authorities' first priority has been the living.

In Mississippi, for example, ambulances roamed through the passable streets of devastated places such as Biloxi, Gulfport, Waveland and Bay St. Louis, in some cases speeding past corpses in hopes of saving people trapped in flooded and crumbled buildings.

The Associated Press and Reuters contributed to this report.

© 2005 MSNBC.com

URL: http://msnbc.msn.com/id/9156612/

P. Diane Schneider

Senior Conciliation Specialist

Community Relations Service

USDOJ

Tel 206 220 6709

[redacted]

www.usdoj.gov/crs/crs.htm

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 2, 2005 4:06 PM
To: Freeman, Sharee
Cc: Reyes, Luis (SMO)
Subject: RE: FEMA

Sharee - I think we will need a more developed statement for ODAG's purposes. I still am not following you about "protocols." Please keep Lu and FEMA in the loop on any plans as you develop them. Thanks. NMG

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 4:02 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

Ok, can what we sent over to Luis today on CRS' role suffice? CNN is reporting DOJ is doing "protocols" NAACP national has lodged a number of calls to me. They want CRS to faciliate a Baton Rouge meeting tomorrow for powerbrokers. I am on line with my regional directors and then need to call you folks before calling them back so we are on the same note. I am on my way back to DC at 610 arrival at 8 ----
---
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 15:48:21 2005
Subject: RE: FEMA

I'm not clear on what you mean by protocols for agencies going on site. We certainly do want you to coordinate closely with FEMA. Separately, I will be asking a number of components, shortly, for an explanation of what their plans are re: Katrina both short term and long term, and would very much appreciate a short insert from CRS on its work. Many thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 3:46 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

If DOJ is drafting protocols for agencies going onsite is there a need for CRS. Input?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 14:24:45 2005
Subject: RE: FEMA

Sharee,

Just want to reiterate, as I expressed on our call this morning, that we are counting on you to deploy asap -- and to make sure that CRS does so in close coordination with FEMA. I know (as you said) that this is your arena of expertise and that you're working your own contacts at FEMA to ensure close coordination, but if we can provide any further support please don't hesitate to let me know. As indicated below, Lu is trying to help support your coordination efforts.

Please do keep us apprised of your deployments and coordination with FEMA.

Many thanks again,

Neil

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 2:04 PM
To: Freeman, Sharee
Cc: Gorsuch, Neil M
Subject: Re: FEMA

At this time, all of our involvement will go through DHS/FEMA. Please let me know if they have circled back with you.

Also, as soon as possible please have forwarded to me what you sent to FEMA about CRS and who it was sent to.

Thank you.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 13:54:41 2005
Subject: Re: FEMA

For starters, CRS just wants to get in the command center room.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 10:24:45 2005
Subject: FEMA

Sharee, I wanted to let you know that I have circled back via email to [redacted] who is at DHS Headquarters) and others up the chain at DHS to inform them of OASG support and left them a number to call me. I suspect either you or I will hear from DHS today and go from there. Thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 10:10 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

They do not need you to do that. If you want to help figure out the level that corresponds to the Associates level and call that person at FEMA or DHS to help turn the wheel at a level higher than [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 10:01:19 2005
Subject: RE: NO Deployment

Why would there be a negative reaction to my circling back on behalf of the Associate Attorney General to just say, do you have the information you need, let us know how we can be of help?

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 9:57 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

Because they reached to CRS and it is a delicate situation and honestly I do not want you to chance a negative reaction. I am in a session with. USA Perez and the SAC with their community now.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:47:48 2005
Subject: Re: NO Deployment

Please call either me or Neil at [redacted] and tell me why we shouldn't touch base with FEMA after they reached out to us. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 09:44:05 2005
Subject: Re: NO Deployment

I would prefer if you did not call [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:31:13 2005
Subject: NO Deployment

Sharee, could you please give me [redacted] contact number. I have [redacted], but that is not working. I just want to call [redacted] and touch base.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 12:44 AM
To: Reyes, Luis (SMO)
Subject: Re: Coverage getting worse

I am thinking we should not call [redacted] We should wait until [redacted] calls us back ---
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 23:39:55 2005
Subject: RE: Coverage getting worse

Sharee, have been trying to get a hold of you. Blackberry service is down, I am now at the office. Please call me if you get this (202) 210-7916 or (202) 353-2811. Will have something for you in short order, in the meantime, please advise by phone if FEMA as requested your presence. Thanks. --LR

-----Original Message-----
From: Freeman, Sharee
Sent: Thursday, September 01, 2005 7:26 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: Fw: Coverage getting worse

CRS is still waiting and FEMA is thinking about asking us to join them. It is not done yet. As CRS Director, the below newsarticle is more than enough to deploy. Where are we today?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Thu Sep 01 19:13:30 2005
Subject: Fw: Coverage getting worse

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schneider, P Diane <P.Schneider@CRS.USDOJ.GOV>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Thu Sep 01 18:10:08 2005
Subject: Coverage getting worse

<<image001.jpg>>
<<image002.gif>>

Cries for help spread across New Orleans
Local official blames FEMA for 'national disgrace'; mayor issues 'SOS'

NBC, MSNBC and news services

Updated: 4:58 p.m. ET Sept. 1, 2005

NEW ORLEANS - Fights and fires broke out, corpses lay out in the open, and rescue helicopters and law enforcement officers were shot at as flood-stricken New Orleans slipped toward anarchy Thursday.

"This is a desperate SOS," the mayor said.

While a mass evacuation got under way at the city's Superdome, where thousands of restless people

were waiting for help, there was desperation and mounting anger at a separate refuge, the city's convention center, where storm victims grew increasingly hungry and thirsty and pleaded for relief.

Officials said thousands more National Guardsmen were being sent to the city, and Congress planned a special session Thursday night to approve emergency aid. But across the city, residents complained that aid was not arriving and a local official blamed the Federal Emergency Management Agency.

"This is a national disgrace," said Terry Ebbert, head of New Orleans' emergency operations. "FEMA has been here three days, yet there is no command and control," Ebbert said. "We can send massive amounts of aid to tsunami victims but we can't bail out the city of New Orleans."

"We have got a mayor who has been pushing and asking but we're not getting supplies," he said. He said the evacuation was almost entirely a Louisiana operation. "This is not a FEMA operation. I haven't seen a single FEMA guy."

Mayor Ray Nagin, in issuing his dire plea in a statement to CNN, said: "Right now we are out of resources at the convention center and don't anticipate enough buses. Currently the convention center is unsanitary and unsafe and we are running out of supplies for 15,000 to 25,000 people."

Dead bodies outside center

Outside the center, people complained that they were evacuated, taken to the convention hall by bus, dropped off and given nothing.

At least seven bodies were scattered outside, and hungry people broke through the steel doors to a food service entrance and began pushing out pallets of water and juice and whatever else they could find.

An old man in a chaise lounge lay dead in a grassy median as hungry babies wailed around him. Around the corner, an elderly woman lay dead in her wheelchair, covered with a blanket, and another body lay beside her wrapped in a sheet.

"I don't treat my dog like that," Daniel Edwards said as he pointed at the woman in the wheelchair. "I buried my dog."

"You can do everything for other countries but you can't do nothing for your own people," he said. "You can go overseas with the military but you can't get them down here."

The street outside the center, above the floodwaters, smelled of urine and feces, and was choked with dirty diapers, old bottles and garbage.

"We are out here like pure animals. We don't have help," said the Rev. Isaac Clark, 68.

People there, some holding crying babies or elderly barely able to stand up, shouted for help as TV news crews passed by.

A sea of pain

On the front steps of the convention center, one woman, screaming, led the crowd in reciting the 23rd Psalm.

John Murray, 52, said: "It's like they're punishing us."

The Superdome, where some 25,000 people were being evacuated by bus to the Houston Astrodome, descended into chaos as well.

Huge crowds, hoping to finally escape the stifling confines of the stadium, jammed the main concourse outside the dome, spilling out over the ramp to the Hyatt hotel next door — a seething sea of tense, unhappy, people packed shoulder-to-shoulder up to the barricades where heavily armed National Guard troops stood.

At the front of the line, heavily armed policemen and guardsmen stood watch and handed out water as tense and exhausted crowds struggled onto buses. At the back end of the line, people jammed against police barricades in the rain. Luggage, bags of clothes, pillows, blankets were strewn in the puddles.

Many people had dogs and they cannot take them on the bus. A police officer took one from a little boy, who cried until he vomited. "Snowball, snowball," he cried. The policeman told a reporter he didn't know what would happen to the dog.

Other parts of the city saw similar desperation. "We need help," Polly Boudreaux, clerk of the St. Bernard Parish Council, told WAFB-TV in a phone interview in which she broke down crying.

"We're just been absolutely devastated," she said, and many residents still need to be rescued.

Little outside aid has reached the parish, she added. "We are not seeing it."

Doctors at two desperately crippled hospitals with 360 patients called The Associated Press pleading for rescue, saying they were nearly out of food and power and had been forced to move patients to higher floors to escape looters.

"We have been trying to call the mayor's office, we have been trying to call the governor's office. ... We have tried to use any inside pressure we can. We are turning to you. Please help us," said Dr. Norman McSwain, chief of trauma surgery at Charity Hospital.

Mob fears, gunshots

While most stranded residents were orderly, police warned reporters to be careful given the desperation.

"We were told don't drink or eat in public as it could lead to a mob situation," NBC's Michelle Hofland said. "We were told that by sundown to get out of here."

Federal rescue workers were pulled back from some areas of the city where gunfire was heard or reported, a Department of Homeland Security official told NBC News.

"Hospitals are trying to evacuate," said Coast Guard Lt. Cmdr. Cheri Ben-Iesan, spokesman at the city emergency operations center. "At every one of them, there are reports that as the helicopters come in people are shooting at them. There are people just taking potshots at police and at helicopters, telling them, "You better come get my family."

Police Capt. Ernie Demmo said a National Guard military policeman was shot in the leg as the two scuffled for the MP's rifle. The man was arrested.

"These are good people. These are just scared people," Demmo said.

'We need a thousand' National Guard
Earlier, as the situation at the Superdome deteriorated. Paramedics were alarmed by the sight of people with guns.

An air ambulance service official said helicopter transfers of the sick and injured were suspended after report of a helicopter being fired on overnight.

Able-bodied evacuees were still being moved by bus to Houston's Astrodome, the National Guard said, correcting a Guard official who said that operation was on hold as well.

Texas on Thursday announced that it would house 25,000 more evacuees in San Antonio.

The Superdome helicopter operation was suspended "until they gain control of the Superdome," said Richard Zuschlag, head of Acadian Ambulance, which was handling the evacuation of sick and injured people.

He said the National Guard told him that it was sending 100 military police officers to gain control. "That's not enough," Zuschlag. "We need a thousand."

Medics were calling him and crying for help because they were so scared of people with guns at the Superdome, he added.

Zuschlag said shots were fired at a military helicopter over the Superdome before daybreak, but a National Guard officer said he had a report of just one shot being fired at the helicopter.

Zuschlag added that when another evacuation helicopter tried to land at a hospital in the outlying town of Kenner overnight, the pilot reported that 100 people were on the landing pad, and some of them had guns.

"He was frightened and would not land," Zuschlag said.

Bush to visit Friday
President Bush will tour <http://msnbc.msn.com/id/9157866/> the hurricane-devastated Gulf Coast region on Friday and has asked former Presidents Clinton and Bush to lead a private fund-raising campaign to help victims recover, the White House said Thursday.

An additional 10,000 National Guard troops from across the country were ordered into the Gulf Coast to shore up security, rescue and relief operations. The new units brought the number of troops dedicated to the effort to more than 28,000, in what may be the largest military response to a natural disaster.

Looting has also been a problem in Mississippi.

"The truth is, a terrible tragedy like this brings out the best in most people, brings out the worst in some people," said Mississippi Gov. Haley Barbour on NBC's "Today" show Thursday. "We're trying to deal with looters as ruthlessly as we can get our hands on them."

New Orleans police focus on looters
In New Orleans, Nagin on Wednesday night ordered the city's 1,500 police officers to leave their search-and-rescue mission and focus on stopping the looting.

Police were asking residents to give up any firearms before they evacuated neighborhoods because officers desperately needed the firepower: Some officers who had been stranded on the roof of a hotel said they were shot at.

Nagin called for an all-out evacuation of the city's remaining residents. Asked how many people died, he said: "Minimum, hundreds. Most likely, thousands."

Struggle to plug the breached levees

With most of the city under water, Army engineers struggled to plug New Orleans' breached levees with giant sandbags and concrete barriers, and authorities drew up plans to clear out the tens of thousands of remaining people and practically abandon the below-sea-level city.

Nagin said there will be a "total evacuation of the city. We have to. The city will not be functional for two or three months." And he said people would not be allowed back into their homes for at least a month or two.

If the mayor's death-toll estimate holds true, it would make Katrina the worst natural disaster in the United States since at least the 1906 San Francisco earthquake and fire, which have blamed for anywhere from about 500 to 6,000 deaths. Katrina would also be the nation's deadliest hurricane since 1900, when a storm in Galveston, Texas, killed between 6,000 and 12,000 people.

In Mississippi, meantime, bodies are starting to pile up at the morgue in hard-hit Harrison County. Forty corpses have been brought to the morgue already, and officials expect the death toll in the county to climb well above 100.

Tempers were beginning to flare in the aftermath of the storm. Police said a man fatally shot his sister in the head over a bag of ice in Hattiesburg, Miss.

Full magnitude unclear

The federal government dispatched helicopters, warships and elite SEAL water-rescue teams in one of the biggest relief operations in U.S. history, aimed at plucking residents from rooftops in the last of the "golden 72 hours" rescuers say is crucial to saving lives.

In addition to the Astrodome solution, the Federal Emergency Management Agency was considering putting people on cruise ships, in tent cities, mobile home parks, and so-called floating dormitories.

The death toll has reached at least 121 in Mississippi alone. But the full magnitude of the disaster had been unclear for days — in part, because some areas in both coastal Mississippi and New Orleans are still unreachable, but also because authorities' first priority has been the living.

In Mississippi, for example, ambulances roamed through the passable streets of devastated places such as Biloxi, Gulfport, Waveland and Bay St. Louis, in some cases speeding past corpses in hopes of saving people trapped in flooded and crumbled buildings.

The Associated Press and Reuters contributed to this report.

© 2005 MSNBC.com

URL: http://msnbc.msn.com/id/9156612/

P. Diane Schneider

Senior Conciliation Specialist

Community Relations Service

USDOJ

Tel 206 220 6709

[redacted]

www.usdoj.gov/crs/crs.htm

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Friday, September 2, 2005 4:09 PM
To: Gorsuch, Neil M; Freeman, Sharee
Subject: RE: FEMA

Just to be clear, Sharee, I have not received any documents from CRS today on their role or otherwise.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:06 PM
To: Freeman, Sharee
Cc: Reyes, Luis (SMO)
Subject: RE: FEMA

Sharee - I think we will need a more developed statement for ODAG's purposes. I still am not following you about "protocols." Please keep Lu and FEMA in the loop on any plans as you develop them. Thanks. NMG

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 4:02 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

Ok, can what we sent over to Luis today on CRS' role suffice? CNN is reporting DOJ is doing "protocols" NAACP national has lodged a number of calls to me. They want CRS to faciliate a Baton Rouge meeting tomorrow for powerbrokers. I am on line with my regional directors and then need to call you folks before calling them back so we are on the same note. I am on my way back to DC at 610 arrival at 8 ----
---
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 15:48:21 2005
Subject: RE: FEMA

I'm not clear on what you mean by protocols for agencies going on site. We certainly do want you to coordinate closely with FEMA. Separately, I will be asking a number of components, shortly, for an explanation of what their plans are re: Katrina both short term and long term, and would very much appreciate a short insert from CRS on its work. Many thanks.

-----Original Message-----

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 3:46 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

If DOJ is drafting protocols for agencies going onsite is there a need for CRS. Input?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 14:24:45 2005
Subject: RE: FEMA

Sharee,

Just want to reiterate, as I expressed on our call this morning, that we are counting on you to deploy asap -- and to make sure that CRS does so in close coordination with FEMA. I know (as you said) that this is your arena of expertise and that you're working your own contacts at FEMA to ensure close coordination, but if we can provide any further support please don't hesitate to let me know. As indicated below, Lu is trying to help support your coordination efforts.

Please do keep us apprised of your deployments and coordination with FEMA.

Many thanks again,

Neil

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 2:04 PM
To: Freeman, Sharee
Cc: Gorsuch, Neil M
Subject: Re: FEMA

At this time, all of our involvement will go through DHS/FEMA. Please let me know if they have circled back with you.

Also, as soon as possible please have forwarded to me what you sent to FEMA about CRS and who it was sent to.

Thank you.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 13:54:41 2005
Subject: Re: FEMA

For starters, CRS just wants to get in the command center room.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 10:24:45 2005
Subject: FEMA

Sharee, I wanted to let you know that I have circled back via email to [redacted] who is at DHS Headquarters) and others up the chain at DHS to inform them of OASG support and left them a number to call me. I suspect either you or I will hear from DHS today and go from there. Thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 10:10 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

They do not need you to do that. If you want to help figure out the level that corresponds to the Associates level and call that person at FEMA or DHS to help turn the wheel at a level higher than [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 10:01:19 2005
Subject: RE: NO Deployment

Why would there be a negative reaction to my circling back on behalf of the Associate Attorney General to just say, do you have the information you need, let us know how we can be of help?

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 9:57 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

Because they reached to CRS and it is a delicate situation and honestly I do not want you to chance a negative reaction. I am in a session with. USA Perez and the SAC with their community now.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:47:48 2005
Subject: Re: NO Deployment

Please call either me or Neil at [redacted] and tell me why we shouldn't touch base with FEMA after they reached out to us. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 09:44:05 2005
Subject: Re: NO Deployment

I would prefer if you did not call her.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:31:13 2005
Subject: NO Deployment

Sharee, could you please give me [redacted] contact number. I have [redacted] but that is not working. I just want to call [redacted] and touch base.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 12:44 AM
To: Reyes, Luis (SMO)
Subject: Re: Coverage getting worse

I am thinking we should not call [redacted] We should wait until [redacted] calls us back ----------
Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 23:39:55 2005
Subject: RE: Coverage getting worse

Sharee, have been trying to get a hold of you. Blackberry service is down, I am now at the office. Please call me if you get this [redacted] Will have something for you in short order, in the meantime, please advise by phone if FEMA as requested your presence. Thanks. --LR

-----Original Message-----
From: Freeman, Sharee
Sent: Thursday, September 01, 2005 7:26 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: Fw: Coverage getting worse

CRS is still waiting and FEMA is thinking about asking us to join them. It is not done yet. As CRS Director, the below newsarticle is more than enough to deploy. Where are we today?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Thu Sep 01 19:13:30 2005
Subject: Fw: Coverage getting worse

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schneider, P Diane <P.Schneider@CRS.USDOJ.GOV>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Thu Sep 01 18:10:08 2005
Subject: Coverage getting worse

<<image001.jpg>>
<<image002.gif>>

Cries for help spread across New Orleans
Local official blames FEMA for 'national disgrace'; mayor issues 'SOS'

NBC, MSNBC and news services

Updated: 4:58 p.m. ET Sept. 1, 2005

NEW ORLEANS - Fights and fires broke out, corpses lay out in the open, and rescue helicopters and law enforcement officers were shot at as flood-stricken New Orleans slipped toward anarchy Thursday.

"This is a desperate SOS," the mayor said.

While a mass evacuation got under way at the city's Superdome, where thousands of restless people were waiting for help, there was desperation and mounting anger at a separate refuge, the city's convention center, where storm victims grew increasingly hungry and thirsty and pleaded for relief.

Officials said thousands more National Guardsmen were being sent to the city, and Congress planned a special session Thursday night to approve emergency aid. But across the city, residents complained that aid was not arriving and a local official blamed the Federal Emergency Management Agency.

"This is a national disgrace," said Terry Ebbert, head of New Orleans' emergency operations. "FEMA has been here three days, yet there is no command and control," Ebbert said. "We can send massive amounts of aid to tsunami victims but we can't bail out the city of New Orleans."

"We have got a mayor who has been pushing and asking but we're not getting supplies," he said. He said the evacuation was almost entirely a Louisiana operation. "This is not a FEMA operation. I haven't seen a single FEMA guy."

Mayor Ray Nagin, in issuing his dire plea in a statement to CNN, said: "Right now we are out of resources at the convention center and don't anticipate enough buses. Currently the convention center is unsanitary and unsafe and we are running out of supplies for 15,000 to 25,000 people."

Dead bodies outside center

Outside the center, people complained that they were evacuated, taken to the convention hall by bus, dropped off and given nothing.

At least seven bodies were scattered outside, and hungry people broke through the steel doors to a food service entrance and began pushing out pallets of water and juice and whatever else they could find.

An old man in a chaise lounge lay dead in a grassy median as hungry babies wailed around him. Around the corner, an elderly woman lay dead in her wheelchair, covered with a blanket, and another body lay beside her wrapped in a sheet.

"I don't treat my dog like that," Daniel Edwards said as he pointed at the woman in the wheelchair. "I buried my dog."

"You can do everything for other countries but you can't do nothing for your own people," he said. "You can go overseas with the military but you can't get them down here."

The street outside the center, above the floodwaters, smelled of urine and feces, and was choked with dirty diapers, old bottles and garbage.

"We are out here like pure animals. We don't have help," said the Rev. Isaac Clark, 68.

People there, some holding crying babies or elderly barely able to stand up, shouted for help as TV news crews passed by.

A sea of pain

On the front steps of the convention center, one woman, screaming, led the crowd in reciting the 23rd Psalm.

John Murray, 52, said: "It's like they're punishing us."

The Superdome, where some 25,000 people were being evacuated by bus to the Houston Astrodome, descended into chaos as well.

Huge crowds, hoping to finally escape the stifling confines of the stadium, jammed the main concourse outside the dome, spilling out over the ramp to the Hyatt hotel next door — a seething sea of tense, unhappy, people packed shoulder-to-shoulder up to the barricades where heavily armed National Guard troops stood.

At the front of the line, heavily armed policemen and guardsmen stood watch and handed out water as tense and exhausted crowds struggled onto buses. At the back end of the line, people jammed against police barricades in the rain. Luggage, bags of clothes, pillows, blankets were strewn in the puddles.

Many people had dogs and they cannot take them on the bus. A police officer took one from a little boy, who cried until he vomited. "Snowball, snowball," he cried. The policeman told a reporter he didn't know what would happen to the dog.

Other parts of the city saw similar desperation. "We need help," Polly Boudreaux, clerk of the St. Bernard Parish Council, told WAFB-TV in a phone interview in which she broke down crying.

"We're just been absolutely devastated," she said, and many residents still need to be rescued.

Little outside aid has reached the parish, she added. "We are not seeing it."

Doctors at two desperately crippled hospitals with 360 patients called The Associated Press pleading for rescue, saying they were nearly out of food and power and had been forced to move patients to higher floors to escape looters.

"We have been trying to call the mayor's office, we have been trying to call the governor's office. ... We have tried to use any inside pressure we can. We are turning to you. Please help us," said Dr. Norman McSwain, chief of trauma surgery at Charity Hospital.

Mob fears, gunshots

While most stranded residents were orderly, police warned reporters to be careful given the desperation.

"We were told don't drink or eat in public as it could lead to a mob situation," NBC's Michelle Hofland said. "We were told that by sundown to get out of here."

Federal rescue workers were pulled back from some areas of the city where gunfire was heard or reported, a Department of Homeland Security official told NBC News.

"Hospitals are trying to evacuate," said Coast Guard Lt. Cmdr. Cheri Ben-Iesan, spokesman at the city

"Hospitals are trying to evacuate," said Coast Guard Lt. Cmdr. Chen Ben-Iesan, spokesman at the city emergency operations center. "At every one of them, there are reports that as the helicopters come in people are shooting at them. There are people just taking potshots at police and at helicopters, telling them, "You better come get my family."

Police Capt. Ernie Demmo said a National Guard military policeman was shot in the leg as the two scuffled for the MP's rifle. The man was arrested.

"These are good people. These are just scared people," Demmo said.

'We need a thousand' National Guard
Earlier, as the situation at the Superdome deteriorated. Paramedics were alarmed by the sight of people with guns.

An air ambulance service official said helicopter transfers of the sick and injured were suspended after report of a helicopter being fired on overnight.

Able-bodied evacuees were still being moved by bus to Houston's Astrodome, the National Guard said, correcting a Guard official who said that operation was on hold as well.

Texas on Thursday announced that it would house 25,000 more evacuees in San Antonio.

The Superdome helicopter operation was suspended "until they gain control of the Superdome," said Richard Zuschlag, head of Acadian Ambulance, which was handling the evacuation of sick and injured people.

He said the National Guard told him that it was sending 100 military police officers to gain control. "That's not enough," Zuschlag. "We need a thousand."

Medics were calling him and crying for help because they were so scared of people with guns at the Superdome, he added.

Zuschlag said shots were fired at a military helicopter over the Superdome before daybreak, but a National Guard officer said he had a report of just one shot being fired at the helicopter.

Zuschlag added that when another evacuation helicopter tried to land at a hospital in the outlying town of Kenner overnight, the pilot reported that 100 people were on the landing pad, and some of them had guns.

"He was frightened and would not land," Zuschlag said.

Bush to visit Friday
President Bush will tour <http://msnbc.msn.com/id/9157866/> the hurricane-devastated Gulf Coast region on Friday and has asked former Presidents Clinton and Bush to lead a private fund-raising campaign to help victims recover, the White House said Thursday.

An additional 10,000 National Guard troops from across the country were ordered into the Gulf Coast to shore up security, rescue and relief operations. The new units brought the number of troops dedicated to the effort to more than 28,000, in what may be the largest military response to a natural disaster.

Looting has also been a problem in Mississippi.

"The truth is, a terrible tragedy like this brings out the best in most people, brings out the worst in some people," said Mississippi Gov. Haley Barbour on NBC's "Today" show Thursday. "We're trying to deal with looters as ruthlessly as we can get our hands on them."

New Orleans police focus on looters

In New Orleans, Nagin on Wednesday night ordered the city's 1,500 police officers to leave their search-and-rescue mission and focus on stopping the looting.

Police were asking residents to give up any firearms before they evacuated neighborhoods because officers desperately needed the firepower: Some officers who had been stranded on the roof of a hotel said they were shot at.

Nagin called for an all-out evacuation of the city's remaining residents. Asked how many people died, he said: "Minimum, hundreds. Most likely, thousands."

Struggle to plug the breached levees

With most of the city under water, Army engineers struggled to plug New Orleans' breached levees with giant sandbags and concrete barriers, and authorities drew up plans to clear out the tens of thousands of remaining people and practically abandon the below-sea-level city.

Nagin said there will be a "total evacuation of the city. We have to. The city will not be functional for two or three months." And he said people would not be allowed back into their homes for at least a month or two.

If the mayor's death-toll estimate holds true, it would make Katrina the worst natural disaster in the United States since at least the 1906 San Francisco earthquake and fire, which have blamed for anywhere from about 500 to 6,000 deaths. Katrina would also be the nation's deadliest hurricane since 1900, when a storm in Galveston, Texas, killed between 6,000 and 12,000 people.

In Mississippi, meantime, bodies are starting to pile up at the morgue in hard-hit Harrison County. Forty corpses have been brought to the morgue already, and officials expect the death toll in the county to climb well above 100.

Tempers were beginning to flare in the aftermath of the storm. Police said a man fatally shot his sister in the head over a bag of ice in Hattiesburg, Miss.

Full magnitude unclear

The federal government dispatched helicopters, warships and elite SEAL water-rescue teams in one of the biggest relief operations in U.S. history, aimed at plucking residents from rooftops in the last of the "golden 72 hours" rescuers say is crucial to saving lives.

In addition to the Astrodome solution, the Federal Emergency Management Agency was considering putting people on cruise ships, in tent cities, mobile home parks, and so-called floating dormitories.

The death toll has reached at least 121 in Mississippi alone. But the full magnitude of the disaster had been unclear for days — in part, because some areas in both coastal Mississippi and New Orleans are still unreachable, but also because authorities' first priority has been the living.

In Mississippi, for example, ambulances roamed through the passable streets of devastated places

such as Biloxi, Gulfport, Waveland and Bay St. Louis, in some cases speeding past corpses in hopes of saving people trapped in flooded and crumbled buildings.

The Associated Press and Reuters contributed to this report.

© 2005 MSNBC.com

URL: http://msnbc.msn.com/id/9156612/

P. Diane Schneider

Senior Conciliation Specialist

Community Relations Service

USDOJ

Tel 206 220 6709

[redacted]

www.usdoj.gov/crs/crs.htm

Johnson, Kelly A. (ENRD)

From: Johnson, Kelly A. (ENRD)
Sent: Friday, September 2, 2005 4:11 PM
To: Gorsuch, Neil M
Cc: Sobeck, Eileen (ENRD); Mercer, Bill (ODAG)
Subject: RE: Katrina

Neil -- ENRD is putting together for Dawn Burton in ODAG a short summary of ENRD's condemnation expertise and the assistance we provided to SDNY after 9/11. We will send to you and Bill once completed. kj

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:01 PM
To: Schofield, Regina; Freeman, Sharee; Keisler, Peter D. (CIV); Schlozman, Brad (CRT); O'Connor, Eileen J. (AAG/TAX); Barnett, Thomas O.; White, Clifford; Stuart, Diane; Johnson, Kelly A. (ENRD); Peed, Carl
Cc: McCallum, Robert (SMO); Mercer, Bill (ODAG); Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: Katrina
Importance: High

ODAG has asked all components to supply, by 10 am tomorrow, a very short statement of any programmatic initiatives they have underway, or may be contemplating, to assist those affected by Katrina, both in the short term and in the long term. Obviously, the need is great and all efforts are appreciated. Please forward statements (distinguishing between short and long term plans) to Bill Mercer and me and feel free to call me if you have any questions.

Many thanks,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:13 PM
To: Reyes, Luis (SMO)
Subject: RE: FEMA

Have you heard anything about "protocols"? I just spoke with Mercer and he didn't mention anything like this. Can you check with others?

FYI - I mentioned to Bill the decision to send CRS and he concurred.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 4:09 PM
To: Gorsuch, Neil M; Freeman, Sharee
Subject: RE: FEMA

Just to be clear, Sharee, I have not received any documents from CRS today on their role or otherwise.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:06 PM
To: Freeman, Sharee
Cc: Reyes, Luis (SMO)
Subject: RE: FEMA

Sharee - I think we will need a more developed statement for ODAG's purposes. I still am not following you about "protocols." Please keep Lu and FEMA in the loop on any plans as you develop them. Thanks. NMG

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 4:02 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

Ok, can what we sent over to Luis today on CRS' role suffice? CNN is reporting DOJ is doing "protocols" NAACP national has lodged a number of calls to me. They want CRS to faciliate a Baton Rouge meeting tomorrow for powerbrokers. I am on line with my regional directors and then need to call you folks before calling them back so we are on the same note. I am on my way back to DC at 610 arrival at 8 ----
---
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 15:48:21 2005
Subject: RE: FEMA

I'm not clear on what you mean by protocols for agencies going on site. We certainly do want you to coordinate closely with FEMA. Separately, I will be asking a number of components, shortly, for an explanation of what their plans are re: Katrina both short term and long term, and would very much appreciate a short insert from CRS on its work. Many thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 3:46 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

If DOJ is drafting protocols for agencies going onsite is there a need for CRS. Input?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 14:24:45 2005
Subject: RE: FEMA

Sharee,

Just want to reiterate, as I expressed on our call this morning, that we are counting on you to deploy asap -- and to make sure that CRS does so in close coordination with FEMA. I know (as you said) that this is your arena of expertise and that you're working your own contacts at FEMA to ensure close coordination, but if we can provide any further support please don't hesitate to let me know. As indicated below, Lu is trying to help support your coordination efforts.

Please do keep us apprised of your deployments and coordination with FEMA.

Many thanks again,

Neil

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 2:04 PM
To: Freeman, Sharee
Cc: Gorsuch, Neil M
Subject: Re: FEMA

At this time, all of our involvement will go through DHS/FEMA. Please let me know if they have circled back with you.

Also, as soon as possible please have forwarded to me what you sent to FEMA about CRS and who it was sent to.

Thank you.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 13:54:41 2005
Subject: Re: FEMA

For starters, CRS just wants to get in the command center room.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 10:24:45 2005
Subject: FEMA

Sharee, I wanted to let you know that I have circled back via email to [redacted] who is at DHS Headquarters) and others up the chain at DHS to inform them of OASG support and left them a number to call me. I suspect either you or I will hear from DHS today and go from there. Thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 10:10 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

They do not need you to do that. If you want to help figure out the level that corresponds to the Associates level and call that person at FEMA or DHS to help turn the wheel at a level higher than [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>

To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 10:01:19 2005
Subject: RE: NO Deployment

Why would there be a negative reaction to my circling back on behalf of the Associate Attorney General to just say, do you have the information you need, let us know how we can be of help?

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 9:57 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

Because they reached to CRS and it is a delicate situation and honestly I do not want you to chance a negative reaction. I am in a session with. USA Perez and the SAC with their community now.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:47:48 2005
Subject: Re: NO Deployment

Please call either me or Neil at [redacted] and tell me why we shouldn't touch base with FEMA after they reached out to us. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 09:44:05 2005
Subject: Re: NO Deployment

I would prefer if you did not cal[redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:31:13 2005
Subject: NO Deployment

Sharee, could you please give me [redacted] contact number. I have [redacted] but that is not working. I just want to call [redacted] and touch base.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 12:44 AM
To: Reyes, Luis (SMO)
Subject: Re: Coverage getting worse

I am thinking we should not call [redacted] We should wait until [redacted] calls us back ----------
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 23:39:55 2005
Subject: RE: Coverage getting worse

Sharee, have been trying to get a hold of you. Blackberry service is down, I am now at the office. Please call me if you get this [redacted] Will have something for you in short order, in the meantime, please advise by phone if FEMA as requested your presence. Thanks. --LR

-----Original Message-----
From: Freeman, Sharee
Sent: Thursday, September 01, 2005 7:26 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: Fw: Coverage getting worse

CRS is still waiting and FEMA is thinking about asking us to join them. It is not done yet. As CRS Director, the below newsarticle is more than enough to deploy. Where are we today?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Thu Sep 01 19:13:30 2005
Subject: Fw: Coverage getting worse

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schneider, P Diane <P.Schneider@CRS.USDOJ.GOV>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Thu Sep 01 18:10:08 2005

Sent: Thu Sep 01 18:10:08 2005
Subject: Coverage getting worse

<<image001.jpg>>
<<image002.gif>>

Cries for help spread across New Orleans
Local official blames FEMA for 'national disgrace'; mayor issues 'SOS'

NBC, MSNBC and news services

Updated: 4:58 p.m. ET Sept. 1, 2005

NEW ORLEANS - Fights and fires broke out, corpses lay out in the open, and rescue helicopters and law enforcement officers were shot at as flood-stricken New Orleans slipped toward anarchy Thursday.

"This is a desperate SOS," the mayor said.

While a mass evacuation got under way at the city's Superdome, where thousands of restless people were waiting for help, there was desperation and mounting anger at a separate refuge, the city's convention center, where storm victims grew increasingly hungry and thirsty and pleaded for relief.

Officials said thousands more National Guardsmen were being sent to the city, and Congress planned a special session Thursday night to approve emergency aid. But across the city, residents complained that aid was not arriving and a local official blamed the Federal Emergency Management Agency.

"This is a national disgrace," said Terry Ebbert, head of New Orleans' emergency operations. "FEMA has been here three days, yet there is no command and control," Ebbert said. "We can send massive amounts of aid to tsunami victims but we can't bail out the city of New Orleans."

"We have got a mayor who has been pushing and asking but we're not getting supplies," he said. He said the evacuation was almost entirely a Louisiana operation. "This is not a FEMA operation. I haven't seen a single FEMA guy."

Mayor Ray Nagin, in issuing his dire plea in a statement to CNN, said: "Right now we are out of resources at the convention center and don't anticipate enough buses. Currently the convention center is unsanitary and unsafe and we are running out of supplies for 15,000 to 25,000 people."

Dead bodies outside center
Outside the center, people complained that they were evacuated, taken to the convention hall by bus, dropped off and given nothing.

At least seven bodies were scattered outside, and hungry people broke through the steel doors to a food service entrance and began pushing out pallets of water and juice and whatever else they could find.

An old man in a chaise lounge lay dead in a grassy median as hungry babies wailed around him. Around the corner, an elderly woman lay dead in her wheelchair, covered with a blanket, and another body lay beside her wrapped in a sheet.

“I don't treat my dog like that,” Daniel Edwards said as he pointed at the woman in the wheelchair. “I buried my dog.”

“You can do everything for other countries but you can't do nothing for your own people," he said. "You can go overseas with the military but you can't get them down here.”

The street outside the center, above the floodwaters, smelled of urine and feces, and was choked with dirty diapers, old bottles and garbage.

“We are out here like pure animals. We don't have help,” said the Rev. Isaac Clark, 68.

People there, some holding crying babies or elderly barely able to stand up, shouted for help as TV news crews passed by.

A sea of pain
On the front steps of the convention center, one woman, screaming, led the crowd in reciting the 23rd Psalm.

John Murray, 52, said: “It's like they're punishing us.”

The Superdome, where some 25,000 people were being evacuated by bus to the Houston Astrodome, descended into chaos as well.

Huge crowds, hoping to finally escape the stifling confines of the stadium, jammed the main concourse outside the dome, spilling out over the ramp to the Hyatt hotel next door — a seething sea of tense, unhappy, people packed shoulder-to-shoulder up to the barricades where heavily armed National Guard troops stood.

At the front of the line, heavily armed policemen and guardsmen stood watch and handed out water as tense and exhausted crowds struggled onto buses. At the back end of the line, people jammed against police barricades in the rain. Luggage, bags of clothes, pillows, blankets were strewn in the puddles.

Many people had dogs and they cannot take them on the bus. A police officer took one from a little boy, who cried until he vomited. “Snowball, snowball,” he cried. The policeman told a reporter he didn't know what would happen to the dog.

Other parts of the city saw similar desperation. “We need help,” Polly Boudreaux, clerk of the St. Bernard Parish Council, told WAFB-TV in a phone interview in which she broke down crying.

“We're just been absolutely devastated,” she said, and many residents still need to be rescued.

Little outside aid has reached the parish, she added. “We are not seeing it.”

Doctors at two desperately crippled hospitals with 360 patients called The Associated Press pleading for rescue, saying they were nearly out of food and power and had been forced to move patients to higher floors to escape looters.

“We have been trying to call the mayor's office, we have been trying to call the governor's office. ... We have tried to use any inside pressure we can. We are turning to you. Please help us,” said Dr. Norman McSwain, chief of trauma surgery at Charity Hospital.

Norman Mcswain, chief of trauma surgery at Charity Hospital.

Mob fears, gunshots

While most stranded residents were orderly, police warned reporters to be careful given the desperation.

"We were told don't drink or eat in public as it could lead to a mob situation," NBC's Michelle Hofland said. "We were told that by sundown to get out of here."

Federal rescue workers were pulled back from some areas of the city where gunfire was heard or reported, a Department of Homeland Security official told NBC News.

"Hospitals are trying to evacuate," said Coast Guard Lt. Cmdr. Cheri Ben-Iesan, spokesman at the city emergency operations center. "At every one of them, there are reports that as the helicopters come in people are shooting at them. There are people just taking potshots at police and at helicopters, telling them, "You better come get my family."

Police Capt. Ernie Demmo said a National Guard military policeman was shot in the leg as the two scuffled for the MP's rifle. The man was arrested.

"These are good people. These are just scared people," Demmo said.

'We need a thousand' National Guard

Earlier, as the situation at the Superdome deteriorated. Paramedics were alarmed by the sight of people with guns.

An air ambulance service official said helicopter transfers of the sick and injured were suspended after report of a helicopter being fired on overnight.

Able-bodied evacuees were still being moved by bus to Houston's Astrodome, the National Guard said, correcting a Guard official who said that operation was on hold as well.

Texas on Thursday announced that it would house 25,000 more evacuees in San Antonio.

The Superdome helicopter operation was suspended "until they gain control of the Superdome," said Richard Zuschlag, head of Acadian Ambulance, which was handling the evacuation of sick and injured people.

He said the National Guard told him that it was sending 100 military police officers to gain control. "That's not enough," Zuschlag. "We need a thousand."

Medics were calling him and crying for help because they were so scared of people with guns at the Superdome, he added.

Zuschlag said shots were fired at a military helicopter over the Superdome before daybreak, but a National Guard officer said he had a report of just one shot being fired at the helicopter.

Zuschlag added that when another evacuation helicopter tried to land at a hospital in the outlying town of Kenner overnight, the pilot reported that 100 people were on the landing pad, and some of them had guns.

"He was frightened and would not land," Zuschlag said.

Bush to visit Friday

President Bush will tour <http://msnbc.msn.com/id/9157866/> the hurricane-devastated Gulf Coast region on Friday and has asked former Presidents Clinton and Bush to lead a private fund-raising campaign to help victims recover, the White House said Thursday.

An additional 10,000 National Guard troops from across the country were ordered into the Gulf Coast to shore up security, rescue and relief operations. The new units brought the number of troops dedicated to the effort to more than 28,000, in what may be the largest military response to a natural disaster.

Looting has also been a problem in Mississippi.

"The truth is, a terrible tragedy like this brings out the best in most people, brings out the worst in some people," said Mississippi Gov. Haley Barbour on NBC's "Today" show Thursday. "We're trying to deal with looters as ruthlessly as we can get our hands on them."

New Orleans police focus on looters

In New Orleans, Nagin on Wednesday night ordered the city's 1,500 police officers to leave their search-and-rescue mission and focus on stopping the looting.

Police were asking residents to give up any firearms before they evacuated neighborhoods because officers desperately needed the firepower: Some officers who had been stranded on the roof of a hotel said they were shot at.

Nagin called for an all-out evacuation of the city's remaining residents. Asked how many people died, he said: "Minimum, hundreds. Most likely, thousands."

Struggle to plug the breached levees

With most of the city under water, Army engineers struggled to plug New Orleans' breached levees with giant sandbags and concrete barriers, and authorities drew up plans to clear out the tens of thousands of remaining people and practically abandon the below-sea-level city.

Nagin said there will be a "total evacuation of the city. We have to. The city will not be functional for two or three months." And he said people would not be allowed back into their homes for at least a month or two.

If the mayor's death-toll estimate holds true, it would make Katrina the worst natural disaster in the United States since at least the 1906 San Francisco earthquake and fire, which have blamed for anywhere from about 500 to 6,000 deaths. Katrina would also be the nation's deadliest hurricane since 1900, when a storm in Galveston, Texas, killed between 6,000 and 12,000 people.

In Mississippi, meantime, bodies are starting to pile up at the morgue in hard-hit Harrison County. Forty corpses have been brought to the morgue already, and officials expect the death toll in the county to climb well above 100.

Tempers were beginning to flare in the aftermath of the storm. Police said a man fatally shot his sister in the head over a bag of ice in Hattiesburg, Miss.

Full magnitude unclear

Full magnitude unclear.

The federal government dispatched helicopters, warships and elite SEAL water-rescue teams in one of the biggest relief operations in U.S. history, aimed at plucking residents from rooftops in the last of the "golden 72 hours" rescuers say is crucial to saving lives.

In addition to the Astrodome solution, the Federal Emergency Management Agency was considering putting people on cruise ships, in tent cities, mobile home parks, and so-called floating dormitories.

The death toll has reached at least 121 in Mississippi alone. But the full magnitude of the disaster had been unclear for days — in part, because some areas in both coastal Mississippi and New Orleans are still unreachable, but also because authorities' first priority has been the living.

In Mississippi, for example, ambulances roamed through the passable streets of devastated places such as Biloxi, Gulfport, Waveland and Bay St. Louis, in some cases speeding past corpses in hopes of saving people trapped in flooded and crumbled buildings.

The Associated Press and Reuters contributed to this report.

© 2005 MSNBC.com

URL: http://msnbc.msn.com/id/9156612/

P. Diane Schneider

Senior Conciliation Specialist

Community Relations Service

USDOJ

Tel 206 220 6709

[redacted]

www.usdoj.gov/crs/crs.htm

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 2, 2005 4:15 PM
To: Johnson, Kelly A. (ENRD)
Cc: Sobeck, Eileen (ENRD); Mercer, Bill (ODAG)
Subject: RE: Katrina

Thanks much. You should include some discussion of how you expect to apply this expertise (and any other ENRD might offer) in aid of this relief effort.

-----Original Message-----
From: Johnson, Kelly A. (ENRD)
Sent: Friday, September 02, 2005 4:11 PM
To: Gorsuch, Neil M
Cc: Sobeck, Eileen (ENRD); Mercer, Bill (ODAG)
Subject: RE: Katrina

Neil -- ENRD is putting together for Dawn Burton in ODAG a short summary of ENRD's condemnation expertise and the assistance we provided to SDNY after 9/11. We will send to you and Bill once completed. kj

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:01 PM
To: Schofield, Regina; Freeman, Sharee; Keisler, Peter D. (CIV); Schlozman, Brad (CRT); O'Connor, Eileen J. (AAG/TAX); Barnett, Thomas O.; White, Clifford; Stuart, Diane; Johnson, Kelly A. (ENRD); Peed, Carl
Cc: McCallum, Robert (SMO); Mercer, Bill (ODAG); Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: Katrina
Importance: High

ODAG has asked all components to supply, by 10 am tomorrow, a very short statement of any programmatic initiatives they have underway, or may be contemplating, to assist those affected by Katrina, both in the short term and in the long term. Obviously, the need is great and all efforts are appreciated. Please forward statements (distinguishing between short and long term plans) to Bill Mercer and me and feel free to call me if you have any questions.

Many thanks,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 2, 2005 4:15 PM
To: Reyes, Luis (SMO)
Subject: RE: FEMA

Prob misinformation, but if there's some "protocol" out there we should know about it.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 4:14 PM
To: Gorsuch, Neil M
Subject: RE: FEMA

Will check with OPA.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:13 PM
To: Reyes, Luis (SMO)
Subject: RE: FEMA

Have you heard anything about "protocols"? I just spoke with Mercer and he didn't mention anything like this. Can you check with others?

FYI - I mentioned to Bill the decision to send CRS and he concurred.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 4:09 PM
To: Gorsuch, Neil M; Freeman, Sharee
Subject: RE: FEMA

Just to be clear, Sharee, I have not received any documents from CRS today on their role or otherwise.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:06 PM
To: Freeman, Sharee
Cc: Reyes, Luis (SMO)
Subject: RE: FEMA

Sharee - I think we will need a more developed statement for ODAG's purposes. I still am not following

Sharee - I think we will need a more developed statement for ODAG's purposes. I still am not following you about "protocols." Please keep Lu and FEMA in the loop on any plans as you develop them.
Thanks. NMG

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 4:02 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

Ok, can what we sent over to Luis today on CRS' role suffice? CNN is reporting DOJ is doing "protocols" NAACP national has lodged a number of calls to me. They want CRS to faciliate a Baton Rouge meeting tomorrow for powerbrokers. I am on line with my regional directors and then need to call you folks before calling them back so we are on the same note. I am on my way back to DC at 610 arrival at 8 ----
---
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 15:48:21 2005
Subject: RE: FEMA

I'm not clear on what you mean by protocols for agencies going on site. We certainly do want you to coordinate closely with FEMA. Separately, I will be asking a number of components, shortly, for an explanation of what their plans are re: Katrina both short term and long term, and would very much appreciate a short insert from CRS on its work. Many thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 3:46 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

If DOJ is drafting protocols for agencies going onsite is there a need for CRS. Input?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 14:24:45 2005
Subject: RE: FEMA

Sharee,

Just want to reiterate, as I expressed on our call this morning, that we are counting on you to deploy asap -- and to make sure that CRS does so in close coordination with FEMA. I know (as you said) that this is your arena of expertise and that you're working your own contacts at FEMA to ensure close coordination, but if we can provide any further support please don't hesitate to let me know. As indicated below, Lu is trying to help support your coordination efforts.

Please do keep us apprised of your deployments and coordination with FEMA.

Many thanks again,

Neil

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 2:04 PM
To: Freeman, Sharee
Cc: Gorsuch, Neil M
Subject: Re: FEMA

At this time, all of our involvement will go through DHS/FEMA. Please let me know if they have circled back with you.

Also, as soon as possible please have forwarded to me what you sent to FEMA about CRS and who it was sent to.

Thank you.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 13:54:41 2005
Subject: Re: FEMA

For starters, CRS just wants to get in the command center room.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 10:24:45 2005
Subject: FEMA

Sharee, I wanted to let you know that I have circled back via email to [redacted] (who is at DHS Headquarters) and others up the chain at DHS to inform them of OASG support and left them a number to call me. I suspect either you or I will hear from DHS today and go from there. Thanks

to call me. I suspect either you or I will hear from DHS today and go from there. Thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 10:10 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

They do not need you to do that. If you want to help figure out the level that corresponds to the Associates level and call that person at FEMA or DHS to help turn the wheel at a level higher than [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 10:01:19 2005
Subject: RE: NO Deployment

Why would there be a negative reaction to my circling back on behalf of the Associate Attorney General to just say, do you have the information you need, let us know how we can be of help?

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 9:57 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

Because they reached to CRS and it is a delicate situation and honestly I do not want you to chance a negative reaction. I am in a session with. USA Perez and the SAC with their community now.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:47:48 2005
Subject: Re: NO Deployment

Please call either me or Neil at 202 514 9500 and tell me why we shouldn't touch base with FEMA after they reached out to us. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>

To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 09:44:05 2005
Subject: Re: NO Deployment

I would prefer if you did not call [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:31:13 2005
Subject: NO Deployment

Sharee, could you please give me [redacted] contact number. I have [redacted] but that is not working. I just want to call [redacted] and touch base.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 12:44 AM
To: Reyes, Luis (SMO)
Subject: Re: Coverage getting worse

I am thinking we should not call [redacted] We should wait until [redacted] calls us back ---
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 23:39:55 2005
Subject: RE: Coverage getting worse

Sharee, have been trying to get a hold of you. Blackberry service is down, I am now at the office. Please call me if you get this [redacted] Will have something for you in short order, in the meantime, please advise by phone if FEMA as requested your presence. Thanks. --LR

-----Original Message-----
From: Freeman, Sharee
Sent: Thursday, September 01, 2005 7:26 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: Fw: Coverage getting worse

CRS is still waiting and FEMA is thinking about asking us to join them. It is not done yet. As CRS Director, the below newsarticle is more than enough to deploy. Where are we today?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Thu Sep 01 19:13:30 2005
Subject: Fw: Coverage getting worse

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schneider, P Diane <P.Schneider@CRS.USDOJ.GOV>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Thu Sep 01 18:10:08 2005
Subject: Coverage getting worse

<<image001.jpg>>
<<image002.gif>>

Cries for help spread across New Orleans
Local official blames FEMA for 'national disgrace'; mayor issues 'SOS'

NBC, MSNBC and news services

Updated: 4:58 p.m. ET Sept. 1, 2005

NEW ORLEANS - Fights and fires broke out, corpses lay out in the open, and rescue helicopters and law enforcement officers were shot at as flood-stricken New Orleans slipped toward anarchy Thursday.

"This is a desperate SOS," the mayor said.

While a mass evacuation got under way at the city's Superdome, where thousands of restless people were waiting for help, there was desperation and mounting anger at a separate refuge, the city's convention center, where storm victims grew increasingly hungry and thirsty and pleaded for relief.

Officials said thousands more National Guardsmen were being sent to the city, and Congress planned a special session Thursday night to approve emergency aid. But across the city, residents complained that aid was not arriving and a local official blamed the Federal Emergency Management Agency.

"This is a national disgrace," said Terry Ebbert, head of New Orleans' emergency operations. "FEMA has been here three days, yet there is no command and control," Ebbert said. "We can send massive amounts of aid to tsunami victims but we can't bail out the city of New Orleans."

"We have got a mayor who has been pushing and asking but we're not getting supplies," he said. He

said the evacuation was almost entirely a Louisiana operation. “This is not a FEMA operation. I haven't seen a single FEMA guy.”

Mayor Ray Nagin, in issuing his dire plea in a statement to CNN, said: “Right now we are out of resources at the convention center and don't anticipate enough buses. Currently the convention center is unsanitary and unsafe and we are running out of supplies for 15,000 to 25,000 people.”

Dead bodies outside center

Outside the center, people complained that they were evacuated, taken to the convention hall by bus, dropped off and given nothing.

At least seven bodies were scattered outside, and hungry people broke through the steel doors to a food service entrance and began pushing out pallets of water and juice and whatever else they could find.

An old man in a chaise lounge lay dead in a grassy median as hungry babies wailed around him. Around the corner, an elderly woman lay dead in her wheelchair, covered with a blanket, and another body lay beside her wrapped in a sheet.

“I don't treat my dog like that,” Daniel Edwards said as he pointed at the woman in the wheelchair. “I buried my dog.”

“You can do everything for other countries but you can't do nothing for your own people," he said. "You can go overseas with the military but you can't get them down here.”

The street outside the center, above the floodwaters, smelled of urine and feces, and was choked with dirty diapers, old bottles and garbage.

“We are out here like pure animals. We don't have help,” said the Rev. Isaac Clark, 68.

People there, some holding crying babies or elderly barely able to stand up, shouted for help as TV news crews passed by.

A sea of pain

On the front steps of the convention center, one woman, screaming, led the crowd in reciting the 23rd Psalm.

John Murray, 52, said: “It's like they're punishing us.”

The Superdome, where some 25,000 people were being evacuated by bus to the Houston Astrodome, descended into chaos as well.

Huge crowds, hoping to finally escape the stifling confines of the stadium, jammed the main concourse outside the dome, spilling out over the ramp to the Hyatt hotel next door — a seething sea of tense, unhappy, people packed shoulder-to-shoulder up to the barricades where heavily armed National Guard troops stood.

At the front of the line, heavily armed policemen and guardsmen stood watch and handed out water as tense and exhausted crowds struggled onto buses. At the back end of the line, people jammed against police barricades in the rain. Luggage, bags of clothes, pillows, blankets were strewn in the puddles.

Many people had dogs and they cannot take them on the bus. A police officer took one from a little boy, who cried until he vomited. "Snowball, snowball," he cried. The policeman told a reporter he didn't know what would happen to the dog.

Other parts of the city saw similar desperation. "We need help," Polly Boudreaux, clerk of the St. Bernard Parish Council, told WAFB-TV in a phone interview in which she broke down crying.

"We're just been absolutely devastated," she said, and many residents still need to be rescued.

Little outside aid has reached the parish, she added. "We are not seeing it."

Doctors at two desperately crippled hospitals with 360 patients called The Associated Press pleading for rescue, saying they were nearly out of food and power and had been forced to move patients to higher floors to escape looters.

"We have been trying to call the mayor's office, we have been trying to call the governor's office. ... We have tried to use any inside pressure we can. We are turning to you. Please help us," said Dr. Norman McSwain, chief of trauma surgery at Charity Hospital.

Mob fears, gunshots

While most stranded residents were orderly, police warned reporters to be careful given the desperation.

"We were told don't drink or eat in public as it could lead to a mob situation," NBC's Michelle Hofland said. "We were told that by sundown to get out of here."

Federal rescue workers were pulled back from some areas of the city where gunfire was heard or reported, a Department of Homeland Security official told NBC News.

"Hospitals are trying to evacuate," said Coast Guard Lt. Cmdr. Cheri Ben-Iesan, spokesman at the city emergency operations center. "At every one of them, there are reports that as the helicopters come in people are shooting at them. There are people just taking potshots at police and at helicopters, telling them, "You better come get my family."

Police Capt. Ernie Demmo said a National Guard military policeman was shot in the leg as the two scuffled for the MP's rifle. The man was arrested.

"These are good people. These are just scared people," Demmo said.

'We need a thousand' National Guard

Earlier, as the situation at the Superdome deteriorated. Paramedics were alarmed by the sight of people with guns.

An air ambulance service official said helicopter transfers of the sick and injured were suspended after report of a helicopter being fired on overnight.

Able-bodied evacuees were still being moved by bus to Houston's Astrodome, the National Guard said, correcting a Guard official who said that operation was on hold as well.

Texas on Thursday announced that it would house 25,000 more evacuees in San Antonio.

The Superdome helicopter operation was suspended "until they gain control of the Superdome," said Richard Zuschlag, head of Acadian Ambulance, which was handling the evacuation of sick and injured people.

He said the National Guard told him that it was sending 100 military police officers to gain control. "That's not enough," Zuschlag. "We need a thousand."

Medics were calling him and crying for help because they were so scared of people with guns at the Superdome, he added.

Zuschlag said shots were fired at a military helicopter over the Superdome before daybreak, but a National Guard officer said he had a report of just one shot being fired at the helicopter.

Zuschlag added that when another evacuation helicopter tried to land at a hospital in the outlying town of Kenner overnight, the pilot reported that 100 people were on the landing pad, and some of them had guns.

"He was frightened and would not land," Zuschlag said.

Bush to visit Friday
President Bush will tour <http://msnbc.msn.com/id/9157866/> the hurricane-devastated Gulf Coast region on Friday and has asked former Presidents Clinton and Bush to lead a private fund-raising campaign to help victims recover, the White House said Thursday.

An additional 10,000 National Guard troops from across the country were ordered into the Gulf Coast to shore up security, rescue and relief operations. The new units brought the number of troops dedicated to the effort to more than 28,000, in what may be the largest military response to a natural disaster.

Looting has also been a problem in Mississippi.

"The truth is, a terrible tragedy like this brings out the best in most people, brings out the worst in some people," said Mississippi Gov. Haley Barbour on NBC's "Today" show Thursday. "We're trying to deal with looters as ruthlessly as we can get our hands on them."

New Orleans police focus on looters
In New Orleans, Nagin on Wednesday night ordered the city's 1,500 police officers to leave their search-and-rescue mission and focus on stopping the looting.

Police were asking residents to give up any firearms before they evacuated neighborhoods because officers desperately needed the firepower: Some officers who had been stranded on the roof of a hotel said they were shot at.

Nagin called for an all-out evacuation of the city's remaining residents. Asked how many people died, he said: "Minimum, hundreds. Most likely, thousands."

Struggle to plug the breached levees
With most of the city under water, Army engineers struggled to plug New Orleans' breached levees with giant sandbags and concrete barriers, and authorities drew up plans to clear out the tens of thousands of remaining people and practically abandon the below-sea-level city.

thousands of remaining people and practically abandon the below sea level city.

Nagin said there will be a "total evacuation of the city. We have to. The city will not be functional for two or three months." And he said people would not be allowed back into their homes for at least a month or two.

If the mayor's death-toll estimate holds true, it would make Katrina the worst natural disaster in the United States since at least the 1906 San Francisco earthquake and fire, which have blamed for anywhere from about 500 to 6,000 deaths. Katrina would also be the nation's deadliest hurricane since 1900, when a storm in Galveston, Texas, killed between 6,000 and 12,000 people.

In Mississippi, meantime, bodies are starting to pile up at the morgue in hard-hit Harrison County. Forty corpses have been brought to the morgue already, and officials expect the death toll in the county to climb well above 100.

Tempers were beginning to flare in the aftermath of the storm. Police said a man fatally shot his sister in the head over a bag of ice in Hattiesburg, Miss.

Full magnitude unclear

The federal government dispatched helicopters, warships and elite SEAL water-rescue teams in one of the biggest relief operations in U.S. history, aimed at plucking residents from rooftops in the last of the "golden 72 hours" rescuers say is crucial to saving lives.

In addition to the Astrodome solution, the Federal Emergency Management Agency was considering putting people on cruise ships, in tent cities, mobile home parks, and so-called floating dormitories.

The death toll has reached at least 121 in Mississippi alone. But the full magnitude of the disaster had been unclear for days — in part, because some areas in both coastal Mississippi and New Orleans are still unreachable, but also because authorities' first priority has been the living.

In Mississippi, for example, ambulances roamed through the passable streets of devastated places such as Biloxi, Gulfport, Waveland and Bay St. Louis, in some cases speeding past corpses in hopes of saving people trapped in flooded and crumbled buildings.

The Associated Press and Reuters contributed to this report.

© 2005 MSNBC.com

URL: http://msnbc.msn.com/id/9156612/

P. Diane Schneider

Senior Conciliation Specialist

Community Relations Service

USDOJ

Tel 206 220 6709

[redacted]

www.usdoj.gov/crs/crs.htm

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Friday, September 2, 2005 4:24 PM
To: Gorsuch, Neil M
Subject: Re: Katrina

Have spoken to OJP and Lee Lofthus.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 16:01:49 2005
Subject: RE: Katrina

Where do your efforts stand on getting additional OJP reprogrammed money for Katrina?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:01 PM
To: Schofield, Regina; Freeman, Sharee; Keisler, Peter D. (CIV); Schlozman, Brad (CRT); O'Connor, Eileen J. (AAG/TAX); Barnett, Thomas O.; White, Clifford; Stuart, Diane; Johnson, Kelly A. (ENRD); Peed, Carl
Cc: McCallum, Robert (SMO); Mercer, Bill (ODAG); Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: Katrina
Importance: High

ODAG has asked all components to supply, by 10 am tomorrow, a very short statement of any programmatic initiatives they have underway, or may be contemplating, to assist those affected by Katrina, both in the short term and in the long term. Obviously, the need is great and all efforts are appreciated. Please forward statements (distinguishing between short and long term plans) to Bill Mercer and me and feel free to call me if you have any questions.

Many thanks,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 2, 2005 4:24 PM
To: Henke, Tracy (SMO)
Subject: RE: Katrina

Any word back?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, September 02, 2005 4:24 PM
To: Gorsuch, Neil M
Subject: Re: Katrina

Have spoken to OJP and Lee Lofthus.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 16:01:49 2005
Subject: RE: Katrina

Where do your efforts stand on getting additional OJP reprogrammed money for Katrina?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:01 PM
To: Schofield, Regina; Freeman, Sharee; Keisler, Peter D. (CIV); Schlozman, Brad (CRT); O'Connor, Eileen J. (AAG/TAX); Barnett, Thomas O.; White, Clifford; Stuart, Diane; Johnson, Kelly A. (ENRD); Peed, Carl
Cc: McCallum, Robert (SMO); Mercer, Bill (ODAG); Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: Katrina
Importance: High

ODAG has asked all components to supply, by 10 am tomorrow, a very short statement of any programmatic initiatives they have underway, or may be contemplating, to assist those affected by Katrina, both in the short term and in the long term. Obviously, the need is great and all efforts are appreciated. Please forward statements (distinguishing between short and long term plans) to Bill Mercer and me and feel free to call me if you have any questions.

Many thanks,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 2, 2005 4:32 PM
To: Henke, Tracy (SMO)
Subject: RE: Katrina

Could you follow up on this?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, September 02, 2005 4:26 PM
To: Gorsuch, Neil M
Subject: Re: Katrina

No--not yet. JMD gave me the impressionm they were going to talk to OMB.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 16:23:51 2005
Subject: RE: Katrina

Any word back?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, September 02, 2005 4:24 PM
To: Gorsuch, Neil M
Subject: Re: Katrina

Have spoken to OJP and Lee Lofthus.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 16:01:49 2005
Subject: RE: Katrina

Where do your efforts stand on getting additional OJP reprogrammed money for Katrina?

-----Original Message-----

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:01 PM
To: Schofield, Regina; Freeman, Sharee; Keisler, Peter D. (CIV); Schlozman, Brad (CRT); O'Connor, Eileen J. (AAG/TAX); Barnett, Thomas O.; White, Clifford; Stuart, Diane; Johnson, Kelly A. (ENRD); Peed, Carl
Cc: McCallum, Robert (SMO); Mercer, Bill (ODAG); Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: Katrina
Importance: High

ODAG has asked all components to supply, by 10 am tomorrow, a very short statement of any programmatic initiatives they have underway, or may be contemplating, to assist those affected by Katrina, both in the short term and in the long term. Obviously, the need is great and all efforts are appreciated. Please forward statements (distinguishing between short and long term plans) to Bill Mercer and me and feel free to call me if you have any questions.

Many thanks,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Friday, September 2, 2005 4:45 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: Current Talking Points on DOJ Katrina Efforts from OPA

These are the current talking points so far on DOJ efforts. OPA is updating daily. Still premature to put CRS on this.

The Department of Justice (DOJ) is committed to helping maintain law and order in the affected areas.

Federal Law Enforcement Operations - DOJ agencies and personnel are securing Federal law enforcement facilities and are working on-site and from relocation sites in Shreveport and Baton Rouge to continue enforcing Federal laws.

Assistance to State and Local Law Enforcement Agencies - DOJ components are drawing upon our longstanding close relations with state and local law enforcement to assist them to the maximum extent possible. The Federal Bureau of Investigation (FBI), the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), the Drug Enforcement Administration (DEA), the United States Marshals Service (USMS), and the Bureau of Prisons (BOP) are responding to requests from state and local agencies for communications, air support, HAZMAT, medical, and other assistance. DEA is coordinating with Texas and Arkansas Pharmacy Boards to provide assistance with emergency prescription refill procedures due to requests that have started to come from Louisiana residents. USMS personnel have been deployed to assist with the transport and security of stockpile supplies. The Bureau of Justice Assistance will also be making millions of dollars of grant money immediately available to state and local law enforcement entities in the affected areas.

Federal Courts - Federal court facilities are being secured and USMS is also assisting the Federal courts in the Eastern District of Louisiana to re-deploy staff and judges to resume operations in Baton Rouge. USMS and BOP have provided assistance in prisoner transfer and relocation of federal and state prisoners.

Protecting the Integrity of Relief Efforts - DOJ has begun work on a task force to deter, investigate, and prosecute disaster-related crimes such as insurance fraud, and charity fraud, and to ensure that fuel and other prices remain at competitive levels.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:51 PM
To: McCallum, Robert (SMO)
Cc: McDowell, Cynthia; Gunn, Currie (SMO); Shaw, Aloma A
Subject: Event for AG Ashcroft

Due to Katrina, the event scheduled for next week has been cancelled. OAG will be in touch about rescheduling it.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:51 PM
To: Henke, Tracy (SMO)
Subject: RE: Katrina

We are being asked to assemble all efforts we intend to make promptly.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, September 02, 2005 4:43 PM
To: Gorsuch, Neil M
Subject: Re: Katrina

What exactly are you looking for? Not certain when JMD will know. I will inquire.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 16:31:41 2005
Subject: RE: Katrina

Could you follow up on this?

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, September 02, 2005 4:26 PM
To: Gorsuch, Neil M
Subject: Re: Katrina

No--not yet. JMD gave me the impressionm they were going to talk to OMB.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 16:23:51 2005
Subject: RE: Katrina

Any word back?

-----Original Message-----

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, September 02, 2005 4:24 PM
To: Gorsuch, Neil M
Subject: Re: Katrina

Have spoken to OJP and Lee Lofthus.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 16:01:49 2005
Subject: RE: Katrina

Where do your efforts stand on getting additional OJP reprogrammed money for Katrina?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:01 PM
To: Schofield, Regina; Freeman, Sharee; Keisler, Peter D. (CIV); Schlozman, Brad (CRT); O'Connor, Eileen J. (AAG/TAX); Barnett, Thomas O.; White, Clifford; Stuart, Diane; Johnson, Kelly A. (ENRD); Peed, Carl
Cc: McCallum, Robert (SMO); Mercer, Bill (ODAG); Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: Katrina
Importance: High

ODAG has asked all components to supply, by 10 am tomorrow, a very short statement of any programmatic initiatives they have underway, or may be contemplating, to assist those affected by Katrina, both in the short term and in the long term. Obviously, the need is great and all efforts are appreciated. Please forward statements (distinguishing between short and long term plans) to Bill Mercer and me and feel free to call me if you have any questions.

Many thanks,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:53 PM
To: Reyes, Luis (SMO); McCallum, Robert (SMO)
Subject: RE: Current Talking Points on DOJ Katrina Efforts from OPA

Agreed. FYI - Mercer informed about CRS deployment (subject to FEMA coordination) and in concurrence.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 4:45 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: Current Talking Points on DOJ Katrina Efforts from OPA

These are the current talking points so far on DOJ efforts. OPA is updating daily. Still premature to put CRS on this.

The Department of Justice (DOJ) is committed to helping maintain law and order in the affected areas.

Federal Law Enforcement Operations - DOJ agencies and personnel are securing Federal law enforcement facilities and are working on-site and from relocation sites in Shreveport and Baton Rouge to continue enforcing Federal laws.

Assistance to State and Local Law Enforcement Agencies - DOJ components are drawing upon our longstanding close relations with state and local law enforcement to assist them to the maximum extent possible. The Federal Bureau of Investigation (FBI), the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), the Drug Enforcement Administration (DEA), the United States Marshals Service (USMS), and the Bureau of Prisons (BOP) are responding to requests from state and local agencies for communications, air support, HAZMAT, medical, and other assistance. DEA is coordinating with Texas and Arkansas Pharmacy Boards to provide assistance with emergency prescription refill procedures due to requests that have started to come from Louisiana residents. USMS personnel have been deployed to assist with the transport and security of stockpile supplies. The Bureau of Justice Assistance will also be making millions of dollars of grant money immediately available to state and local law enforcement entities in the affected areas.

Federal Courts - Federal court facilities are being secured and USMS is also assisting the Federal courts in the Eastern District of Louisiana to re-deploy staff and judges to resume operations in Baton Rouge. USMS and BOP have provided assistance in prisoner transfer and relocation of federal and state prisoners.

Protecting the Integrity of Relief Efforts - DOJ has begun work on a task force to deter, investigate, and prosecute disaster-related crimes such as insurance fraud, and charity fraud, and to ensure that fuel and other prices remain at competitive levels.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 5:08 PM
To: Henke, Tracy (SMO)
Subject: RE: Katrina -- Missing Children and Adults

Great. Please make sure OJP puts this in its report to ODAG.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, September 02, 2005 5:03 PM
To: Gorsuch, Neil M
Subject: Fw: Katrina -- Missing Children and Adults

Fyi

-----Original Message-----
From: Daley, Cybele <Cybele.Daley@usdoj.gov>
To: Dhillon, Uttam <Uttam.Dhillon@SMOJMD.USDOJ.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Miller, Charles S <Charles.S.Miller@SMOJMD.USDOJ.gov>; Roehrkasse, Brian <Brian.Roehrkasse@SMOJMD.USDOJ.gov>; Tzitzon, Nicholas <Nicholas.Tzitzon@usdoj.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>
Sent: Fri Sep 02 16:59:47 2005
Subject: Katrina -- Missing Children and Adults

All -- In response to Hurricane Katrina, OJP and the National Center for Missing and Exploited Children have been discussing issues surrounding separated and/or missing children. On Tuesday, September 6, at noon the Center will go live with a toll free number (1-888544-5475 - Katrina Missing Persons Hotline), to assist in putting children and families back together. They will take information on both minors and adults. We are working on coordinating the adult information with another grantee, the National Center for Missing Adults, who will stand up a phone service (1-800-690-FIND) on Tuesday morning.

Our Office of Communications has been in contact with OPA.

Cybele K. Daley
Deputy Assistant Attorney General
Office of Justice Programs
Department of Justice
810 7th Street, NW
Washington, DC 20531

Washington, DC 20531
(202) 514-2771

White, Clifford

From: White, Clifford
Sent: Friday, September 2, 2005 5:08 PM
To: Gorsuch, Neil M; Mercer, Bill (ODAG)
Subject: RE: Katrina
Attachments: EOUST.Hurricane.wpd

Per your request, attached is a list of actions taken by the United States Trustee Program related to Hurricane Katrina. Please let me know if I may provide additional information.

Cliff White

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:04 PM
To: Peed, Carl; Stuart, Diane; White, Clifford; Schofield, Regina; Freeman, Sharee; Keisler, Peter D. (CIV); Schlozman, Brad (CRT); O'Connor, Eileen J. (AAG/TAX); Barnett, Thomas O.; Johnson, Kelly A. (ENRD)
Cc: McCallum, Robert (SMO); Mercer, Bill (ODAG); Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: Katrina
Importance: High

ODAG has asked all components to supply, by 10 am tomorrow, a very short statement of any programmatic initiatives they have underway, or may be contemplating, to assist those affected by Katrina, both in the short term and in the long term. Obviously, the need is great and all efforts are appreciated. Please forward statements (distinguishing between short and long term plans) to Bill Mercer and me and feel free to call me if you have any questions.

Many thanks,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

9/2/05

EXECUTIVE OFFICE FOR UNITED STATES TRUSTEES
PROGRAMMATIC INITIATIVES RELATED TO HURRICANE KATRINA

Short-Term

- Cooperating with private chapter 7 and chapter 13 trustees in affected areas to determine the extent of damage to their operations and to facilitate reestablishment of their operations. Investigating feasibility of assisting chapter 13 trustees to share operations temporarily with trustees in non-affected areas. Investigating feasibility of allowing chapter 13 trustees in non-affected areas to hire chapter 13 trustee employees in affected areas.

- Contacted all of the employees of its New Orleans office to confirm their safety and location. Notified all United States Trustee Program employees that their colleagues were contacted and are safe.

- Consistent with verbal guidance that we have received from the Department, granted administrative leave to its displaced New Orleans employees for the week of September 6-9, 2005. Offered displaced employees the ability to work from other U.S. Trustee offices near where they are temporarily located.

- Provided a cost estimate for relocating the New Orleans office, its meeting rooms and staff, as requested by the JMD Budget Staff. Working with the DOJ/JMD and General Services Administration to identify space to temporarily relocate the New Orleans office in close proximity to the bankruptcy court. Working with DOJ/JMD and GSA to reestablish or relocate administrative hearing rooms that were damaged in the hurricane.

- Working to reestablish connectivity of New Orleans, Shreveport, and Jackson offices to United States Trustee Program case management system, electronic case filing system, and computer network. Provided blackberry communication devices to all management officials in the affected areas.

- Participating in other initiatives to assist displaced employees developed by the Department and the Administration, e.g., the Federal Employee Education and Assistance fund and the Leave Transfer Program.

Long-Term

- Reviewing exercise of authority under title 11 to waive credit counseling and debtor education requirements in judicial districts in Louisiana and Mississippi that otherwise will become effective on October 17, 2005.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 5:13 PM
To: White, Clifford
Subject: RE: Katrina

Thanks for the quick turnaround, Cliff.
-----Original Message-----
From: White, Clifford
Sent: Friday, September 02, 2005 5:08 PM
To: Gorsuch, Neil M; Mercer, Bill (ODAG)
Subject: RE: Katrina

Per your request, attached is a list of actions taken by the United States Trustee Program related to Hurricane Katrina. Please let me know if I may provide additional information.

Cliff White

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:04 PM
To: Peed, Carl; Stuart, Diane; White, Clifford; Schofield, Regina; Freeman, Sharee; Keisler, Peter D. (CIV); Schlozman, Brad (CRT); O'Connor, Eileen J. (AAG/TAX); Barnett, Thomas O.; Johnson, Kelly A. (ENRD)
Cc: McCallum, Robert (SMO); Mercer, Bill (ODAG); Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: Katrina
Importance: High

ODAG has asked all components to supply, by 10 am tomorrow, a very short statement of any programmatic initiatives they have underway, or may be contemplating, to assist those affected by Katrina, both in the short term and in the long term. Obviously, the need is great and all efforts are appreciated. Please forward statements (distinguishing between short and long term plans) to Bill Mercer and me and feel free to call me if you have any questions.

Many thanks,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]

fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Elwood, Courtney

From: Elwood, Courtney
Sent: Friday, September 02, 2005 5:21 PM
To: Gorsuch, Neil M
Subject: FW: TFs/working groups

I think OASG should be involved in the second task force described below. I will loop you in as things develop.

-----Original Message-----
From: Ullyot, Theodore
Sent: Friday, September 02, 2005 12:06 PM
To: Mercer, Bill (ODAG)
Cc: Taylor, Jeffrey (OAG); Elwood, Courtney; Sampson, Kyle
Subject: TFs/working groups

Bill -- One, I wanted to make sure we have the group we need to help look into/set up the TF on insurance fraud, charity fraud, etc., that the AG mentioned on Wednesday. I suggest this be headed by ODAG, with respresentatives from at least the following: CRM, CIV, OLP, Associate AG, FBI, and OAG. Possibly others as you see fit. The mission as I see it (though the group should modify as necessary) is to deter, investigate, and prosecute any disaster-related insurance fraud, charity fraud, or similar crimes.

Two, I think we should get CIV started proactively on establishing a group (ODAG-led in the first instance, possibly with Associate AG or CIV ultimately taking the de facto lead) to deal with disaster-related litigation. Perhaps this would be Fed Programs's bailiwick, or Torts'. The idea would be to make sure we have a centralized POC & process for dealing with any such claims -- so that we make sure Main Justice gets a timely heads-up about any such cases and opportunity to lead the response in coordinated fashion.

Can you please make sure those are moving forward? Thanks.

Jeff -- I think you should be the OAG rep to the first group (crim-related). Courtney -- I think you should be the OAG rep to the second group (civ-related). Let me know if you guys have a different view.

Thanks all.

Keisler, Peter D. (CIV)

From: Keisler, Peter D. (CIV)
Sent: Friday, September 02, 2005 5:22 PM
To: Gorsuch, Neil M
Subject: Read: BRAC/Roberts

Freeman, Sharee

From: Freeman, Sharee
Sent: Friday, September 2, 2005 5:22 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

Protocols is what is being reported by CNN. I am merely passing it along. My cell is [redacted]---------
---
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 16:05:46 2005
Subject: RE: FEMA

Sharee - I think we will need a more developed statement for ODAG's purposes. I still am not following you about "protocols." Please keep Lu and FEMA in the loop on any plans as you develop them. Thanks. NMG

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 4:02 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

Ok, can what we sent over to Luis today on CRS' role suffice? CNN is reporting DOJ is doing "protocols" NAACP national has lodged a number of calls to me. They want CRS to faciliate a Baton Rouge meeting tomorrow for powerbrokers. I am on line with my regional directors and then need to call you folks before calling them back so we are on the same note. I am on my way back to DC at 610 arrival at 8 ----
---
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 15:48:21 2005
Subject: RE: FEMA

I'm not clear on what you mean by protocols for agencies going on site. We certainly do want you to coordinate closely with FEMA. Separately, I will be asking a number of components, shortly, for an explanation of what their plans are re: Katrina both short term and long term, and would very much appreciate a short insert from CRS on its work. Many thanks

appreciate a short insert from CRS on its work. Many thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 3:46 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

If DOJ is drafting protocols for agencies going onsite is there a need for CRS. Input?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 14:24:45 2005
Subject: RE: FEMA

Sharee,

Just want to reiterate, as I expressed on our call this morning, that we are counting on you to deploy asap -- and to make sure that CRS does so in close coordination with FEMA. I know (as you said) that this is your arena of expertise and that you're working your own contacts at FEMA to ensure close coordination, but if we can provide any further support please don't hesitate to let me know. As indicated below, Lu is trying to help support your coordination efforts.

Please do keep us apprised of your deployments and coordination with FEMA.

Many thanks again,

Neil

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 2:04 PM
To: Freeman, Sharee
Cc: Gorsuch, Neil M
Subject: Re: FEMA

At this time, all of our involvement will go through DHS/FEMA. Please let me know if they have circled back with you.

Also, as soon as possible please have forwarded to me what you sent to FEMA about CRS and who it was sent to.

Thank you.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 13:54:41 2005
Subject: Re: FEMA

For starters, CRS just wants to get in the command center room.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 10:24:45 2005
Subject: FEMA

Sharee, I wanted to let you know that I have circled back via email to [redacted] (who is at DHS Headquarters) and others up the chain at DHS to inform them of OASG support and left them a number to call me. I suspect either you or I will hear from DHS today and go from there. Thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 10:10 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

They do not need you to do that. If you want to help figure out the level that corresponds to the Associates level and call that person at FEMA or DHS to help turn the wheel at a level higher than [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 10:01:19 2005
Subject: RE: NO Deployment

Why would there be a negative reaction to my circling back on behalf of the Associate Attorney General to just say, do you have the information you need, let us know how we can be of help?

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 9:57 AM
To: Reyes, Luis (SMO)

To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

Because they reached to CRS and it is a delicate situation and honestly I do not want you to chance a negative reaction. I am in a session with. USA Perez and the SAC with their community now.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:47:48 2005
Subject: Re: NO Deployment

Please call either me or Neil at [redacted] and tell me why we shouldn't touch base with FEMA after they reached out to us. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 09:44:05 2005
Subject: Re: NO Deployment

I would prefer if you did not call [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:31:13 2005
Subject: NO Deployment

Sharee, could you please give me [redacted] contact number. I have [redacted] but that is not working. I just want to call [redacted] and touch base.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 12:44 AM
To: Reyes, Luis (SMO)
Subject: Re: Coverage getting worse

I am thinking we should not call [redacted] We should wait until [redacted] calls us back ----------
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 23:39:55 2005
Subject: RE: Coverage getting worse

Sharee, have been trying to get a hold of you. Blackberry service is down, I am now at the office. Please call me if you get this [redacted] or [redacted] Will have something for you in short order, in the meantime, please advise by phone if FEMA as requested your presence. Thanks. --LR

-----Original Message-----
From: Freeman, Sharee
Sent: Thursday, September 01, 2005 7:26 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: Fw: Coverage getting worse

CRS is still waiting and FEMA is thinking about asking us to join them. It is not done yet. As CRS Director, the below newsarticle is more than enough to deploy. Where are we today?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Thu Sep 01 19:13:30 2005
Subject: Fw: Coverage getting worse

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schneider, P Diane <P.Schneider@CRS.USDOJ.GOV>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Thu Sep 01 18:10:08 2005
Subject: Coverage getting worse

<<image001.jpg>>
<<image002.gif>>

Cries for help spread across New Orleans
Local official blames FEMA for 'national disgrace'; mayor issues 'SOS'

NBC, MSNBC and news services

Updated: 4:58 p.m. ET Sept. 1, 2005

NEW ORLEANS - Fights and fires broke out, corpses lay out in the open, and rescue helicopters and law enforcement officers were shot at as flood-stricken New Orleans slipped toward anarchy Thursday.

"This is a desperate SOS," the mayor said.

While a mass evacuation got under way at the city's Superdome, where thousands of restless people were waiting for help, there was desperation and mounting anger at a separate refuge, the city's convention center, where storm victims grew increasingly hungry and thirsty and pleaded for relief.

Officials said thousands more National Guardsmen were being sent to the city, and Congress planned a special session Thursday night to approve emergency aid. But across the city, residents complained that aid was not arriving and a local official blamed the Federal Emergency Management Agency.

"This is a national disgrace," said Terry Ebbert, head of New Orleans' emergency operations. "FEMA has been here three days, yet there is no command and control," Ebbert said. "We can send massive amounts of aid to tsunami victims but we can't bail out the city of New Orleans."

"We have got a mayor who has been pushing and asking but we're not getting supplies," he said. He said the evacuation was almost entirely a Louisiana operation. "This is not a FEMA operation. I haven't seen a single FEMA guy."

Mayor Ray Nagin, in issuing his dire plea in a statement to CNN, said: "Right now we are out of resources at the convention center and don't anticipate enough buses. Currently the convention center is unsanitary and unsafe and we are running out of supplies for 15,000 to 25,000 people."

Dead bodies outside center
Outside the center, people complained that they were evacuated, taken to the convention hall by bus, dropped off and given nothing.

At least seven bodies were scattered outside, and hungry people broke through the steel doors to a food service entrance and began pushing out pallets of water and juice and whatever else they could find.

An old man in a chaise lounge lay dead in a grassy median as hungry babies wailed around him. Around the corner, an elderly woman lay dead in her wheelchair, covered with a blanket, and another body lay beside her wrapped in a sheet.

"I don't treat my dog like that," Daniel Edwards said as he pointed at the woman in the wheelchair. "I buried my dog."

"You can do everything for other countries but you can't do nothing for your own people," he said. "You can go overseas with the military but you can't get them down here."

The street outside the center, above the floodwaters, smelled of urine and feces, and was choked with dirty diapers, old bottles and garbage.

"We are out here like pure animals. We don't have help," said the Rev. Isaac Clark, 68.

People there, some holding crying babies or elderly barely able to stand up, shouted for help as TV news crews passed by.

A sea of pain
On the front steps of the convention center, one woman, screaming, led the crowd in reciting the 23rd Psalm.

John Murray, 52, said: "It's like they're punishing us."

The Superdome, where some 25,000 people were being evacuated by bus to the Houston Astrodome, descended into chaos as well.

Huge crowds, hoping to finally escape the stifling confines of the stadium, jammed the main concourse outside the dome, spilling out over the ramp to the Hyatt hotel next door — a seething sea of tense, unhappy, people packed shoulder-to-shoulder up to the barricades where heavily armed National Guard troops stood.

At the front of the line, heavily armed policemen and guardsmen stood watch and handed out water as tense and exhausted crowds struggled onto buses. At the back end of the line, people jammed against police barricades in the rain. Luggage, bags of clothes, pillows, blankets were strewn in the puddles.

Many people had dogs and they cannot take them on the bus. A police officer took one from a little boy, who cried until he vomited. "Snowball, snowball," he cried. The policeman told a reporter he didn't know what would happen to the dog.

Other parts of the city saw similar desperation. "We need help," Polly Boudreaux, clerk of the St. Bernard Parish Council, told WAFB-TV in a phone interview in which she broke down crying.

"We're just been absolutely devastated," she said, and many residents still need to be rescued.

Little outside aid has reached the parish, she added. "We are not seeing it."

Doctors at two desperately crippled hospitals with 360 patients called The Associated Press pleading for rescue, saying they were nearly out of food and power and had been forced to move patients to higher floors to escape looters.

"We have been trying to call the mayor's office, we have been trying to call the governor's office. ... We have tried to use any inside pressure we can. We are turning to you. Please help us," said Dr. Norman McSwain, chief of trauma surgery at Charity Hospital.

Mob fears, gunshots
While most stranded residents were orderly, police warned reporters to be careful given the desperation.

"We were told don't drink or eat in public as it could lead to a mob situation," NBC's Michelle Hofland said. "We were told that by sundown to get out of here."

Federal rescue workers were pulled back from some areas of the city where gunfire was heard or reported, a Department of Homeland Security official told NBC News.

reported, a Department of Homeland Security official told NBC News.

"Hospitals are trying to evacuate," said Coast Guard Lt. Cmdr. Cheri Ben-Iesan, spokesman at the city emergency operations center. "At every one of them, there are reports that as the helicopters come in people are shooting at them. There are people just taking potshots at police and at helicopters, telling them, "You better come get my family."

Police Capt. Ernie Demmo said a National Guard military policeman was shot in the leg as the two scuffled for the MP's rifle. The man was arrested.

"These are good people. These are just scared people," Demmo said.

'We need a thousand' National Guard
Earlier, as the situation at the Superdome deteriorated. Paramedics were alarmed by the sight of people with guns.

An air ambulance service official said helicopter transfers of the sick and injured were suspended after report of a helicopter being fired on overnight.

Able-bodied evacuees were still being moved by bus to Houston's Astrodome, the National Guard said, correcting a Guard official who said that operation was on hold as well.

Texas on Thursday announced that it would house 25,000 more evacuees in San Antonio.

The Superdome helicopter operation was suspended "until they gain control of the Superdome," said Richard Zuschlag, head of Acadian Ambulance, which was handling the evacuation of sick and injured people.

He said the National Guard told him that it was sending 100 military police officers to gain control. "That's not enough," Zuschlag. "We need a thousand."

Medics were calling him and crying for help because they were so scared of people with guns at the Superdome, he added.

Zuschlag said shots were fired at a military helicopter over the Superdome before daybreak, but a National Guard officer said he had a report of just one shot being fired at the helicopter.

Zuschlag added that when another evacuation helicopter tried to land at a hospital in the outlying town of Kenner overnight, the pilot reported that 100 people were on the landing pad, and some of them had guns.

"He was frightened and would not land," Zuschlag said.

Bush to visit Friday
President Bush will tour <http://msnbc.msn.com/id/9157866/> the hurricane-devastated Gulf Coast region on Friday and has asked former Presidents Clinton and Bush to lead a private fund-raising campaign to help victims recover, the White House said Thursday.

An additional 10,000 National Guard troops from across the country were ordered into the Gulf Coast to shore up security, rescue and relief operations. The new units brought the number of troops dedicated to the effort to more than 28,000, in what may be the largest military response to a natural

disaster.

Looting has also been a problem in Mississippi.

"The truth is, a terrible tragedy like this brings out the best in most people, brings out the worst in some people," said Mississippi Gov. Haley Barbour on NBC's "Today" show Thursday. "We're trying to deal with looters as ruthlessly as we can get our hands on them."

New Orleans police focus on looters

In New Orleans, Nagin on Wednesday night ordered the city's 1,500 police officers to leave their search-and-rescue mission and focus on stopping the looting.

Police were asking residents to give up any firearms before they evacuated neighborhoods because officers desperately needed the firepower: Some officers who had been stranded on the roof of a hotel said they were shot at.

Nagin called for an all-out evacuation of the city's remaining residents. Asked how many people died, he said: "Minimum, hundreds. Most likely, thousands."

Struggle to plug the breached levees

With most of the city under water, Army engineers struggled to plug New Orleans' breached levees with giant sandbags and concrete barriers, and authorities drew up plans to clear out the tens of thousands of remaining people and practically abandon the below-sea-level city.

Nagin said there will be a "total evacuation of the city. We have to. The city will not be functional for two or three months." And he said people would not be allowed back into their homes for at least a month or two.

If the mayor's death-toll estimate holds true, it would make Katrina the worst natural disaster in the United States since at least the 1906 San Francisco earthquake and fire, which have blamed for anywhere from about 500 to 6,000 deaths. Katrina would also be the nation's deadliest hurricane since 1900, when a storm in Galveston, Texas, killed between 6,000 and 12,000 people.

In Mississippi, meantime, bodies are starting to pile up at the morgue in hard-hit Harrison County. Forty corpses have been brought to the morgue already, and officials expect the death toll in the county to climb well above 100.

Tempers were beginning to flare in the aftermath of the storm. Police said a man fatally shot his sister in the head over a bag of ice in Hattiesburg, Miss.

Full magnitude unclear

The federal government dispatched helicopters, warships and elite SEAL water-rescue teams in one of the biggest relief operations in U.S. history, aimed at plucking residents from rooftops in the last of the "golden 72 hours" rescuers say is crucial to saving lives.

In addition to the Astrodome solution, the Federal Emergency Management Agency was considering putting people on cruise ships, in tent cities, mobile home parks, and so-called floating dormitories.

The death toll has reached at least 121 in Mississippi alone. But the full magnitude of the disaster had been unclear for days — in part, because some areas in both coastal Mississippi and New Orleans are still unreachable, but also because authorities' first priority has been the living.

still unreachable, but also because authorities' first priority has been the living.

In Mississippi, for example, ambulances roamed through the passable streets of devastated places such as Biloxi, Gulfport, Waveland and Bay St. Louis, in some cases speeding past corpses in hopes of saving people trapped in flooded and crumbled buildings.

The Associated Press and Reuters contributed to this report.

© 2005 MSNBC.com

URL: http://msnbc.msn.com/id/9156612/

P. Diane Schneider

Senior Conciliation Specialist

Community Relations Service

USDOJ

Tel 206 220 6709

Cell [redacted]

www.usdoj.gov/crs/crs.htm

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 2, 2005 5:24 PM
To: Freeman, Sharee
Cc: Reyes, Luis (SMO)
Subject: RE: FEMA

Sharee - Your cell phone call dropped before I could say anything with respect to your potential "powerbroker" meeting. I am not clear what you have in mind but, as noted below, you need to coordinate any major effort or meeting with FEMA and DHS and ensure the very closest cooperation. NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:06 PM
To: Freeman, Sharee
Cc: Reyes, Luis (SMO)
Subject: RE: FEMA

Sharee - I think we will need a more developed statement for ODAG's purposes. I still am not following you about "protocols." Please keep Lu and FEMA in the loop on any plans as you develop them. Thanks. NMG

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 4:02 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

Ok, can what we sent over to Luis today on CRS' role suffice? CNN is reporting DOJ is doing "protocols" NAACP national has lodged a number of calls to me. They want CRS to faciliate a Baton Rouge meeting tomorrow for powerbrokers. I am on line with my regional directors and then need to call you folks before calling them back so we are on the same note. I am on my way back to DC at 610 arrival at 8 ----------
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 15:48:21 2005
Subject: RE: FEMA

I'm not clear on what you mean by protocols for agencies going on site. We certainly do want you to

coordinate closely with FEMA. Separately, I will be asking a number of components, shortly, for an explanation of what their plans are re: Katrina both short term and long term, and would very much appreciate a short insert from CRS on its work. Many thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 3:46 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

If DOJ is drafting protocols for agencies going onsite is there a need for CRS. Input?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 14:24:45 2005
Subject: RE: FEMA

Sharee,

Just want to reiterate, as I expressed on our call this morning, that we are counting on you to deploy asap -- and to make sure that CRS does so in close coordination with FEMA. I know (as you said) that this is your arena of expertise and that you're working your own contacts at FEMA to ensure close coordination, but if we can provide any further support please don't hesitate to let me know. As indicated below, Lu is trying to help support your coordination efforts.

Please do keep us apprised of your deployments and coordination with FEMA.

Many thanks again,

Neil

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 2:04 PM
To: Freeman, Sharee
Cc: Gorsuch, Neil M
Subject: Re: FEMA

At this time, all of our involvement will go through DHS/FEMA. Please let me know if they have circled back with you.

Also, as soon as possible please have forwarded to me what you sent to FEMA about CRS and who it was sent to.

Thank you.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 13:54:41 2005
Subject: Re: FEMA

For starters, CRS just wants to get in the command center room.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 10:24:45 2005
Subject: FEMA

Sharee, I wanted to let you know that I have circled back via email to [redacted] (who is at DHS Headquarters) and others up the chain at DHS to inform them of OASG support and left them a number to call me. I suspect either you or I will hear from DHS today and go from there. Thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 10:10 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

They do not need you to do that. If you want to help figure out the level that corresponds to the Associates level and call that person at FEMA or DHS to help turn the wheel at a level higher than [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 10:01:19 2005
Subject: RE: NO Deployment

Why would there be a negative reaction to my circling back on behalf of the Associate Attorney General to just say, do you have the information you need, let us know how we can be of help?

-----Original Message-----

From: Freeman, Sharee
Sent: Friday, September 02, 2005 9:57 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

Because they reached to CRS and it is a delicate situation and honestly I do not want you to chance a negative reaction. I am in a session with. USA Perez and the SAC with their community now.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:47:48 2005
Subject: Re: NO Deployment

Please call either me or Neil at [redacted] and tell me why we shouldn't touch base with FEMA after they reached out to us. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 09:44:05 2005
Subject: Re: NO Deployment

I would prefer if you did not call [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:31:13 2005
Subject: NO Deployment

Sharee, could you please give me [redacted] contact number. I have [redacted] but that is not working. I just want to call [redacted] and touch base.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 12:44 AM
To: Reyes, Luis (SMO)
Subject: Re: Coverage getting worse

I am thinking we should not call [redacted] We should wait until [redacted] calls us back ----------

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 23:39:55 2005
Subject: RE: Coverage getting worse

Sharee, have been trying to get a hold of you. Blackberry service is down, I am now at the office. Please call me if you get this [redacted] or [redacted] Will have something for you in short order, in the meantime, please advise by phone if FEMA as requested your presence. Thanks. --LR

-----Original Message-----
From: Freeman, Sharee
Sent: Thursday, September 01, 2005 7:26 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: Fw: Coverage getting worse

CRS is still waiting and FEMA is thinking about asking us to join them. It is not done yet. As CRS Director, the below newsarticle is more than enough to deploy. Where are we today?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Thu Sep 01 19:13:30 2005
Subject: Fw: Coverage getting worse

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schneider, P Diane <P.Schneider@CRS.USDOJ.GOV>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Thu Sep 01 18:10:08 2005
Subject: Coverage getting worse

<<image001.jpg>>
<<image002.gif>>

Cries for help spread across New Orleans
Local official blames FEMA for 'national disgrace'; mayor issues 'SOS'

NBC, MSNBC and news services

Updated: 4:58 p.m. ET Sept. 1, 2005

NEW ORLEANS - Fights and fires broke out, corpses lay out in the open, and rescue helicopters and law enforcement officers were shot at as flood-stricken New Orleans slipped toward anarchy Thursday.

"This is a desperate SOS," the mayor said.

While a mass evacuation got under way at the city's Superdome, where thousands of restless people were waiting for help, there was desperation and mounting anger at a separate refuge, the city's convention center, where storm victims grew increasingly hungry and thirsty and pleaded for relief.

Officials said thousands more National Guardsmen were being sent to the city, and Congress planned a special session Thursday night to approve emergency aid. But across the city, residents complained that aid was not arriving and a local official blamed the Federal Emergency Management Agency.

"This is a national disgrace," said Terry Ebbert, head of New Orleans' emergency operations. "FEMA has been here three days, yet there is no command and control," Ebbert said. "We can send massive amounts of aid to tsunami victims but we can't bail out the city of New Orleans."

"We have got a mayor who has been pushing and asking but we're not getting supplies," he said. He said the evacuation was almost entirely a Louisiana operation. "This is not a FEMA operation. I haven't seen a single FEMA guy."

Mayor Ray Nagin, in issuing his dire plea in a statement to CNN, said: "Right now we are out of resources at the convention center and don't anticipate enough buses. Currently the convention center is unsanitary and unsafe and we are running out of supplies for 15,000 to 25,000 people."

Dead bodies outside center

Outside the center, people complained that they were evacuated, taken to the convention hall by bus, dropped off and given nothing.

At least seven bodies were scattered outside, and hungry people broke through the steel doors to a food service entrance and began pushing out pallets of water and juice and whatever else they could find.

An old man in a chaise lounge lay dead in a grassy median as hungry babies wailed around him. Around the corner, an elderly woman lay dead in her wheelchair, covered with a blanket, and another body lay beside her wrapped in a sheet.

"I don't treat my dog like that," Daniel Edwards said as he pointed at the woman in the wheelchair. "I buried my dog."

"You can do everything for other countries but you can't do nothing for your own people," he said. "You can go overseas with the military but you can't get them down here."

The street outside the center, above the floodwaters, smelled of urine and feces, and was choked with

dirty diapers, old bottles and garbage.

"We are out here like pure animals. We don't have help," said the Rev. Isaac Clark, 68.

People there, some holding crying babies or elderly barely able to stand up, shouted for help as TV news crews passed by.

A sea of pain
On the front steps of the convention center, one woman, screaming, led the crowd in reciting the 23rd Psalm.

John Murray, 52, said: "It's like they're punishing us."

The Superdome, where some 25,000 people were being evacuated by bus to the Houston Astrodome, descended into chaos as well.

Huge crowds, hoping to finally escape the stifling confines of the stadium, jammed the main concourse outside the dome, spilling out over the ramp to the Hyatt hotel next door — a seething sea of tense, unhappy, people packed shoulder-to-shoulder up to the barricades where heavily armed National Guard troops stood.

At the front of the line, heavily armed policemen and guardsmen stood watch and handed out water as tense and exhausted crowds struggled onto buses. At the back end of the line, people jammed against police barricades in the rain. Luggage, bags of clothes, pillows, blankets were strewn in the puddles.

Many people had dogs and they cannot take them on the bus. A police officer took one from a little boy, who cried until he vomited. "Snowball, snowball," he cried. The policeman told a reporter he didn't know what would happen to the dog.

Other parts of the city saw similar desperation. "We need help," Polly Boudreaux, clerk of the St. Bernard Parish Council, told WAFB-TV in a phone interview in which she broke down crying.

"We're just been absolutely devastated," she said, and many residents still need to be rescued.

Little outside aid has reached the parish, she added. "We are not seeing it."

Doctors at two desperately crippled hospitals with 360 patients called The Associated Press pleading for rescue, saying they were nearly out of food and power and had been forced to move patients to higher floors to escape looters.

"We have been trying to call the mayor's office, we have been trying to call the governor's office. ... We have tried to use any inside pressure we can. We are turning to you. Please help us," said Dr. Norman McSwain, chief of trauma surgery at Charity Hospital.

Mob fears, gunshots
While most stranded residents were orderly, police warned reporters to be careful given the desperation.

"We were told don't drink or eat in public as it could lead to a mob situation," NBC's Michelle Hofland said. "We were told that by sundown to get out of here."

Federal rescue workers were pulled back from some areas of the city where gunfire was heard or reported, a Department of Homeland Security official told NBC News.

"Hospitals are trying to evacuate," said Coast Guard Lt. Cmdr. Cheri Ben-Iesan, spokesman at the city emergency operations center. "At every one of them, there are reports that as the helicopters come in people are shooting at them. There are people just taking potshots at police and at helicopters, telling them, "You better come get my family."

Police Capt. Ernie Demmo said a National Guard military policeman was shot in the leg as the two scuffled for the MP's rifle. The man was arrested.

"These are good people. These are just scared people," Demmo said.

'We need a thousand' National Guard
Earlier, as the situation at the Superdome deteriorated. Paramedics were alarmed by the sight of people with guns.

An air ambulance service official said helicopter transfers of the sick and injured were suspended after report of a helicopter being fired on overnight.

Able-bodied evacuees were still being moved by bus to Houston's Astrodome, the National Guard said, correcting a Guard official who said that operation was on hold as well.

Texas on Thursday announced that it would house 25,000 more evacuees in San Antonio.

The Superdome helicopter operation was suspended "until they gain control of the Superdome," said Richard Zuschlag, head of Acadian Ambulance, which was handling the evacuation of sick and injured people.

He said the National Guard told him that it was sending 100 military police officers to gain control. "That's not enough," Zuschlag. "We need a thousand."

Medics were calling him and crying for help because they were so scared of people with guns at the Superdome, he added.

Zuschlag said shots were fired at a military helicopter over the Superdome before daybreak, but a National Guard officer said he had a report of just one shot being fired at the helicopter.

Zuschlag added that when another evacuation helicopter tried to land at a hospital in the outlying town of Kenner overnight, the pilot reported that 100 people were on the landing pad, and some of them had guns.

"He was frightened and would not land," Zuschlag said.

Bush to visit Friday
President Bush will tour <http://msnbc.msn.com/id/9157866/> the hurricane-devastated Gulf Coast region on Friday and has asked former Presidents Clinton and Bush to lead a private fund-raising campaign to help victims recover, the White House said Thursday.

An additional 10,000 National Guard troops from across the country were ordered into the Gulf Coast

to shore up security, rescue and relief operations. The new units brought the number of troops dedicated to the effort to more than 28,000, in what may be the largest military response to a natural disaster.

Looting has also been a problem in Mississippi.

"The truth is, a terrible tragedy like this brings out the best in most people, brings out the worst in some people," said Mississippi Gov. Haley Barbour on NBC's "Today" show Thursday. "We're trying to deal with looters as ruthlessly as we can get our hands on them."

New Orleans police focus on looters

In New Orleans, Nagin on Wednesday night ordered the city's 1,500 police officers to leave their search-and-rescue mission and focus on stopping the looting.

Police were asking residents to give up any firearms before they evacuated neighborhoods because officers desperately needed the firepower: Some officers who had been stranded on the roof of a hotel said they were shot at.

Nagin called for an all-out evacuation of the city's remaining residents. Asked how many people died, he said: "Minimum, hundreds. Most likely, thousands."

Struggle to plug the breached levees

With most of the city under water, Army engineers struggled to plug New Orleans' breached levees with giant sandbags and concrete barriers, and authorities drew up plans to clear out the tens of thousands of remaining people and practically abandon the below-sea-level city.

Nagin said there will be a "total evacuation of the city. We have to. The city will not be functional for two or three months." And he said people would not be allowed back into their homes for at least a month or two.

If the mayor's death-toll estimate holds true, it would make Katrina the worst natural disaster in the United States since at least the 1906 San Francisco earthquake and fire, which have blamed for anywhere from about 500 to 6,000 deaths. Katrina would also be the nation's deadliest hurricane since 1900, when a storm in Galveston, Texas, killed between 6,000 and 12,000 people.

In Mississippi, meantime, bodies are starting to pile up at the morgue in hard-hit Harrison County. Forty corpses have been brought to the morgue already, and officials expect the death toll in the county to climb well above 100.

Tempers were beginning to flare in the aftermath of the storm. Police said a man fatally shot his sister in the head over a bag of ice in Hattiesburg, Miss.

Full magnitude unclear

The federal government dispatched helicopters, warships and elite SEAL water-rescue teams in one of the biggest relief operations in U.S. history, aimed at plucking residents from rooftops in the last of the "golden 72 hours" rescuers say is crucial to saving lives.

In addition to the Astrodome solution, the Federal Emergency Management Agency was considering putting people on cruise ships, in tent cities, mobile home parks, and so-called floating dormitories.

The death toll has reached at least 121 in Mississippi alone. But the full magnitude of the disaster had

The death toll has reached at least 121 in Mississippi alone. But the full magnitude of the disaster had been unclear for days — in part, because some areas in both coastal Mississippi and New Orleans are still unreachable, but also because authorities' first priority has been the living.

In Mississippi, for example, ambulances roamed through the passable streets of devastated places such as Biloxi, Gulfport, Waveland and Bay St. Louis, in some cases speeding past corpses in hopes of saving people trapped in flooded and crumbled buildings.

The Associated Press and Reuters contributed to this report.

© 2005 MSNBC.com

URL: http://msnbc.msn.com/id/9156612/

P. Diane Schneider

Senior Conciliation Specialist

Community Relations Service

USDOJ

Tel 206 220 6709

Cell [redacted]

www.usdoj.gov/crs/crs.htm

Thom, Stephen

From: Thom, Stephen
Sent: Friday, September 2, 2005 5:24 PM
To: Gorsuch, Neil M
Subject: CRS Disaster Response Plan

U.S. Department of Justice - Community Relations Service
Disaster Assistance Plan in Response to Request from Federal Emergency Management Administration Regarding Hurricane Katrina
September 1, 2005

The Community Relations Service (CRS) is prepared to deploy an eight to ten person team of diverse mediators with both language and cultural skills to Louisiana and a six person team to Mississippi and/or Alabama. Wherever FEMA deems CRS is needed, CRS, as in past crisis situations such as: the attack on the World Trade Center, Hurricanes Hugo and Andrew, Earthquakes Loma Pieta and Northridge, and the 1992 Los Angeles Civil Unrest is prepared to conduct an assessment of the issues in minority communities to determine levels of racial /ethnic tension, needs and strategies for improving communications between these communities and law enforcement, FEMA, first responders and other disaster assistance agencies. Following this preliminary assessment, CRS will conduct debriefings for disaster assistance agencies and is prepared to implement the following actions as needed:

1. CRS may assist FEMA in outreach efforts to minority communities including those in hard to reach communities.
2. CRS may organize and conduct community forums to defuse tensions, control rumors and improve communication between disaster assistance agencies and minority communities.
3. CRS may conduct Critical Stress Debriefing sessions to help minority victims adjust and cope with the shock of personal disaster.
4. CRS may assist law enforcement, disaster assistance agencies and community leaders in the development of contingency plans to counter acts of civil unrest, curfews, delayed distribution of resources, and other possible problematic issues.
5. CRS may serve as a liaison between law enforcement and community groups to ensure open communication, cooperation, and/or defuse tensions.
6. CRS may assist in planning and managing crowds in Disaster Assistance Centers and other gatherings as they become necessary.
7. CRS will continue to conduct assessments and provide feedback for improving disaster assistance services with an emphasis on minority and non-English speaking communities.
8. CRS may provide technical assistance and training on strategies for integrating diverse communities in public accommodation housing or service centers, deescalating conflicts, and cultural awareness protocols and practices.
9. CRS may conduct individual and group dialogues or mediations to resolve disputes that often occur during such stressful circumstance.

CRS is a component of the U.S Department of Justice and is prepared to be of any assistance in helping to respond to Hurricane Katrina. Please do not hesitate to contact the following persons should you need additional information:

Sharee Freeman, Director at (202) 305 -2935 office or [redacted]

Stephen Thom, Deputy Director at (202) 305- 2950 office [redacted]

Thomas Battles Regional Director for Alabama and Mississippi
(404) 331-6174 office [redacted]

Carmelita Pope Freeman for Louisiana at
(214) 655-8189 office [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 5:26 PM
To: Elwood, Courtney
Subject: RE: TFs/working groups

Very good. Am gathering for Mercer now a summary of all OASG components' current and intended hurricane relief efforts.

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, September 02, 2005 5:21 PM
To: Gorsuch, Neil M
Subject: FW: TFs/working groups

I think OASG should be involved in the second task force described below. I will loop you in as things develop.

-----Original Message-----
From: Ullyot, Theodore
Sent: Friday, September 02, 2005 12:06 PM
To: Mercer, Bill (ODAG)
Cc: Taylor, Jeffrey (OAG); Elwood, Courtney; Sampson, Kyle
Subject: TFs/working groups

Bill -- One, I wanted to make sure we have the group we need to help look into/set up the TF on insurance fraud, charity fraud, etc., that the AG mentioned on Wednesday. I suggest this be headed by ODAG, with respresentatives from at least the following: CRM, CIV, OLP, Associate AG, FBI, and OAG. Possibly others as you see fit. The mission as I see it (though the group should modify as necessary) is to deter, investigate, and prosecute any disaster-related insurance fraud, charity fraud, or similar crimes.

Two, I think we should get CIV started proactively on establishing a group (ODAG-led in the first instance, possibly with Associate AG or CIV ultimately taking the de facto lead) to deal with disaster-related litigation. Perhaps this would be Fed Programs's bailiwick, or Torts'. The idea would be to make sure we have a centralized POC & process for dealing with any such claims -- so that we make sure Main Justice gets a timely heads-up about any such cases and opportunity to lead the response in coordinated fashion.

Can you please make sure those are moving forward? Thanks.

Jeff -- I think you should be the OAG rep to the first group (crim-related). Courtney -- I think you should be the OAG rep to the second group (civ-related). Let me know if you guys have a different view.

Thanks all.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 5:27 PM
To: Elwood, Courtney
Subject: RE: Katrina -- Missing Children and Adults

Thanks, yes. I've asked OJP to make sure to include it as part of their submission.

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, September 02, 2005 5:26 PM
To: Gorsuch, Neil M
Subject: FW: Katrina -- Missing Children and Adults

I assume that Tracy gave you this.

-----Original Message-----
From: Daley, Cybele
Sent: Friday, September 02, 2005 5:00 PM
To: Dhillon, Uttam; Henke, Tracy (SMO); Elwood, Courtney
Cc: Miller, Charles S; Roehrkasse, Brian; Tzitzon, Nicholas; Schofield, Regina
Subject: Katrina -- Missing Children and Adults

All -- In response to Hurricane Katrina, OJP and the National Center for Missing and Exploited Children have been discussing issues surrounding separated and/or missing children. On Tuesday, September 6, at noon the Center will go live with a toll free number (1-888544-5475 - Katrina Missing Persons Hotline), to assist in putting children and families back together. They will take information on both minors and adults. We are working on coordinating the adult information with another grantee, the National Center for Missing Adults, who will stand up a phone service (1-800-690-FIND) on Tuesday morning.

Our Office of Communications has been in contact with OPA.

Cybele K. Daley
Deputy Assistant Attorney General
Office of Justice Programs
Department of Justice
810 7th Street, NW
Washington, DC 20531
(202) 514-2771

Stuart, Diane

From: Stuart, Diane
Sent: Friday, September 02, 2005 5:44 PM
To: Gorsuch, Neil M
Cc: Bottner, Andrea; Voris, Natalie
Subject: RE: Katrina
Importance: High

Neil:

OVW is currently assessing the needs of our current grantees and determining how to best respond. Both Violence Against Women Act (VAWA) State Administrators and Domestic Violence and Sexual Assault Coalition directors are being contacted, and resource possibilities are being researched. Additionally, I was on the phone today with a group that is taking folks in and asked them to keep our office apprised of their needs on the ground. Coordination with the administrators of the Family Violence Prevention and Services Act (FVPSA) at HHS will take place in the next week.

In the long term, administrative flexibility will be considered, including the possibility of extending application deadlines if necessary.

Diane M. Stuart, Director
Office on Violence Against Women
U.S. Department of Justice
www.ojp.usdoj.gov/vawo

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:04 PM
To: Peed, Carl; Stuart, Diane; White, Clifford; Schofield, Regina; Freeman, Sharee; Keisler, Peter D. (CIV); Schlozman, Brad (CRT); O'Connor, Eileen J. (AAG/TAX); Barnett, Thomas O.; Johnson, Kelly A. (ENRD)
Cc: McCallum, Robert (SMO); Mercer, Bill (ODAG); Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: Katrina
Importance: High

> ODAG has asked all components to supply, by 10 am tomorrow, a very short statement of any programmatic initiatives they have underway, or may be contemplating, to assist those affected by Katrina, both in the short term and in the long term. Obviously, the need is great and all efforts are appreciated. Please forward statements (distinguishing between short and long term plans) to Bill Mercer and me and feel free to call me if you have any questions.
>
> Many thanks,
>
> NMG
>
> Neil M. Gorsuch
> Principal Deputy Associate Attorney General
> U.S. Department of Justice

950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Daley, Cybele

From: Daley, Cybele
Sent: Friday, September 02, 2005 6:24 PM
To: Mercer, Bill (ODAG); Gorsuch, Neil M
Cc: Tzitzon, Nicholas
Subject: OJP Grant Funds
Importance: High

Bill and Neil --

OJP Short-term

1) BJA is providing $5 million in immediate assistance to state and local jurisdictions in Louisianna, Missisippi, and Alabama to assist local law enforcement. The funding is broken out below as follows:

LA	$1,984,343.00 (25 counties)
MS	$ 527,248.00 (11 counties)
AL	$ 488.409.00 (6 counties)

2) Funding is being provided to Louisiana, Mississippi, and Alabama by NIJ from the President's DNA Initiative to assist in identifying missing persons. Additional funds will be provided to the University of North Texas Health Center to carry out analysis on unidentified dead.

3) The NIJ is reconvening the scientific advisory group of experts in mass disasters that provided assistance to NYC following September 11th terrorist attacks to help local medical examiners and crime lab director in the states affected by Katrina.

4) A new toll-free number 888-544-5475 will be launched on Tuesday, September 6, at noon by the National Center for Missing and Exploited Children which is funded by OJJDP to assist Katrina victimes in locating missing family members. This service will be available from 6AM - 11PM, Eastern Time.

5) A new toll-free number 800-690-FIND (3463) will be launched on Tuesday, September 6, at 5:30AM by the National Center for Missing Adults which is funded by BJA, to assist Katrina victims in locating missing family members. This service will be available 24/7.

NOTE: NCMEC will have the lead on children and NCMA will have the lead on adults. They will coordinate and share information to reunite families.

OJP mid-term

A current reprogramming from Police Corps will be modified to redirect $10M to Hurricane efforts.

OJP long-term

OJP is currently discussing needs of children with the Boys and Girls Clubs and setting up temporary clubs near or at site of displaced children.

Cybele

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 6:27 PM
To: Mercer, Bill (ODAG)
Cc: Reyes, Luis (SMO)
Subject: RE: CRS Disaster Response Plan

Bill, I just received this from CRS. I leave it to your judgment, but I think it's overkill and suggest something simpler like this --

The Community Relations Service (CRS) has expertise in helping resolve racial and ethnic tensions. In coordination with DHS/FEMA, CRS is prepared to deploy an eight to ten person team of diverse mediators to Louisiana and a six person team to Mississippi and/or Alabama. CRS has assisted FEMA in past crisis situations such as: the attack on the World Trade Center, Hurricanes Hugo and Andrew, Earthquakes Loma Pieta and Northridge, and the 1992 Los Angeles Civil Unrest.

-----Original Message-----
From: Thom, Stephen
Sent: Friday, September 02, 2005 5:24 PM
To: Gorsuch, Neil M
Subject: CRS Disaster Response Plan

U.S. Department of Justice - Community Relations Service
Disaster Assistance Plan in Response to Request from Federal Emergency Management Administration Regarding Hurricane Katrina
September 1, 2005

The Community Relations Service (CRS) is prepared to deploy an eight to ten person team of diverse mediators with both language and cultural skills to Louisiana and a six person team to Mississippi and/or Alabama. Wherever FEMA deems CRS is needed, CRS, as in past crisis situations such as: the attack on the World Trade Center, Hurricanes Hugo and Andrew, Earthquakes Loma Pieta and Northridge, and the 1992 Los Angeles Civil Unrest is prepared to conduct an assessment of the issues in minority communities to determine levels of racial /ethnic tension, needs and strategies for improving communications between these communities and law enforcement, FEMA, first responders and other disaster assistance agencies. Following this preliminary assessment, CRS will conduct debriefings for disaster assistance agencies and is prepared to implement the following actions as needed:

1. CRS may assist FEMA in outreach efforts to minority communities including those in hard to reach communities.
2. CRS may organize and conduct community forums to defuse tensions, control rumors and improve communication between disaster assistance agencies and minority communities.
3. CRS may conduct Critical Stress Debriefing sessions to help minority victims adjust and cope with the shock of personal disaster.

4. CRS may assist law enforcement, disaster assistance agencies and community leaders in the development of contingency plans to counter acts of civil unrest, curfews, delayed distribution of resources, and other possible problematic issues.
5. CRS may serve as a liaison between law enforcement and community groups to ensure open communication, cooperation, and/or defuse tensions.
6. CRS may assist in planning and managing crowds in Disaster Assistance Centers and other gatherings as they become necessary.
7. CRS will continue to conduct assessments and provide feedback for improving disaster assistance services with an emphasis on minority and non-English speaking communities.
8. CRS may provide technical assistance and training on strategies for integrating diverse communities in public accommodation housing or service centers, deescalating conflicts, and cultural awareness protocols and practices.
9. CRS may conduct individual and group dialogues or mediations to resolve disputes that often occur during such stressful circumstance.

CRS is a component of the U.S Department of Justice and is prepared to be of any assistance in helping to respond to Hurricane Katrina. Please do not hesitate to contact the following persons should you need additional information:

Sharee Freeman, Director at (202) 305 -2935 office or
[redacted] cell

Stephen Thom, Deputy Director at (202) 305- 2950 office
[redacted] cell

Thomas Battles Regional Director for Alabama and Mississippi
(404) 331-6174 office
[redacted] cell

Carmelita Pope Freeman for Louisiana at
(214) 655-8189 office
[redacted] cell

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 2, 2005 6:32 PM
To: Daley, Cybele; Mercer, Bill (ODAG)
Cc: Tzitzon, Nicholas
Subject: RE: OJP Grant Funds

Given Hill sensitivities about reprogramming designated funds, do want to rephrase the Mid-Term objective to reflect clearly that we are making a "request" for reprogramming authority?

-----Original Message-----
From: Daley, Cybele
Sent: Friday, September 02, 2005 6:24 PM
To: Mercer, Bill (ODAG); Gorsuch, Neil M
Cc: Tzitzon, Nicholas
Subject: OJP Grant Funds
Importance: High

Bill and Neil --

OJP Short-term

1) BJA is providing $5 million in immediate assistance to state and local jurisdictions in Louisianna, Missisippi, and Alabama to assist local law enforcement. The funding is broken out below as follows:

LA	$1,984,343.00 (25 counties)
MS	$ 527,248.00 (11 counties)
AL	$ 488.409.00 (6 counties)

2) Funding is being provided to Louisiana, Mississippi, and Alabama by NIJ from the President's DNA Initiative to assist in identifying missing persons. Additional funds will be provided to the University of North Texas Health Center to carry out analysis on unidentified dead.

3) The NIJ is reconvening the scientific advisory group of experts in mass disasters that provided assistance to NYC following September 11th terrorist attacks to help local medical examiners and crime lab director in the states affected by Katrina.

4) A new toll-free number 888-544-5475 will be launched on Tuesday, September 6, at noon by the National Center for Missing and Exploited Children which is funded by OJJDP to assist Katrina victimes in locating missing family members. This service will be available from 6AM - 11PM, Eastern Time.

5) A new toll-free number 800-690-FIND (3463) will be launched on Tuesday, September 6, at 5:30AM by the National Center for Missing Adults which is funded by BJA, to assist Katrina victims in locating missing family members. This service will be available 24/7.

NOTE: NCMEC will have the lead on children and NCMA will have the lead on adults. They will coordinate and share information to reunite families.

OJP mid-term

A current reprogramming from Police Corps will be modified to redirect $10M to Hurricane efforts.

OJP long-term

OJP is currently discussing needs of children with the Boys and Girls Clubs and setting up temporary clubs near or at site of displaced children.

Cybele

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 6:32 PM
To: Gorsuch, Neil M
Subject: Read: CRS Disaster Response Plan

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 2, 2005 6:36 PM
To: Freeman, Sharee
Cc: Reyes, Luis (SMO)
Subject: DHS

Just to let you know that, as discussed, we reached out to the DHS GC Office to explain that CRS hadn't yet back heard from FEMA about deployment options. David Trissel, the GC Office's FEMA lawyer, committed to try to help get CRS some response from FEMA.

Daley, Cybele

From: Daley, Cybele
Sent: Friday, September 02, 2005 6:43 PM
To: Mercer, Bill (ODAG); Gorsuch, Neil M
Cc: Tzitzon, Nicholas
Subject: RE: OJP Grant Funds

Well, since you ask.....I am not even sure that it is at "request" stage but may be shortly. I know that we let JMD know that we were happy to adjust the current reprogramming request but I don't know where it is in process. Are these bullets for external use?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 6:32 PM
To: Daley, Cybele; Mercer, Bill (ODAG)
Cc: Tzitzon, Nicholas
Subject: RE: OJP Grant Funds

Given Hill sensitivities about reprogramming designated funds, do want to rephrase the Mid-Term objective to reflect clearly that we are making a "request" for reprogramming authority?

-----Original Message-----
From: Daley, Cybele
Sent: Friday, September 02, 2005 6:24 PM
To: Mercer, Bill (ODAG); Gorsuch, Neil M
Cc: Tzitzon, Nicholas
Subject: OJP Grant Funds
Importance: High

Bill and Neil --

OJP Short-term

1) BJA is providing $5 million in immediate assistance to state and local jurisdictions in Louisianna, Missisippi, and Alabama to assist local law enforcement. The funding is broken out below as follows:

LA	$1,984,343.00 (25 counties)
MS	$ 527,248.00 (11 counties)
AL	$ 488.409.00 (6 counties)

2) Funding is being provided to Louisiana, Mississippi, and Alabama by NIJ from the President's DNA Initiative to assist in identifying missing persons. Additional funds will be provided to the University of North Texas Health Center to carry out analysis on unidentified dead.

3) The NIJ is reconvening the scientific advisory group of experts in mass disasters that provided assistance to NYC following September 11th terrorist attacks to help local medical examiners and crime lab director in the states affected by Katrina.

4) A new toll-free number 888-544-5475 will be launched on Tuesday, September 6, at noon by the National

4) A new toll-free number 866-544-5475 will be launched on Tuesday, September 6, at noon by the National Center for Missing and Exploited Children which is funded by OJJDP to assist Katrina victimes in locating missing family members. This service will be available from 6AM - 11PM, Eastern Time.

5) A new toll-free number 800-690-FIND (3463) will be launched on Tuesday, September 6, at 5:30AM by the National Center for Missing Adults which is funded by BJA, to assist Katrina victims in locating missing family members. This service will be available 24/7.

NOTE: NCMEC will have the lead on children and NCMA will have the lead on adults. They will coordinate and share information to reunite families.

OJP mid-term

A current reprogramming from Police Corps will be modified to redirect $10M to Hurricane efforts.

OJP long-term

OJP is currently discussing needs of children with the Boys and Girls Clubs and setting up temporary clubs near or at site of displaced children.

Cybele

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 2, 2005 6:46 PM
To: Daley, Cybele; Mercer, Bill (ODAG)
Cc: Tzitzon, Nicholas
Subject: RE: OJP Grant Funds

Bill can provide further direction, but I would use whatever language you think appropriate for being shared with the WH, among others, and thus potentially for public consumption.

-----Original Message-----
From: Daley, Cybele
Sent: Friday, September 02, 2005 6:43 PM
To: Mercer, Bill (ODAG); Gorsuch, Neil M
Cc: Tzitzon, Nicholas
Subject: RE: OJP Grant Funds

Well, since you ask.....I am not even sure that it is at "request" stage but may be shortly. I know that we let JMD know that we were happy to adjust the current reprogramming request but I don't know where it is in process. Are these bullets for external use?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 6:32 PM
To: Daley, Cybele; Mercer, Bill (ODAG)
Cc: Tzitzon, Nicholas
Subject: RE: OJP Grant Funds

Given Hill sensitivities about reprogramming designated funds, do want to rephrase the Mid-Term objective to reflect clearly that we are making a "request" for reprogramming authority?

-----Original Message-----
From: Daley, Cybele
Sent: Friday, September 02, 2005 6:24 PM
To: Mercer, Bill (ODAG); Gorsuch, Neil M
Cc: Tzitzon, Nicholas
Subject: OJP Grant Funds
Importance: High

Bill and Neil --

OJP Short-term

1) BJA is providing $5 million in immediate assistance to state and local jurisdictions in Louisianna, Missisippi, and Alabama to assist local law enforcement. The funding is broken out below as follows:

LA $1,984,343.00 (25 counties)
MS $ 527,248.00 (11 counties)

AL $ 488.409.00 (6 counties)

2) Funding is being provided to Louisiana, Mississippi, and Alabama by NIJ from the President's DNA Initiative to assist in identifying missing persons. Additional funds will be provided to the University of North Texas Health Center to carry out analysis on unidentified dead.

3) The NIJ is reconvening the scientific advisory group of experts in mass disasters that provided assistance to NYC following September 11th terrorist attacks to help local medical examiners and crime lab director in the states affected by Katrina.

4) A new toll-free number 888-544-5475 will be launched on Tuesday, September 6, at noon by the National Center for Missing and Exploited Children which is funded by OJJDP to assist Katrina victimes in locating missing family members. This service will be available from 6AM - 11PM, Eastern Time.

5) A new toll-free number 800-690-FIND (3463) will be launched on Tuesday, September 6, at 5:30AM by the National Center for Missing Adults which is funded by BJA, to assist Katrina victims in locating missing family members. This service will be available 24/7.

NOTE: NCMEC will have the lead on children and NCMA will have the lead on adults. They will coordinate and share information to reunite families.

OJP mid-term

A current reprogramming from Police Corps will be modified to redirect $10M to Hurricane efforts.

OJP long-term

OJP is currently discussing needs of children with the Boys and Girls Clubs and setting up temporary clubs near or at site of displaced children.

Cybele

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Friday, September 02, 2005 7:18 PM
To: Gorsuch, Neil M
Cc: Lofthus, Lee J
Subject: FW: New Orleans Interoperable Communications Technology grant award

FYI

-----Original Message-----
From: Peed, Carl
Sent: Friday, September 02, 2005 3:00 PM
To: Henke, Tracy (SMO)
Subject: FW: New Orleans Interoperable Communications Technology grant award

As you can see New Orleans still has 5.2 million in their 03 Interop grant. They have only drawn down 275 thousand. Mobile is on the list to get 3 million and Baton Rouge will get 6 million. I have advised Paul, although he is out of town until next Wed.

-----Original Message-----
From: **Phillips, Bob**
Sent: Friday, September 02, 2005 1:41 PM
To: Peed, Carl
Subject: FW: New Orleans Interoperable Communications Technology grant award

Director,

FYI - per your request.

-----Original Message-----
From: **Dame, Michael**
Sent: Friday, September 02, 2005 1:26 PM
To: Phillips, Bob
Subject: New Orleans Interoperable Communications Technology grant award

Bob:

Here is some information on the New Orleans Interop award:

The City of New Orleans was awarded an Interoperable Communications Technology Program grant in September 2003 with a Federal award of $5,510,412. Due to procurement issues, the City changed its approach to the project late last year and COPS approved a significant modification to the project in May 2005. The project now includes the following partners: Orleans Parish (New Orleans), Jefferson Parish, Plaquemines Parish and St. Bernard Parish. These parishes are the closest in proximity to the City.

The current scope of the project is to expand the four site Jefferson Parish Sheriff's Office 800 MHz Motorola Smart Zone system to a seven site system and then linking it to the City of New Orleans Public

Safety 800 MHz M/A-COM trunked radio system. The expanded seven site system will offer 800 MHz coverage into the adjoining parishes of St. Bernard and Plaquemines. When linked to the City of New Orleans, it will provide 100% 800 MHz trunked radio coverage for first responders over the four parish region.

The budget includes $6,055,090 for equipment purchases (site equipment and a small number of subscriber radios), $873,818 for design and engineering consulting costs, plus $368,308 for project management costs. The total project costs (including travel for technical assistance conferences provided by COPS) is $7,347,216. The local matching requirement for New Orleans and their partner parishes is $1,836,804.

As of today, only $275,428 has been drawn, which leaves a balance of $5,234,983. The COPS program manager was working with the New Orleans staff just last week on a final procurement issue. With bad timing this week, COPS just approved the procurement of nearly $5.5 million in equipment using the existing Jefferson Parish contract with Motorola.

Please let me know if you need additional information.

Mike

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 8:10 PM
To: Mercer, Bill (ODAG)
Subject: Fw: New Orleans Interoperable Communications Technology grant award

Fyi

-----Original Message-----
From: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Lofthus, Lee J <Lee.J.Lofthus@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 19:17:40 2005
Subject: FW: New Orleans Interoperable Communications Technology grant award

FYI

-----Original Message-----
From: Peed, Carl
Sent: Friday, September 02, 2005 3:00 PM
To: Henke, Tracy (SMO)
Subject: FW: New Orleans Interoperable Communications Technology grant award

As you can see New Orleans still has 5.2 million in their 03 Interop grant. They have only drawn down 275 thousand. Mobile is on the list to get 3 million and Baton Rouge will get 6 million. I have advised Paul, although he is out of town until next Wed.

-----Original Message-----
From: Phillips, Bob
Sent: Friday, September 02, 2005 1:41 PM
To: Peed, Carl
Subject: FW: New Orleans Interoperable Communications Technology grant award

Director,

FYI - per your request.

-----Original Message-----
From: Dame, Michael
Sent: Friday, September 02, 2005 1:26 PM
To: Phillips, Bob
Subject: New Orleans Interoperable Communications Technology grant award

Bob:

Here is some information on the New Orleans Interop award:

The City of New Orleans was awarded an Interoperable Communications Technology Program grant in September 2003 with a Federal award of $5,510,412. Due to procurement issues, the City changed its approach to the project late last year and COPS approved a significant modification to the project in May 2005. The project now includes the following partners: Orleans Parish (New Orleans), Jefferson Parish, Plaquemines Parish and St. Bernard Parish. These parishes are the closest in proximity to the City.

The current scope of the project is to expand the four site Jefferson Parish Sheriff's Office 800 MHz Motorola Smart Zone system to a seven site system and then linking it to the City of New Orleans Public Safety 800 MHz M/A-COM trunked radio system. The expanded seven site system will offer 800 MHz coverage into the adjoining parishes of St. Bernard and Plaquemines. When linked to the City of New Orleans, it will provide 100% 800 MHz trunked radio coverage for first responders over the four parish region.

The budget includes $6,055,090 for equipment purchases (site equipment and a small number of subscriber radios), $873,818 for design and engineering consulting costs, plus $368,308 for project management costs. The total project costs (including travel for technical assistance conferences provided by COPS) is $7,347,216. The local matching requirement for New Orleans and their partner parishes is $1,836,804.

As of today, only $275,428 has been drawn, which leaves a balance of $5,234,983. The COPS program manager was working with the New Orleans staff just last week on a final procurement issue. With bad timing this week, COPS just approved the procurement of nearly $5.5 million in equipment using the existing Jefferson Parish contract with Motorola.

Please let me know if you need additional information.

Mike

Freeman, Sharee

From: Freeman, Sharee
Sent: Friday, September 02, 2005 8:16 PM
To: Gorsuch, Neil M
Subject: Read: DHS

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 9:02 PM
To: Gorsuch, Neil M

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 9:02 PM
To: Gorsuch, Neil M
Subject: Re: DHS

Got a call from Trissel. Sharee's folks should be hearing from FEMA soon with a request for assistance.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 18:35:57 2005
Subject: DHS

Just to let you know that, as discussed, we reached out to the DHS GC Office to explain that CRS hadn't yet back heard from FEMA about deployment options. David Trissel, the GC Office's FEMA lawyer, committed to try to help get CRS some response from FEMA.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Friday, September 2, 2005 9:05 PM
To: Freeman, Sharee
Cc: Gorsuch, Neil M
Subject: FEMA

Talked with folks at DHS Sharee. FEMA should be contacting you or your folks very soon to coordinate with CRS. If you don't hear from them soon please reach out to your point of contact there or let me know. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 17:20:33 2005
Subject: Fw: Jesse Jackson

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: Freeman, Carmelita <Carmelita.Freeman@CRS.USDOJ.GOV>; Thom, Stephen <Stephen.Thom@CRS.USDOJ.GOV>
Sent: Fri Sep 02 17:07:28 2005
Subject: Fw: Jesse Jackson

Fyi comments from Jessee

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Phillips, Charles E. <CPhillips@CRS.usdoj.gov>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Fri Sep 02 17:03:31 2005
Subject: Jesse Jackson

Jackson Blasts Bush Over Katrina Aid

By DOUG SIMPSON
The Associated Press
Friday, September 2, 2005; 3:48 PM

BATON ROUGE, La. -- Racism is partly to blame for the deadly aftermath of Hurricane Katrina, the Rev. Jesse Jackson said, calling President Bush's response to the disaster "incompetent."

"Today, as the President comes to Louisiana, Alabama and Mississippi for his ceremonial trip to look at the victims of the devastation, he would do well to have a plan more significant than a ceremonial tour," Jackson said Friday.

"His whole response is unacceptable."

Bush has acknowledged that the federal response has not been acceptable, but promised that the government would get supplies to survivors and crack down on violence in New Orleans.

Jackson questioned why Bush has not named blacks to top positions in the federal response to the disaster, particularly when the majority of victims remaining stranded in New Orleans are black: "How can blacks be locked out of the leadership, and trapped in the suffering?"

"It is that lack of sensitivity and compassion that represents a kind of incompetence."

U.S. Army Lt. Gen. Russell Honore, head of the military task force overseeing operations in the three states, is black. His task force is providing search and rescue, medical help and sending supplies to the three states in support of the Federal Emergency Management Agency.

Jackson was in Baton Rouge to take part in a local project using a caravan of buses to pick up people stranded in New Orleans and transport them out. He spoke at a news conference at the state emergency center.

The civil rights leader said the flooding that caused thousands to be trapped inside the city was caused by a lack of federal funding for its levee system and hurricane planning. The resulting tragedy, he said, has largely hit New Orleans' black residents, because they were too poor to evacuate before the storm hit.

"There's a historical indifference to the pain of poor people and black people" in this country, he said.

Jackson also said the news media has "criminalized the people of New Orleans" by focusing on violence in the city.

Freeman, Sharee

From: Freeman, Sharee
Sent: Friday, September 02, 2005 9:33 PM
To: Reyes, Luis (SMO)
Cc: Gorsuch, Neil M
Subject: RE: FEMA

I am in the office can you call here. 202-305-2930

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 9:05 PM
To: Freeman, Sharee
Cc: Gorsuch, Neil M
Subject: FEMA

Talked with folks at DHS Sharee. FEMA should be contacting you or your folks very soon to coordinate with CRS. If you don't hear from them soon please reach out to your point of contact there or let me know. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 17:20:33 2005
Subject: Fw: Jesse Jackson

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: Freeman, Carmelita <Carmelita.Freeman@CRS.USDOJ.GOV>; Thom, Stephen

<Stephen.Thom@CRS.USDOJ.GOV>
Sent: Fri Sep 02 17:07:28 2005
Subject: Fw: Jesse Jackson

Fyi comments from Jessee

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Phillips, Charles E. <CPhillips@CRS.usdoj.gov>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Fri Sep 02 17:03:31 2005
Subject: Jesse Jackson

Jackson Blasts Bush Over Katrina Aid

By DOUG SIMPSON
The Associated Press
Friday, September 2, 2005; 3:48 PM

BATON ROUGE, La. -- Racism is partly to blame for the deadly aftermath of Hurricane Katrina, the Rev. Jesse Jackson said, calling President Bush's response to the disaster "incompetent."

"Today, as the President comes to Louisiana, Alabama and Mississippi for his ceremonial trip to look at the victims of the devastation, he would do well to have a plan more significant than a ceremonial tour," Jackson said Friday.

"His whole response is unacceptable."

Bush has acknowledged that the federal response has not been acceptable, but promised that the government would get supplies to survivors and crack down on violence in New Orleans.

Jackson questioned why Bush has not named blacks to top positions in the federal response to the disaster, particularly when the majority of victims remaining stranded in New Orleans are black: "How can blacks be locked out of the leadership, and trapped in the suffering?"

"It is that lack of sensitivity and compassion that represents a kind of incompetence."

U.S. Army Lt. Gen. Russell Honore, head of the military task force overseeing operations in the three states, is black. His task force is providing search and rescue, medical help and sending supplies to the three states in support of the Federal Emergency Management Agency.

Jackson was in Baton Rouge to take part in a local project using a caravan of buses to pick up people stranded in New Orleans and transport them out. He spoke at a news conference at the state emergency center.

The civil rights leader said the flooding that caused thousands to be trapped inside the city was caused by a lack of federal funding for its levee system and hurricane planning. The resulting tragedy, he said, has largely hit New Orleans' black residents, because they were too poor to evacuate before the storm

hit.

"There's a historical indifference to the pain of poor people and black people" in this country, he said.

Jackson also said the news media has "criminalized the people of New Orleans" by focusing on violence in the city.

Freeman, Sharee

From: Freeman, Sharee
Sent: Friday, September 02, 2005 9:37 PM
To: Reyes, Luis (SMO)
Cc: Gorsuch, Neil M
Subject: RE: Jesse Jackson

Nothing from FEMA yet, we are here in the office. I have called Dan Sutherland, no response.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 5:25 PM
To: Freeman, Sharee
Cc: Gorsuch, Neil M
Subject: RE: Jesse Jackson

Thanks. Pls advise where we are on deployment and necesary coordination with DHS/FEMA.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 5:21 PM
To: Reyes, Luis (SMO)
Subject: Fw: Jesse Jackson

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: Freeman, Carmelita <Carmelita.Freeman@CRS.USDOJ.GOV>; Thom, Stephen <Stephen.Thom@CRS.USDOJ.GOV>
Sent: Fri Sep 02 17:07:28 2005
Subject: Fw: Jesse Jackson

Fyi comments from Jessee

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Phillips, Charles E. <CPhillips@CRS.usdoj.gov>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>

Sent: Fri Sep 02 17:03:31 2005
Subject: Jesse Jackson

Jackson Blasts Bush Over Katrina Aid

By DOUG SIMPSON
The Associated Press
Friday, September 2, 2005; 3:48 PM

BATON ROUGE, La. -- Racism is partly to blame for the deadly aftermath of Hurricane Katrina, the Rev. Jesse Jackson said, calling President Bush's response to the disaster "incompetent."

"Today, as the President comes to Louisiana, Alabama and Mississippi for his ceremonial trip to look at the victims of the devastation, he would do well to have a plan more significant than a ceremonial tour," Jackson said Friday.

"His whole response is unacceptable."

Bush has acknowledged that the federal response has not been acceptable, but promised that the government would get supplies to survivors and crack down on violence in New Orleans.

Jackson questioned why Bush has not named blacks to top positions in the federal response to the disaster, particularly when the majority of victims remaining stranded in New Orleans are black: "How can blacks be locked out of the leadership, and trapped in the suffering?"

"It is that lack of sensitivity and compassion that represents a kind of incompetence."

U.S. Army Lt. Gen. Russell Honore, head of the military task force overseeing operations in the three states, is black. His task force is providing search and rescue, medical help and sending supplies to the three states in support of the Federal Emergency Management Agency.

Jackson was in Baton Rouge to take part in a local project using a caravan of buses to pick up people stranded in New Orleans and transport them out. He spoke at a news conference at the state emergency center.

The civil rights leader said the flooding that caused thousands to be trapped inside the city was caused by a lack of federal funding for its levee system and hurricane planning. The resulting tragedy, he said, has largely hit New Orleans' black residents, because they were too poor to evacuate before the storm hit.

"There's a historical indifference to the pain of poor people and black people" in this country, he said.

Jackson also said the news media has "criminalized the people of New Orleans" by focusing on violence in the city.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 10:03 PM
To: Reyes, Luis (SMO)
Subject: Re: FEMA

Great - thanks, Lu.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 21:05:10 2005
Subject: FEMA

Talked with folks at DHS Sharee. FEMA should be contacting you or your folks very soon to coordinate with CRS. If you don't hear from them soon please reach out to your point of contact there or let me know. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 17:20:33 2005
Subject: Fw: Jesse Jackson

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: Freeman, Carmelita <Carmelita.Freeman@CRS.USDOJ.GOV>; Thom, Stephen

CC: Freeman, Carmelita <Carmelita.Freeman@CRS.USDOJ.GOV>; Thom, Stephen <Stephen.Thom@CRS.USDOJ.GOV>
Sent: Fri Sep 02 17:07:28 2005
Subject: Fw: Jesse Jackson

Fyi comments from Jessee

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Phillips, Charles E. <CPhillips@CRS.usdoj.gov>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Fri Sep 02 17:03:31 2005
Subject: Jesse Jackson

Jackson Blasts Bush Over Katrina Aid

By DOUG SIMPSON
The Associated Press
Friday, September 2, 2005; 3:48 PM

BATON ROUGE, La. -- Racism is partly to blame for the deadly aftermath of Hurricane Katrina, the Rev. Jesse Jackson said, calling President Bush's response to the disaster "incompetent."

"Today, as the President comes to Louisiana, Alabama and Mississippi for his ceremonial trip to look at the victims of the devastation, he would do well to have a plan more significant than a ceremonial tour," Jackson said Friday.

"His whole response is unacceptable."

Bush has acknowledged that the federal response has not been acceptable, but promised that the government would get supplies to survivors and crack down on violence in New Orleans.

Jackson questioned why Bush has not named blacks to top positions in the federal response to the disaster, particularly when the majority of victims remaining stranded in New Orleans are black: "How can blacks be locked out of the leadership, and trapped in the suffering?"

"It is that lack of sensitivity and compassion that represents a kind of incompetence."

U.S. Army Lt. Gen. Russell Honore, head of the military task force overseeing operations in the three states, is black. His task force is providing search and rescue, medical help and sending supplies to the three states in support of the Federal Emergency Management Agency.

Jackson was in Baton Rouge to take part in a local project using a caravan of buses to pick up people stranded in New Orleans and transport them out. He spoke at a news conference at the state emergency center.

The civil rights leader said the flooding that caused thousands to be trapped inside the city was caused by a lack of federal funding for its levee system and hurricane planning. The resulting tragedy, he said,

has largely hit New Orleans' black residents, because they were too poor to evacuate before the storm hit.

"There's a historical indifference to the pain of poor people and black people" in this country, he said.

Jackson also said the news media has "criminalized the people of New Orleans" by focusing on violence in the city.

Freeman, Sharee

From: Freeman, Sharee
Sent: Saturday, September 03, 2005 9:45 AM
To: Gorsuch, Neil M
Subject: Re: FEMA

CRS has a green light from FEMA

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 17:23:39 2005
Subject: RE: FEMA

Sharee - Your cell phone call dropped before I could say anything with respect to your potential "powerbroker" meeting. I am not clear what you have in mind but, as noted below, you need to coordinate any major effort or meeting with FEMA and DHS and ensure the very closest cooperation. NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:06 PM
To: Freeman, Sharee
Cc: Reyes, Luis (SMO)
Subject: RE: FEMA

Sharee - I think we will need a more developed statement for ODAG's purposes. I still am not following you about "protocols." Please keep Lu and FEMA in the loop on any plans as you develop them. Thanks. NMG

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 4:02 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

Ok, can what we sent over to Luis today on CRS' role suffice? CNN is reporting DOJ is doing "protocols" NAACP national has lodged a number of calls to me. They want CRS to faciliate a Baton Rouge meeting tomorrow for powerbrokers. I am on line with my regional directors and then need to call you folks before calling them back so we are on the same note. I am on my way back to DC at 610 arrival at 8 ----

---
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 15:48:21 2005
Subject: RE: FEMA

I'm not clear on what you mean by protocols for agencies going on site. We certainly do want you to coordinate closely with FEMA. Separately, I will be asking a number of components, shortly, for an explanation of what their plans are re: Katrina both short term and long term, and would very much appreciate a short insert from CRS on its work. Many thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 3:46 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

If DOJ is drafting protocols for agencies going onsite is there a need for CRS. Input?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 14:24:45 2005
Subject: RE: FEMA

Sharee,

Just want to reiterate, as I expressed on our call this morning, that we are counting on you to deploy asap -- and to make sure that CRS does so in close coordination with FEMA. I know (as you said) that this is your arena of expertise and that you're working your own contacts at FEMA to ensure close coordination, but if we can provide any further support please don't hesitate to let me know. As indicated below, Lu is trying to help support your coordination efforts.

Please do keep us apprised of your deployments and coordination with FEMA.

Many thanks again,

Neil

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 2:04 PM

To: Freeman, Sharee
Cc: Gorsuch, Neil M
Subject: Re: FEMA

At this time, all of our involvement will go through DHS/FEMA. Please let me know if they have circled back with you.

Also, as soon as possible please have forwarded to me what you sent to FEMA about CRS and who it was sent to.

Thank you.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 13:54:41 2005
Subject: Re: FEMA

For starters, CRS just wants to get in the command center room.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 10:24:45 2005
Subject: FEMA

Sharee, I wanted to let you know that I have circled back via email to [redacted] who is at DHS Headquarters) and others up the chain at DHS to inform them of OASG support and left them a number to call me. I suspect either you or I will hear from DHS today and go from there. Thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 10:10 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

They do not need you to do that. If you want to help figure out the level that corresponds to the Associates level and call that person at FEMA or DHS to help turn the wheel at a level higher than [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 10:01:19 2005
Subject: RE: NO Deployment

Why would there be a negative reaction to my circling back on behalf of the Associate Attorney General to just say, do you have the information you need, let us know how we can be of help?

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 9:57 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

Because they reached to CRS and it is a delicate situation and honestly I do not want you to chance a negative reaction. I am in a session with. USA Perez and the SAC with their community now.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:47:48 2005
Subject: Re: NO Deployment

Please call either me or Neil at [redacted] and tell me why we shouldn't touch base with FEMA after they reached out to us. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 09:44:05 2005
Subject: Re: NO Deployment

I would prefer if you did not call [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:31:13 2005
Subject: NO Deployment

Sharee, could you please give me [redacted] contact number. I have [redacted] but that is not working. I just want to call [redacted] and touch base.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 12:44 AM
To: Reyes, Luis (SMO)
Subject: Re: Coverage getting worse

I am thinking we should not call [redacted] We should wait until [redacted] calls us back ----------
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 23:39:55 2005
Subject: RE: Coverage getting worse

Sharee, have been trying to get a hold of you. Blackberry service is down, I am now at the office. Please call me if you get this [redacted] or [redacted] Will have something for you in short order, in the meantime, please advise by phone if FEMA as requested your presence. Thanks. --LR

-----Original Message-----
From: Freeman, Sharee
Sent: Thursday, September 01, 2005 7:26 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: Fw: Coverage getting worse

CRS is still waiting and FEMA is thinking about asking us to join them. It is not done yet. As CRS Director, the below newsarticle is more than enough to deploy. Where are we today?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Thu Sep 01 19:13:30 2005
Subject: Fw: Coverage getting worse

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----

-----Original Message-----
From: Schneider, P Diane <P.Schneider@CRS.USDOJ.GOV>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Thu Sep 01 18:10:08 2005
Subject: Coverage getting worse

<<image001.jpg>>
<<image002.gif>>

Cries for help spread across New Orleans
Local official blames FEMA for 'national disgrace'; mayor issues 'SOS'

NBC, MSNBC and news services

Updated: 4:58 p.m. ET Sept. 1, 2005

NEW ORLEANS - Fights and fires broke out, corpses lay out in the open, and rescue helicopters and law enforcement officers were shot at as flood-stricken New Orleans slipped toward anarchy Thursday.

"This is a desperate SOS," the mayor said.

While a mass evacuation got under way at the city's Superdome, where thousands of restless people were waiting for help, there was desperation and mounting anger at a separate refuge, the city's convention center, where storm victims grew increasingly hungry and thirsty and pleaded for relief.

Officials said thousands more National Guardsmen were being sent to the city, and Congress planned a special session Thursday night to approve emergency aid. But across the city, residents complained that aid was not arriving and a local official blamed the Federal Emergency Management Agency.

"This is a national disgrace," said Terry Ebbert, head of New Orleans' emergency operations. "FEMA has been here three days, yet there is no command and control," Ebbert said. "We can send massive amounts of aid to tsunami victims but we can't bail out the city of New Orleans."

"We have got a mayor who has been pushing and asking but we're not getting supplies," he said. He said the evacuation was almost entirely a Louisiana operation. "This is not a FEMA operation. I haven't seen a single FEMA guy."

Mayor Ray Nagin, in issuing his dire plea in a statement to CNN, said: "Right now we are out of resources at the convention center and don't anticipate enough buses. Currently the convention center is unsanitary and unsafe and we are running out of supplies for 15,000 to 25,000 people."

Dead bodies outside center
Outside the center, people complained that they were evacuated, taken to the convention hall by bus, dropped off and given nothing.

At least seven bodies were scattered outside, and hungry people broke through the steel doors to a food service entrance and began pushing out pallets of water and juice and whatever else they could find.

An old man in a chaise lounge lay dead in a grassy median as hungry babies wailed around him. Around the corner, an elderly woman lay dead in her wheelchair, covered with a blanket, and another body lay beside her wrapped in a sheet.

"I don't treat my dog like that," Daniel Edwards said as he pointed at the woman in the wheelchair. "I buried my dog."

"You can do everything for other countries but you can't do nothing for your own people," he said. "You can go overseas with the military but you can't get them down here."

The street outside the center, above the floodwaters, smelled of urine and feces, and was choked with dirty diapers, old bottles and garbage.

"We are out here like pure animals. We don't have help," said the Rev. Isaac Clark, 68.

People there, some holding crying babies or elderly barely able to stand up, shouted for help as TV news crews passed by.

A sea of pain
On the front steps of the convention center, one woman, screaming, led the crowd in reciting the 23rd Psalm.

John Murray, 52, said: "It's like they're punishing us."

The Superdome, where some 25,000 people were being evacuated by bus to the Houston Astrodome, descended into chaos as well.

Huge crowds, hoping to finally escape the stifling confines of the stadium, jammed the main concourse outside the dome, spilling out over the ramp to the Hyatt hotel next door — a seething sea of tense, unhappy, people packed shoulder-to-shoulder up to the barricades where heavily armed National Guard troops stood.

At the front of the line, heavily armed policemen and guardsmen stood watch and handed out water as tense and exhausted crowds struggled onto buses. At the back end of the line, people jammed against police barricades in the rain. Luggage, bags of clothes, pillows, blankets were strewn in the puddles.

Many people had dogs and they cannot take them on the bus. A police officer took one from a little boy, who cried until he vomited. "Snowball, snowball," he cried. The policeman told a reporter he didn't know what would happen to the dog.

Other parts of the city saw similar desperation. "We need help," Polly Boudreaux, clerk of the St. Bernard Parish Council, told WAFB-TV in a phone interview in which she broke down crying.

"We're just been absolutely devastated," she said, and many residents still need to be rescued.

Little outside aid has reached the parish, she added. "We are not seeing it."

Doctors at two desperately crippled hospitals with 360 patients called The Associated Press pleading for rescue, saying they were nearly out of food and power and had been forced to move patients to higher floors to escape looters.

"We have been trying to call the mayor's office, we have been trying to call the governor's office. ... We have tried to use any inside pressure we can. We are turning to you. Please help us," said Dr. Norman McSwain, chief of trauma surgery at Charity Hospital.

Mob fears, gunshots

While most stranded residents were orderly, police warned reporters to be careful given the desperation.

"We were told don't drink or eat in public as it could lead to a mob situation," NBC's Michelle Hofland said. "We were told that by sundown to get out of here."

Federal rescue workers were pulled back from some areas of the city where gunfire was heard or reported, a Department of Homeland Security official told NBC News.

"Hospitals are trying to evacuate," said Coast Guard Lt. Cmdr. Cheri Ben-Iesan, spokesman at the city emergency operations center. "At every one of them, there are reports that as the helicopters come in people are shooting at them. There are people just taking potshots at police and at helicopters, telling them, "You better come get my family."

Police Capt. Ernie Demmo said a National Guard military policeman was shot in the leg as the two scuffled for the MP's rifle. The man was arrested.

"These are good people. These are just scared people," Demmo said.

'We need a thousand' National Guard

Earlier, as the situation at the Superdome deteriorated. Paramedics were alarmed by the sight of people with guns.

An air ambulance service official said helicopter transfers of the sick and injured were suspended after report of a helicopter being fired on overnight.

Able-bodied evacuees were still being moved by bus to Houston's Astrodome, the National Guard said, correcting a Guard official who said that operation was on hold as well.

Texas on Thursday announced that it would house 25,000 more evacuees in San Antonio.

The Superdome helicopter operation was suspended "until they gain control of the Superdome," said Richard Zuschlag, head of Acadian Ambulance, which was handling the evacuation of sick and injured people.

He said the National Guard told him that it was sending 100 military police officers to gain control. "That's not enough," Zuschlag. "We need a thousand."

Medics were calling him and crying for help because they were so scared of people with guns at the Superdome, he added.

Zuschlag said shots were fired at a military helicopter over the Superdome before daybreak, but a National Guard officer said he had a report of just one shot being fired at the helicopter.

Zuschlag added that when another evacuation helicopter tried to land at a hospital in the outlying town

of Kenner overnight, the pilot reported that 100 people were on the landing pad, and some of them had guns.

"He was frightened and would not land," Zuschlag said.

Bush to visit Friday
President Bush will tour <http://msnbc.msn.com/id/9157866/> the hurricane-devastated Gulf Coast region on Friday and has asked former Presidents Clinton and Bush to lead a private fund-raising campaign to help victims recover, the White House said Thursday.

An additional 10,000 National Guard troops from across the country were ordered into the Gulf Coast to shore up security, rescue and relief operations. The new units brought the number of troops dedicated to the effort to more than 28,000, in what may be the largest military response to a natural disaster.

Looting has also been a problem in Mississippi.

"The truth is, a terrible tragedy like this brings out the best in most people, brings out the worst in some people," said Mississippi Gov. Haley Barbour on NBC's "Today" show Thursday. "We're trying to deal with looters as ruthlessly as we can get our hands on them."

New Orleans police focus on looters
In New Orleans, Nagin on Wednesday night ordered the city's 1,500 police officers to leave their search-and-rescue mission and focus on stopping the looting.

Police were asking residents to give up any firearms before they evacuated neighborhoods because officers desperately needed the firepower: Some officers who had been stranded on the roof of a hotel said they were shot at.

Nagin called for an all-out evacuation of the city's remaining residents. Asked how many people died, he said: "Minimum, hundreds. Most likely, thousands."

Struggle to plug the breached levees
With most of the city under water, Army engineers struggled to plug New Orleans' breached levees with giant sandbags and concrete barriers, and authorities drew up plans to clear out the tens of thousands of remaining people and practically abandon the below-sea-level city.

Nagin said there will be a "total evacuation of the city. We have to. The city will not be functional for two or three months." And he said people would not be allowed back into their homes for at least a month or two.

If the mayor's death-toll estimate holds true, it would make Katrina the worst natural disaster in the United States since at least the 1906 San Francisco earthquake and fire, which have blamed for anywhere from about 500 to 6,000 deaths. Katrina would also be the nation's deadliest hurricane since 1900, when a storm in Galveston, Texas, killed between 6,000 and 12,000 people.

In Mississippi, meantime, bodies are starting to pile up at the morgue in hard-hit Harrison County. Forty corpses have been brought to the morgue already, and officials expect the death toll in the county to climb well above 100.

Tempers were beginning to flare in the aftermath of the storm. Police said a man fatally shot his sister

Tempers were beginning to flare in the aftermath of the storm. Police said a man fatally shot his sister in the head over a bag of ice in Hattiesburg, Miss.

Full magnitude unclear

The federal government dispatched helicopters, warships and elite SEAL water-rescue teams in one of the biggest relief operations in U.S. history, aimed at plucking residents from rooftops in the last of the "golden 72 hours" rescuers say is crucial to saving lives.

In addition to the Astrodome solution, the Federal Emergency Management Agency was considering putting people on cruise ships, in tent cities, mobile home parks, and so-called floating dormitories.

The death toll has reached at least 121 in Mississippi alone. But the full magnitude of the disaster had been unclear for days — in part, because some areas in both coastal Mississippi and New Orleans are still unreachable, but also because authorities' first priority has been the living.

In Mississippi, for example, ambulances roamed through the passable streets of devastated places such as Biloxi, Gulfport, Waveland and Bay St. Louis, in some cases speeding past corpses in hopes of saving people trapped in flooded and crumbled buildings.

The Associated Press and Reuters contributed to this report.

© 2005 MSNBC.com

URL: http://msnbc.msn.com/id/9156612/

P. Diane Schneider

Senior Conciliation Specialist

Community Relations Service

USDOJ

Tel 206 220 6709

Cell [redacted]

www.usdoj.gov/crs/crs.htm

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Saturday, September 03, 2005 10:40 AM
To: Freeman, Sharee
Cc: Reyes, Luis (SMO)
Subject: Re: FEMA

Good to hear we managed to get fema's attention after all the efforts. Please keep Lu closely apprised of developments and let us know if we can be of further assistance.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 03 09:45:05 2005
Subject: Re: FEMA

CRS has a green light from FEMA

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 17:23:39 2005
Subject: RE: FEMA

Sharee - Your cell phone call dropped before I could say anything with respect to your potential "powerbroker" meeting. I am not clear what you have in mind but, as noted below, you need to coordinate any major effort or meeting with FEMA and DHS and ensure the very closest cooperation. NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:06 PM
To: Freeman, Sharee
Cc: Reyes, Luis (SMO)
Subject: RE: FEMA

Sharee - I think we will need a more developed statement for ODAG's purposes. I still am not following you about "protocols." Please keep Lu and FEMA in the loop on any plans as you develop them. Thanks. NMG

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 4:02 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

Ok, can what we sent over to Luis today on CRS' role suffice? CNN is reporting DOJ is doing "protocols" NAACP national has lodged a number of calls to me. They want CRS to faciliate a Baton Rouge meeting tomorrow for powerbrokers. I am on line with my regional directors and then need to call you folks before calling them back so we are on the same note. I am on my way back to DC at 610 arrival at 8 ----
---
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 15:48:21 2005
Subject: RE: FEMA

I'm not clear on what you mean by protocols for agencies going on site. We certainly do want you to coordinate closely with FEMA. Separately, I will be asking a number of components, shortly, for an explanation of what their plans are re: Katrina both short term and long term, and would very much appreciate a short insert from CRS on its work. Many thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 3:46 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

If DOJ is drafting protocols for agencies going onsite is there a need for CRS. Input?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 14:24:45 2005
Subject: RE: FEMA

Sharee,

Just want to reiterate, as I expressed on our call this morning, that we are counting on you to deploy asap -- and to make sure that CRS does so in close coordination with FEMA. I know (as you said) that this is your arena of expertise and that you're working your own contacts at FEMA to ensure close

coordination, but if we can provide any further support please don't hesitate to let me know. As indicated below, Lu is trying to help support your coordination efforts.

Please do keep us apprised of your deployments and coordination with FEMA.

Many thanks again,

Neil

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 2:04 PM
To: Freeman, Sharee
Cc: Gorsuch, Neil M
Subject: Re: FEMA

At this time, all of our involvement will go through DHS/FEMA. Please let me know if they have circled back with you.

Also, as soon as possible please have forwarded to me what you sent to FEMA about CRS and who it was sent to.

Thank you.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 13:54:41 2005
Subject: Re: FEMA

For starters, CRS just wants to get in the command center room.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 10:24:45 2005
Subject: FEMA

Sharee, I wanted to let you know that I have circled back via email to [redacted] (who is at DHS Headquarters) and others up the chain at DHS to inform them of OASG support and left them a number to call me. I suspect either you or I will hear from DHS today and go from there. Thanks.

-----Original Message-----

From: Freeman, Sharee
Sent: Friday, September 02, 2005 10:10 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

They do not need you to do that. If you want to help figure out the level that corresponds to the Associates level and call that person at FEMA or DHS to help turn the wheel at a level higher than [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 10:01:19 2005
Subject: RE: NO Deployment

Why would there be a negative reaction to my circling back on behalf of the Associate Attorney General to just say, do you have the information you need, let us know how we can be of help?

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 9:57 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

Because they reached to CRS and it is a delicate situation and honestly I do not want you to chance a negative reaction. I am in a session with. USA Perez and the SAC with their community now.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:47:48 2005
Subject: Re: NO Deployment

Please call either me or Neil at [redacted] and tell me why we shouldn't touch base with FEMA after they reached out to us. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 09:44:05 2005
Subject: Re: NO Deployment

I would prefer if you did not call [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:31:13 2005
Subject: NO Deployment

Sharee, could you please give me [redacted] contact number. I have [redacted] but that is not working. I just want to call [redacted] and touch base.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 12:44 AM
To: Reyes, Luis (SMO)
Subject: Re: Coverage getting worse

I am thinking we should not call [redacted] We should wait until [redacted] calls us back ---
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 23:39:55 2005
Subject: RE: Coverage getting worse

Sharee, have been trying to get a hold of you. Blackberry service is down, I am now at the office. Please call me if you get this [redacted] or [redacted] Will have something for you in short order, in the meantime, please advise by phone if FEMA as requested your presence. Thanks. --LR

-----Original Message-----
From: Freeman, Sharee
Sent: Thursday, September 01, 2005 7:26 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: Fw: Coverage getting worse

CRS is still waiting and FEMA is thinking about asking us to join them. It is not done yet. As CRS Director, the below newsarticle is more than enough to deploy. Where are we today?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Thu Sep 01 19:13:30 2005
Subject: Fw: Coverage getting worse

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schneider, P Diane <P.Schneider@CRS.USDOJ.GOV>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Thu Sep 01 18:10:08 2005
Subject: Coverage getting worse

<<image001.jpg>>
<<image002.gif>>

Cries for help spread across New Orleans
Local official blames FEMA for 'national disgrace'; mayor issues 'SOS'

NBC, MSNBC and news services

Updated: 4:58 p.m. ET Sept. 1, 2005

NEW ORLEANS - Fights and fires broke out, corpses lay out in the open, and rescue helicopters and law enforcement officers were shot at as flood-stricken New Orleans slipped toward anarchy Thursday.

"This is a desperate SOS," the mayor said.

While a mass evacuation got under way at the city's Superdome, where thousands of restless people were waiting for help, there was desperation and mounting anger at a separate refuge, the city's convention center, where storm victims grew increasingly hungry and thirsty and pleaded for relief.

Officials said thousands more National Guardsmen were being sent to the city, and Congress planned a special session Thursday night to approve emergency aid. But across the city, residents complained that aid was not arriving and a local official blamed the Federal Emergency Management Agency.

"This is a national disgrace," said Terry Ebbert, head of New Orleans' emergency operations. "FEMA has been here three days, yet there is no command and control," Ebbert said. "We can send massive amounts of aid to tsunami victims but we can't bail out the city of New Orleans."

"We have got a mayor who has been pushing and asking but we're not getting supplies," he said. He said the evacuation was almost entirely a Louisiana operation. "This is not a FEMA operation. I haven't seen a single FEMA guy."

Mayor Ray Nagin, in issuing his dire plea in a statement to CNN, said: "Right now we are out of resources at the convention center and don't anticipate enough buses. Currently the convention center is unsanitary and unsafe and we are running out of supplies for 15,000 to 25,000 people."

Dead bodies outside center

Outside the center, people complained that they were evacuated, taken to the convention hall by bus, dropped off and given nothing.

At least seven bodies were scattered outside, and hungry people broke through the steel doors to a food service entrance and began pushing out pallets of water and juice and whatever else they could find.

An old man in a chaise lounge lay dead in a grassy median as hungry babies wailed around him. Around the corner, an elderly woman lay dead in her wheelchair, covered with a blanket, and another body lay beside her wrapped in a sheet.

"I don't treat my dog like that," Daniel Edwards said as he pointed at the woman in the wheelchair. "I buried my dog."

"You can do everything for other countries but you can't do nothing for your own people," he said. "You can go overseas with the military but you can't get them down here."

The street outside the center, above the floodwaters, smelled of urine and feces, and was choked with dirty diapers, old bottles and garbage.

"We are out here like pure animals. We don't have help," said the Rev. Isaac Clark, 68.

People there, some holding crying babies or elderly barely able to stand up, shouted for help as TV news crews passed by.

A sea of pain

On the front steps of the convention center, one woman, screaming, led the crowd in reciting the 23rd Psalm.

John Murray, 52, said: "It's like they're punishing us."

The Superdome, where some 25,000 people were being evacuated by bus to the Houston Astrodome, descended into chaos as well.

Huge crowds, hoping to finally escape the stifling confines of the stadium, jammed the main concourse outside the dome, spilling out over the ramp to the Hyatt hotel next door — a seething sea of tense, unhappy, people packed shoulder-to-shoulder up to the barricades where heavily armed National Guard troops stood.

At the front of the line, heavily armed policemen and guardsmen stood watch and handed out water as tense and exhausted crowds struggled onto buses. At the back end of the line, people jammed against police barricades in the rain. Luggage, bags of clothes, pillows, blankets were strewn in the puddles.

Many people had dogs and they cannot take them on the bus. A police officer took one from a little boy, who cried until he vomited. "Snowball, snowball," he cried. The policeman told a reporter he didn't know what would happen to the dog.

know what would happen to the dog.

Other parts of the city saw similar desperation. "We need help," Polly Boudreaux, clerk of the St. Bernard Parish Council, told WAFB-TV in a phone interview in which she broke down crying.

"We're just been absolutely devastated," she said, and many residents still need to be rescued.

Little outside aid has reached the parish, she added. "We are not seeing it."

Doctors at two desperately crippled hospitals with 360 patients called The Associated Press pleading for rescue, saying they were nearly out of food and power and had been forced to move patients to higher floors to escape looters.

"We have been trying to call the mayor's office, we have been trying to call the governor's office. ... We have tried to use any inside pressure we can. We are turning to you. Please help us," said Dr. Norman McSwain, chief of trauma surgery at Charity Hospital.

Mob fears, gunshots

While most stranded residents were orderly, police warned reporters to be careful given the desperation.

"We were told don't drink or eat in public as it could lead to a mob situation," NBC's Michelle Hofland said. "We were told that by sundown to get out of here."

Federal rescue workers were pulled back from some areas of the city where gunfire was heard or reported, a Department of Homeland Security official told NBC News.

"Hospitals are trying to evacuate," said Coast Guard Lt. Cmdr. Cheri Ben-Iesan, spokesman at the city emergency operations center. "At every one of them, there are reports that as the helicopters come in people are shooting at them. There are people just taking potshots at police and at helicopters, telling them, "You better come get my family."

Police Capt. Ernie Demmo said a National Guard military policeman was shot in the leg as the two scuffled for the MP's rifle. The man was arrested.

"These are good people. These are just scared people," Demmo said.

'We need a thousand' National Guard

Earlier, as the situation at the Superdome deteriorated. Paramedics were alarmed by the sight of people with guns.

An air ambulance service official said helicopter transfers of the sick and injured were suspended after report of a helicopter being fired on overnight.

Able-bodied evacuees were still being moved by bus to Houston's Astrodome, the National Guard said, correcting a Guard official who said that operation was on hold as well.

Texas on Thursday announced that it would house 25,000 more evacuees in San Antonio.

The Superdome helicopter operation was suspended "until they gain control of the Superdome," said Richard Zuschlag, head of Acadian Ambulance, which was handling the evacuation of sick and injured

people.

He said the National Guard told him that it was sending 100 military police officers to gain control. "That's not enough," Zuschlag. "We need a thousand."

Medics were calling him and crying for help because they were so scared of people with guns at the Superdome, he added.

Zuschlag said shots were fired at a military helicopter over the Superdome before daybreak, but a National Guard officer said he had a report of just one shot being fired at the helicopter.

Zuschlag added that when another evacuation helicopter tried to land at a hospital in the outlying town of Kenner overnight, the pilot reported that 100 people were on the landing pad, and some of them had guns.

"He was frightened and would not land," Zuschlag said.

Bush to visit Friday
President Bush will tour <http://msnbc.msn.com/id/9157866/> the hurricane-devastated Gulf Coast region on Friday and has asked former Presidents Clinton and Bush to lead a private fund-raising campaign to help victims recover, the White House said Thursday.

An additional 10,000 National Guard troops from across the country were ordered into the Gulf Coast to shore up security, rescue and relief operations. The new units brought the number of troops dedicated to the effort to more than 28,000, in what may be the largest military response to a natural disaster.

Looting has also been a problem in Mississippi.

"The truth is, a terrible tragedy like this brings out the best in most people, brings out the worst in some people," said Mississippi Gov. Haley Barbour on NBC's "Today" show Thursday. "We're trying to deal with looters as ruthlessly as we can get our hands on them."

New Orleans police focus on looters
In New Orleans, Nagin on Wednesday night ordered the city's 1,500 police officers to leave their search-and-rescue mission and focus on stopping the looting.

Police were asking residents to give up any firearms before they evacuated neighborhoods because officers desperately needed the firepower: Some officers who had been stranded on the roof of a hotel said they were shot at.

Nagin called for an all-out evacuation of the city's remaining residents. Asked how many people died, he said: "Minimum, hundreds. Most likely, thousands."

Struggle to plug the breached levees
With most of the city under water, Army engineers struggled to plug New Orleans' breached levees with giant sandbags and concrete barriers, and authorities drew up plans to clear out the tens of thousands of remaining people and practically abandon the below-sea-level city.

Nagin said there will be a "total evacuation of the city. We have to. The city will not be functional for two or three months." And he said people would not be allowed back into their homes for at least a

two or three months." And he said people would not be allowed back into their homes for at least a month or two.

If the mayor's death-toll estimate holds true, it would make Katrina the worst natural disaster in the United States since at least the 1906 San Francisco earthquake and fire, which have blamed for anywhere from about 500 to 6,000 deaths. Katrina would also be the nation's deadliest hurricane since 1900, when a storm in Galveston, Texas, killed between 6,000 and 12,000 people.

In Mississippi, meantime, bodies are starting to pile up at the morgue in hard-hit Harrison County. Forty corpses have been brought to the morgue already, and officials expect the death toll in the county to climb well above 100.

Tempers were beginning to flare in the aftermath of the storm. Police said a man fatally shot his sister in the head over a bag of ice in Hattiesburg, Miss.

Full magnitude unclear

The federal government dispatched helicopters, warships and elite SEAL water-rescue teams in one of the biggest relief operations in U.S. history, aimed at plucking residents from rooftops in the last of the "golden 72 hours" rescuers say is crucial to saving lives.

In addition to the Astrodome solution, the Federal Emergency Management Agency was considering putting people on cruise ships, in tent cities, mobile home parks, and so-called floating dormitories.

The death toll has reached at least 121 in Mississippi alone. But the full magnitude of the disaster had been unclear for days — in part, because some areas in both coastal Mississippi and New Orleans are still unreachable, but also because authorities' first priority has been the living.

In Mississippi, for example, ambulances roamed through the passable streets of devastated places such as Biloxi, Gulfport, Waveland and Bay St. Louis, in some cases speeding past corpses in hopes of saving people trapped in flooded and crumbled buildings.

The Associated Press and Reuters contributed to this report.

© 2005 MSNBC.com

URL: http://msnbc.msn.com/id/9156612/

P. Diane Schneider

Senior Conciliation Specialist

Community Relations Service

USDOJ

Tel 206 220 6709

Cell [redacted]

www.usdoj.gov/crs/crs.htm

Freeman, Sharee

From: Freeman, Sharee
Sent: Saturday, September 03, 2005 10:41 AM
To: Gorsuch, Neil M
Subject: Re: FEMA

FEMA said they have nothing in place are very worried ----------
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Sat Sep 03 10:40:24 2005
Subject: Re: FEMA

Good to hear we managed to get fema's attention after all the efforts. Please keep Lu closely apprised of developments and let us know if we can be of further assistance.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 03 09:45:05 2005
Subject: Re: FEMA

CRS has a green light from FEMA

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 17:23:39 2005
Subject: RE: FEMA

Sharee - Your cell phone call dropped before I could say anything with respect to your potential "powerbroker" meeting. I am not clear what you have in mind but, as noted below, you need to coordinate any major effort or meeting with FEMA and DHS and ensure the very closest cooperation. NMG

-----Original Message-----
From: Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 4:06 PM
To: Freeman, Sharee
Cc: Reyes, Luis (SMO)
Subject: RE: FEMA

Sharee - I think we will need a more developed statement for ODAG's purposes. I still am not following you about "protocols." Please keep Lu and FEMA in the loop on any plans as you develop them. Thanks. NMG

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 4:02 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

Ok, can what we sent over to Luis today on CRS' role suffice? CNN is reporting DOJ is doing "protocols" NAACP national has lodged a number of calls to me. They want CRS to faciliate a Baton Rouge meeting tomorrow for powerbrokers. I am on line with my regional directors and then need to call you folks before calling them back so we are on the same note. I am on my way back to DC at 610 arrival at 8 ----
---
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 15:48:21 2005
Subject: RE: FEMA

I'm not clear on what you mean by protocols for agencies going on site. We certainly do want you to coordinate closely with FEMA. Separately, I will be asking a number of components, shortly, for an explanation of what their plans are re: Katrina both short term and long term, and would very much appreciate a short insert from CRS on its work. Many thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 3:46 PM
To: Gorsuch, Neil M
Subject: Re: FEMA

If DOJ is drafting protocols for agencies going onsite is there a need for CRS. Input?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>

To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 14:24:45 2005
Subject: RE: FEMA

Sharee,

Just want to reiterate, as I expressed on our call this morning, that we are counting on you to deploy asap -- and to make sure that CRS does so in close coordination with FEMA. I know (as you said) that this is your arena of expertise and that you're working your own contacts at FEMA to ensure close coordination, but if we can provide any further support please don't hesitate to let me know. As indicated below, Lu is trying to help support your coordination efforts.

Please do keep us apprised of your deployments and coordination with FEMA.

Many thanks again,

Neil

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 2:04 PM
To: Freeman, Sharee
Cc: Gorsuch, Neil M
Subject: Re: FEMA

At this time, all of our involvement will go through DHS/FEMA. Please let me know if they have circled back with you.

Also, as soon as possible please have forwarded to me what you sent to FEMA about CRS and who it was sent to.

Thank you.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 13:54:41 2005
Subject: Re: FEMA

For starters, CRS just wants to get in the command center room.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M

To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 10:24:45 2005
Subject: FEMA

Sharee, I wanted to let you know that I have circled back via email to [redacted] (who is at DHS Headquarters) and others up the chain at DHS to inform them of OASG support and left them a number to call me. I suspect either you or I will hear from DHS today and go from there. Thanks.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 10:10 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

They do not need you to do that. If you want to help figure out the level that corresponds to the Associates level and call that person at FEMA or DHS to help turn the wheel at a level higher than [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 10:01:19 2005
Subject: RE: NO Deployment

Why would there be a negative reaction to my circling back on behalf of the Associate Attorney General to just say, do you have the information you need, let us know how we can be of help?

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 9:57 AM
To: Reyes, Luis (SMO)
Subject: Re: NO Deployment

Because they reached to CRS and it is a delicate situation and honestly I do not want you to chance a negative reaction. I am in a session with. USA Perez and the SAC with their community now.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:47:48 2005
Subject: Re: NO Deployment

Please call either me or Neil at 202 514 9500 and tell me why we shouldn't touch base with FEMA after they reached out to us. Thanks.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 09:44:05 2005
Subject: Re: NO Deployment

I would prefer if you did not call [redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Fri Sep 02 09:31:13 2005
Subject: NO Deployment

Sharee, could you please give me [redacted] contact number. I have [redacted] but that is not working. I just want to call [redacted] and touch base.

-----Original Message-----
From: Freeman, Sharee
Sent: Friday, September 02, 2005 12:44 AM
To: Reyes, Luis (SMO)
Subject: Re: Coverage getting worse

I am thinking we should not call [redacted] We should wait until [redacted] calls us back ----------
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 23:39:55 2005
Subject: RE: Coverage getting worse

Sharee, have been trying to get a hold of you. Blackberry service is down, I am now at the office. Please call me if you get this [redacted] or [redacted] Will have something for you in short order, in the meantime, please advise by phone if FEMA as requested your presence. Thanks. --LR

-----Original Message-----
From: Freeman, Sharee
Sent: Thursday, September 01, 2005 7:26 PM
To: Reyes, Luis (SMO)

To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: Fw: Coverage getting worse

CRS is still waiting and FEMA is thinking about asking us to join them. It is not done yet. As CRS Director, the below newsarticle is more than enough to deploy. Where are we today?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
To: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Thu Sep 01 19:13:30 2005
Subject: Fw: Coverage getting worse

Fyi

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schneider, P Diane <P.Schneider@CRS.USDOJ.GOV>
To: Battles, Thomas <Thomas.Battles@CRS.USDOJ.GOV>
Sent: Thu Sep 01 18:10:08 2005
Subject: Coverage getting worse

<<image001.jpg>>
<<image002.gif>>

Cries for help spread across New Orleans
Local official blames FEMA for 'national disgrace'; mayor issues 'SOS'

NBC, MSNBC and news services

Updated: 4:58 p.m. ET Sept. 1, 2005

NEW ORLEANS - Fights and fires broke out, corpses lay out in the open, and rescue helicopters and law enforcement officers were shot at as flood-stricken New Orleans slipped toward anarchy Thursday.

"This is a desperate SOS," the mayor said.

While a mass evacuation got under way at the city's Superdome, where thousands of restless people were waiting for help, there was desperation and mounting anger at a separate refuge, the city's convention center, where storm victims grew increasingly hungry and thirsty and pleaded for relief.

Officials said thousands more National Guardsmen were being sent to the city, and Congress planned a special session Thursday night to approve emergency aid. But across the city, residents complained

that aid was not arriving and a local official blamed the Federal Emergency Management Agency.

"This is a national disgrace," said Terry Ebbert, head of New Orleans' emergency operations. "FEMA has been here three days, yet there is no command and control," Ebbert said. "We can send massive amounts of aid to tsunami victims but we can't bail out the city of New Orleans."

"We have got a mayor who has been pushing and asking but we're not getting supplies," he said. He said the evacuation was almost entirely a Louisiana operation. "This is not a FEMA operation. I haven't seen a single FEMA guy."

Mayor Ray Nagin, in issuing his dire plea in a statement to CNN, said: "Right now we are out of resources at the convention center and don't anticipate enough buses. Currently the convention center is unsanitary and unsafe and we are running out of supplies for 15,000 to 25,000 people."

Dead bodies outside center

Outside the center, people complained that they were evacuated, taken to the convention hall by bus, dropped off and given nothing.

At least seven bodies were scattered outside, and hungry people broke through the steel doors to a food service entrance and began pushing out pallets of water and juice and whatever else they could find.

An old man in a chaise lounge lay dead in a grassy median as hungry babies wailed around him. Around the corner, an elderly woman lay dead in her wheelchair, covered with a blanket, and another body lay beside her wrapped in a sheet.

"I don't treat my dog like that," Daniel Edwards said as he pointed at the woman in the wheelchair. "I buried my dog."

"You can do everything for other countries but you can't do nothing for your own people," he said. "You can go overseas with the military but you can't get them down here."

The street outside the center, above the floodwaters, smelled of urine and feces, and was choked with dirty diapers, old bottles and garbage.

"We are out here like pure animals. We don't have help," said the Rev. Isaac Clark, 68.

People there, some holding crying babies or elderly barely able to stand up, shouted for help as TV news crews passed by.

A sea of pain

On the front steps of the convention center, one woman, screaming, led the crowd in reciting the 23rd Psalm.

John Murray, 52, said: "It's like they're punishing us."

The Superdome, where some 25,000 people were being evacuated by bus to the Houston Astrodome, descended into chaos as well.

Huge crowds, hoping to finally escape the stifling confines of the stadium, jammed the main concourse outside the dome, spilling out over the ramp to the Hyatt hotel next door — a seething sea of tense,

outside the dome, spilling out over the ramp to the Hyatt hotel next door — a seething sea of tense, unhappy, people packed shoulder-to-shoulder up to the barricades where heavily armed National Guard troops stood.

At the front of the line, heavily armed policemen and guardsmen stood watch and handed out water as tense and exhausted crowds struggled onto buses. At the back end of the line, people jammed against police barricades in the rain. Luggage, bags of clothes, pillows, blankets were strewn in the puddles.

Many people had dogs and they cannot take them on the bus. A police officer took one from a little boy, who cried until he vomited. "Snowball, snowball," he cried. The policeman told a reporter he didn't know what would happen to the dog.

Other parts of the city saw similar desperation. "We need help," Polly Boudreaux, clerk of the St. Bernard Parish Council, told WAFB-TV in a phone interview in which she broke down crying.

"We're just been absolutely devastated," she said, and many residents still need to be rescued.

Little outside aid has reached the parish, she added. "We are not seeing it."

Doctors at two desperately crippled hospitals with 360 patients called The Associated Press pleading for rescue, saying they were nearly out of food and power and had been forced to move patients to higher floors to escape looters.

"We have been trying to call the mayor's office, we have been trying to call the governor's office. ... We have tried to use any inside pressure we can. We are turning to you. Please help us," said Dr. Norman McSwain, chief of trauma surgery at Charity Hospital.

Mob fears, gunshots

While most stranded residents were orderly, police warned reporters to be careful given the desperation.

"We were told don't drink or eat in public as it could lead to a mob situation," NBC's Michelle Hofland said. "We were told that by sundown to get out of here."

Federal rescue workers were pulled back from some areas of the city where gunfire was heard or reported, a Department of Homeland Security official told NBC News.

"Hospitals are trying to evacuate," said Coast Guard Lt. Cmdr. Cheri Ben-Iesan, spokesman at the city emergency operations center. "At every one of them, there are reports that as the helicopters come in people are shooting at them. There are people just taking potshots at police and at helicopters, telling them, "You better come get my family."

Police Capt. Ernie Demmo said a National Guard military policeman was shot in the leg as the two scuffled for the MP's rifle. The man was arrested.

"These are good people. These are just scared people," Demmo said.

'We need a thousand' National Guard

Earlier, as the situation at the Superdome deteriorated. Paramedics were alarmed by the sight of people with guns.

An air ambulance service official said helicopter transfers of the sick and injured were suspended after report of a helicopter being fired on overnight.

Able-bodied evacuees were still being moved by bus to Houston's Astrodome, the National Guard said, correcting a Guard official who said that operation was on hold as well.

Texas on Thursday announced that it would house 25,000 more evacuees in San Antonio.

The Superdome helicopter operation was suspended "until they gain control of the Superdome," said Richard Zuschlag, head of Acadian Ambulance, which was handling the evacuation of sick and injured people.

He said the National Guard told him that it was sending 100 military police officers to gain control. "That's not enough," Zuschlag. "We need a thousand."

Medics were calling him and crying for help because they were so scared of people with guns at the Superdome, he added.

Zuschlag said shots were fired at a military helicopter over the Superdome before daybreak, but a National Guard officer said he had a report of just one shot being fired at the helicopter.

Zuschlag added that when another evacuation helicopter tried to land at a hospital in the outlying town of Kenner overnight, the pilot reported that 100 people were on the landing pad, and some of them had guns.

"He was frightened and would not land," Zuschlag said.

Bush to visit Friday

President Bush will tour <http://msnbc.msn.com/id/9157866/> the hurricane-devastated Gulf Coast region on Friday and has asked former Presidents Clinton and Bush to lead a private fund-raising campaign to help victims recover, the White House said Thursday.

An additional 10,000 National Guard troops from across the country were ordered into the Gulf Coast to shore up security, rescue and relief operations. The new units brought the number of troops dedicated to the effort to more than 28,000, in what may be the largest military response to a natural disaster.

Looting has also been a problem in Mississippi.

"The truth is, a terrible tragedy like this brings out the best in most people, brings out the worst in some people," said Mississippi Gov. Haley Barbour on NBC's "Today" show Thursday. "We're trying to deal with looters as ruthlessly as we can get our hands on them."

New Orleans police focus on looters

In New Orleans, Nagin on Wednesday night ordered the city's 1,500 police officers to leave their search-and-rescue mission and focus on stopping the looting.

Police were asking residents to give up any firearms before they evacuated neighborhoods because officers desperately needed the firepower: Some officers who had been stranded on the roof of a hotel said they were shot at.

Nagin called for an all-out evacuation of the city's remaining residents. Asked how many people died, he said: "Minimum, hundreds. Most likely, thousands."

Struggle to plug the breached levees

With most of the city under water, Army engineers struggled to plug New Orleans' breached levees with giant sandbags and concrete barriers, and authorities drew up plans to clear out the tens of thousands of remaining people and practically abandon the below-sea-level city.

Nagin said there will be a "total evacuation of the city. We have to. The city will not be functional for two or three months." And he said people would not be allowed back into their homes for at least a month or two.

If the mayor's death-toll estimate holds true, it would make Katrina the worst natural disaster in the United States since at least the 1906 San Francisco earthquake and fire, which have blamed for anywhere from about 500 to 6,000 deaths. Katrina would also be the nation's deadliest hurricane since 1900, when a storm in Galveston, Texas, killed between 6,000 and 12,000 people.

In Mississippi, meantime, bodies are starting to pile up at the morgue in hard-hit Harrison County. Forty corpses have been brought to the morgue already, and officials expect the death toll in the county to climb well above 100.

Tempers were beginning to flare in the aftermath of the storm. Police said a man fatally shot his sister in the head over a bag of ice in Hattiesburg, Miss.

Full magnitude unclear

The federal government dispatched helicopters, warships and elite SEAL water-rescue teams in one of the biggest relief operations in U.S. history, aimed at plucking residents from rooftops in the last of the "golden 72 hours" rescuers say is crucial to saving lives.

In addition to the Astrodome solution, the Federal Emergency Management Agency was considering putting people on cruise ships, in tent cities, mobile home parks, and so-called floating dormitories.

The death toll has reached at least 121 in Mississippi alone. But the full magnitude of the disaster had been unclear for days — in part, because some areas in both coastal Mississippi and New Orleans are still unreachable, but also because authorities' first priority has been the living.

In Mississippi, for example, ambulances roamed through the passable streets of devastated places such as Biloxi, Gulfport, Waveland and Bay St. Louis, in some cases speeding past corpses in hopes of saving people trapped in flooded and crumbled buildings.

The Associated Press and Reuters contributed to this report.

© 2005 MSNBC.com

URL: http://msnbc.msn.com/id/9156612/

P. Diane Schneider

Senior Conciliation Specialist

Community Relations Service

USDOJ

Tel 206 220 6709

Cell [redacted]

www.usdoj.gov/crs/crs.htm

[redacted]@dhs.gov

From: [redacted]@dhs.gov
Sent: Saturday, September 03, 2005 2:11 PM
To: Gorsuch, Neil M; [redacted]@dhs.gov
Cc: [redacted]@dhs.gov
Subject: FW: Community Relations Service
Attachments: tmp.htm
Importance: High

Neil: By now, CRS should be in place or on their way to assignments.
Wanted to make sure that their efforts are married up to our Equal Rights office as well. [redacted]s our Director - and I'm cc'g. her on this as well. I'll include your contact nos. for her as necessary. Again, don't hesitate to contact me if you need anything else. Thanks.

Neil Gorsuch at 202/532-5384
Lou Reyes at 202/532-5543

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use or copying of this message is strictly prohibited. If you have received this in error, please reply immediately to the sender and delete this message. Thank you.

Neil: By now, CRS should be in place or on their way to assignments. Wanted to make sure that their efforts are married up to our Equal Rights office as well. [redacted]s our Director - and I'm cc'g. her on this as well. I'll include your contact nos. for her as necessary. Again, don't hesitate to contact me if you need anything else. Thanks.

Neil Gorsuch at 202/532-5384
Lou Reyes at 202/532-5543

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use or copying of this message is strictly prohibited. If you have received this in error, please reply immediately to the sender and delete this message. Thank you.

[redacted]@dhs.gov

From: [redacted]@dhs.gov
Sent: Saturday, September 03, 2005 2:14 PM
To: Gorsuch, Neil M; [redacted]@dhs.gov; [redacted]@dhs.gov
Cc: [redacted]@dhs.gov
Subject: RE: Community Relations Service
Attachments: tmp.htm

I will have Equal Rights Office staff deploying in as well. The Lead for Mississippi will be [redacted] The Lead in Louisiana is [redacted]
Please have your staff coordinate activities with them. They will also have points of contact working the NAACP in the area. [redacted] is currently in transit to Louisiana. I don't have transit information for [redacted] as yet. I will forward contact information as soon as its available.

[redacted]

202/646-3535

Office of Equal Rights

500 C St. SW

Washington, DC 20472

From: [redacted] mailto[redacted]@dhs.gov]
Sent: Saturday, September 03, 2005 2:11 PM
To: 'neil.gorsuch@usdoj.gov'; [redacted]
Cc: [redacted]@dhs.gov'
Subject: FW: Community Relations Service
Importance: High

Neil: By now, CRS should be in place or on their way to assignments.
Wanted to make sure that their efforts are married up to our Equal Rights office as well. [redacted] is our Director - and I'm cc'g. her on this as well. I'll include your contact nos. for her as necessary. Again, don't hesitate to contact me if you need anything else. Thanks.

Neil Gorsuch at 202/532-5384
Lou Reyes at 202/532-5543

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use or copying of this message is strictly prohibited. If you have received this in error, please reply immediately to the sender and delete this message. Thank you.

I will have Equal Rights Office staff deploying in as well. The Lead for Mississippi will be [redacted] The Lead in Louisiana is [redacted] Please have your staff coordinate activities with them. They will also have points of contact working the NAACP in the area [redacted] is currently in transit to Louisiana. I don't have transit information for [redacted] as yet. I will forward contact information as soon as its available.

[redacted]

202/646-3535

Office of Equal Rights

500 C St. SW

Washington, DC 20472

From: [redacted] [mailto: [redacted] @dhs.gov]
Sent: Saturday, September 03, 2005 2:11 PM
To: 'neil.gorsuch@usdoj.gov'; [redacted]
Cc: [redacted] @dhs.gov'
Subject: FW: Community Relations Service
Importance: High

Neil: By now, CRS should be in place or on their way to assignments. Wanted to make sure that their efforts are married up to our Equal Rights office as well. [redacted] is our Director - and I'm cc'g. her on this as well. I'll include your contact nos. for her as necessary. Again, don't hesitate to contact me if you need anything else. Thanks.

Neil Gorsuch at 202/532-5384
Lou Reyes at 202/532-5543

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use or copying of this message is strictly prohibited. If you have received this in error, please reply immediately to the sender and delete this message. Thank you.

[redacted]@state.gov

From: [redacted]@state.gov
Sent: Saturday, September 03, 2005 4:41 PM
To: Keisler, Peter D. (CIV); Clement, Paul D; Swartz, Bruce; Bradbury, Steve; Gorsuch, Neil M; Harriet_Miers@who.eop.gov; Daniel_B._Levin@nsc.eop.gov; [redacted]@dodgc.osd.mil; [redacted]@dodgc.osd.mil [redacted]@dodgc.osd.mil; John_B._Wiegmann@nsc.eop.gov; William_K._Kelley@who.eop.gov; Himamauli_Das@nsc.eop.gov
Subject: Ed Swaine -- New Counselor on International Law
Attachments: tmp.htm

Colleagues: I wanted to let you know that [redacted] joined the [redacted] this week as [redacted] replacing [redacted] and previously served in the Civil Division of the Justice Department. [redacted] has worked closely with [redacted] who have recommended [redacted] highly to me. I look forward to having [redacted] as part of the L team and to introducing [redacted] to all of you. Best, [redacted]

Colleagues: I wanted to let you know that [redacted] joined the [redacted] and previously served in the Civil Division of the Justice Department. [redacted] has worked closely with [redacted] who have recommended [redacted] highly to me. I look forward to having [redacted] as part of the L team and to introducing [redacted] to all of you. Best, [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Saturday, September 03, 2005 5:23 PM
To: [redacted]@dhs.gov'; [redacted]@dhs.gov'
Cc: [redacted]@dhs.gov'; Freeman, Sharee
Subject: Re: Community Relations Service

[redacted]and[redacted] Thanks so much for your efforts in getting CRS hooked into FEMA's efforts. Please also thank [redacted] for us. CRS has deployed. Adding Sharee Freeman, director of CRS. Neil

-----Original Message-----
From: [redacted]@dhs.gov <[redacted]@dhs.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOIMD.USDOJ.gov>; [redacted]@dhs.gov <[redacted]@dhs.gov>; [redacted]@dhs.gov <[redacted]@dhs.gov>
CC: [redacted]@dhs.gov <[redacted]@dhs.gov>
Sent: Sat Sep 03 14:14:18 2005
Subject: RE: Community Relations Service

I will have Equal Rights Office staff deploying in as well. The Lead for Mississippi will be [redacted] The Lead in Louisiana is [redacted]
Please have your staff coordinate activities with them. They will also have points of contact working the NAACP in the area. [redacted] is currently in transit to Louisiana. I don't have transit information for [redacted] as yet. I will forward contact information as soon as its available.

[redacted]

202/646-3535

Office of Equal Rights

500 C St. SW

Washington, DC 20472

From [redacted] [mailto:[redacted]@dhs.gov]
Sent: Saturday, September 03, 2005 2:11 PM
To: 'neil.gorsuch@usdoj.gov'; [redacted]
Cc: [redacted]@dhs.gov'

Subject: FW: Community Relations Service
Importance: High

Neil: By now, CRS should be in place or on their way to assignments.
Wanted to make sure that their efforts are married up to our Equal Rights office as well. [redacted] is our Director - and I'm cc'g. her on this as well. I'll include your contact nos. for her as necessary. Again, don't hesitate to contact me if you need anything else. Thanks.

Neil Gorsuch at 202/532-5384
Lou Reyes at 202/532-5543

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use or copying of this message is strictly prohibited. If you have received this in error, please reply immediately to the sender and delete this message. Thank you.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Saturday, September 03, 2005 5:25 PM
To: Reyes, Luis (SMO); McCallum, Robert (SMO)
Subject: Fw: Community Relations Service

FYI. I have asked Sharee to keep Lu closely apprised of all CRS's efforts.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: [redacted]@dhs.gov' <[redacted]@dhs.gov>; [redacted]@dhs.gov' <[redacted]@dhs.gov>
CC: [redacted]@dhs.gov' <[redacted]@dhs.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
Sent: Sat Sep 03 17:23:14 2005
Subject: Re: Community Relations Service

[redacted] Thanks so much for your efforts in getting CRS hooked into FEMA's efforts. Please also thank [redacted] for us. CRS has deployed. Adding Sharee Freeman, director of CRS. Neil

-----Original Message-----
From: [redacted]@dhs.gov <[redacted]@dhs.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; [redacted]@dhs.gov <[redacted]@dhs.gov>; [redacted]@dhs.gov <[redacted]@dhs.gov>
CC: [redacted]@dhs.gov <[redacted]@dhs.gov>
Sent: Sat Sep 03 14:14:18 2005
Subject: RE: Community Relations Service

I will have Equal Rights Office staff deploying in as well. The Lead for Mississippi will be Ronald Mackert. The Lead in Louisiana is [redacted]
Please have your staff coordinate activities with them. They will also have points of contact working the NAACP in the area. Beverly is currently in transit to Louisiana. I don't have transit information for Ron as yet. I will forward contact information as soon as its available.

[redacted]

Office of Equal Rights

500 C St. SW

500 C St. SW

Washington, DC 20472

From: [redacted] [mailto:[redacted]@dhs.gov]
Sent: Saturday, September 03, 2005 2:11 PM
To: 'neil.gorsuch@usdoj.gov'; [redacted]
Cc: [redacted]@dhs.gov'
Subject: FW: Community Relations Service
Importance: High

Neil: By now, CRS should be in place or on their way to assignments.
Wanted to make sure that their efforts are married up to our Equal Rights office as well. [redacted] is our Director - and I'm cc'g. [redacted] on this as well. I'll include your contact nos. for [redacted] as necessary. Again, don't hesitate to contact me if you need anything else. Thanks.

Neil Gorsuch at 202/532-5384
Lou Reyes at 202/532-5543

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use or copying of this message is strictly prohibited. If you have received this in error, please reply immediately to the sender and delete this message. Thank you.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, September 04, 2005 9:57 AM
To: Gorsuch, Neil M

Schofield, Regina

From:	Schofield, Regina
Sent:	Sunday, September 04, 2005 12:00 PM
To:	Scolinos, Tasia; Henke, Tracy (SMO); Gorsuch, Neil M; Mercer, Bill (ODAG)
Subject:	Fw: Katrina Release -- For Distribution Sunday
Attachments:	REL_KatrinaAssistanceNCMECLtrhd.doc
Importance:	High

This has been done in conjunction with NCMEC and JJ in response to displaced families due to Hurricane Katrina.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]
To: Laney, Ron <Ron.Laney@usdoj.gov>; Flores, Robert <Robert.Flores@usdoj.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Daley, Cybele <Cybele.Daley@usdoj.gov>; [redacted]
CC: mhoover@who.eop.gov <mhoover@who.eop.gov> [redacted]
Sent: Sun Sep 04 10:25:54 2005
Subject: Katrina Release -- For Distribution Sunday

<<REL_KatrinaAssistanceNCMECLtrhd.doc>>

attached is the release on letterhead for distribution today

==========

FOR IMMEDIATE RELEASE CONTACT: NCMEC

Office of Communications

703.837.6111

NATIONAL HOTLINE TO LOCATE

MISSING HURRICANE VICTIMS ESTABLISHED

Katrina Missing Persons Hotline, 1-888-544-5475,

Will Go Live at

12:00 Noon (Eastern) on Monday, September 5

Alexandria, VA – September 4, 2005 – The U.S. Department of Justice has asked the National Center for Missing & Exploited

Children (NCMEC) to set up a coordinated missing persons process to locate and reunite Hurricane Katrina victims in Mississippi, Louisiana, and Alabama. NCMEC staff is working through the weekend and will have the Katrina Missing Persons Hotline, 1-888-544-5475, operational at 12:00 Noon Eastern time on Monday, September 5, 2005. Photographs, names, and physical descriptions of missing adults, missing children, and found children from hurricane-stricken areas will be posted to NCMEC's web site at www.missingkids.com <https://webmail.ncmec.org/exchweb/bin/redir.asp?URL=http://www.missingkids.com> .

NCMEC has also deployed representatives – retired law enforcement officers – from its Team ADAM and Project ALERT programs to the states affected to assist families with their missing persons reports. The representatives will also provide technical resources to facilitate the transfer of photographs and other data to NCMEC's headquarters in Alexandria, Virginia.

NCMEC is urging media to air the missing persons flyers to aid in the reunification efforts. Viewers may access the information on missing persons and found children by clicking on the "Katrina Missing Persons" graphic on NCMEC's homepage at <https://webmail.ncmec.org/exchweb/bin/redir.asp?URL=http://www.missingkids.com/> www.missingkids.com.

In addition to the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention, NCMEC is working in cooperation with the network of state missing child clearinghouses, the Federal Bureau of Investigation, and other state and local law enforcement agencies. With these partners, NCMEC will also be assisting with the identification of unidentified deceased victims. Images of the unidentified decedents will be digitally-enhanced in an effort to create the best likeness that can be shown to the public to aid in positive identifications of victims.

-more-

Long-time corporate partners of NCMEC's are providing valuable equipment and services to aid in this effort. Digital cameras and scanners are being supplied by Canon U.S.A. At the request of the parent or guardian, Lifetouch National School Studios will be providing school photographs of children, as possible, if no photograph is available of a missing child. Sprint Nextel Corporation has equipped the Team ADAM and Project ALERT representatives with cellular technology. NCMEC is grateful for the support of these private sector partners and for the dedicated volunteers who will be answering the Katrina Missing Persons Hotline.

Team ADAM and Project ALERT are made up of specially-trained retired law enforcement personnel who are available to assist law enforcement agencies in missing child and child sexual exploitation cases.

About the National Center For Missing & Exploited Children
NCMEC is a 501(c)(3) nonprofit organization that works in cooperation with the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention. NCMEC's congressionally mandated CyberTipline, a reporting mechanism for child sexual exploitation, has handled more than 340,000 leads. Since its establishment in 1984, NCMEC has assisted law enforcement with more than 116,000 missing child cases, resulting in the recovery of more than 94,000 children. For more information about NCMEC, call its toll-free, 24-hour hotline at 1-800-THE-LOST or visit <https://webmail.ncmec.org/exchweb/bin/redir.asp?URL=http://www.missingkids.com/> www.missingkids.com.

###

[redacted]
National Center for Missing & Exploited Children
[redacted] direct
703.274.2222 fax
www.missingkids.com

FOR IMMEDIATE RELEASE

CONTACT: NCMEC
Office of Communications
703.837.6111

NATIONAL HOTLINE TO LOCATE MISSING HURRICANE VICTIMS ESTABLISHED

Katrina Missing Persons Hotline, 1-888-544-5475, Will Go Live at 12:00 Noon (Eastern) on Monday, September 5

Alexandria, VA – September 4, 2005 – The U.S. Department of Justice has asked the National Center for Missing & Exploited Children (NCMEC) to set up a coordinated missing persons process to locate and reunite Hurricane Katrina victims in Mississippi, Louisiana, and Alabama. NCMEC staff is working through the weekend and will have the Katrina Missing Persons Hotline, 1-888-544-5475, operational at 12:00 Noon Eastern time on Monday, September 5, 2005. Photographs, names, and physical descriptions of missing adults, missing children, and found children from hurricane-stricken areas will be posted to NCMEC's web site at www.missingkids.com.

NCMEC has also deployed representatives – retired law enforcement officers – from its Team ADAM and Project ALERT programs to the states affected to assist families with their missing persons reports. The representatives will also provide technical resources to facilitate the transfer of photographs and other data to NCMEC's headquarters in Alexandria, Virginia.

NCMEC is urging media to air the missing persons flyers to aid in the reunification efforts. Viewers may access the information on missing persons and found children by clicking on the "Katrina Missing Persons" graphic on NCMEC's homepage at www.missingkids.com.

In addition to the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention, NCMEC is working in cooperation with the network of state missing child clearinghouses, the Federal Bureau of Investigation, and other state and local law enforcement agencies. With these partners, NCMEC will also be assisting with the identification of unidentified deceased victims. Images of the unidentified decedents will be digitally-enhanced in an effort to create the best likeness that can be shown to the public to aid in positive identifications of victims.

-more-

Charles B. Wang International Children's Building
699 Prince Street · Alexandria, VA 22314-3175
Media Line 703.837.6111 · E-mail media@ncmec.org
Telephone 703.274.3900 · Fax 703.274.2222
www.missingkids.com

Long-time corporate partners of NCMEC's are providing valuable equipment and services to aid in this effort. Digital cameras and scanners are being supplied by Canon U.S.A. At the request of the parent or guardian, Lifetouch National School Studios will be providing school photographs of children, as possible, if no photograph is available of a missing child. Sprint Nextel Corporation has equipped the Team ADAM and Project ALERT representatives with cellular technology. NCMEC is grateful for the support of these private sector partners and for the dedicated volunteers who will be answering the Katrina Missing Persons Hotline.

Team ADAM and Project ALERT are made up of specially-trained retired law enforcement personnel who are available to assist law enforcement agencies in missing child and child sexual exploitation cases.

About the National Center For Missing & Exploited Children
NCMEC is a 501(c)(3) nonprofit organization that works in cooperation with the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention. NCMEC's congressionally mandated CyberTipline, a reporting mechanism for child sexual exploitation, has handled more than 340,000 leads. Since its establishment in 1984, NCMEC has assisted law enforcement with more than 116,000 missing child cases, resulting in the recovery of more than 94,000 children. For more information about NCMEC, call its toll-free, 24-hour hotline at 1-800-THE-LOST or visit www.missingkids.com.

###

Charles B. Wang International Children's Building
699 Prince Street · Alexandria, VA 22314-3175
Media Line 703.837.6111 · E-mail media@ncmec.org
Telephone 703.274.3900 · Fax 703.274.2222
www.missingkids.com

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, September 04, 2005 12:03 PM
To: McCallum, Robert (SMO); Elwood, Courtney; Ullyot, Theodore
Subject: Fw: Katrina Release -- For Distribution Sunday
Attachments: REL_KatrinaAssistanceNCMECLtrhd.doc
Importance: High

Fyi

-----Original Message-----
From: Schofield, Regina <Regina.B.Schofield@usdoj.gov>
To: Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
Sent: Sun Sep 04 11:59:31 2005
Subject: Fw: Katrina Release -- For Distribution Sunday

This has been done in conjunction with NCMEC and JJ in response to displaced families due to Hurricane Katrina.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]
To: Laney, Ron <Ron.Laney@usdoj.gov>; Flores, Robert <Robert.Flores@usdoj.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Daley, Cybele <Cybele.Daley@usdoj.gov>; [redacted]
CC: mhoover@who.eop.gov <mhoover@who.eop.gov>; [redacted]
Sent: Sun Sep 04 10:25:54 2005
Subject: Katrina Release -- For Distribution Sunday

<<REL_KatrinaAssistanceNCMECLtrhd.doc>>

attached is the release on letterhead for distribution today

==========

FOR IMMEDIATE RELEASE CONTACT: NCMEC

Office of Communications

[redacted]

NATIONAL HOTLINE TO LOCATE

MISSING HURRICANE VICTIMS ESTABLISHED

Katrina Missing Persons Hotline, 1-888-544-5475,

Will Go Live at

12:00 Noon (Eastern) on Monday, September 5

Alexandria, VA - September 4, 2005 - The U.S. Department of Justice has asked the National Center for Missing & Exploited Children (NCMEC) to set up a coordinated missing persons process to locate and reunite Hurricane Katrina victims in Mississippi, Louisiana, and Alabama. NCMEC staff is working through the weekend and will have the Katrina Missing Persons Hotline, 1-888-544-5475, operational at 12:00 Noon Eastern time on Monday, September 5, 2005. Photographs, names, and physical descriptions of missing adults, missing children, and found children from hurricane-stricken areas will be posted to NCMEC's web site at www.missingkids.com <https://webmail.ncmec.org/exchweb/bin/redir.asp?URL=http://www.missingkids.com> .

NCMEC has also deployed representatives - retired law enforcement officers - from its Team ADAM and Project ALERT programs to the states affected to assist families with their missing persons reports. The representatives will also provide technical resources to facilitate the transfer of photographs and other data to NCMEC's headquarters in Alexandria, Virginia.

NCMEC is urging media to air the missing persons flyers to aid in the reunification efforts. Viewers may access the information on missing persons and found children by clicking on the "Katrina Missing Persons" graphic on NCMEC's homepage at <https://webmail.ncmec.org/exchweb/bin/redir.asp?URL=http://www.missingkids.com/> www.missingkids.com.

In addition to the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention, NCMEC is working in cooperation with the network of state missing child clearinghouses, the Federal

NCMEC is working in cooperation with the network of state missing child clearinghouses, the Federal Bureau of Investigation, and other state and local law enforcement agencies. With these partners, NCMEC will also be assisting with the identification of unidentified deceased victims. Images of the unidentified decedents will be digitally-enhanced in an effort to create the best likeness that can be shown to the public to aid in positive identifications of victims.

-more-

Long-time corporate partners of NCMEC's are providing valuable equipment and services to aid in this effort. Digital cameras and scanners are being supplied by Canon U.S.A. At the request of the parent or guardian, Lifetouch National School Studios will be providing school photographs of children, as possible, if no photograph is available of a missing child. Sprint Nextel Corporation has equipped the Team ADAM and Project ALERT representatives with cellular technology. NCMEC is grateful for the support of these private sector partners and for the dedicated volunteers who will be answering the Katrina Missing Persons Hotline.

Team ADAM and Project ALERT are made up of specially-trained retired law enforcement personnel who are available to assist law enforcement agencies in missing child and child sexual exploitation cases.

About the National Center For Missing & Exploited Children NCMEC is a 501(c)(3) nonprofit organization that works in cooperation with the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention. NCMEC's congressionally mandated CyberTipline, a reporting mechanism for child sexual exploitation, has handled more than 340,000 leads. Since its establishment in 1984, NCMEC has assisted law enforcement with more than 116,000 missing child cases, resulting in the recovery of more than 94,000 children. For more information about NCMEC, call its toll-free, 24-hour hotline at 1-800-THE-LOST or visit <https://webmail.ncmec.org/exchweb/bin/redir.asp?URL=http://www.missingkids.com/> www.missingkids.com.

###

[redacted]

[redacted]

National Center for Missing & Exploited Children [redacted] direct 703.274.2222 fax
www.missingkids.com

FOR IMMEDIATE RELEASE

CONTACT: NCMEC
Office of Communications
703.837.6111

NATIONAL HOTLINE TO LOCATE MISSING HURRICANE VICTIMS ESTABLISHED

Katrina Missing Persons Hotline, 1-888-544-5475, Will Go Live at 12:00 Noon (Eastern) on Monday, September 5

Alexandria, VA – September 4, 2005 – The U.S. Department of Justice has asked the National Center for Missing & Exploited Children (NCMEC) to set up a coordinated missing persons process to locate and reunite Hurricane Katrina victims in Mississippi, Louisiana, and Alabama. NCMEC staff is working through the weekend and will have the Katrina Missing Persons Hotline, 1-888-544-5475, operational at 12:00 Noon Eastern time on Monday, September 5, 2005. Photographs, names, and physical descriptions of missing adults, missing children, and found children from hurricane-stricken areas will be posted to NCMEC's web site at www.missingkids.com.

NCMEC has also deployed representatives – retired law enforcement officers – from its Team ADAM and Project ALERT programs to the states affected to assist families with their missing persons reports. The representatives will also provide technical resources to facilitate the transfer of photographs and other data to NCMEC's headquarters in Alexandria, Virginia.

NCMEC is urging media to air the missing persons flyers to aid in the reunification efforts. Viewers may access the information on missing persons and found children by clicking on the "Katrina Missing Persons" graphic on NCMEC's homepage at www.missingkids.com.

In addition to the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention, NCMEC is working in cooperation with the network of state missing child clearinghouses, the Federal Bureau of Investigation, and other state and local law enforcement agencies. With these partners, NCMEC will also be assisting with the identification of unidentified deceased victims. Images of the unidentified decedents will be digitally-enhanced in an effort to create the best likeness that can be shown to the public to aid in positive identifications of victims.

-more-

Charles B. Wang International Children's Building
699 Prince Street · Alexandria, VA 22314-3175
Media Line 703.837.6111 · E-mail media@ncmec.org
Telephone 703.274.3900 · Fax 703.274.2222
www.missingkids.com

Long-time corporate partners of NCMEC's are providing valuable equipment and services to aid in this effort. Digital cameras and scanners are being supplied by Canon U.S.A. At the request of the parent or guardian, Lifetouch National School Studios will be providing school photographs of children, as possible, if no photograph is available of a missing child. Sprint Nextel Corporation has equipped the Team ADAM and Project ALERT representatives with cellular technology. NCMEC is grateful for the support of these private sector partners and for the dedicated volunteers who will be answering the Katrina Missing Persons Hotline.

Team ADAM and Project ALERT are made up of specially-trained retired law enforcement personnel who are available to assist law enforcement agencies in missing child and child sexual exploitation cases.

About the National Center For Missing & Exploited Children
NCMEC is a 501(c)(3) nonprofit organization that works in cooperation with the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention. NCMEC's congressionally mandated CyberTipline, a reporting mechanism for child sexual exploitation, has handled more than 340,000 leads. Since its establishment in 1984, NCMEC has assisted law enforcement with more than 116,000 missing child cases, resulting in the recovery of more than 94,000 children. For more information about NCMEC, call its toll-free, 24-hour hotline at 1-800-THE-LOST or visit www.missingkids.com.

###

Charles B. Wang International Children's Building
699 Prince Street · Alexandria, VA 22314-3175
Media Line 703.837.6111 · E-mail media@ncmec.org
Telephone 703.274.3900 · Fax 703.274.2222
www.missingkids.com

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, September 04, 2005 12:03 PM
To: Schofield, Regina
Subject: Re: Katrina Release -- For Distribution Sunday

Great.

-----Original Message-----
From: Schofield, Regina <Regina.B.Schofield@usdoj.gov>
To: Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
Sent: Sun Sep 04 11:59:31 2005
Subject: Fw: Katrina Release -- For Distribution Sunday

This has been done in conjunction with NCMEC and JJ in response to displaced families due to Hurricane Katrina.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]
To: Laney, Ron <Ron.Laney@usdoj.gov>; Flores, Robert <Robert.Flores@usdoj.gov>; Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Daley, Cybele <Cybele.Daley@usdoj.gov>; [redacted]
CC: mhoover@who.eop.gov <mhoover@who.eop.gov>; [redacted]
Sent: Sun Sep 04 10:25:54 2005
Subject: Katrina Release -- For Distribution Sunday

<<REL_KatrinaAssistanceNCMECLtrhd.doc>>

attached is the release on letterhead for distribution today

==========

FOR IMMEDIATE RELEASE CONTACT: NCMEC

Office of Communications

[redacted]

NATIONAL HOTLINE TO LOCATE

MISSING HURRICANE VICTIMS ESTABLISHED

Katrina Missing Persons Hotline, 1-888-544-5475,

Will Go Live at

12:00 Noon (Eastern) on Monday, September 5

Alexandria, VA - September 4, 2005 - The U.S. Department of Justice has asked the National Center for Missing & Exploited Children (NCMEC) to set up a coordinated missing persons process to locate and reunite Hurricane Katrina victims in Mississippi, Louisiana, and Alabama. NCMEC staff is working through the weekend and will have the Katrina Missing Persons Hotline, 1-888-544-5475, operational at 12:00 Noon Eastern time on Monday, September 5, 2005. Photographs, names, and physical descriptions of missing adults, missing children, and found children from hurricane-stricken areas will be posted to NCMEC's web site at www.missingkids.com <https://webmail.ncmec.org/exchweb/bin/redir.asp?URL=http://www.missingkids.com> .

NCMEC has also deployed representatives - retired law enforcement officers - from its Team ADAM and Project ALERT programs to the states affected to assist families with their missing persons reports. The representatives will also provide technical resources to facilitate the transfer of photographs and other data to NCMEC's headquarters in Alexandria, Virginia.

NCMEC is urging media to air the missing persons flyers to aid in the reunification efforts. Viewers may access the information on missing persons and found children by clicking on the "Katrina Missing Persons" graphic on NCMEC's homepage at <https://webmail.ncmec.org/exchweb/bin/redir.asp?URL=http://www.missingkids.com/> www.missingkids.com.

In addition to the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention, NCMEC is working in cooperation with the network of state missing child clearinghouses, the Federal Bureau of Investigation, and other state and local law enforcement agencies. With these partners, NCMEC will also be assisting with the identification of unidentified deceased victims. Images of the

unidentified decedents will be digitally-enhanced in an effort to create the best likeness that can be shown to the public to aid in positive identifications of victims.

-more-

Long-time corporate partners of NCMEC's are providing valuable equipment and services to aid in this effort. Digital cameras and scanners are being supplied by Canon U.S.A. At the request of the parent or guardian, Lifetouch National School Studios will be providing school photographs of children, as possible, if no photograph is available of a missing child. Sprint Nextel Corporation has equipped the Team ADAM and Project ALERT representatives with cellular technology. NCMEC is grateful for the support of these private sector partners and for the dedicated volunteers who will be answering the Katrina Missing Persons Hotline.

Team ADAM and Project ALERT are made up of specially-trained retired law enforcement personnel who are available to assist law enforcement agencies in missing child and child sexual exploitation cases.

About the National Center For Missing & Exploited Children NCMEC is a 501(c)(3) nonprofit organization that works in cooperation with the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention. NCMEC's congressionally mandated CyberTipline, a reporting mechanism for child sexual exploitation, has handled more than 340,000 leads. Since its establishment in 1984, NCMEC has assisted law enforcement with more than 116,000 missing child cases, resulting in the recovery of more than 94,000 children. For more information about NCMEC, call its toll-free, 24-hour hotline at 1-800-THE-LOST or visit <https://webmail.ncmec.org/exchweb/bin/redir.asp?URL=http://www.missingkids.com/> www.missingkids.com.

###

[redacted]
National Center for Missing & Exploited Children [redacted] direct 703.274.2222 fax
www.missingkids.com

From: USDOJ- Office of Public Affairs
Sent: Sunday, September 04, 2005 1:47 PM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE DEATH OF CHIEF JUSTICE WILLIAM H. REHNQUIST

Department of Justice

FOR IMMEDIATE RELEASE
SUNDAY, SEPTEMBER 4, 2005

AG
(202) 514-2008

WWW.USDOJ.GOV

TDD (202) 514-1888

STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE DEATH OF CHIEF JUSTICE WILLIAM H. REHNQUIST:

"I was deeply saddened to learn of the passing of Chief Justice William H. Rehnquist. On behalf of the entire Department of Justice, I offer our condolences to his children and the Rehnquist family. We join the President and the American people in mourning the death of this great jurist and public servant.

"Chief Justice Rehnquist served his country with distinction for decades, including at the Department of Justice as head of the Office of Legal Counsel. As Chief Justice, he presided over the Supreme Court and the entire federal judiciary with honor. I know that judges and lawyers around the country respected him as a model of fairness, integrity, and faithfulness to the rule of law.

"He also will be remembered for his role as a steward and historian of the Court. During his tenure as Chief Justice, the Court became known for its collegiality, even during times of profound disagreement on questions of law. He demonstrated a reverence for the Court's role and history that ensures that future generations of Americans will continue to respect the important place of the Court in our constitutional democracy. He will surely be remembered as one of our Nation's greatest Chief Justices, and his leadership, courage, and humility will be missed."

# # #

05-456

DOJ_NMG_ 0146589

Image not available for this document, ID: 0.7.10316.69314-000001

Image not available for this document, ID: 0.7.10316.69314-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, September 4, 2005 4:23 PM
To: Gorsuch, Neil M
Subject: Fw:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sun Sep 04 09:57:07 2005
Subject:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, September 04, 2005 6:47 PM
To: Gorsuch, Neil M
Subject: Fw:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sun Sep 04 16:22:56 2005
Subject: Fw:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sun Sep 04 09:57:07 2005
Subject:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 05, 2005 11:03 AM
To: Gorsuch, Neil M
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sun Sep 04 18:46:54 2005
Subject: Fw:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sun Sep 04 16:22:56 2005
Subject: Fw:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sun Sep 04 09:57:07 2005
Subject:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 5, 2005 11:04 AM
To: Freeman, Sharee; Reyes, Luis (SMO)
Subject: Re:

Good work. Glad you are there.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sun Sep 04 22:19:33 2005
Subject:

RE: that meeting with Baton Rouge leaders, it did not take place because the NAACP President took a helicopter tour of the impacted areas at the same time. There was some talk of infusing me in their tour but I graciously declined. The invitation is open though to all of CRS and I have reminded staff to decline to maintain neutrality. I also heard he was overwhelmed with grief. FEMA said that they want us to be ready to facilitate and to be in all meetings that are set up with local community leaders to handle any frustrations that may pop up.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 5, 2005 5:22 PM
To: Gorsuch, Neil M
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Sep 05 11:02:42 2005
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sun Sep 04 18:46:54 2005
Subject: Fw:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sun Sep 04 16:22:56 2005
Subject: Fw:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sun Sep 04 09:57:07 2005
Subject:

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Monday, September 5, 2005 5:50 PM
To: Gorsuch, Neil M
Subject: RE: BRAC/Roberts

Neil,
Nothing has changed on BRAC since this email, thankfully. I am going to do the NJ PI tomorrow. It looks like we have everything covered (at least on the present schedule); thanks very much for being willing to jump in.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Friday, September 02, 2005 5:10 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV); Nichols, Carl (CIV)
Subject: RE: BRAC/Roberts

Nothing has happened in the Roberts FOIA case, probably because the Plaintiffs haven't filed a separate TRO/PI motion. We're told that the Judge -- Dale Fisher -- is pretty good for us; and in any event NARA claims that there's nothing bad at all in the docs at issue.

In BRAC, here's the current rundown. Unless otherwise noted, they now involve challenges to BRAC's recommendation to move planes from one state to another.

PA: no change from Monday. BRAC's report is different from SECDEF's recommendation at issue in the Court's opinion -- we would take position that it's consistent with that opinion -- and although he has threatened to do so, Rendell hasn't gone back to Court (yet).

IL: TRO hearing today; Judge has TRO under advisement. Will decide by Tuesday at noon. If she denies TRO, no PI hearing; if she grants TRO, PI hearing Weds morning at 10am.

CT: TRO granted; PI hearing Weds.

TN: TRO hearing today; Judge has TRO under advisement. No PI hearing scheduled.

Missouri: Court will have PI papers and decide if wants to hear from parties telephonically Tuesday or Weds.

NJ: This is not an Air Nat'l Guard case, but a challenge to the recommendation to close Fort Monmouth. No TRO motion; PI hearing scheduled for Tuesday at 1pm.

Carl

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 5:00 PM
To: Nichols, Carl (CIV)
Subject: BRAC/Roberts

Carl, Could you please give me a quick squib update on the BRAC cases, and also let me know whether anything's happened in the Roberts FOIA litigation? Please also keep me in loop over the weekend with any developments so I might give a somewhat coherent update Tuesday

morning to the leadership. Finally, I've boned up on the BRAC CT briefs this afternoon and will leap in as necessary. Thanks, NMG

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, September 5, 2005 5:58 PM
To: Gorsuch, Neil M
Cc: Monheim, Thomas
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

Let me know when the time is set. I have an annual physical exam that morning until about 11:30am and have put it off several times already. Need to get it done if at all possible. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 9:03 AM
To: McCallum, Robert (SMO)
Cc: Monheim, Thomas
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

I agree that your presence on the 13th would help induce some action. Tom kindly filled me in on the pcc meeting yesterday and I can share the slides they're preparing for the 13th with you when you have a chance.

-----Original Message-----
From: Monheim, Thomas
Sent: Thursday, September 01, 2005 8:50 PM
To: McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

FYI, the September 7 DC meeting will now apparently only address the "humane assurances" framework issue, and the Uighurs will be taken up at a September 13 DC meeting. This is obviously a moving target, so -- as you suggest -- we'll arrange prep sessions once they're set and we have the read-aheads, etc. Also, FYI, I don't think it's critical that you be the one to attend the September 7 meeting, but I do think it's important that you attend the September 13 meeting. Thanks.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, August 31, 2005 6:31 PM
To: Monheim, Thomas
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

Let me know when the time and place has been set in stone and then we can set up a prep for me. Robt.

-----Original Message-----
From: Monheim, Thomas
Sent: Wednesday, August 31, 2005 1:50 PM
To: McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

FYI, the DC has now been moved to Wednesday, September 7 (in place of the currently scheduled Afghanistan DC).

-----Original Message-----
From: Monheim, Thomas

Sent: Wednesday, August 31, 2005 6:26 AM
To: McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: Deputies Committee meeting on Tues, Sep 6, 1115-1200

FYI, there will likely be a Deputies Committee meeting on Tuesday, September 6, from 11:15 - 12:00 to discuss detainee issues, including options for the Uighurs and a proposed framework for obtaining "humane assurances" from other countries. I expect that NSC will send out formal notification/agenda/read-aheads soon, but wanted to give you a heads up. Once we receive the details, we can meet at your convenience to prepare for the DC meeting.

Beach, Andrew

From:	Beach, Andrew
Sent:	Monday, September 5, 2005 6:06 PM
To:	Gunn, Currie (SMO); McCallum, Robert (SMO); Washington, Tracy T; Ullyot, Theodore; Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Bennett, Catherine T; Gorsuch, Neil M; Shaw, Aloma A; Mercer, Bill (ODAG); Walker, Shelia M
Cc:	Henderson, Charles V; Moschella, William; Webb, Lauren; Schreiber, Jayne; Roberts, Crystal; Brand, Rachel; 'Wanda.Martinson@usdoj.gov'; Roehrkasse, Brian; Nichols, Grant W; Meadows, Bessie L; Williams, Jan; Jenkins, Linda A; Sellers, Kiahna (OAG)
Subject:	CHANGE: 9/6/05 Senior Management and Component coordination Mtg
Importance:	High

On Tuesday, September 6, the Senior Management meeting will begin at 8:45 instead of 9:00 AM. The AG has a Cabinet meeting tomorrow morning.

Component Coordination meeting participants: pls arrive at 9:00 AM in case the AG is ready to start that meeting early.

Pls acknowledge receipt of this message.

Thanks.
Andy Beach
Assistant to the Attorney General
Director of Scheduling & Advance
Tel: (202) 514-4195; FAX: (202) 307-2825

Gunn, Currie (SMO)

Subject:	Accepted: Lunch/Bill Ide
Location:	Caucus Room
Start:	Wednesday, September 07, 2005 12:30 PM
End:	Wednesday, September 07, 2005 2:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gunn, Currie (SMO)
Optional Attendees:	Gorsuch, Neil M

Did you confirm with Ide's assistant and who is going to join us?

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, September 5, 2005 6:29 PM
To: Gorsuch, Neil M
Subject: FW: [redacted]

Should have copied you on this one as well. Robt.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 11:02 AM
To: McCallum, Robert (SMO)
Subject: RE: [redacted]

Will do.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Friday, September 02, 2005 11:01 AM
To: Reyes, Luis (SMO)
Subject: Re: [redacted]

Get both Rachel and Mike Battle and Mercer involved if they are available and confirm with Currie or [redacted] directly that it is all set for lunch. Get reservation at Caucus Room. Robt.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 10:46:55 2005
Subject: [redacted]

Sir, sorry to bother you on your vacation with these emails. Wanted to double back with you and see if we needed to get Rachel Brand and/or others in on your lunch with [redacted] next week, or set something up back at the Department. Or is your lunch really going to be it for now and be a one and one?

Thom, Stephen

From: Thom, Stephen
Sent: Tuesday, September 06, 2005 12:02 AM
To: [redacted]@dhs.gov
Cc: Freeman, Sharee; Reyes, Luis (SMO); Gorsuch, Neil M
Subject: CRS deployment

[redacted]

Director Freeman and I understand from what you said this evening on the phone that we have currently been cleared for 5 CRS employees to infuse in the FEMA deployment process. Thomas Battles who is the Regional Director (RD) for 8 southern states is our liaison for Mississippi and will attend the FEMA training in Atlanta and one addition CRS person Grace Sage, who is [redacted], will also attend, since that complies with FEMA's initial request of us to make sure our Mississippi team included someone with a [redacted] background. RD Battles is still working on housing for both of them and additional staff. After training, they will move to Jackson, Mississippi.

We are sending Carmelita Freeman, who is the Regional Director in Dallas, which includes responsibility for Louisiana, to Baton Rouge as the liaison for Louisiana. She already has comfortable housing in Baton Rouge for her and Walter Atkinson who will be joining her. They will also go to Atlanta for the required FEMA training.

FEMA has cleared 5 CRS staff members, but the Housing Task Force is not yet developed, according to Mary. We are offering to you our services to help put that task force in place for FEMA given our experience in assisting in the resettlement of South Asians throughout the United States and the Cuban/Haitian resettlement in Florida. Since the task force is not in place, we will use one of our 5 slots on the trainers described below.

Tony Russell discussed with us and Mary, and we understood it was a green light that CRS was needed and would provide a 45 minute cultural competency training program in Atlanta for preparation in deploying some 4,000 Forest Service employees. We have sent two trainers, Rosa Salamanca and Patricia Glenn.

We discussed with Mary and Tony an amendment and sent language for 2 trainers. That is where Mary left off and turned this matter over to you. Tony, experienced with CRS work, said that he anticipated infusing all 18 of our CRS team as soon as possible.

It is our understanding, per your request, that we will coordinate our activities, through your field staff, [redacted] and [redacted] and they will advise you.

However, we await your further guidance, regarding the FEMA clearance of additional CRS staff. We are in the process of securing housing for our people and have our staff on standby. We seek a decision on the deployment of the additional CRS staff and whether we should move forward in this regard.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 8:05 AM
To: McCallum, Robert (SMO)
Cc: Reyes, Luis (SMO)
Subject: FW: CRS deployment

FYI. Directive to CRS has been to deploy asap in coordination with FEMA. After CRS was unable last week to raise FEMA's attention, Lu and I contacted [redacted] who helped get the necessary attention.

-----Original Message-----
From: Thom, Stephen
Sent: Tuesday, September 06, 2005 12:02 AM
To: [redacted]@dhs.gov
Cc: Freeman, Sharee; Reyes, Luis (SMO); Gorsuch, Neil M
Subject: CRS deployment

[redacted]

Director Freeman and I understand from what you said this evening on the phone that we have currently been cleared for 5 CRS employees to infuse in the FEMA deployment process. Thomas Battles who is the Regional Director (RD) for 8 southern states is our liaison for Mississippi and will attend the FEMA training in Atlanta and one addition CRS person Grace Sage, who is [redacted], will also attend, since that complies with FEMA's initial request of us to make sure our Mississippi team included someone with a [redacted] background. RD Battles is still working on housing for both of them and additional staff. After training, they will move to Jackson, Mississippi.

We are sending Carmelita Freeman, who is the Regional Director in Dallas, which includes responsibility for Louisiana, to Baton Rouge as the liaison for Louisiana. She already has comfortable housing in Baton Rouge for her and Walter Atkinson who will be joining her. They will also go to Atlanta for the required FEMA training.

FEMA has cleared 5 CRS staff members, but the Housing Task Force is not yet developed, according to Mary. We are offering to you our services to help put that task force in place for FEMA given our experience in assisting in the resettlement of South Asians throughout the United States and the Cuban/Haitian resettlement in Florida. Since the task force is not in place, we will use one of our 5 slots on the trainers described below.

Tony Russell discussed with us and Mary, and we understood it was a green light that CRS was needed and would provide a 45 minute cultural competency training program in Atlanta for preparation in deploying some 4,000 Forest Service employees. We have sent two trainers, Rosa Salamanca and Patricia Glenn.

We discussed with Mary and Tony an amendment and sent language for 2 trainers. That is where Mary left off and turned this matter over to you. Tony, experienced with CRS work, said that he anticipated infusing all 18 of our CRS team as soon as possible.

It is our understanding, per your request, that we will coordinate our activities, through your field staff, [redacted] and [redacted] and they will advise you.

However, we await your further guidance, regarding the FEMA clearance of additional CRS staff. We are in the process of securing housing for our people and have our staff on standby. We seek a decision on the deployment of the additional CRS staff and whether we should move forward in this regard.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 6, 2005 8:06 AM
To: Reyes, Luis (SMO)
Subject: FW: [redacted]

what's this about?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, September 05, 2005 6:29 PM
To: Gorsuch, Neil M
Subject: FW: [redacted]

Should have copied you on this one as well. Robt.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 02, 2005 11:02 AM
To: McCallum, Robert (SMO)
Subject: RE: [redacted]

Will do.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Friday, September 02, 2005 11:01 AM
To: Reyes, Luis (SMO)
Subject: Re: [redacted]

Get both Rachel and Mike Battle and Mercer involved if they are available and confirm with Currie or [redacted] directly that it is all set for lunch. Get reservation at Caucus Room. Robt.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Fri Sep 02 10:46:55 2005
Subject: [redacted]

Sir, sorry to bother you on your vacation with these emails. Wanted to double back with you and see if we needed to get Rachel Brand and/or others in on your lunch with [redacted] next week, or set something up

we needed to get Rachel Brand and/or others in on your lunch with [redacted] next week, or set something up back at the Department. Or is your lunch really going to be it for now and be a one and one?

Otus2005, Ag

Subject:	Accepted: Updated: Senior Management Meeting
Start:	Tuesday, September 6, 2005 9:00 AM
End:	Tuesday, September 6, 2005 9:15 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Otus2005, Ag

Subject:	Accepted: Updated: Component Coordination Meeting
Start:	Tuesday, September 6, 2005 9:15 AM
End:	Tuesday, September 6, 2005 9:30 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 6, 2005 8:07 AM
To: Beach, Andrew
Cc: McCallum, Robert (SMO)
Subject: RE: CHANGE: 9/6/05 Senior Management and Component coordination Mtg

Andrew: Message received. Robert and I will be there at 8:45. Thanks, NMG

-----Original Message-----
From: Beach, Andrew
Sent: Monday, September 05, 2005 6:06 PM
To: Gunn, Currie (SMO); McCallum, Robert (SMO); Washington, Tracy T; Ullyot, Theodore; Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Bennett, Catherine T; Gorsuch, Neil M; Shaw, Aloma A; Mercer, Bill (ODAG); Walker, Shelia M
Cc: Henderson, Charles V; Moschella, William; Webb, Lauren; Schreiber, Jayne; Roberts, Crystal; Brand, Rachel; 'Wanda.Martinson@usdoj.gov'; Roehrkasse, Brian; Nichols, Grant W; Meadows, Bessie L; Williams, Jan; Jenkins, Linda A; Sellers, Kiahna (OAG)
Subject: CHANGE: 9/6/05 Senior Management and Component coordination Mtg
Importance: High

On Tuesday, September 6, the Senior Management meeting will begin at 8:45 instead of 9:00 AM. The AG has a Cabinet meeting tomorrow morning.

Component Coordination meeting participants: pls arrive at 9:00 AM in case the AG is ready to start that meeting early.

Pls acknowledge receipt of this message.

Thanks.
Andy Beach
Assistant to the Attorney General
Director of Scheduling & Advance
Tel: (202) 514-4195; FAX: (202) 307-2825

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, September 6, 2005 8:08 AM
To: Gorsuch, Neil M
Subject: Read: CHANGE: 9/6/05 Senior Management and Component coordination Mtg

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 6, 2005 8:08 AM
To: McCallum, Robert (SMO)
Cc: Monheim, Thomas
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

Will do. Your presence, while it'd be helpful, is not essential.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, September 05, 2005 5:58 PM
To: Gorsuch, Neil M
Cc: Monheim, Thomas
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

Let me know when the time is set. I have an annual physical exam that morning until about 11:30am and have put it off several times already. Need to get it done if at all possible. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 9:03 AM
To: McCallum, Robert (SMO)
Cc: Monheim, Thomas
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

I agree that your presence on the 13th would help induce some action. Tom kindly filled me in on the pcc meeting yesterday and I can share the slides they're preparing for the 13th with you when you have a chance.

-----Original Message-----
From: Monheim, Thomas
Sent: Thursday, September 01, 2005 8:50 PM
To: McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

FYI, the September 7 DC meeting will now apparently only address the "humane assurances" framework issue, and the Uighurs will be taken up at a September 13 DC meeting. This is obviously a moving target, so -- as you suggest -- we'll arrange prep sessions once they're set and we have the read-aheads, etc. Also, FYI, I don't think it's critical that you be the one to attend the September 7 meeting, but I do think it's important that you attend the September 13 meeting. Thanks.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, August 31, 2005 6:31 PM
To: Monheim, Thomas
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

Let me know when the time and place has been set in stone and then we can set up a prep for me.
Robt.

-----Original Message-----
From: Monheim, Thomas
Sent: Wednesday, August 31, 2005 1:50 PM

To: McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

FYI, the DC has now been moved to Wednesday, September 7 (in place of the currently scheduled Afghanistan DC).

-----Original Message-----
From: Monheim, Thomas
Sent: Wednesday, August 31, 2005 6:26 AM
To: McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: Deputies Committee meeting on Tues, Sep 6, 1115-1200

FYI, there will likely be a Deputies Committee meeting on Tuesday, September 6, from 11:15 - 12:00 to discuss detainee issues, including options for the Uighurs and a proposed framework for obtaining "humane assurances" from other countries. I expect that NSC will send out formal notification/agenda/read-aheads soon, but wanted to give you a heads up. Once we receive the details, we can meet at your convenience to prepare for the DC meeting.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, September 6, 2005 8:09 AM
To: Gorsuch, Neil M
Subject: Read: Deputies Committee meeting on Tues, Sep 6, 1115-1200

Gunn, Currie (SMO)

Subject:	Accepted: Lunch [redacted]
Location:	Caucus Room
Start:	Wednesday, September 7, 2005 12:30 PM
End:	Wednesday, September 7, 2005 2:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gunn, Currie (SMO)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 6, 2005 8:24 AM
To: Monheim, Thomas
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

Tom - Do we know what time the meeting will be? Any chance we can get it scheduled to accommodate Robert?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, September 05, 2005 5:58 PM
To: Gorsuch, Neil M
Cc: Monheim, Thomas
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

Let me know when the time is set. I have an annual physical exam that morning until about 11:30am and have put it off several times already. Need to get it done if at all possible. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 9:03 AM
To: McCallum, Robert (SMO)
Cc: Monheim, Thomas
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

I agree that your presence on the 13th would help induce some action. Tom kindly filled me in on the pcc meeting yesterday and I can share the slides they're preparing for the 13th with you when you have a chance.

-----Original Message-----
From: Monheim, Thomas
Sent: Thursday, September 01, 2005 8:50 PM
To: McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

FYI, the September 7 DC meeting will now apparently only address the "humane assurances" framework issue, and the Uighurs will be taken up at a September 13 DC meeting. This is obviously a moving target, so -- as you suggest -- we'll arrange prep sessions once they're set and we have the read-aheads, etc. Also, FYI, I don't think it's critical that you be the one to attend the September 7 meeting, but I do think it's important that you attend the September 13 meeting. Thanks.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, August 31, 2005 6:31 PM
To: Monheim, Thomas
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

Let me know when the time and place has been set in stone and then we can set up a prep for me. Robt.

-----Original Message-----
From: Monheim, Thomas
Sent: Wednesday, August 31, 2005 1:50 PM
To: McCallum, Robert (SMO)

Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

FYI, the DC has now been moved to Wednesday, September 7 (in place of the currently scheduled Afghanistan DC).

-----Original Message-----
From: Monheim, Thomas
Sent: Wednesday, August 31, 2005 6:26 AM
To: McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: Deputies Committee meeting on Tues, Sep 6, 1115-1200

FYI, there will likely be a Deputies Committee meeting on Tuesday, September 6, from 11:15 - 12:00 to discuss detainee issues, including options for the Uighurs and a proposed framework for obtaining "humane assurances" from other countries. I expect that NSC will send out formal notification/agenda/read-aheads soon, but wanted to give you a heads up. Once we receive the details, we can meet at your convenience to prepare for the DC meeting.

Shaw, Aloma A

Subject:	Updated: Lunch/[redacted]
Location:	Caucus Room
Start:	Wednesday, September 7, 2005 12:30 PM
End:	Wednesday, September 7, 2005 2:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Battle, Michael (USAEO); Mercer, Bill (ODAG); McIntosh, Brent

When: Wednesday, September 07, 2005 12:30 PM-2:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Caucus Room

~~*~*~*~*~*~*~*~*~*

Addition of Brent McIntosh (OLP)

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 6, 2005 9:16 AM
To: Freeman, Sharee
Cc: Reyes, Luis (SMO)
Subject: FW: CRS deployment

Sharee - Is there anything further you'd like from this office by way of support or assistance in communicating with FEMA? If so, don't hesitate to let us know. NMG

-----Original Message-----
From: Thom, Stephen
Sent: Tuesday, September 06, 2005 12:02 AM
To: [redacted]@dhs.gov
Cc: Freeman, Sharee; Reyes, Luis (SMO); Gorsuch, Neil M
Subject: CRS deployment

[redacted]

Director Freeman and I understand from what you said this evening on the phone that we have currently been cleared for 5 CRS employees to infuse in the FEMA deployment process. Thomas Battles who is the Regional Director (RD) for 8 southern states is our liaison for Mississippi and will attend the FEMA training in Atlanta and one addition CRS person Grace Sage, who is [redacted], will also attend, since that complies with FEMA's initial request of us to make sure our Mississippi team included someone with a [redacted] background. RD Battles is still working on housing for both of them and additional staff. After training, they will move to Jackson, Mississippi.

We are sending Carmelita Freeman, who is the Regional Director in Dallas, which includes responsibility for Louisiana, to Baton Rouge as the liaison for Louisiana. She already has comfortable housing in Baton Rouge for her and Walter Atkinson who will be joining her. They will also go to Atlanta for the required FEMA training.

FEMA has cleared 5 CRS staff members, but the Housing Task Force is not yet developed, according to Mary. We are offering to you our services to help put that task force in place for FEMA given our experience in assisting in the resettlement of South Asians throughout the United States and the Cuban/Haitian resettlement in Florida. Since the task force is not in place, we will use one of our 5 slots on the trainers described below.

Tony Russell discussed with us and Mary, and we understood it was a green light that CRS was needed and would provide a 45 minute cultural competency training program in Atlanta for preparation in deploying some 4,000 Forest Service employees. We have sent two trainers, Rosa Salamanca and Patricia Glenn.

We discussed with Mary and Tony an amendment and sent language for 2 trainers. That is where Mary left off and turned this matter over to you. Tony, experienced with CRS work, said that he anticipated infusing all 18 of our CRS team as soon as possible.

It is our understanding, per your request, that we will coordinate our activities, through your field staff, [redacted] and [redacted] and they will advise you.

However, we await your further guidance, regarding the FEMA clearance of additional CRS staff. We are in the process of securing housing for our people and have our staff on standby. We seek a decision on the deployment of the additional CRS staff and whether we should move forward in this regard.

Monheim, Thomas

From: Monheim, Thomas
Sent: Tuesday, September 6, 2005 9:17 AM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

It's currently scheduled for 11:15 - 12:00 EDT. I'll check on how firm that time is.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 8:08 AM
To: McCallum, Robert (SMO)
Cc: Monheim, Thomas
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

Will do. Your presence, while it'd be helpful, is not essential.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, September 05, 2005 5:58 PM
To: Gorsuch, Neil M
Cc: Monheim, Thomas
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

Let me know when the time is set. I have an annual physical exam that morning until about 11:30am and have put it off several times already. Need to get it done if at all possible. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 9:03 AM
To: McCallum, Robert (SMO)
Cc: Monheim, Thomas
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

I agree that your presence on the 13th would help induce some action. Tom kindly filled me in on the pcc meeting yesterday and I can share the slides they're preparing for the 13th with you when you have a chance.

-----Original Message-----
From: Monheim, Thomas
Sent: Thursday, September 01, 2005 8:50 PM
To: McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

FYI, the September 7 DC meeting will now apparently only address the "humane assurances" framework issue, and the Uighurs will be taken up at a September 13 DC meeting. This is obviously a moving target, so -- as you suggest -- we'll arrange prep sessions once they're set and we have the read-aheads, etc. Also, FYI, I don't think it's critical that you be the one to attend the September 7 meeting, but I do think it's important that you attend the September 13 meeting. Thanks.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, August 31, 2005 6:31 PM
To: Monheim, Thomas
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M

Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

Let me know when the time and place has been set in stone and then we can set up a prep for me. Robt.

-----Original Message-----
From: Monheim, Thomas
Sent: Wednesday, August 31, 2005 1:50 PM
To: McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

FYI, the DC has now been moved to Wednesday, September 7 (in place of the currently scheduled Afghanistan DC).

-----Original Message-----
From: Monheim, Thomas
Sent: Wednesday, August 31, 2005 6:26 AM
To: McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: Deputies Committee meeting on Tues, Sep 6, 1115-1200

FYI, there will likely be a Deputies Committee meeting on Tuesday, September 6, from 11:15 - 12:00 to discuss detainee issues, including options for the Uighurs and a proposed framework for obtaining "humane assurances" from other countries. I expect that NSC will send out formal notification/agenda/read-aheads soon, but wanted to give you a heads up. Once we receive the details, we can meet at your convenience to prepare for the DC meeting.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 6, 2005 9:20 AM
To: Monheim, Thomas; McCallum, Robert (SMO)
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

If we could get it pushed back until after lunch, that would be ideal.

-----Original Message-----
From: Monheim, Thomas
Sent: Tuesday, September 06, 2005 9:17 AM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

It's currently scheduled for 11:15 - 12:00 EDT. I'll check on how firm that time is.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 8:08 AM
To: McCallum, Robert (SMO)
Cc: Monheim, Thomas
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

Will do. Your presence, while it'd be helpful, is not essential.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, September 05, 2005 5:58 PM
To: Gorsuch, Neil M
Cc: Monheim, Thomas
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

Let me know when the time is set. I have an annual physical exam that morning until about 11:30am and have put it off several times already. Need to get it done if at all possible. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 9:03 AM
To: McCallum, Robert (SMO)
Cc: Monheim, Thomas
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

I agree that your presence on the 13th would help induce some action. Tom kindly filled me in on the pcc meeting yesterday and I can share the slides they're preparing for the 13th with you when you have a chance.

-----Original Message-----
From: Monheim, Thomas
Sent: Thursday, September 01, 2005 8:50 PM
To: McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

FYI, the September 7 DC meeting will now apparently only address the "humane assurances" framework issue, and the Uighurs will be taken up at a September 13 DC meeting. This is obviously a moving target, so -- as you suggest -- we'll arrange prep sessions once they're set and we have the read-aheads,

etc. Also, FYI, I don't think it's critical that you be the one to attend the September 7 meeting, but I do think it's important that you attend the September 13 meeting. Thanks.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, August 31, 2005 6:31 PM
To: Monheim, Thomas
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

Let me know when the time and place has been set in stone and then we can set up a prep for me. Robt.

-----Original Message-----
From: Monheim, Thomas
Sent: Wednesday, August 31, 2005 1:50 PM
To: McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Deputies Committee meeting on Tues, Sep 6, 1115-1200

FYI, the DC has now been moved to Wednesday, September 7 (in place of the currently scheduled Afghanistan DC).

-----Original Message-----
From: Monheim, Thomas
Sent: Wednesday, August 31, 2005 6:26 AM
To: McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M
Subject: Deputies Committee meeting on Tues, Sep 6, 1115-1200

FYI, there will likely be a Deputies Committee meeting on Tuesday, September 6, from 11:15 - 12:00 to discuss detainee issues, including options for the Uighurs and a proposed framework for obtaining "humane assurances" from other countries. I expect that NSC will send out formal notification/agenda/read-aheads soon, but wanted to give you a heads up. Once we receive the details, we can meet at your convenience to prepare for the DC meeting.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, September 06, 2005 9:32 AM
To: Gorsuch, Neil M
Subject: FW: LCMS briefing / Associate AG
Attachments: LCMS OASG Briefing 23Aug05.ppt

Neil, hope you had a good Labor Day sir. We started to talk about this last week. For some reason the CIO office has assumed that I will sit on the steering committee for this. I am inclined to disabuse them of that notion as I fear it would not be fearful for me to get involved only to shift this over to someone else within the month or so. Robert and I had discussed having you on the committee. If not, maybe Lily or Jeff Senger? Attached is the PP that CIO used to brief Robert last week. Let me know your thoughts on the member of the committee from ASG and I will let CIO know. Mainly our function will be to stay in the loop and when the time comes for a policy call, to weigh in.

-----Original Message-----
From: Roe, Price (OCIO)
Sent: Friday, September 02, 2005 9:12 PM
To: King, Thomas (ATR); Young, Joseph E. (TAX); Bruffy, Robert (ENRD); Zwick, Ken (CIV); Greene, DeDe (CRT); Johnson, Paul; Parent, Steve (USAEO); Sanford, Lew (USAEO); Burton, Dawn (ODAG); Reyes, Luis (SMO)
Cc: Hitch, Vance (OCIO); Carey, Christopher M; Derr, Thomas R; Moeller, Dereck J
Subject: LCMS briefing / Associate AG

LCMS Steering Committee members,

Attached is the LCMS briefing deck presented last week by Van Hitch to Associate Attorney General McCallum. The briefing went well, and as a result, the Associate's office has designated Luis Reyes as OASG's representative on the LCMS Executive Steering Committee.

As LCMS moves closer to issuing an RFP (November 05) and awarding a contract (March 06), we look forward to working with all of you to ensure the project continues on its successful path. The Steering Committee will play an important role in addressing and resolving policy and change management issues that emerge as part of Task Force planning efforts.

The next meeting is Wednesday, October 5.

Price Roe
Senior Policy Advisor
Office of the CIO
U.S. Department of Justice
price.roe@usdoj.gov
202-616-9708

USA PATRIOT Act - Get the facts:
www.lifeandliberty.gov/subs/u_myths.htm

Litigation Case Management System (LCMS)

Litigation Case Management at DOJ

Briefing for the Office of the Associate Attorney General

August 23, 2005

Vance E. Hitch
Chief Information Officer

THE PROBLEM

Instead of operating as an efficient, unified law firm, DOJ litigating components are disconnected entities that operate expensive, redundant information technology (IT) systems. These IT silos cause:

- Barriers to information sharing
- Lack of management transparency and accountability
- Inefficient and weak executive reporting abilities
- Wasted taxpayer dollars and DOJ resources

DOJ spends millions each year supporting 7 separate core litigation case management (CM) systems. 5 of 7 litigating components were independently planning new case management systems.

Litigation CM - Current State Summary

	Current Capabilities by Component						
Opportunities	**EOUSA**	**ATR**	**CRM**	**CIV**	**CRT**	**ENRD**	**TAX**
Core CM System	**LIONS** (custom)	**MTS** (custom)	**CCTS/ ACTS** (custom)	**CASES** (LawPack)	**ICM** (LawPack)	**CMS** (LawPack)	**TaxDocs** (custom)
Number of Users	10,000	850	235	1,140	671	600	525
Document Management	N/A	iManage	DocuShare	N/A	N/A	Power Docs	iManage
Records Management (case files only)	Custom developed	Custom developed	Custom developed	LawPack	LawPack	LawPack	Custom developed
Time Reporting	N/A	Custom developed	N/A	ACMI	Custom developed	LawPack	Custom developed
Core CM Data Dictionary	*Unique data schema in each component*						
Common Case ID	*Unique case identifiers used by each component*						
Standard Case Definitions	*Different definitions of "what is a case?" vs. a matter across components*						
Data Interface Standards	*Limited automated data interfaces between components*						
Enterprise Data Warehouse	*Stand-alone databases in each component*						
Standard CM Reporting	*Case management reporting varies by component*						
Performance Management Standards	*Varied performance management standards across components*						
Technical Architecture	Oracle 8, Windows NT v4.0	Oracle, Unix	Oracle, Unix	SQL Server 7, Windows NT	Oracle 8.1, Solaris	SQL Server 2000, Windows	Oracle 8.0, Windows

Impetus for Change – OMB and OAG

OMB launched the **"Lines of Business"** initiative in FY04 to identify functional areas of duplicative IT spending. Case Management was identified, and DOJ designated as the lead agency for a common solution.

Attorney General Ashcroft, FY 2006 Budget Guidance:

"The Department's Chief Information Officer (CIO) is leading the e-government initiative on case management for the President's Management Agenda as the Department of Justice is to be the leader of this transformation. I am directing the investigating, litigating, and appropriate administrative components to work with the Justice Management Division to drive toward a common enterprise solution to case management, and you should include the appropriate request. **Duplicative, stove-piped systems will give way to a solution that shares information efficiently and seamlessly, within and between components and partners.**" (April 26, 2004)

The Path Behind DOJ



Richard Thornburg
U.S. Attorney General
1988-1991

First significant attempt to streamline DOJ case management occurred during the Savings & Loan crisis in the late 1980s.

Subsequent efforts have been attempted, all have failed.

Why LCMS will succeed:

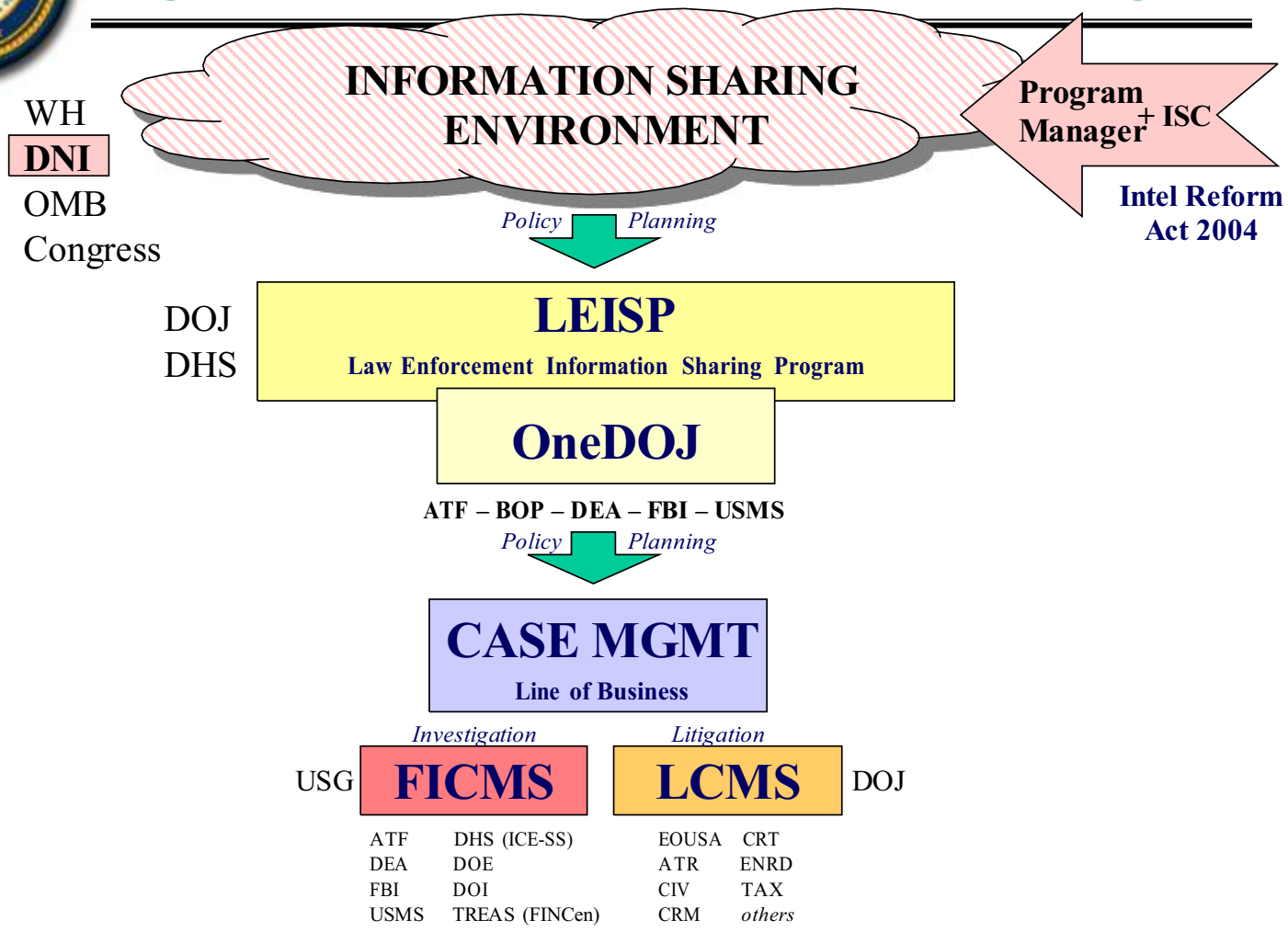
- Ground-up approach (component buy-in)
- Respect component needs/requirements but build Departmentally
- Philosophy: "Less is more"
- Burning platform (immediate IT needs)

THE SOLUTION

The **Litigation Case Management System (LCMS)** will move DOJ from the current, inefficient model to a common solution platform that promotes information sharing across organizations and saves taxpayer dollars.

Today		Tomorrow (2007+)
7 separate CM systems, independently operated and maintained	→	Single solution that meets both common and specialized CM requirements
Manual referral of matters/cases to USAOs & duplicative data entry	→	Automated referral process
Limited ability to share information & track cases across components	→	"Virtual" matter/case database to facilitate information sharing
Inefficient Dept-level case reporting from disparate data sources	→	Rationalized, timely reporting from a single data source

Big Picture: CM and Information Sharing



LCMS Program Governance

DAG

AGAC

Office of the Associate AG

- ATR
- CIV
- CRT
- ENRD
- TAX

EOUSA

Dir. Mike Battle

* Dir. Battle to designate

CRM

USAs*

Exec Steering Committee

Van Hitch (CIO) – Co-Chair
Steve Parent (EOUSA) – Co-Chair
Dawn Burton (ODAG)
to de determined **(OASG)**
Executive Officers (litigation components)

Case Management Line of Business

Price Roe (OCIO)
LCMS & FICMS

EOUSA Implementation

Lew Sanford, CIO EOUSA

Project Mgmt Office

Chris Carey (OCIO)

LCMS Task Force

- ATR
- CIV
- CRM
- CRT
- ENRD
- EOUSA
- TAX

Technical Review Advisory Board

Lew Sanford, CIO EOUSA

DOJ_NMG_ 0146636

Program Budget

LCMS Budget Plan (FY05-10)

Year	Project Phase	Budget
FY05	Planning	$2.5 mm
FY06	Acquisition	$6.5 mm
FY07	USAO Implementation	$12.3 mm
FY08-10	Lit Division Implementations	$38.0 mm
TOTAL		**$59.3 mm**

DOJ_NMG_ 0146637

Program Milestones

Accomplished

✓	APR 2004	"As-Is" assessment of DOJ litigation case management
✓	AUG 2004	Executive Steering Committee established
✓	OCT 2004	Task Force established
✓	JAN 2005	Contractor support for requirements and acquisition
✓	FEB 2005	Project Management Office established
✓	APR 2005	Conducted RFI (*request for information*) to Industry
✓	JUN 2005	Market Research Analysis complete
✓	JUL 2005	LCMS Requirements completed
✓	AUG 2005	Draft RFP (*request for proposal*) released

Planned Completion

OCT 2005	Release RFP
NOV 2005	Vendor proposals due
JAN 2006	Proposal evaluations
MAR 2006	Award contract (software & implementation)
FY 2007	Implement US Attorneys Offices
FY 2008-10	Implement ATR, CIV, CRM, CRT, ENRD, TAX

Project Scope

LCMS Phase 1

- A common "core" case management system for the 94 U.S. Attorneys Offices and the 6 major DOJ litigating divisions (ATR, CIV, CRM, CRT, ENRD, TAX).
- LCMS will capture, manage, and report the litigation case management information needed by supervisors and managers to manage workload, monitor performance, report time spent, and meet reporting requirements.
- Phase 1 of LCMS will not be a "total solution." LCMS will take a **phased approach**.
  - Success for Phase 1 is defined as migrating existing functionality to a common case management platform.
  - The common solution sets the stage for future success, e.g., automated data interfaces with US Courts, additional attorney tools, etc.

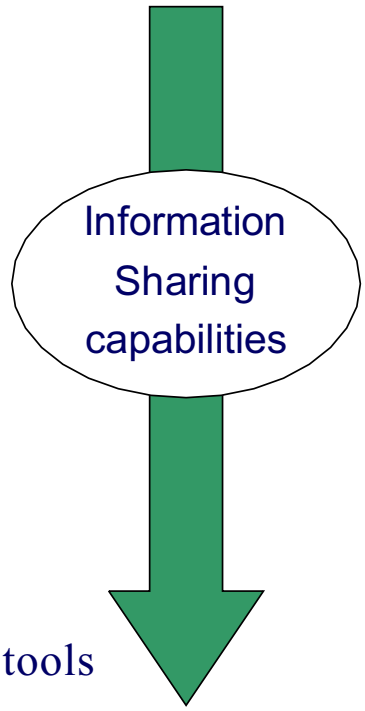
DOJ_NMG_ 0146639

Functional Impact

Version 1.0 ("Core") – 2007-2010

Move existing functionality to a common system:

- Matter/case tracking
- Management reporting
- Time reporting



Version 2.0 ("Enhanced") – 2010+*

- Document management
- Electronic records management
- Data exchange with U.S. Courts
- Integration with Automated Litigation Support (ALS) tools

* Note: These enhancements could be integrated earlier with adequate funding

OAAG Leadership Needed on Policy Issues

Standard definition of "case" vs. "matter"

- Most components consider a matter a case when it is filed in Court
- ENRD and TAX have different case definitions

Standardized case/matter categories

- No common definition for case categories (each component defines their own)
- e.g., counterterrorism

Standardized component performance metrics/reporting

- Standard metrics needed across components to facilitate efficient resource allocation and executive reporting
- e.g., standard definition of a "favorable outcome"

Information Sharing

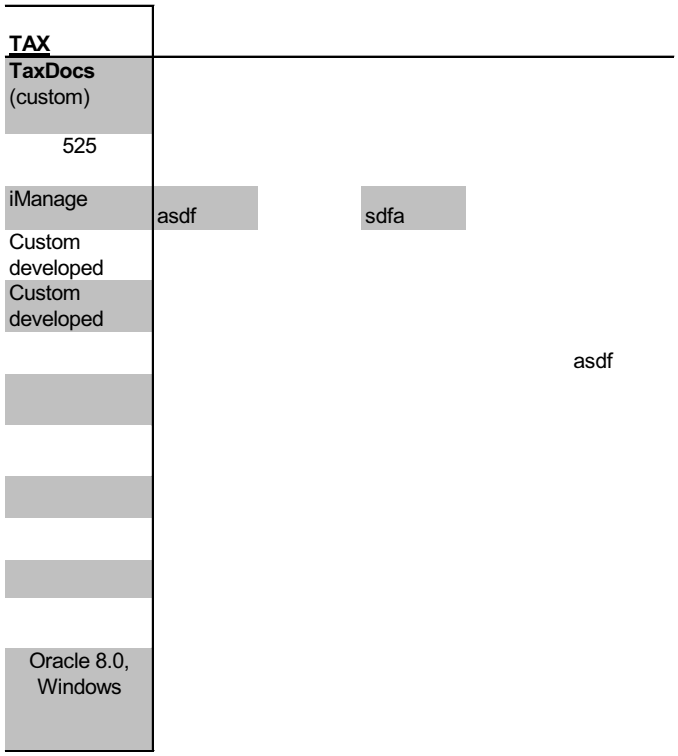
- Coordination with DOJ's Law Enforcement Information Sharing Program (LEISP)

Next Steps

- OASG representation on the LCMS Executive Steering Committee
- OASG leadership on policy issues, as needed

DOJ_NMG_ 0146642

	Current Capabilities by Component					
Opportunities	**EOUSA**	**ATR**	**CRM**	**CIV**	**CRT**	**ENRD**
Core CM System	**LIONS** (custom)	**MTS** (custom)	**CCTS/ ACTS** (custom)	**CASES** (LawPack)	**ICM** (LawPack)	**CMS** (LawPack)
Number of users	10,000	850	235	1,140	671	600
Document Management	N/A	iManage	DocuShare	N/A	N/A	Power Docs
Records Management (case files only)	Custom developed	Custom developed	Custom developed	LawPack	LawPack	LawPack
Time Reporting	N/A	Custom developed	N/A	ACMI	Custom developed	LawPack
Core CM Data Dictionary	*Unique data schema in each component*					
Common Case ID	*Unique case identifiers used by each component*					
Standard Case Definitions	*Different definitions of "what is a case?" vs. a matter across components*					
Data Interface Standards	*Limited automated data interfaces between components*					
Enterprise Data Warehouse	*Stand-alone databases in each component*					
Standard CM Reporting	*Case management reporting varies by component*					
Performance Management Standards	*Varied performance management standards across components*					
Technical Architecture	Oracle 8, Windows NT v4.0	Oracle, Unix	Oracle, Unix	SQL Server 7, Windows NT	Oracle 8.1, Solaris	SQL Server 2000, Windows


TAX
TaxDocs
(custom)
525
iManage
asdf
sdfa
Custom
developed
Custom
developed
asdf
Oracle 8.0,
Windows

	Current Capabilities by Component						
Opportunities	**EOUSA**	**ATR**	**CRM**	**CIV**	**CRT**	**ENRD**	**TAX**
Core CM System	LIONS - Custom developed	MTS- Custom developed	CCTS/ACTS- Custom developed	CASES - based on LawPack	ICM- based on LawPack	CMS- based on LawPack	TaxDocs- Custom developed
Number of Users							
Document Management	N/A	iManage	DocuShare	N/A	N/A	Power Docs	iManage
Records Management (case files only)	Custom developed	Custom developed	Custom developed	LawPack	LawPack	LawPack	Custom developed
Time Reporting	N/A	Custom developed	N/A	ACMI	Custom developed	LawPack	Custom developed
Core CM Data Dictionary	*Unique Data Schema in each Division*						
Common Case ID	*Unique case identifiers used by each component*						
Standard Case Definitions	*Different definitions of "what is a case?" vs. a matter across components*						
Data Interface Standards	*Limited automated data interfaces between components*						
Enterprise Data Warehouse	*Stand-alone databases in each component*						
Standard CM Reporting	*Case management reporting varies by component*						
Performance Management Standards	*Varied performance management standards across components*						
Technical Architecture	Oracle 8, Windows NT v4.0	Oracle, Unix	Oracle, Unix	SQL Server 7, Windows NT	Oracle 8.1, Solaris	SQL Server 2000, Windows	Oracle 8.0, Windows

sdfa

asdf

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 9:36 AM
To: Reyes, Luis (SMO)
Subject: RE: LCMS briefing / Associate AG

I am happy to do this, but wonder whether Lily would enjoy handling this and whether her litigation background would bring a useful perspective to the discussion. What do you think?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, September 06, 2005 9:32 AM
To: Gorsuch, Neil M
Subject: FW: LCMS briefing / Associate AG

Neil, hope you had a good Labor Day sir. We started to talk about this last week. For some reason the CIO office has assumed that I will sit on the steering committee for this. I am inclined to disabuse them of that notion as I fear it would not be fearful for me to get involved only to shift this over to someone else within the month or so. Robert and I had discussed having you on the committee. If not, maybe Lily or Jeff Senger? Attached is the PP that CIO used to brief Robert last week. Let me know your thoughts on the member of the committee from ASG and I will let CIO know. Mainly our function will be to stay in the loop and when the time comes for a policy call, to weigh in.

-----Original Message-----
From: Roe, Price (OCIO)
Sent: Friday, September 02, 2005 9:12 PM
To: King, Thomas (ATR); Young, Joseph E. (TAX); Bruffy, Robert (ENRD); Zwick, Ken (CIV); Greene, DeDe (CRT); Johnson, Paul; Parent, Steve (USAEO); Sanford, Lew (USAEO); Burton, Dawn (ODAG); Reyes, Luis (SMO)
Cc: Hitch, Vance (OCIO); Carey, Christopher M; Derr, Thomas R; Moeller, Dereck J
Subject: LCMS briefing / Associate AG

LCMS Steering Committee members,

Attached is the LCMS briefing deck presented last week by Van Hitch to Associate Attorney General McCallum. The briefing went well, and as a result, the Associate's office has designated Luis Reyes as OASG's representative on the LCMS Executive Steering Committee.

As LCMS moves closer to issuing an RFP (November 05) and awarding a contract (March 06), we look forward to working with all of you to ensure the project continues on its successful path. The Steering Committee will play an important role in addressing and resolving policy and change management issues that emerge as part of Task Force planning efforts.

The next meeting is Wednesday, October 5.

Price Roe
Senior Policy Advisor
Office of the CIO
U.S. Department of Justice
price.roe@usdoj.gov
202-616-9708

USA PATRIOT Act - Get the facts:

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, September 06, 2005 9:40 AM
To: Gorsuch, Neil M
Subject: Re: LCMS briefing / Associate AG

I think it fits. Would add to her peripherally related role as Web mistress. I think we make that rec to Robert if you are good with it.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 09:35:52 2005
Subject: RE: LCMS briefing / Associate AG

I am happy to do this, but wonder whether Lily would enjoy handling this and whether her litigation background would bring a useful perspective to the discussion. What do you think?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, September 06, 2005 9:32 AM
To: Gorsuch, Neil M
Subject: FW: LCMS briefing / Associate AG

Neil, hope you had a good Labor Day sir. We started to talk about this last week. For some reason the CIO office has assumed that I will sit on the steering committee for this. I am inclined to disabuse them of that notion as I fear it would not be fearful for me to get involved only to shift this over to someone else within the month or so. Robert and I had discussed having you on the committee. If not, maybe Lily or Jeff Senger? Attached is the PP that CIO used to brief Robert last week. Let me know your thoughts on the member of the committee from ASG and I will let CIO know. Mainly our function will be to stay in the loop and when the time comes for a policy call, to weigh in.

-----Original Message-----
From: Roe, Price (OCIO)
Sent: Friday, September 02, 2005 9:12 PM
To: King, Thomas (ATR); Young, Joseph E. (TAX); Bruffy, Robert (ENRD); Zwick, Ken (CIV); Greene, DeDe (CRT); Johnson, Paul; Parent, Steve (USAEO); Sanford, Lew (USAEO); Burton, Dawn (ODAG); Reyes, Luis (SMO)
Cc: Hitch, Vance (OCIO); Carey, Christopher M; Derr, Thomas R; Moeller, Dereck J
Subject: LCMS briefing / Associate AG

LCMS Steering Committee members

LCMS Steering Committee members,

Attached is the LCMS briefing deck presented last week by Van Hitch to Associate Attorney General McCallum. The briefing went well, and as a result, the Associate's office has designated Luis Reyes as OASG's representative on the LCMS Executive Steering Committee.

As LCMS moves closer to issuing an RFP (November 05) and awarding a contract (March 06), we look forward to working with all of you to ensure the project continues on its successful path. The Steering Committee will play an important role in addressing and resolving policy and change management issues that emerge as part of Task Force planning efforts.

The next meeting is Wednesday, October 5.

Price Roe
Senior Policy Advisor
Office of the CIO
U.S. Department of Justice
price.roe@usdoj.gov
202-616-9708

USA PATRIOT Act - Get the facts:
www.lifeandliberty.gov/subs/u_myths.htm

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Tuesday, September 06, 2005 9:56 AM
To: Scolinos, Tasia; Roehrkasse, Brian
Cc: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: website-Katrina

I know you guys are always busy, however, unless I missed it, the Department has no information regarding Katrina on its website. Have you considered putting the information pertaining to OJP/NCMEC's Katrina Missing Persons Hotline on it? The Hotline went live yesterday.

Tracy

McCallum, Robert (SMO)

From:	McCallum, Robert (SMO)
Sent:	Tuesday, September 6, 2005 10:15 AM
To:	Reyes, Luis (SMO)
Cc:	Gorsuch, Neil M
Subject:	RE: Case Management Steering Committee --OASG Rep

Lily gets the nod. Robt.
-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, September 06, 2005 10:00 AM
To: McCallum, Robert (SMO)
Subject: Case Management Steering Committee --OASG Rep

Robert, [redacted] Neil and I have kicked this around and have come to the conclusion the Lily would serve well as the OASG rep for this steering committee. She knows the folks in CIO and is already involved in some peripherally related matters (i.e. her role is web mistress). Her involvement would be to remain in the loop as things develop and weigh in when it comes time to deliberate on policy issues that arise. Alternatively, Neil would serve.
-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, September 06, 2005 9:32 AM
To: Gorsuch, Neil M
Subject: FW: LCMS briefing / Associate AG

Neil, hope you had a good Labor Day sir. We started to talk about this last week. For some reason the CIO office has assumed that I will sit on the steering committee for this. I am inclined to disabuse them of that notion as I fear it would not be fearful for me to get involved only to shift this over to someone else within the month or so. Robert and I had discussed having you on the committee. If not, maybe Lily or Jeff Senger? Attached is the PP that CIO used to brief Robert last week. Let me know your thoughts on the member of the committee from ASG and I will let CIO know. Mainly our function will be to stay in the loop and when the time comes for a policy call, to weigh in.

-----Original Message-----
From: Roe, Price (OCIO)
Sent: Friday, September 02, 2005 9:12 PM
To: King, Thomas (ATR); Young, Joseph E. (TAX); Bruffy, Robert (ENRD); Zwick, Ken (CIV); Greene, DeDe (CRT); Johnson, Paul; Parent, Steve (USAEO); Sanford, Lew (USAEO); Burton, Dawn (ODAG); Reyes, Luis (SMO)
Cc: Hitch, Vance (OCIO); Carey, Christopher M; Derr, Thomas R; Moeller, Dereck J
Subject: LCMS briefing / Associate AG

LCMS Steering Committee members,

Attached is the LCMS briefing deck presented last week by Van Hitch to Associate Attorney General McCallum. The briefing went well, and as a result, the Associate's office has designated Luis Reyes as OASG's representative on the LCMS Executive Steering Committee.

As LCMS moves closer to issuing an RFP (November 05) and awarding a contract (March 06), we look forward to working with all of you to ensure the project continues on its successful path. The Steering Committee will play an important role in addressing and resolving policy and change management issues that emerge as part of Task Force planning efforts.

The next meeting is Wednesday, October 5.

Price Roe
Senior Policy Advisor
Office of the CIO
U.S. Department of Justice
price.roe@usdoj.gov
202-616-9708

USA PATRIOT Act - Get the facts:
www.lifeandliberty.gov/subs/u_myths.htm

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, September 6, 2005 10:21 AM
To: Swenson, Lily F
Cc: Gorsuch, Neil M
Subject: FW: Case Management Steering Committee --OASG Rep

Lily, as we spoke, you are it. I will let CIO know and forward to you the relevant background docs.
-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, September 06, 2005 10:15 AM
To: Reyes, Luis (SMO)
Cc: Gorsuch, Neil M
Subject: RE: Case Management Steering Committee --OASG Rep

Lily gets the nod. Robt.
-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, September 06, 2005 10:00 AM
To: McCallum, Robert (SMO)
Subject: Case Management Steering Committee --OASG Rep

Robert, [redacted] Neil and I have kicked this around and have come to the conclusion the Lily would serve well as the OASG rep for this steering committee. She knows the folks in CIO and is already involved in some peripherally related matters (i.e. her role is web mistress). Her involvement would be to remain in the loop as things develop and weigh in when it comes time to deliberate on policy issues that arise. Alternatively, Neil would serve.
-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, September 06, 2005 9:32 AM
To: Gorsuch, Neil M
Subject: FW: LCMS briefing / Associate AG

Neil, hope you had a good Labor Day sir. We started to talk about this last week. For some reason the CIO office has assumed that I will sit on the steering committee for this. I am inclined to disabuse them of that notion as I fear it would not be fearful for me to get involved only to shift this over to someone else within the month or so. Robert and I had discussed having you on the committee. If not, maybe Lily or Jeff Senger? Attached is the PP that CIO used to brief Robert last week. Let me know your thoughts on the member of the committee from ASG and I will let CIO know. Mainly our function will be to stay in the loop and when the time comes for a policy call, to weigh in.

-----Original Message-----
From: Roe, Price (OCIO)
Sent: Friday, September 02, 2005 9:12 PM
To: King, Thomas (ATR); Young, Joseph E. (TAX); Bruffy, Robert (ENRD); Zwick, Ken (CIV); Greene, DeDe (CRT); Johnson, Paul; Parent, Steve (USAEO); Sanford, Lew (USAEO); Burton, Dawn (ODAG); Reyes, Luis (SMO)
Cc: Hitch, Vance (OCIO); Carey, Christopher M; Derr, Thomas R; Moeller, Dereck J
Subject: LCMS briefing / Associate AG

LCMS Steering Committee members,

Attached is the LCMS briefing deck presented last week by Van Hitch to Associate Attorney General McCallum. The briefing went well, and as a result, the Associate's office has designated Luis Reyes as OASG's representative on the LCMS Executive Steering Committee.

As LCMS moves closer to issuing an RFP (November 05) and awarding a contract (March 06), we look forward to working with all of you to ensure the project continues on its successful path. The Steering Committee will play an important role in addressing and resolving policy and change management issues that emerge as part of Task Force planning efforts.

The next meeting is Wednesday, October 5.

Price Roe
Senior Policy Advisor
Office of the CIO
U.S. Department of Justice
price.roe@usdoj.gov
202-616-9708

USA PATRIOT Act - Get the facts:
www.lifeandliberty.gov/subs/u_myths.htm

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Tuesday, September 6, 2005 10:30 AM
To: Metcalfe, Daniel J
Cc: Reyes, Luis (SMO); Swenson, Lily F; Gorsuch, Neil M
Subject: Dick's Retirement/ OIP Posting Opening
Importance: High

Dan: I just got back from vacation and am swamped with various matters. I understand from Luis that you approached Robert last week about posting a proposed new position/ opening. Please hold off on posting anything until you hear back from our office that it is okay to do so. Thanks. - Liz

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Tuesday, September 06, 2005 10:41 AM
Subject: JCON BROADCAST, WEEK OF SEPTEMBER 5, 2005

JCON BROADCAST, WEEK OF SEPTEMBER 5, 2005

1. **National Hispanic Heritage Month 2005 Celebration**
2. **Status of U.S. Postal Service (USPS) Operations in the South**
3. **Temporary Closure of the 10th Street Entrance of the RFK MAIN Justice Building**
4. **Information for Employees in the Military**
5. **Library Staff Training**
6. **Drug-Free Workplace Supervisory Training**
7. **Free Diabetic and Skin Screenings**

National Hispanic Heritage Month 2005 Celebration
"Hispanic Americans: Strong and Colorful Threads in the American Fabric"

September 15 - October 15 is annually designated by Presidential Proclamation as "National Hispanic Heritage Month." This commemoration was established to honor and recognize the cultural and historical contributions of Hispanic Americans to our country.

The Department of Justice will present its commemorative program in observance of National Hispanic Heritage Month **11:00 a.m. to 12:00 noon, Wednesday, September 14, 2005**, in the Great Hall of the Robert F. Kennedy MAIN Building. Speakers include Alberto Gonzales, Attorney General; Robert Flores, Administrator, OJJDP, Office of Justice Programs; Jennifer Sevilla Korn, Deputy Director, Office of Intergovernmental and Public Liaison; and Michael Battle, Director, Executive Office for U.S. Attorneys. The program will feature music performances by Christina Perez and Starr Acosta, recent talent show contestants of the Greater Washington Hispanic Youth Symposium. A sign language interpreter and assistive listening devices will be available. Managers are encouraged to grant employees in the Washington Metropolitan Area reasonable official time to participate. An ethnic food sampling will follow the program.

Status of U.S. Postal Service (USPS) Operations in the South

Due to significant network disruption and catastrophic damage, Express Mail sales have been suspended to certain areas of Louisiana, Mississippi and Alabama. USPS also announced that, effective immediately, it is not accepting any Standard Mail or Periodicals Mail – from any source – addressed for delivery within these three-digit ZIP Code ranges: 369, 393, 394, 395,

396, 700 and 701. This emergency action has been taken as a result of severe facility damage, evacuations and other issues associated with Hurricane Katrina. USPS is now formulating plans to address the handling of Standard and Periodicals Mail already in the mail stream and addressed for delivery to these seven ZIP Code areas.

Temporary Closure of the 10th Street Entrance of the RFK MAIN Justice Building

During the upcoming restoration of the exterior ornamental gates at the 10th street entrance, both the vehicular and pedestrian entrances will be closed for one week. Beginning at 6:00 p.m., Friday, September 9 through 6:00 a.m., Monday, September 19, the entrances will be closed. In addition, both the north and south revolving doors along the 1200 corridor exiting into the portico from the corridor will also be closed to pedestrian traffic during this same time period. Please use the exterior doors by elevator lobbies 4 and 5 to cross the courtyard to go to the other side of the building. Foot traffic will be prohibited in the portico. During this period, the 9th street entrance will be open for both vehicular and pedestrian traffic.

In addition, the Attorney General's ramp on 10th street near Constitution Avenue will be open from 6:00 a.m. to 6:00 p.m. beginning Monday, September 12 through Friday, September 16 for delivery vehicles that normally access the RFK MAIN Justice Building via the 9th street vehicular entrance.

Information for Employees in the Military

Service Member's Group Life Insurance (SGLI):
Both active duty and Reserve components eligible for SGLI will be automatically insured for $400,000 as of September 1, 2005. The amount of coverage available has also increased from $10,000 to $50,000. The monthly premium, however, will remain the same, $3.25 per $50,000 of coverage. Full coverage, based on this formula, will cost $26 per month. Service members can reduce or decline SGLI by filling out an SGLV-8286 form. The revised form is available at http://www.insurance.va.gov/sgliSite/forms/forms.htm. For more information, please visit the Department of Veterans Affairs life insurance web page at http://www.insurance.va.gov .

TRICARE:
Effective September 1, 2005, the Extended Care Health Option (ECHO) will replace the existing Program for Persons with Disabilities. ECHO will continue to:

1. Financially assist active duty family members who have a qualifying condition as defined by law; and

2. Offer an integrated set of services and supplies that supplement the basic TRICARE program options – TRICARE Prime, TRICARE Standard and TRICARE Extra.

ECHO requires all eligible dependents to enroll in the Exceptional Family Member Program, available through any branch of the service, and register with their regional contractor to obtain ECHO benefit authorization. For more information on ECHO, please visit http://www.tricare.osd.mil/echo/default.cfm .

Library Staff Training

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are open to all DOJ staff. Please see the current class list at: http://10.173.2.12/jmd/lib/training/currentclasses.htm

Drug-Free Workplace Supervisory Training

The Employee Assistance Program has scheduled a series of presentations addressing the Department's Drug-Free Workplace Program (DFWP) and the manager's role in maintaining a drug-free work environment. The presentation is 1.5 hours in length and the date and times for the presentations are noted below. Interested managers and supervisors that would like to attend the program can notify us by fax at (202) 514-8797. Please include which session you wish to attend, your name and your work phone number. For additional information, you may contact Ted Schwartz, Workforce Support Group, at (202) 514-1846.

DFWP Training Sessions

Date	Time	Location
September 15	2:00-3:30 p.m.	Room 1160, National Place Building

Free Diabetic and Skin Screenings

The following health units are offering a ***free*** diabetic and/or skin screening for Department of Justice employees during the month of September. If you are interested, contact the health unit for an appointment because screenings will not be available every day, at all locations. For the diabetic screening, the health professional will need to provide you information in advance, for you to prepare for the screening.

Patrick Henry Building
Room LL 102
Call: (202) 353-9738

Judiciary Center Building
Room 1B - 816
Call (202) 307-0014

RFK Main Health Unit
Room 1420
Call (202) 514-3107

1301 New York Avenue
Room LL 12
Call (202) 616-3296

Check the Intranet, DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

Freeman, Sharee

From: Freeman, Sharee
Sent: Tuesday, September 06, 2005 10:42 AM
To: Gorsuch, Neil M
Cc: Reyes, Luis (SMO)
Subject: RE: CRS deployment

I need someone to contact FEMA and explain what CRS does, there is a view that we do what their equal rights – EEO, Title 6 office does. This is just odd to me. I need someone in FEMA to clear 18 CRS folks for deployment with the appropriate FEMA paperwork to support us. I need someone to make a decision whether CRS can take a major role or the lead in assisting in setting up the Housing Task Force that will work on resettling evacuees. I need some in FEMA to listen to Tony Russell in FEMA in Atlanta, who understands CRS' role.

From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 9:16 AM
To: Freeman, Sharee
Cc: Reyes, Luis (SMO)
Subject: FW: CRS deployment

Sharee - Is there anything further you'd like from this office by way of support or assistance in communicating with FEMA? If so, don't hesitate to let us know. NMG

-----Original Message-----
From: Thom, Stephen
Sent: Tuesday, September 06, 2005 12:02 AM
To: [redacted]dhs.gov
Cc: Freeman, Sharee; Reyes, Luis (SMO); Gorsuch, Neil M
Subject: CRS deployment

[redacted]

Director Freeman and I understand from what you said this evening on the phone that we have currently been cleared for 5 CRS employees to infuse in the FEMA deployment process. Thomas Battles who is the Regional Director (RD) for 8 southern states is our liaison for Mississippi and will attend the FEMA training in Atlanta and one addition CRS person Grace Sage, who is [redacted], will also attend, since that complies with FEMA's initial request of us to make sure our Mississippi team included someone with a [redacted] background. RD Battles is still working on

housing for both of them and additional staff. After training, they will move to Jackson, Mississippi.

We are sending Carmelita Freeman, who is the Regional Director in Dallas, which includes responsibility for Louisiana, to Baton Rouge as the liaison for Louisiana. She already has comfortable housing in Baton Rouge for her and Walter Atkinson who will be joining her. They will also go to Atlanta for the required FEMA training.

FEMA has cleared 5 CRS staff members, but the Housing Task Force is not yet developed, according to Mary. We are offering to you our services to help put that task force in place for FEMA given our experience in assisting in the resettlement of South Asians throughout the United States and the Cuban/Haitian resettlement in Florida. Since the task force is not in place, we will use one of our 5 slots on the trainers described below.

Tony Russell discussed with us and Mary, and we understood it was a green light that CRS was needed and would provide a 45 minute cultural competency training program in Atlanta for preparation in deploying some 4,000 Forest Service employees. We have sent two trainers, Rosa Salamanca and Patricia Glenn.

We discussed with Mary and Tony an amendment and sent language for 2 trainers. That is where Mary left off and turned this matter over to you. Tony, experienced with CRS work, said that he anticipated infusing all 18 of our CRS team as soon as possible.

It is our understanding, per your request, that we will coordinate our activities, through your field staff, [redacted] and [redacted] and they will advise you.

However, we await your further guidance, regarding the FEMA clearance of additional CRS staff. We are in the process of securing housing for our people and have our staff on standby. We seek a decision on the deployment of the additional CRS staff and whether we should move forward in this regard.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, September 6, 2005 11:07 AM
To: Freeman, Sharee; Gorsuch, Neil M
Subject: RE: CRS deployment

Have you heard back from [redacted], (in response from the email sent by Stephen Thom)?

-----Original Message-----
From: Freeman, Sharee
Sent: Tuesday, September 06, 2005 10:42 AM
To: Gorsuch, Neil M
Cc: Reyes, Luis (SMO)
Subject: RE: CRS deployment

I need someone to contact FEMA and explain what CRS does, there is a view that we do what their equal rights - EEO, Title 6 office does. This is just odd to me. I need someone in FEMA to clear 18 CRS folks for deployment with the appropriate FEMA paperwork to support us. I need someone to make a decision whether CRS can take a major role or the lead in assisting in setting up the Housing Task Force that will work on resettling evacuees. I need some in FEMA to listen to Tony Russell in FEMA in Atlanta, who understands CRS' role.

From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 9:16 AM
To: Freeman, Sharee
Cc: Reyes, Luis (SMO)
Subject: FW: CRS deployment

Sharee - Is there anything further you'd like from this office by way of support or assistance in communicating with FEMA? If so, don't hesitate to let us know. NMG

-----Original Message-----
From: Thom, Stephen
Sent: Tuesday, September 06, 2005 12:02 AM
To: [redacted]dhs.gov
Cc: Freeman, Sharee; Reyes, Luis (SMO); Gorsuch, Neil M
Subject: CRS deployment

[redacted]

Director Freeman and I understand from what you said this evening on the phone that we have currently been cleared for 5 CRS employees to infuse in the FEMA deployment process. Thomas Battles who is the Regional Director (RD) for 8 southern states is our liaison for Mississippi and will

attend the FEMA training in Atlanta and one addition CRS person Grace Sage, who is [redacted], will also attend, since that complies with FEMA's initial request of us to make sure our Mississippi team included someone with a [redacted] background. RD Battles is still working on housing for both of them and additional staff. After training, they will move to Jackson, Mississippi.

We are sending Carmelita Freeman, who is the Regional Director in Dallas, which includes responsibility for Louisiana, to Baton Rouge as the liaison for Louisiana. She already has comfortable housing in Baton Rouge for her and Walter Atkinson who will be joining her. They will also go to Atlanta for the required FEMA training.

FEMA has cleared 5 CRS staff members, but the Housing Task Force is not yet developed, according to Mary. We are offering to you our services to help put that task force in place for FEMA given our experience in assisting in the resettlement of South Asians throughout the United States and the Cuban/Haitian resettlement in Florida. Since the task force is not in place, we will use one of our 5 slots on the trainers described below.

Tony Russell discussed with us and Mary, and we understood it was a green light that CRS was needed and would provide a 45 minute cultural competency training program in Atlanta for preparation in deploying some 4,000 Forest Service employees. We have sent two trainers, Rosa Salamanca and Patricia Glenn.

We discussed with Mary and Tony an amendment and sent language for 2 trainers. That is where Mary left off and turned this matter over to you. Tony, experienced with CRS work, said that he anticipated infusing all 18 of our CRS team as soon as possible.

It is our understanding, per your request, that we will coordinate our activities, through your field staff, [redacted] and [redacted] and they will advise you.

However, we await your further guidance, regarding the FEMA clearance of additional CRS staff. We are in the process of securing housing for our people and have our staff on standby. We seek a decision on the deployment of the additional CRS staff and whether we should move forward in this regard.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 6, 2005 11:39 AM
To: Metcalfe, Daniel J
Cc: Kessler, Elizabeth A
Subject: RE: Dick's Retirement/ OIP Posting Opening

Dan: Missed that meeting with Robert - my apologies. Did he also ask you to hold off for the moment on new postings?

-----Original Message-----
From: Metcalfe, Daniel J
Sent: Tuesday, September 06, 2005 11:33 AM
To: Kessler, Elizabeth A
Cc: Reyes, Luis (SMO); Swenson, Lily F; Gorsuch, Neil M
Subject: RE: Dick's Retirement/ OIP Posting Opening

Not to worry, Liz; I asked Robert about timing.

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Tuesday, September 06, 2005 10:30 AM
To: Metcalfe, Daniel J
Cc: Reyes, Luis (SMO); Swenson, Lily F; Gorsuch, Neil M
Subject: Dick's Retirement/ OIP Posting Opening
Importance: High

Dan: I just got back from vacation and am swamped with various matters. I understand from Luis that you approached Robert last week about posting a proposed new position/ opening. Please hold off on posting anything until you hear back from our office that it is okay to do so. Thanks. - Liz

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 11:40 AM
To: Reyes, Luis (SMO); Freeman, Sharee
Subject: RE: CRS deployment

Lu - Can tyou try [redacted] (sp?) again, the FEMA lawyer who was so helpful last week?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, September 06, 2005 11:07 AM
To: Freeman, Sharee; Gorsuch, Neil M
Subject: RE: CRS deployment

Have you heard back from [redacted], (in response from the email sent by Stephen Thom)?

-----Original Message-----
From: Freeman, Sharee
Sent: Tuesday, September 06, 2005 10:42 AM
To: Gorsuch, Neil M
Cc: Reyes, Luis (SMO)
Subject: RE: CRS deployment

I need someone to contact FEMA and explain what CRS does, there is a view that we do what their equal rights - EEO, Title 6 office does. This is just odd to me. I need someone in FEMA to clear 18 CRS folks for deployment with the appropriate FEMA paperwork to support us. I need someone to make a decision whether CRS can take a major role or the lead in assisting in setting up the Housing Task Force that will work on resettling evacuees. I need some in FEMA to listen to Tony Russell in FEMA in Atlanta, who understands CRS' role.

From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 9:16 AM
To: Freeman, Sharee
Cc: Reyes, Luis (SMO)
Subject: FW: CRS deployment

Sharee - Is there anything further you'd like from this office by way of support or assistance in communicating with FEMA? If so, don't hesitate to let us know. NMG

-----Original Message-----
From: Thom, Stephen
Sent: Tuesday, September 06, 2005 12:02 AM
To: [redacted]@dhs.gov
Cc: Freeman, Sharee; Reyes, Luis (SMO); Gorsuch, Neil M
Subject: CRS deployment

[redacted]

Director Freeman and I understand from what you said this evening on the phone that we have currently been cleared for 5 CRS employees to infuse in the FEMA deployment process. Thomas Battles who is the Regional Director (RD) for 8 southern states is our liaison for Mississippi and will attend the FEMA training in Atlanta and one addition CRS person Grace Sage, who is [redacted], will also attend, since that complies with FEMA's initial request of us to make sure our Mississippi team included someone with a [redacted] background. RD Battles is still working on housing for both of them and additional staff. After training, they will move to Jackson, Mississippi.

We are sending Carmelita Freeman, who is the Regional Director in Dallas, which includes responsibility for Louisiana, to Baton Rouge as the liaison for Louisiana. She already has comfortable housing in Baton Rouge for her and Walter Atkinson who will be joining her. They will also go to Atlanta for the required FEMA training.

FEMA has cleared 5 CRS staff members, but the Housing Task Force is not yet developed, according to Mary. We are offering to you our services to help put that task force in place for FEMA given our experience in assisting in the resettlement of South Asians throughout the United States and the Cuban/Haitian resettlement in Florida. Since the task force is not in place, we will use one of our 5 slots on the trainers described below.

Tony Russell discussed with us and Mary, and we understood it was a green light that CRS was needed and would provide a 45 minute cultural competency training program in Atlanta for preparation in deploying some 4,000 Forest Service employees. We have sent two trainers, Rosa Salamanca and Patricia Glenn.

We discussed with Mary and Tony an amendment and sent language for 2 trainers. That is where Mary left off and turned this matter over to you. Tony, experienced with CRS work, said that he anticipated infusing all 18 of our CRS team as soon as possible.

It is our understanding, per your request, that we will coordinate our activities, through your field staff, [redacted] and [redacted] and they will advise you.

However, we await your further guidance, regarding the FEMA clearance of additional CRS staff. We are in the process of securing housing for our people and have our staff on standby. We seek a decision on the deployment of the additional CRS staff and whether we should move forward in this regard.

Gunn, Currie (SMO)

Subject:	Accepted: Updated: Lunch [redacted]
Location:	Caucus Room
Start:	Wednesday, September 7, 2005 12:00 PM
End:	Wednesday, September 7, 2005 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gunn, Currie (SMO)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 6, 2005 12:33 PM
To: Henke, Tracy (SMO); Scolinos, Tasia; Roehrkasse, Brian
Cc: McCallum, Robert (SMO)
Subject: RE: website-Katrina

Brian - This seems like an excellent idea. Currently, I don't see anything (at least on a cursory examination) about our efforts on the DOJ website. NMG

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Tuesday, September 06, 2005 9:56 AM
To: Scolinos, Tasia; Roehrkasse, Brian
Cc: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: website-Katrina

I know you guys are always busy, however, unless I missed it, the Department has no information regarding Katrina on its website. Have you considered putting the information pertaining to OJP/NCMEC's Katrina Missing Persons Hotline on it? The Hotline went live yesterday.

Tracy

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Tuesday, September 6, 2005 1:25 PM
To:	Seidel, Rebecca; 'Marc_Kesselman@omb.eop.gov'
Cc:	Moschella, William
Subject:	RE: Bill and proposed Amendment [Court emergency act]

I mentioned to Will at the morning meeting my view that the litigating components would want a chance to review and comment, and he suggested that it would indeed be circulated to them.

Given that this is on such a tight timeframe, any reason why we shouldn't circulate now? Rebecca/Will - do you want to send it around from your office?

NMG

-----Original Message-----
From: Seidel, Rebecca
Sent: Tuesday, September 06, 2005 1:00 PM
To: 'Marc_Kesselman@omb.eop.gov'
Cc: Gorsuch, Neil M; Moschella, William
Subject: FW: Bill and proposed Amendment [Court emergency act]
Importance: High

I believe Will is in th loop on this. (Will - is this the section that was taken from the Courts Improvement Act bill?

-----Original Message-----
From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Tuesday, September 06, 2005 12:52 PM
To: Seidel, Rebecca
Cc: Gorsuch, Neil M
Subject: FW: Bill and proposed Amendment [Court emergency act]
Importance: High

Rebecca - Don't know if DOJ is in the loop on this, but we should make sure that the major litigating components get a shot at this. Thanks!
Marc

-----Original Message-----
From: Green, Richard E.
Sent: Tuesday, September 06, 2005 12:32 PM
To: McMillin, Stephen S.; Haun, David J.; Boden, James; Simpson, Diana C.; Mertens, Steven M.; Fox, Katherine; Pitkin, Douglas; Knepper, John G.; Kesselman, Marc; Luczynski, Kimberley S.; Aitken, Steven D.;

Rossman, Elizabeth L.; Stewart, Margaret B.; Cote, Stephen M.; Bowman, Thomas A.
Subject: FW: Bill and proposed Amendment [Court emergency act]
Importance: High

We have received from our contacts at DHS what appears to be draft language for a bill that could be passed in the Senate as soon as today providing for emergency authority to conduct court proceedings outside the territotial jurisdiction of a given Federal circuit, district, or bankruptcy court. The bill provides general authority nationwide for heads of courts to determine emergency conditions, rather than dealing specifically with Louisiana.

We are treating this as high potential for having an enrolled bill as soon as today or tomorrow. Please let us know if you have any additional information or intelligence.

-----Original Message-----
From: Gonzalez, Oscar
Sent: Tuesday, September 06, 2005 11:09 AM
To: Green, Richard E.
Cc: Jukes, James J.
Subject: FW: Bill and proposed Amendment [Court emergency act]
Importance: High

Looks like this may be the bill that may get enrolled.

-----Original Message-----
From: Kuncaitis, Sara E.
Sent: Tuesday, September 06, 2005 11:05 AM
To: Gonzalez, Oscar
Subject: FW: Bill and proposed Amendment [Court emergency act]

Oscar:

Have you heard anything about this bill?

-----Original Message-----
From: [redacted] [mailto[redacted]@dhs.gov]
Sent: Tuesday, September 06, 2005 10:59 AM
To: Kuncaitis, Sara E.
Subject: FW: Bill and proposed Amendment [Court emergency act]

Sara: Attached is the text of the Senate draft bill that purportedly move today in the House. Odd story. Thanks for the assistance.--[redacted]

[redacted]
Office of the General Counsel
U.S. Department of Homeland Security
[redacted]

This communication, along with any attachments, is covered by federal and state law governing

electronic communications and may contain confidential and legally privileged information. If the reader for this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use, or copying of this message or portion thereof is strictly prohibited. If you have received this message in error, please reply immediately to the sender and delete this message. Thank you.

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Tuesday, September 06, 2005 1:28 PM
To: Gorsuch, Neil M
Subject: FW: Draft legislative proposal re Prisoner Labor, Interference of Disaster Relief Efforts, Statute of Limitations, Court Proceedings in response to Hurricane Katrina
Attachments: Katrina response draft.doc; DJ1427control.pdf

is this (below) what you and Will were discussing? if so, it is different from what Marc Kesselmen is asking about isn't it?

-----Original Message-----
From: Clifton, Deborah J
Sent: Tuesday, September 06, 2005 10:16 AM
To: Trono, Robert (ODAG); Margolis, David; Lofton, Betty; Massie, Patricia; Opl, Legislation; Samuels, Julie; Boardman, Michelle; Mitchell, Dyone; Robinson, Lawan; Smith, George; Brinkley, Winnie; Jackson, Wykema C; Jones, Kevin R; Bronick, Matthew; Barksdale, Gwen; Henderson, Anita; Horkan, Nancy; Lauria-Sullens, Jolene; Santangelo, Mari (JMD); Schultz, Walter H; Walker, Tonya M; Libutti, Tim (CIV); McNulty, John (USMS); Noory, John (USMS); Benderson, Judith (USAEO); Montrese, Jeanne (USAEO); Shackelford, Kelly (USAEO); Smith, David L. (USAEO); Curtis, Ben (CRT); Todd, Gordon (CRT); Beth Beers; Carol Keeley; Coates, Denise (LEO); Marian Howell; Rene Morton; Rossi, Nicholas A (LEO); Rybicki, James E; Gunn, Currie (SMO); Senger, Jeffrey M; Shaw, Aloma A
Cc: Burton, Faith; Clinger, James H; Owen, Peter B; Seidel, Rebecca; Silas, Adrien; Taylor, Velma
Subject: Draft legislative proposal re Prisoner Labor, Interference of Disaster Relief Efforts, Statute of Limitations, Court Proceedings in response to Hurricane Katrina

YOU WILL NOT RECEIVE A HARD COPY OF THIS REQUEST. PLEASE PROVIDE COMMENTS TO ADRIEN SILAS, OLA, NO LATER THAN 1 pm 09/06/05 - FIRM. WE PLAN TO SEND TO OMB SHORTLY AFTER THAT.

NOTE: THIS IS THE FINAL PRODUCT OF THE WORKING GROUP THAT MOST OF YOU PARTICIPATED IN OVER THE WEEKEND.

Department Of Justice
Office Legislative Affairs
Control Sheet

Date Of Document: 09/06/05
Date Received: 09/06/05
Due Date: 09/06/05 1 pm

Control No.: 050906-9610
ID No.: 429718

From: OLP (D.J.1427) ((109TH CONGRESS))

To: OLA

Subject:
ATTACHED FOR YOUR REVIEW AND COMMENT IS A DRAFT LEGISLATIVE PROPOSAL CONCERNING PRISONER LABOR, INTERFERENCE OF DISASTER RELIEF EFFORTS, STATUTE OF LIMITATIONS, AND JUDICIAL PROCEEDINGS, IN RESPONSE TO THE EFFECTS OF HURRICANE KATRINA

Action/Information:

Signature Level: OLA

Referred To:	Assigned:	Action:
CRM, OLC, OLP, BOP, JMD, CIV, USMS, EOUSA, CRT, FBI, ODAG/TRONO/MARGOLIS, ASG	09/06/05	COMMENTS DUE TO OLA/SILAS BY 1 PM 09/06/05 - FIRM - WE PLAN TO SEND TO OMB AFTER THAT. NOTE: THIS IS THE FINAL PRODUCT OF THE WORKING GROUP THAT MOST OF YOU PARTICIPATED IN OVER THE WEEKEND. CC: OLA/BURTON/OWEN/ SEIDEL/CLINGER/TAYLOR

Remarks:

Comments:

File Comments:

Primary Contact: ADRIEN SILAS, 514-7276

II. New provisions

SEC. 201. USE OF PRISONER LABOR AND PRODUCTS IN EMERGENCY DISASTER RELIEF

(a) Section 4082 of title 18, United States Code, is amended by adding at the end the following:

"(d) Notwithstanding any other provision of law, the Attorney General may use the labor of any person in the custody of the Attorney General or the Federal Bureau of Prisons to engage or assist in relief, cleanup, repair, public works, or other functions in response to a Presidentially-declared major disaster or emergency, and may extend the limits of confinement of any such person for that purpose.".

(b) Section 4122 of title 18, United States Code, is amended by adding at the end the following:

"(f) Notwithstanding any other provision of law, Federal Prison Industries may –

"(1) use inmate labor to produce products and perform services for any governmental or not-for-profit nongovernmental entities in support of relief efforts relating to a Presidentially-declared major disaster or emergency; and

"(2) donate goods, services, and labor in support of such relief efforts.".

EXPLANATION

This section provides authorizations to use federal prisoner labor and products in support of relief and rehabilitation efforts relating to the Hurricane Katrina disaster and any similar disaster that may occur in the future.

Subsection (a)

Subsection (a) amends 18 U.S.C. § 4082 to authorize the Attorney General to use prisoner labor in the disaster area, and to extend the area of confinement for prisoners – i.e., have them work outside of the correctional facilities in which they are normally confined – as needed for that purpose. This authority would, for example, allow the Attorney General to operate prisoner work crews in the disaster area to perform such functions as clearing debris, repairing streets and buildings, and doing new construction to replace damaged or destroyed facilities.

Current law already allows the use of federal inmate labor for public works. Specifically, 18 U.S.C. § 4125(a) authorizes the Attorney General to make available to federal government departments the services of federal prisoners "for constructing or repairing roads, clearing, maintaining and reforesting public lands, building levees, and constructing or repairing any other public ways or works financed wholly or in major part

by funds appropriated by Congress." However, the list of purposes for which the statute allows inmate labor to be used does not encompass the full range of emergency disaster relief efforts. For example, in responding to an emergency, inmate labor may be useful in constructing or repairing facilities that are not financed through federal appropriations. Current law also contains a provision, 18 U.S.C. § 3622, allowing prisoners to work outside their normal places of confinement, but it is a narrowly defined "furlough" statute that includes many limitations not suitable for the context of emergency disaster relief.

Proposed 18 U.S.C. § 4082(d) in subsection (a) would provide an authorization to use federal prisoner labor in disaster areas that is in some ways broader in scope than the current statutes, but narrower in that its application is limited to activities in disaster areas. The Bureau of Prisons would be responsible for ensuring that inmates providing labor under this statute were appropriately screened and supervised to avoid any additional risk to public safety and would ensure the safety and health of the inmates themselves. An inmate who attempted to escape while engaged in such disaster relief work would remain subject to prosecution under 18 U.S.C. §§ 751 and 4082(a).

Subsection (b)

Federal Prison Industries (FPI), as provided in 18 U.S.C. § 4121 *et seq.*, is responsible for administering operations involving inmate labor in federal correctional facilities. Under existing law, FPI is constrained to market its products to federal government agencies and cannot sell to state or local agencies or private sector entities. See 18 U.S.C. § 4122(a).

The public interest in alleviating the vast human suffering resulting from Hurricane Katrina or similar disasters, and in helping to restore the affected parts of the country, justifies an exception to the normal policy, limited to such disaster situations. Subsection (b) of this section amends 18 U.S.C. § 4122 to provide that FPI may use inmate labor to produce products and perform services for any governmental entity, federal, state, or local, or any not-for-profit non-governmental entity in support of disaster relief efforts and may donate goods, services, and labor in support of such relief efforts. This authority would, for example, allow the Red Cross to contract with FPI for the production of emergency care kits to be used in the disaster area and would allow FPI to provide – even without compensation or payment – goods, such as used computers, for use by persons displaced by the disaster as they begin to rebuild their lives.

SEC. 301. CREATING FEDERAL CRIME OF INTERFERING WITH FEDERAL DISASTER RELIEF EFFORTS

Title 18, United States Code, is amended by adding the following new section:

"§ 1370. Interference with Federal Disaster Relief Efforts.

(a) Prohibited Conduct. Whoever, during a Presidentially-declared major disaster or emergency,

(1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties relating to, or in support of recovery from, the Presidentially-declared disaster or emergency, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance; or

(2) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person providing services in support of disaster relief efforts and working in coordination with a Federal coordinating officer appointed pursuant to 42 U.S.C. § 5143,

shall, except as provided in subsection (b) of this section, be fined under this title or imprisoned not more than two years, or both.

(b) Enhanced Penalty. Whoever, in the commission of any act described in subsection (a) of this section, carries, possesses or uses a deadly or dangerous weapon or inflicts serious bodily injury, shall be fined under this title or imprisoned not more than 15 years, or, if the death of any person results, by death or life imprisonment.".

EXPLANATION

Subsection (a) of new section 1370 of Title 18 would make it a crime to interfere with any federal officer involved in relief efforts relating to a declared disaster or emergency. Subsection (b) would make it a crime to interfere with the efforts of any private person assisting with those relief efforts, if the private assistance was being provided in coordination with the "federal coordinating officer" in charge of the disaster relief effort. Under 42 U.S.C. § 5143(a), the President appoints a federal coordinating officer who is responsible for coordinating response and relief efforts, including those of the Red Cross, the Salvation Army, and other organizations that "agree to operate under his advice or direction."

The penalty for this new offense would be a fine, or up to two years' imprisonment, or both, except that if the crime was committed by using a deadly weapon or if it inflicted serious bodily injury, it would be punishable by up to fifteen years' imprisonment, unless death results, in which case it would be punishable by death or life imprisonment.

SEC. 401. EXTENSION OF STATUTE OF LIMITATIONS PURSUANT TO STATE OF EMERGENCY

(a) IN GENERAL -- Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

§ 3298. Extension of Statute of Limitations Pursuant to State of Emergency.

"In the case of an emergency situation as provided by section ____, in any district for which the emergency authority was invoked, any limitation period provided by this chapter for the prosecution, trial, or punishment of an offense, is tolled during the period in which the courts are closed pursuant to the emergency, and for one additional year from the date on which all operations resume in the district courts within that district."

(b) CLERICAL AMENDMENT -- The table of sections at the beginning of Chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

"§ 3298. Extension of Statute of Limitations Pursuant to State of Emergency.".

EXPLANATION

The new section 3298 of title 18, United States Code, would extend the statute of limitations for all federal crimes committed within any district in which the emergency authority to hold special sessions outside the geographic limits of the district court was sought by one year from the date on which all operations resume in the district courts sitting within the district.

This provision does not apply to any cases in which the statute of limitations expired prior to its enactment and cannot be relied upon to revive any such prosecution.

SEC. 501. EMERGENCY AUTHORITY TO DELAY OR TOLL JUDICIAL PROCEEDINGS.

(a) IN GENERAL -- Chapter 111 of title 28, United States Code, is amended by adding at the end the following:

§ 1660. Emergency Authority to Delay, or Toll Judicial Proceedings.

"(a) IN GENERAL -- Upon application of the Attorney General or the Attorney General's designee or on his own motion, the chief judge of a district court that has been affected (or, if the chief district judge is unavailable, the most senior available active district judge or the chief judge of the court of appeals including the district) may, in the event of a natural disaster, civil disobedience, or other emergency situation requiring the closure of courts or other circumstances inhibiting the ability of litigants to comply with deadlines imposed by rules of procedure applicable in the courts of the United States, enter such order or orders as may be appropriate to delay, toll, or otherwise grant relief from time deadlines imposed by otherwise applicable statutes and rules of procedure for such period and in such judicial district as may be appropriate, including, without limitation, those affecting all pre-arrest, post-arrest, pre-trial, trial, and post-trial procedures in criminal and juvenile proceedings and all civil process and proceedings, and all appellate proceedings.

"(b) CRIMINAL CASES -- In setting new time limits under this section for criminal cases, the court shall consider the government's ability to investigate, litigate and process defendants during and beyond the emergency situation.

"(c) APPEALS -- Upon application of the Attorney General or the Attorney General's designee or on his own motion, the chief judge of a court of appeals that has been affected or that includes a district court so affected (or, if the chief circuit judge is unavailable, the most senior available active circuit judge) may, in the event of a natural disaster, civil disobedience, or other emergency situation requiring the closure of courts or other circumstances inhibiting the ability of litigants to comply with deadlines imposed by rules of procedure applicable in the courts of the United States, enter such order or orders as may be appropriate to delay, toll, or otherwise grant relief from time deadlines imposed by otherwise applicable statutes and rules of procedure for such period and in such circuit as may be appropriate, including, without limitation, those affecting all appellate proceedings.

(b) CLERICAL AMENDMENT.----The table of sections at the beginning of Chapter 111 of title 28, United States Code, is amended by adding at the end the following new item:

"§ 1660. Emergency Authority to Delay or Toll Judicial Proceedings.".

EXPLANATION

The new section 1660 of title 28 allows the chief judge of any district court (or, if the chief district judge is not available, the next most senior active district judge in the district or the chief judge of the court of appeals for the circuit in which the district is located), either on motion of the Attorney General or his designee or on the court's own motion to, to enter an order or orders to delay or toll any and all deadlines imposed by statute or rules of procedure whenever the district court is closed by virtue of any natural disaster, civil disobedience, or other emergency situation. While individuals judges no doubt currently possess this authority, this provision would enable a chief judge of an affected district to ensure that all judges within that district address issues involving time limits in a consistent manner.

Subsection (b) of the new section 1660 would make clear that, in setting new time limits applicable in criminal cases, the court must consider the government's ability to investigate, litigate and process defendants during and beyond the emergency situation. While the court can be expected to give consideration to the difficulties faced by all litigants in such cases, the law is designed to ensure that the court also give appropriate consideration to the unique needs that may be imposed on the federal government in responding to the types of emergencies that could result in the need to seek to invoke the authority provided in section 1660.

The new section would provide like authority to the chief judge of the court of appeals for the circuit when the court of appeals itself is so affected. Such authority may

also be exercised by the chief judge of the court of appeals to delay or toll time limits for appellate litigants within specific districts within the circuit when emergency situations affect litigants in that district.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 6, 2005 1:36 PM
To: Seidel, Rebecca
Subject: Re: Draft legislative proposal re Prisoner Labor, Interference of Disaster Relief Efforts, Statute of Limitations, Court Proceedings in response to Hurricane Katrina

Will mentioned both these proposals and the court relief proposal. In fact I didn't realize they were separate pieces rather than one ball of wax. Seems to me that all of these issues would benefit from review by the litigating components as soon as possible, no?

-----Original Message-----
From: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 13:28:00 2005
Subject: FW: Draft legislative proposal re Prisoner Labor, Interference of Disaster Relief Efforts, Statute of Limitations, Court Proceedings in response to Hurricane Katrina

is this (below) what you and Will were discussing? if so, it is different from what Marc Kesselmen is asking about isn't it?

-----Original Message-----
From: Clifton, Deborah J
Sent: Tuesday, September 06, 2005 10:16 AM
To: Trono, Robert (ODAG); Margolis, David; Lofton, Betty; Massie, Patricia; Opl, Legislation; Samuels, Julie; Boardman, Michelle; Mitchell, Dyone; Robinson, Lawan; Smith, George; Brinkley, Winnie; Jackson, Wykema C; Jones, Kevin R; Bronick, Matthew; Barksdale, Gwen; Henderson, Anita; Horkan, Nancy; Lauria-Sullens, Jolene; Santangelo, Mari (JMD); Schultz, Walter H; Walker, Tonya M; Libutti, Tim (CIV); McNulty, John (USMS); Noory, John (USMS); Benderson, Judith (USAEO); Montrese, Jeanne (USAEO); Shackelford, Kelly (USAEO); Smith, David L. (USAEO); Curtis, Ben (CRT); Todd, Gordon (CRT); Beth Beers; Carol Keeley; Coates, Denise (LEO); Marian Howell; Rene Morton; Rossi, Nicholas A (LEO); Rybicki, James E; Gunn, Currie (SMO); Senger, Jeffrey M; Shaw, Aloma A
Cc: Burton, Faith; Clinger, James H; Owen, Peter B; Seidel, Rebecca; Silas, Adrien; Taylor, Velma
Subject: Draft legislative proposal re Prisoner Labor, Interference of Disaster Relief Efforts, Statute of Limitations, Court Proceedings in response to Hurricane Katrina

YOU WILL NOT RECEIVE A HARD COPY OF THIS REQUEST. PLEASE PROVIDE COMMENTS TO ADRIEN SILAS, OLA, NO LATER THAN 1 pm 09/06/05 - FIRM. WE PLAN TO SEND TO OMB SHORTLY AFTER THAT.

NOTE: THIS IS THE FINAL PRODUCT OF THE WORKING GROUP THAT MOST OF YOU PARTICIPATED IN OVER THE WEEKEND.

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Tuesday, September 06, 2005 1:37 PM
To: 'Marc_Kesselman@omb.eop.gov'
Cc: Gorsuch, Neil M
Subject: RE: Bill and proposed Amendment [Court emergency act]
Attachments: Courtemergencybill.pdf

my staff tells me ([redacted]) that, with regard to the legislation you forwarded (attached again here)

Yes, we are aware of it. A similar provision was in the Federal Courts Improvement Act, which the Department commented on last year. We supported the measure, but had some technical concerns.

DOJ has been working directly with the House and Senate Judiciary Committees on this emergency legislation, and we expect to submit a draft views letter in support of the legislation to OMB later this afternoon. We hope for speedy clearance.

-----Original Message-----
From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Tuesday, September 06, 2005 12:52 PM
To: Seidel, Rebecca
Cc: Gorsuch, Neil M
Subject: FW: Bill and proposed Amendment [Court emergency act]
Importance: High

Rebecca - Don't know if DOJ is in the loop on this, but we should make sure that the major litigating components get a shot at this. Thanks!
Marc

-----Original Message-----
From: Green, Richard E.
Sent: Tuesday, September 06, 2005 12:32 PM
To: McMillin, Stephen S.; Haun, David J.; Boden, James; Simpson, Diana C.; Mertens, Steven M.; Fox, Katherine; Pitkin, Douglas; Knepper, John G.; Kesselman, Marc; Luczynski, Kimberley S.; Aitken, Steven D.; Rossman, Elizabeth L.; Stewart, Margaret B.; Cote, Stephen M.; Bowman, Thomas A.
Subject: FW: Bill and proposed Amendment [Court emergency act]
Importance: High

We have received from our contacts at DHS what appears to be draft language for a bill that could be

passed in the Senate as soon as today providing for emergency authority to conduct court proceedings outside the territotial jurisdiction of a given Federal circuit, district, or bankruptcy court. The bill provides general authority nationwide for heads of courts to determine emergency conditions, rather than dealing specifically with Louisiana.

We are treating this as high potential for having an enrolled bill as soon as today or tomorrow. Please let us know if you have any additional information or intelligence.

-----Original Message-----
From: Gonzalez, Oscar
Sent: Tuesday, September 06, 2005 11:09 AM
To: Green, Richard E.
Cc: Jukes, James J.
Subject: FW: Bill and proposed Amendment [Court emergency act]
Importance: High

Looks like this may be the bill that may get enrolled.

-----Original Message-----
From: Kuncaitis, Sara E.
Sent: Tuesday, September 06, 2005 11:05 AM
To: Gonzalez, Oscar
Subject: FW: Bill and proposed Amendment [Court emergency act]

Oscar:

Have you heard anything about this bill?

-----Original Message-----
From: [redacted] [mailto:[redacted]@dhs.gov]
Sent: Tuesday, September 06, 2005 10:59 AM
To: Kuncaitis, Sara E.
Subject: FW: Bill and proposed Amendment [Court emergency act]

Sara: Attached is the text of the Senate draft bill that purportedly move today in the House. Odd story. Thanks for the assistance. [redacted]

[redacted]
Office of the General Counsel
U.S. Department of Homeland Security
[redacted]

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader for this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use, or copying of this message or portion thereof is strictly prohibited. If you have received this message in error, please reply immediately to the sender and delete this message. Thank you.

109TH CONGRESS
1ST SESSION

S. _____

To allow United States courts to conduct business during emergency conditions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To allow United States courts to conduct business during emergency conditions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Judiciary Emergency Special Sessions Act of 2005''.

SEC. 2. EMERGENCY AUTHORITY TO CONDUCT COURT PROCEEDINGS OUTSIDE THE TERRITORIAL JURISDICTION OF THE COURT.

(a) CIRCUIT COURTS.—Section 48 of title 28, United States Code, is amended by adding at the end the following:

''(e) Each court of appeals may hold special sessions at any place within the United States outside the circuit as the nature of the business may require and upon such notice as the court orders, upon a finding by either the chief judge of the court of appeals (or, if the chief judge is unavailable, the most senior available active judge of the court of appeals) or the judicial council of the circuit that, because of emergency conditions, no location within the circuit is reasonably available where such special sessions could he held. The court may transact any business at a special session outside the circuit which it might transact at a regular session.

''(f) If a court of appeals issues an order exercising its authority under subsection (e), the court, through the Administrative Office of the United States Courts, shall send notice of such order to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. Not later than 180 days after the expiration of the court order issued under subsection (e), the court of appeals, through the Administra-

tive Office of the United States Courts, shall submit an additional report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives describing the impact of such order, including—

''(1) the reasons for the issuance of such order;

''(2) the duration of such order;

''(3) the impact of such order on litigants; and

''(4) the costs to the judiciary resulting from such order.''.

(b) DISTRICT COURTS.—Section 141 of title 28, United States Code, is amended—

(1) by inserting ''(a)(1)'' before ''Special'';

(2) by inserting ''(2)'' before ''Any''; and

(3) by adding at the end the following:

''(b)(1) Special sessions of the district court may be held at such places within the United States outside the district as the nature of the business may require and upon such notice as the court orders, upon a finding by either the chief judge of the district court (or, if the chief judge is unavailable, the most senior available active judge of the district court) or the judicial council of the circuit that, because of emergency conditions, no location within the district is reasonably available where such special sessions could be held.

''(2) Any business may be transacted at a special session outside the district conducted pursuant to this subsection which might be transacted at a regular session, except that criminal proceedings may not be conducted at a special session outside of the State in which the district is located.

''(3) The district court may summon jurors from within the district to serve in any case in which special sessions are conducted outside the district pursuant to this section.

''(4) If a district court issues an order exercising its authority under paragraph (1), the court, through the Administrative Office of the United States Courts, shall send notice of such order to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. Not later than 180 days after the expiration of the court order issued under paragraph (1), the district court, through the Administrative Office of the United States Courts, shall submit an additional report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives describing the impact of such order, including—

''(A) the reasons for the issuance of such order;

''(B) the duration of such order;

''(C) the impact of such order on litigants; and

''(D) the costs to the judiciary resulting from such order.''.

(c) BANKRUPTCY COURTS.—Section 152(c) of title 28, United States Code, is amended—

(1) by inserting ''(1)'' after ''(c)'';

(2) by adding at the end the following:

''(2)(A) Bankruptcy judges may hold court at such places within the United States outside the judicial district as the nature of the business of the court may require, and upon such notice as the court orders, upon a finding by either the chief judge of the bankruptcy court (or, if the chief judge is unavailable, the most senior available bankruptcy judge) or by the judicial council of the circuit that, because of emergency conditions, no location within the district is reasonably available where the bankruptcy judges could hold court.

''(B) Bankruptcy judges may transact any business at special sessions of court held outside the district pursuant to this paragraph that might be transacted at a regular session.

''(C) If a bankruptcy court issues an order exercising its authority under subparagraph (A), the court, through the Administrative Office of the United States Courts, shall send notice of such order to the Committee on the

Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. Not later than 180 days after the expiration of the court order issued under subparagraph (A), the bankruptcy court, through the Administrative Office of the United States Courts, shall submit an additional report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives describing the impact of such order, including—

''(i) the reasons for the issuance of such order;

''(ii) the duration of such order;

''(iii) the impact of such order on litigants; and

''(iv) the costs to the judiciary resulting from such order.''.

(d) UNITED STATES MAGISTRATE JUDGES.—Section 636 of title 28, United States Code, is amended in subsection (a) by striking ''territorial jurisdiction prescribed by his appointment—'' and inserting ''district in which sessions are held by the court that appointed the magistrate judge, at other places where that court may function, and elsewhere as authorized by law—''.

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Tuesday, September 06, 2005 1:38 PM
To: Gorsuch, Neil M
Subject: RE: Draft legislative proposal re Prisoner Labor, Interference of Disaster Relief Efforts, Statute of Limitations, Court Proceedings in response to Hurricane Katrina

the one Kesselman was referring to is part of the Fed Courts Improvement Act bill that has been around for a few congresses and we have commented on before. It is being circulated again so we can submit a views letter to OMB this afternoon.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 1:36 PM
To: Seidel, Rebecca
Subject: Re: Draft legislative proposal re Prisoner Labor, Interference of Disaster Relief Efforts, Statute of Limitations, Court Proceedings in response to Hurricane Katrina

Will mentioned both these proposals and the court relief proposal. In fact I didn't realize they were separate pieces rather than one ball of wax. Seems to me that all of these issues would benefit from review by the litigating components as soon as possible, no?

-----Original Message-----
From: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 13:28:00 2005
Subject: FW: Draft legislative proposal re Prisoner Labor, Interference of Disaster Relief Efforts, Statute of Limitations, Court Proceedings in response to Hurricane Katrina

is this (below) what you and Will were discussing? if so, it is different from what Marc Kesselmen is asking about isn't it?

-----Original Message-----
From: Clifton, Deborah J
Sent: Tuesday, September 06, 2005 10:16 AM
To: Trono, Robert (ODAG); Margolis, David; Lofton, Betty; Massie, Patricia; Opl, Legislation; Samuels, Julie; Boardman, Michelle; Mitchell, Dyone; Robinson, Lawan; Smith, George; Brinkley, Winnie; Jackson, Wykema C; Jones, Kevin R; Bronick, Matthew; Barksdale, Gwen; Henderson, Anita; Horkan, Nancy; Lauria-Sullens, Jolene; Santangelo, Mari (JMD); Schultz, Walter H; Walker, Tonya M; Libutti, Tim (CIV); McNulty, John (USMS); Noory, John (USMS); Benderson, Judith (USAEO); Montrese, Jeanne (USAEO); Shackelford, Kelly (USAEO); Smith, David L. (USAEO); Curtis, Ben (CRT); Todd, Gordon (CRT); Beth Beers; Carol Keeley; Coates, Denise (LEO); Marian Howell; Rene Morton; Rossi, Nicholas A (LEO); Rybicki, James E; Gunn, Currie (SMO); Songer, Jeffrey M; Shaw, Alema A

(LEO); Rybicki, James E; Gunn, Carrie (SMO); Senger, Jeffrey M; Shaw, Aloma A
Cc: Burton, Faith; Clinger, James H; Owen, Peter B; Seidel, Rebecca; Silas, Adrien; Taylor, Velma
Subject: Draft legislative proposal re Prisoner Labor, Interference of Disaster Relief Efforts, Statute of Limitations, Court Proceedings in response to Hurricane Katrina

YOU WILL NOT RECEIVE A HARD COPY OF THIS REQUEST. PLEASE PROVIDE COMMENTS TO ADRIEN SILAS, OLA, NO LATER THAN 1 pm 09/06/05 - FIRM. WE PLAN TO SEND TO OMB SHORTLY AFTER THAT.

NOTE: THIS IS THE FINAL PRODUCT OF THE WORKING GROUP THAT MOST OF YOU PARTICIPATED IN OVER THE WEEKEND.

Gunn, Currie (SMO)

Subject:	Updated: OASG Staff Meeting
Location:	Conference Room 5710
Start:	Tuesday, September 6, 2005 5:15 PM
End:	Tuesday, September 6, 2005 6:15 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Tuesday and Thursday from 5:00 PM to 6:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Kessler, Elizabeth A; Senger, Jeffrey M; Reyes, Luis (SMO); Henke, Tracy (SMO); Wiggins, Mike; Gunn, Currie (SMO); Swenson, Lily F; Wiggins, Mike; Gorsuch, Neil M
Optional Attendees:	Shaw, Aloma A

When: Tuesday, September 06, 2005 5:15 PM-6:15 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Conference Room 5710

~~*~*~*~*~*~*~*~*~*

Note time change. Allowing Robert time to return from mtg outside bldg.

Attendees: ASG Robert McCallum, Elizabeth Kessler-OASG, Tracy Henke-OASG, Mike Wiggins-OASG, Jeff Senger-OASG, Luis Reyes-OASG, Lily Fu Swenson-OASG

POC: Currie Gunn x4-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 1:48 PM
To: Seidel, Rebecca
Subject: RE: Draft legislative proposal re Prisoner Labor, Interference of Disaster Relief Efforts, Statute of Limitations, Court Proceedings in response to Hurricane Katrina

You are, as usual, totally on top of it.

-----Original Message-----
From: Seidel, Rebecca
Sent: Tuesday, September 06, 2005 1:38 PM
To: Gorsuch, Neil M
Subject: RE: Draft legislative proposal re Prisoner Labor, Interference of Disaster Relief Efforts, Statute of Limitations, Court Proceedings in response to Hurricane Katrina

the one Kesselman was referring to is part of the Fed Courts Improvement Act bill that has been around for a few congresses and we have commented on before. It is being circulated again so we can submit a views letter to OMB this afternoon.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 1:36 PM
To: Seidel, Rebecca
Subject: Re: Draft legislative proposal re Prisoner Labor, Interference of Disaster Relief Efforts, Statute of Limitations, Court Proceedings in response to Hurricane Katrina

Will mentioned both these proposals and the court relief proposal. In fact I didn't realize they were separate pieces rather than one ball of wax. Seems to me that all of these issues would benefit from review by the litigating components as soon as possible, no?

-----Original Message-----
From: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 13:28:00 2005
Subject: FW: Draft legislative proposal re Prisoner Labor, Interference of Disaster Relief Efforts, Statute of Limitations, Court Proceedings in response to Hurricane Katrina

is this (below) what you and Will were discussing? if so, it is different from what Marc Kesselmen is asking about isn't it?

-----Original Message-----
From: Clifton, Deborah J
Sent: Tuesday, September 06, 2005 10:16 AM
To: Trono, Robert (ODAG); Margolis, David; Lofton, Betty; Massie, Patricia; Opl, Legislation; Samuels, Julie; Boardman, Michelle; Mitchell, Dyone; Robinson, Lawan; Smith, George; Brinkley, Winnie; Jackson, Wykema C; Jones, Kevin R; Bronick, Matthew; Barksdale, Gwen; Henderson, Anita; Horkan, Nancy; Lauria-Sullens, Jolene; Santangelo, Mari (JMD); Schultz, Walter H; Walker, Tonya M; Libutti, Tim (CIV); McNulty, John (USMS); Noory, John (USMS); Benderson, Judith (USAEO); Montrese, Jeanne (USAEO); Shackelford, Kelly (USAEO); Smith, David L. (USAEO); Curtis, Ben (CRT); Todd, Gordon (CRT); Beth Beers; Carol Keeley; Coates, Denise (LEO); Marian Howell; Rene Morton; Rossi, Nicholas A (LEO); Rybicki, James E; Gunn, Currie (SMO); Senger, Jeffrey M; Shaw, Aloma A
Cc: Burton, Faith; Clinger, James H; Owen, Peter B; Seidel, Rebecca; Silas, Adrien; Taylor, Velma
Subject: Draft legislative proposal re Prisoner Labor, Interference of Disaster Relief Efforts, Statute of Limitations, Court Proceedings in response to Hurricane Katrina

YOU WILL NOT RECEIVE A HARD COPY OF THIS REQUEST. PLEASE PROVIDE COMMENTS TO ADRIEN SILAS, OLA, NO LATER THAN 1 pm 09/06/05 - FIRM. WE PLAN TO SEND TO OMB SHORTLY AFTER THAT.

NOTE: THIS IS THE FINAL PRODUCT OF THE WORKING GROUP THAT MOST OF YOU PARTICIPATED IN OVER THE WEEKEND.

Beach, Andrew

Subject:	Updated: Component Coordination Meeting
Start:	Wednesday, September 07, 2005 10:30 AM
End:	Wednesday, September 07, 2005 10:45 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Yanes, Raul; Taylor, Jeffrey (OAG); Moschella, William; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); Roehrkasse, Brian

When: Wednesday, September 07, 2005 10:30 AM-10:45 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Raul Yanes, Jeff Taylor, Will Moschella, Brian Roehrkasse, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer

Bucholtz, Jeffrey (CIV)

From:	Bucholtz, Jeffrey (CIV)
Sent:	Tuesday, September 06, 2005 2:36 PM
To:	Gorsuch, Neil M
Cc:	Keisler, Peter D. (CIV)
Subject:	Katrina - healthcare worker liability initiative
Attachments:	tmp.htm; Emergency Health & VPA.doc; Emergency Health Freestanding Section.doc; VPA document.doc

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

[DRAFT] An Act to Grant Relief to Volunteers for Healthcare Services Rendered During Declared Healthcare Emergencies

(a) A volunteer, as defined in this section, while aiding or facilitating the provision of health or medical services during a Declared Healthcare Emergency, shall be deemed a volunteer of a nonprofit organization or governmental entity for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), provided that the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction to provide such healthcare. Subsections (c) and (d) of section 4 of such chapter (42 U.S.C. §14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

(b) An employer or business partner of a volunteer shall not be liable for any acts or omissions of a volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare in a declared healthcare emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply for purposes of any claim against an employer or partner of a volunteer under this section.

(c) A person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to a volunteer to enable the volunteer to render medical services or assistance under subsection (a) of this section shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply to a claim against such a person, entity or organization.

(d) Definitions
(1) "Volunteer" means an individual who provides healthcare services or assistance in a location other than his or her usual place of business or practice without expectation or receipt of remuneration for his or her services.
(2) "Healthcare Facility" means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile medical services platform or vehicle used for the provision of healthcare.
(3) "Declared Healthcare Emergency" means a public health emergency declared under this section by the President, the Secretary of Health & Human Services or the Secretary of Homeland Security. For purposes of this section, a Declared Healthcare Emergency may be given retroactive effect. A Declared Healthcare Emergency may be limited in time and geographic scope.

Sec. __ Relief to Volunteers for Healthcare Services Rendered During Declared Healthcare Emergencies

(a) A volunteer, as defined in this section, while aiding or facilitating the provision of health or medical services during a Declared Healthcare Emergency, who is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction to provide such healthcare, shall not be liable for harm caused by an act or omission of the volunteer if -

(1) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(2) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires the operator or the owner of the vehicle, craft, or vessel to -

(A) possess an operator's license; or

(B) maintain insurance.

(b) Limitation on punitive damages based on actions of volunteers

(1) General rule

Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer during a declared healthcare emergency unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(c) An employer or business partner of a volunteer shall not be liable for any acts or omissions of a volunteer that occur while the volunteer is aiding

in or facilitating the provision of healthcare in a declared healthcare emergency.

(d) A person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to a volunteer to enable the volunteer to render medical services or assistance under subsection (a) of this section shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a declared healthcare emergency.

(e) Definitions

(1) "Volunteer" means an individual who provides healthcare services or assistance in a location other than his or her usual place of business or practice without expectation or receipt of remuneration for his or her services.

(2) "Healthcare Facility" means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile medical services platform or vehicle used for the provision of healthcare.

(3) "Declared Healthcare Emergency" means a declared healthcare emergency declared under this section by the President, the Secretary of Health & Human Services, or the Secretary of Homeland Security. For purposes of this section, a Declared Healthcare Emergency may be given retroactive effect. A Declared Healthcare Emergency may be limited in time and geographic scope.

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Suggested Modification to the Volunteer Protection Act

A. Background.

The Volunteer Protection Act of 1997, Pub. L. 105-19, *codified at* 42 U.S.C. 14501 *et seq.* (VPA), is a balanced measure that was enacted with extensive bipartisan support. The VPA removes liability for ordinary negligence, while retaining liability for willful misconduct as outlined in the statute.

The proposed VPA revision below would provide substantial protection against tort liability for healthcare volunteers who perform services during public health emergencies, and protect their employers or partners, as well as those persons or entities whose facilities they use during a public health emergency. The suggested approach does not deem volunteers to be federal employees, and would not subject the United States to potential liability under the Federal Tort Claims Act. Adoption of a congressionally sanctioned VPA approach would represent an appropriate accommodation of the volunteers' interest in protection against tort liability, the public's interest in compensation for and deterrence of willful misconduct, and the United States' interest in protecting the public fisc.

B. Text of Proposed Legislation

[DRAFT] An Act to Grant Relief to Volunteers for Healthcare Services Rendered During Public Health Emergencies

(a) A volunteer, as defined in this section, while aiding or facilitating the provision of health or medical services during a public health emergency, shall be deemed a volunteer of a nonprofit organization or governmental entity for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), provided that the volunteer is properly licensed, certified, or authorized by the appropriate authorities of another jurisdiction to provide such healthcare. Subsection (d) of section 4 of such chapter (42 U.S.C. §14503(d)) shall not apply to any claim against a volunteer as defined herein.

(b) A volunteer providing health or medical services during a public health emergency shall be deemed to be duly licensed, certified, or authorized by the appropriate authorities of the jurisdiction in which the volunteer provides such services if that volunteer was properly licensed,

certified, or authorized by the appropriate authorities for the activities or practice by another jurisdiction to perform or provide the healthcare services, activities, practices or related services that he or she voluntarily provides in aid or facilitation of a response to a public health emergency.

(c) An employer or business partner of a volunteer shall not be liable for any acts or omissions of a volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare in a declared healthcare emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply for purposes of any claim against an employer or partner of a volunteer under this section.

(d) A person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to a volunteer to enable the volunteer to render medical services or assistance under subsection (a) of this section shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a public health emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply to a claim against such a person, entity or organization so long as the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference of the person, entity or organization to the rights or safety of an individual harmed by the volunteer.

(e) Definitions

(1) "Volunteer" means an individual who provides healthcare services or assistance in a location other than his or her usual place of business or practice without expectation or receipt of remuneration for his or her services.

(2) "Healthcare Facility" means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile medical services platform or vehicle used for the provision of healthcare.

(3) "Public Health Emergency" means a public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. §247d),a determination by the Secretary of the Department of Homeland Security in accordance with 42 U.S.C. § 300hh-11, or an emergency or disaster declaration under 42 U.S.C. §5191 or 42 U.S.C. §5170. For purposes of this section, a public health emergency may be given retroactive effect. A public health emergency can involve the provision of health and medical services and may be limited in geographic scope.

C. Explanation of VPA Revisions

(a) *Immunity of Public Health Emergency Volunteer*

A volunteer under this subsection, while aiding in or facilitating in the provision of healthcare in a public health emergency, is deemed a volunteer of a nonprofit organization or governmental entity for purposes of chapter 139 of title 42, United States Code (popularly known as the 'Volunteer Protection Act'). Subsection (d) of section 4 of such chapter, 42 U.S.C. §14503(d), which provides for liability of volunteers in certain situations, does not apply for purposes of any claim against such a volunteer. Subsection 14503(d) contains certain exceptions to liability protection for volunteers, including one, §14503(d)(4), under which a volunteer could be liable notwithstanding the general rule of the Act if the applicable state law conditions a volunteer's protection from liability on the volunteer's organization's acceptance of vicarious liability. The United States is not intended to be vicariously liable in place of volunteers, and otherwise applicable exception could be read to subject such volunteers to tort liability where state law is as described. Accordingly, the liability exception of 42 U.S.C. §14503(d)(4) is excluded

(b) *Constructive State Licensure or Authority*

Subsection (b) provides that volunteers who perform services during a public health care emergency are deemed to be duly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which an alleged harm occurs. This constructive licensure or authorization applies so long as the volunteers acts within the scope of the volunteer's responsibilities with the healthcare facility, and is limited to those situations where the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice by another jurisdiction to perform or provide or engage in those healthcare services, activities, or practices involved.

(c) *Nonliability of Volunteer's Employer or Partner*

Subsection (c) extends the liability protections of the volunteer to the usual employer or business partner of a volunteer for any acts or omissions that occur while the volunteer is aiding in or facilitating the provision of healthcare during a public health emergency. The otherwise applicable liability provision of 42 U.S.C. §14503(c) shall not apply for purposes of any claim against an employer or partner of a volunteer under this section.

(d) *Nonliability of Host or Enabling Person, Entity or Organization*

Subsection (d) extends the liability protections of the volunteer to a person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to the volunteer to enable the volunteer to render medical services or assistance during a public health emergency. The host facility shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a public health emergency. The otherwise applicable liability provision of 42 U.S.C. §14503(c) shall not apply to a claim against such a person, entity or organization unless the harm was caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference of the person, entity or organization to the rights or safety of an individual harmed by the volunteer.

(e) Definitions.

Subsection (e) defines the terms "Volunteer", "Healthcare Facility" and "Public Health Emergency". A "Volunteer" is a person who does not expect or receive pay for volunteered services and who does not perform the volunteer services in his or her usual place of business or employment. A "Healthcare Facility" includes hospitals and clinics, but is not limited to them. The term also includes any platform, place or vehicle where the volunteer's services are performed or assistance is rendered. A "Public Health Emergency" is defined as an emergency declared by the Secretary of Health and Human Services under 42 U.S.C. §247d; an emergency declared by the Secretary of the Department of Homeland Security in accordance with 42 U.S.C. § 300hh-11, or an emergency or disaster declaration issued under the specified sections of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, i..e, 42 U.S.C. §5191 or 42 U.S.C. §5170. A public health emergency may be given retroactive effect, and it may be limited in terms of its geographic scope.

D. **Current Text of the VPA**.

[42 U.S.C.] §14503. Limitation on liability for volunteers

(a) Liability protection for volunteers

Except as provided in subsections (b) and (d) of this section, no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if -

(1) the volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

(2) if appropriate or required, the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity;

(3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(4) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to -

(A) possess an operator's license; or

(B) maintain insurance.

(b) Concerning responsibility of volunteers to organizations and entities

Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(c) No effect on liability of organization or entity

Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(d) Exceptions to volunteer liability protection

If the laws of a State limit volunteer liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit organization or governmental entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(4) A State law that makes a limitation of liability applicable only if the nonprofit organization or governmental entity provides a financially secure source of recovery for individuals who

suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the organization or entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

(e) Limitation on punitive damages based on actions of volunteers

(1) General rule

Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(f) Exceptions to limitations on liability

(1) In general

The limitations on the liability of a volunteer under this chapter shall not apply to any misconduct that -

(A) Constitutes a crime of violence (as that term is defined in section 16 of title 18) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(C) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(D) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(E) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) Rule of construction

Nothing in this subsection shall be construed to [a]ffect subsection (a)(3) or (e) of this section.

Moschella, William

From: Moschella, William
Sent: Tuesday, September 06, 2005 2:54 PM
To: Seidel, Rebecca; 'Marc_Kesselman@omb.eop.gov'
Cc: Gorsuch, Neil M
Subject: RE: Bill and proposed Amendment [Court emergency act]

We are very much in the loop on this and have been working with House and Senate staff on this since last Thursday. We have a previously cleared position on a similar version contained in the court improvement bill. In fact, DHS got this from me this morning. I explained then that this was still being worked on by the Hill and that there are language changes that will likely be made. Obviously, the Administrative Office of the U.S. Courts is also playing in this.

-----Original Message-----
From: Seidel, Rebecca
Sent: Tuesday, September 06, 2005 1:00 PM
To: 'Marc_Kesselman@omb.eop.gov'
Cc: Gorsuch, Neil M; Moschella, William
Subject: FW: Bill and proposed Amendment [Court emergency act]
Importance: High

I believe Will is in th loop on this. (Will - is this the section that was taken from the Courts Improvement Act bill?

-----Original Message-----
From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Tuesday, September 06, 2005 12:52 PM
To: Seidel, Rebecca
Cc: Gorsuch, Neil M
Subject: FW: Bill and proposed Amendment [Court emergency act]
Importance: High

Rebecca - Don't know if DOJ is in the loop on this, but we should make sure that the major litigating components get a shot at this. Thanks!
Marc

-----Original Message-----
From: Green, Richard E.
Sent: Tuesday, September 06, 2005 12:32 PM
To: McMillin, Stephen S.; Haun, David J.; Boden, James; Simpson, Diana C.; Mertens, Steven M.; Fox, Katherine; Pitkin, Douglas; Knepper, John G.; Kesselman, Marc; Luczynski, Kimberley S.; Aitken, Steven D.; Rossman, Elizabeth L.; Stewart, Margaret B.; Cote, Stephen M.; Bowman, Thomas A.

Subject: FW: Bill and proposed Amendment [Court emergency act]
Importance: High

We have received from our contacts at DHS what appears to be draft language for a bill that could be passed in the Senate as soon as today providing for emergency authority to conduct court proceedings outside the territotial jurisdiction of a given Federal circuit, district, or bankruptcy court. The bill provides general authority nationwide for heads of courts to determine emergency conditions, rather than dealing specifically with Louisiana.

We are treating this as high potential for having an enrolled bill as soon as today or tomorrow. Please let us know if you have any additional information or intelligence.

-----Original Message-----
From: Gonzalez, Oscar
Sent: Tuesday, September 06, 2005 11:09 AM
To: Green, Richard E.
Cc: Jukes, James J.
Subject: FW: Bill and proposed Amendment [Court emergency act]
Importance: High

Looks like this may be the bill that may get enrolled.

-----Original Message-----
From: Kuncaitis, Sara E.
Sent: Tuesday, September 06, 2005 11:05 AM
To: Gonzalez, Oscar
Subject: FW: Bill and proposed Amendment [Court emergency act]

Oscar:

Have you heard anything about this bill?

-----Original Message-----
From: [redacted] [mailto:[redacted]@dhs.gov]
Sent: Tuesday, September 06, 2005 10:59 AM
To: Kuncaitis, Sara E.
Subject: FW: Bill and proposed Amendment [Court emergency act]

Sara: Attached is the text of the Senate draft bill that purportedly move today in the House. Odd story. Thanks for the assistance.--Mike

[redacted]
Office of the General Counsel
U.S. Department of Homeland Security
[redacted]

This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader for this message is not the intended recipient, you are hereby notified that any dissemination,

distribution, use, or copying of this message or portion thereof is strictly prohibited. If you have received this message in error, please reply immediately to the sender and delete this message. Thank you.

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Tuesday, September 06, 2005 3:53 PM
To:	Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc:	Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject:	FW: Katrina - healthcare worker liability initiative
Attachments:	tmp.htm; Emergency Health & VPA.doc; Emergency Health Freestanding Section.doc; VPA document.doc

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a

public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

[DRAFT] An Act to Grant Relief to Volunteers for Healthcare Services Rendered During Declared Healthcare Emergencies

(a) A volunteer, as defined in this section, while aiding or facilitating the provision of health or medical services during a Declared Healthcare Emergency, shall be deemed a volunteer of a nonprofit organization or governmental entity for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), provided that the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction to provide such healthcare. Subsections (c) and (d) of section 4 of such chapter (42 U.S.C. §14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

(b) An employer or business partner of a volunteer shall not be liable for any acts or omissions of a volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare in a declared healthcare emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply for purposes of any claim against an employer or partner of a volunteer under this section.

(c) A person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to a volunteer to enable the volunteer to render medical services or assistance under subsection (a) of this section shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply to a claim against such a person, entity or organization.

(d) Definitions
(1) "Volunteer" means an individual who provides healthcare services or assistance in a location other than his or her usual place of business or practice without expectation or receipt of remuneration for his or her services.
(2) "Healthcare Facility" means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile medical services platform or vehicle used for the provision of healthcare.
(3) "Declared Healthcare Emergency" means a public health emergency declared under this section by the President, the Secretary of Health & Human Services or the Secretary of Homeland Security. For purposes of this section, a Declared Healthcare Emergency may be given retroactive effect. A Declared Healthcare Emergency may be limited in time and geographic scope.

Sec. __ Relief to Volunteers for Healthcare Services Rendered During Declared Healthcare Emergencies

(a) A volunteer, as defined in this section, while aiding or facilitating the provision of health or medical services during a Declared Healthcare Emergency, who is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction to provide such healthcare, shall not be liable for harm caused by an act or omission of the volunteer if -

(1) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(2) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires the operator or the owner of the vehicle, craft, or vessel to -

(A) possess an operator's license; or

(B) maintain insurance.

(b) Limitation on punitive damages based on actions of volunteers

(1) General rule

Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer during a declared healthcare emergency unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(c) An employer or business partner of a volunteer shall not be liable for any acts or omissions of a volunteer that occur while the volunteer is aiding

in or facilitating the provision of healthcare in a declared healthcare emergency.

(d) A person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to a volunteer to enable the volunteer to render medical services or assistance under subsection (a) of this section shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a declared healthcare emergency.

(e) Definitions

(1) "Volunteer" means an individual who provides healthcare services or assistance in a location other than his or her usual place of business or practice without expectation or receipt of remuneration for his or her services.

(2) "Healthcare Facility" means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile medical services platform or vehicle used for the provision of healthcare.

(3) "Declared Healthcare Emergency" means a declared healthcare emergency declared under this section by the President, the Secretary of Health & Human Services, or the Secretary of Homeland Security. For purposes of this section, a Declared Healthcare Emergency may be given retroactive effect. A Declared Healthcare Emergency may be limited in time and geographic scope.

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Suggested Modification to the Volunteer Protection Act

A. Background.

The Volunteer Protection Act of 1997, Pub. L. 105-19, *codified at* 42 U.S.C. 14501 *et seq.* (VPA), is a balanced measure that was enacted with extensive bipartisan support. The VPA removes liability for ordinary negligence, while retaining liability for willful misconduct as outlined in the statute.

The proposed VPA revision below would provide substantial protection against tort liability for healthcare volunteers who perform services during public health emergencies, and protect their employers or partners, as well as those persons or entities whose facilities they use during a public health emergency. The suggested approach does not deem volunteers to be federal employees, and would not subject the United States to potential liability under the Federal Tort Claims Act. Adoption of a congressionally sanctioned VPA approach would represent an appropriate accommodation of the volunteers' interest in protection against tort liability, the public's interest in compensation for and deterrence of willful misconduct, and the United States' interest in protecting the public fisc.

B. Text of Proposed Legislation

[DRAFT] An Act to Grant Relief to Volunteers for Healthcare Services Rendered During Public Health Emergencies

(a) A volunteer, as defined in this section, while aiding or facilitating the provision of health or medical services during a public health emergency, shall be deemed a volunteer of a nonprofit organization or governmental entity for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), provided that the volunteer is properly licensed, certified, or authorized by the appropriate authorities of another jurisdiction to provide such healthcare. Subsection (d) of section 4 of such chapter (42 U.S.C. §14503(d)) shall not apply to any claim against a volunteer as defined herein.

(b) A volunteer providing health or medical services during a public health emergency shall be deemed to be duly licensed, certified, or authorized by the appropriate authorities of the jurisdiction in which the volunteer provides such services if that volunteer was properly licensed,

certified, or authorized by the appropriate authorities for the activities or practice by another jurisdiction to perform or provide the healthcare services, activities, practices or related services that he or she voluntarily provides in aid or facilitation of a response to a public health emergency.

(c) An employer or business partner of a volunteer shall not be liable for any acts or omissions of a volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare in a declared healthcare emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply for purposes of any claim against an employer or partner of a volunteer under this section.

(d) A person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to a volunteer to enable the volunteer to render medical services or assistance under subsection (a) of this section shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a public health emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply to a claim against such a person, entity or organization so long as the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference of the person, entity or organization to the rights or safety of an individual harmed by the volunteer.

(e) Definitions

(1) "Volunteer" means an individual who provides healthcare services or assistance in a location other than his or her usual place of business or practice without expectation or receipt of remuneration for his or her services.

(2) “Healthcare Facility” means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile medical services platform or vehicle used for the provision of healthcare.

(3) "Public Health Emergency" means a public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. §247d),a determination by the Secretary of the Department of Homeland Security in accordance with 42 U.S.C. § 300hh-11, or an emergency or disaster declaration under 42 U.S.C. §5191 or 42 U.S.C. §5170. For purposes of this section, a public health emergency may be given retroactive effect. A public health emergency can involve the provision of health and medical services and may be limited in geographic scope.

C. Explanation of VPA Revisions

(a) *Immunity of Public Health Emergency Volunteer*

A volunteer under this subsection, while aiding in or facilitating in the provision of healthcare in a public health emergency, is deemed a volunteer of a nonprofit organization or governmental entity for purposes of chapter 139 of title 42, United States Code (popularly known as the 'Volunteer Protection Act'). Subsection (d) of section 4 of such chapter, 42 U.S.C. §14503(d), which provides for liability of volunteers in certain situations, does not apply for purposes of any claim against such a volunteer. Subsection 14503(d) contains certain exceptions to liability protection for volunteers, including one, §14503(d)(4), under which a volunteer could be liable notwithstanding the general rule of the Act if the applicable state law conditions a volunteer's protection from liability on the volunteer's organization's acceptance of vicarious liability. The United States is not intended to be vicariously liable in place of volunteers, and otherwise applicable exception could be read to subject such volunteers to tort liability where state law is as described. Accordingly, the liability exception of 42 U.S.C. §14503(d)(4) is excluded

(b) *Constructive State Licensure or Authority*

Subsection (b) provides that volunteers who perform services during a public health care emergency are deemed to be duly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which an alleged harm occurs. This constructive licensure or authorization applies so long as the volunteers acts within the scope of the volunteer's responsibilities with the healthcare facility, and is limited to those situations where the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice by another jurisdiction to perform or provide or engage in those healthcare services, activities, or practices involved.

(c) *Nonliability of Volunteer's Employer or Partner*

Subsection (c) extends the liability protections of the volunteer to the usual employer or business partner of a volunteer for any acts or omissions that occur while the volunteer is aiding in or facilitating the provision of healthcare during a public health emergency. The otherwise applicable liability provision of 42 U.S.C. §14503(c) shall not apply for purposes of any claim against an employer or partner of a volunteer under this section.

(d) *Nonliability of Host or Enabling Person, Entity or Organization*

Subsection (d) extends the liability protections of the volunteer to a person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to the volunteer to enable the volunteer to render medical services or assistance during a public health emergency. The host facility shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a public health emergency. The otherwise applicable liability provision of 42 U.S.C. §14503(c) shall not apply to a claim against such a person, entity or organization unless the harm was caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference of the person, entity or organization to the rights or safety of an individual harmed by the volunteer.

(e) Definitions.

Subsection (e) defines the terms "Volunteer", "Healthcare Facility" and "Public Health Emergency". A "Volunteer" is a person who does not expect or receive pay for volunteered services and who does not perform the volunteer services in his or her usual place of business or employment. A "Healthcare Facility" includes hospitals and clinics, but is not limited to them. The term also includes any platform, place or vehicle where the volunteer's services are performed or assistance is rendered. A "Public Health Emergency" is defined as an emergency declared by the Secretary of Health and Human Services under 42 U.S.C. §247d; an emergency declared by the Secretary of the Department of Homeland Security in accordance with 42 U.S.C. § 300hh-11, or an emergency or disaster declaration issued under the specified sections of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, i..e, 42 U.S.C. §5191 or 42 U.S.C. §5170. A public health emergency may be given retroactive effect, and it may be limited in terms of its geographic scope.

D. **Current Text of the VPA**.

[42 U.S.C.] §14503. Limitation on liability for volunteers

(a) Liability protection for volunteers

Except as provided in subsections (b) and (d) of this section, no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if -

(1) the volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

(2) if appropriate or required, the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity;

(3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(4) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to -

(A) possess an operator's license; or

(B) maintain insurance.

(b) Concerning responsibility of volunteers to organizations and entities

Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(c) No effect on liability of organization or entity

Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(d) Exceptions to volunteer liability protection

If the laws of a State limit volunteer liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit organization or governmental entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(4) A State law that makes a limitation of liability applicable only if the nonprofit organization or governmental entity provides a financially secure source of recovery for individuals who

suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the organization or entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

(e) Limitation on punitive damages based on actions of volunteers

(1) General rule

Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(f) Exceptions to limitations on liability

(1) In general

The limitations on the liability of a volunteer under this chapter shall not apply to any misconduct that -

(A) Constitutes a crime of violence (as that term is defined in section 16 of title 18) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(C) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(D) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(E) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) Rule of construction

Nothing in this subsection shall be construed to [a]ffect subsection (a)(3) or (e) of this section.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 4:18 PM
To: Rajeev Venkayya MD (E-mail)
Subject: Contact info.

Rajeev, Nice to meet you. FYI - my contact info follows below. NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 4:41 PM
To: Brand, Rachel
Subject: RE: Katrina - healthcare worker liability initiative

Thanks, Rachel. I've asked Jeff B. to get with Richard about some additional related ideas he and I have. If I can help otherwise, just let me know. I think this is an impt idea that can be passed now, but which will be much more likely to be caught up in the tort reform/med mal debate and thus difficult to pass if we wait until after the emergency has passed.

-----Original Message-----
From: Brand, Rachel
Sent: Tuesday, September 06, 2005 4:23 PM
To: Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

I've asked Richard to take a look at this.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding

amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 4:42 PM
To: Reyes, Luis (SMO)
Subject: RE: Gordon Todd Resume

Agree completely. [redacted]

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, September 06, 2005 4:20 PM
To: Gorsuch, Neil M
Subject: Gordon Todd Resume

[redacted]

Let me know what you think.

<< File: Gordon Todd Resume (July 2005).pdf >>
\

Gunn, Currie (SMO)

Subject:	Updated: Civil Division Weekly
Location:	5710
Start:	Wednesday, September 07, 2005 11:00 AM
End:	Wednesday, September 07, 2005 12:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Wednesday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Keisler, Peter D. (CIV); Meron, Daniel (CIV); Taylor, Wendell L; Bucholtz, Jeffrey (CIV); Cohn, Jonathan (CIV); Schiffer, Stuart (CIV); Katsas, Gregory (CIV); Kessler, Elizabeth A; Wiggins, Mike; Senger, Jeffrey M; Reyes, Luis (SMO); Nichols, Carl (CIV); Swenson, Lily F; Swenson, Lily F; Gorsuch, Neil M

When: Wednesday, September 07, 2005 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Note meeting time change. This mtg only.

Attendees: ASG Robert McCallum, Peter Keisler-AAG Civil, Dan Meron-Civil, Wendell Taylor-ODAG, Brian Boyle-OASG, Jeff Senger-OASG, Mike Wiggins-OASG, Liz Kessler-OASG, Stuart Schiffer-Civil, Carl Nichols-Civil, Jonathan Cohn-Civil, Jeff Bucholtz-Civil, Greg Katsas-Civil, Lily Swenson-OASG, Neil Gorsuch-OASG

POC: Currie Gunn x4-9500

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, September 06, 2005 4:56 PM
To: Gorsuch, Neil M
Subject: Read: [redacted] Resume

Gunn, Currie (SMO)

From:	Gunn, Currie (SMO)
Sent:	Tuesday, September 06, 2005 5:16 PM
To:	Gorsuch, Neil M; Henke, Tracy (SMO); Kessler, Elizabeth A; Reyes, Luis (SMO); Senger, Jeffrey M; Swenson, Lily F; Wiggins, Mike
Subject:	Staff postposed until Robert returns. I will alert everyone when he returns.
Importance:	High

Hertling, Richard

From:	Hertling, Richard
Sent:	Tuesday, September 06, 2005 6:22 PM
To:	Gorsuch, Neil M; Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV)
Cc:	Ansell, Frederick; Brand, Rachel; Moschella, William
Subject:	FW: Katrina - healthcare worker liability initiative
Attachments:	tmp.htm; Emergency Health & VPA.doc; Emergency Health Freestanding Section.doc; VPA document.doc

Neil and Jeff: OLP has reviewed these proposals and we support them in concept. As to the different proposals, we would prefer the second one, as it most explicitly addresses the issue of punitive damages. We see no basis for interposing any objection to moving forward expeditiously to seek the enactment of one of these proposals.

We believe that OMB will be considering a number of Katrina-related legislative items, and we think this type of legislation ought to be included in an administration package of some kind. Therefore, we encourage you to push HSC to move forward with seeking OMB clearance promptly.

Please let me know if OLP can provide any further assistance regarding this matter. rah

-----Original Message-----
From: Brand, Rachel
Sent: Tuesday, September 06, 2005 3:57 PM
To: Hertling, Richard
Subject: FW: Katrina - healthcare worker liability initiative

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage

additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Subject: Healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

[DRAFT] An Act to Grant Relief to Volunteers for Healthcare Services Rendered During Declared Healthcare Emergencies

(a) A volunteer, as defined in this section, while aiding or facilitating the provision of health or medical services during a Declared Healthcare Emergency, shall be deemed a volunteer of a nonprofit organization or governmental entity for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), provided that the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction to provide such healthcare. Subsections (c) and (d) of section 4 of such chapter (42 U.S.C. §14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

(b) An employer or business partner of a volunteer shall not be liable for any acts or omissions of a volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare in a declared healthcare emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply for purposes of any claim against an employer or partner of a volunteer under this section.

(c) A person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to a volunteer to enable the volunteer to render medical services or assistance under subsection (a) of this section shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply to a claim against such a person, entity or organization.

(d) Definitions
(1) "Volunteer" means an individual who provides healthcare services or assistance in a location other than his or her usual place of business or practice without expectation or receipt of remuneration for his or her services.
(2) "Healthcare Facility" means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile medical services platform or vehicle used for the provision of healthcare.
(3) "Declared Healthcare Emergency" means a public health emergency declared under this section by the President, the Secretary of Health & Human Services or the Secretary of Homeland Security. For purposes of this section, a Declared Healthcare Emergency may be given retroactive effect. A Declared Healthcare Emergency may be limited in time and geographic scope.

Sec. __ Relief to Volunteers for Healthcare Services Rendered During Declared Healthcare Emergencies

(a) A volunteer, as defined in this section, while aiding or facilitating the provision of health or medical services during a Declared Healthcare Emergency, who is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction to provide such healthcare, shall not be liable for harm caused by an act or omission of the volunteer if -

(1) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(2) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires the operator or the owner of the vehicle, craft, or vessel to -

(A) possess an operator's license; or

(B) maintain insurance.

(b) Limitation on punitive damages based on actions of volunteers

(1) General rule

Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer during a declared healthcare emergency unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(c) An employer or business partner of a volunteer shall not be liable for any acts or omissions of a volunteer that occur while the volunteer is aiding

in or facilitating the provision of healthcare in a declared healthcare emergency.

(d) A person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to a volunteer to enable the volunteer to render medical services or assistance under subsection (a) of this section shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a declared healthcare emergency.

(e) Definitions

(1) "Volunteer" means an individual who provides healthcare services or assistance in a location other than his or her usual place of business or practice without expectation or receipt of remuneration for his or her services.

(2) "Healthcare Facility" means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile medical services platform or vehicle used for the provision of healthcare.

(3) "Declared Healthcare Emergency" means a declared healthcare emergency declared under this section by the President, the Secretary of Health & Human Services, or the Secretary of Homeland Security. For purposes of this section, a Declared Healthcare Emergency may be given retroactive effect. A Declared Healthcare Emergency may be limited in time and geographic scope.

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Suggested Modification to the Volunteer Protection Act

A. Background.

The Volunteer Protection Act of 1997, Pub. L. 105-19, *codified at* 42 U.S.C. 14501 *et seq.* (VPA), is a balanced measure that was enacted with extensive bipartisan support. The VPA removes liability for ordinary negligence, while retaining liability for willful misconduct as outlined in the statute.

The proposed VPA revision below would provide substantial protection against tort liability for healthcare volunteers who perform services during public health emergencies, and protect their employers or partners, as well as those persons or entities whose facilities they use during a public health emergency. The suggested approach does not deem volunteers to be federal employees, and would not subject the United States to potential liability under the Federal Tort Claims Act. Adoption of a congressionally sanctioned VPA approach would represent an appropriate accommodation of the volunteers' interest in protection against tort liability, the public's interest in compensation for and deterrence of willful misconduct, and the United States' interest in protecting the public fisc.

B. Text of Proposed Legislation

[DRAFT] An Act to Grant Relief to Volunteers for Healthcare Services Rendered During Public Health Emergencies

(a) A volunteer, as defined in this section, while aiding or facilitating the provision of health or medical services during a public health emergency, shall be deemed a volunteer of a nonprofit organization or governmental entity for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), provided that the volunteer is properly licensed, certified, or authorized by the appropriate authorities of another jurisdiction to provide such healthcare. Subsection (d) of section 4 of such chapter (42 U.S.C. §14503(d)) shall not apply to any claim against a volunteer as defined herein.

(b) A volunteer providing health or medical services during a public health emergency shall be deemed to be duly licensed, certified, or authorized by the appropriate authorities of the jurisdiction in which the volunteer provides such services if that volunteer was properly licensed,

certified, or authorized by the appropriate authorities for the activities or practice by another jurisdiction to perform or provide the healthcare services, activities, practices or related services that he or she voluntarily provides in aid or facilitation of a response to a public health emergency.

(c) An employer or business partner of a volunteer shall not be liable for any acts or omissions of a volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare in a declared healthcare emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply for purposes of any claim against an employer or partner of a volunteer under this section.

(d) A person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to a volunteer to enable the volunteer to render medical services or assistance under subsection (a) of this section shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a public health emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply to a claim against such a person, entity or organization so long as the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference of the person, entity or organization to the rights or safety of an individual harmed by the volunteer.

(e) Definitions

(1) "Volunteer" means an individual who provides healthcare services or assistance in a location other than his or her usual place of business or practice without expectation or receipt of remuneration for his or her services.

(2) "Healthcare Facility" means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile medical services platform or vehicle used for the provision of healthcare.

(3) "Public Health Emergency" means a public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. §247d),a determination by the Secretary of the Department of Homeland Security in accordance with 42 U.S.C. § 300hh-11, or an emergency or disaster declaration under 42 U.S.C. §5191 or 42 U.S.C. §5170. For purposes of this section, a public health emergency may be given retroactive effect. A public health emergency can involve the provision of health and medical services and may be limited in geographic scope.

C. Explanation of VPA Revisions

(a) *Immunity of Public Health Emergency Volunteer*

A volunteer under this subsection, while aiding in or facilitating in the provision of healthcare in a public health emergency, is deemed a volunteer of a nonprofit organization or governmental entity for purposes of chapter 139 of title 42, United States Code (popularly known as the 'Volunteer Protection Act'). Subsection (d) of section 4 of such chapter, 42 U.S.C. §14503(d), which provides for liability of volunteers in certain situations, does not apply for purposes of any claim against such a volunteer. Subsection 14503(d) contains certain exceptions to liability protection for volunteers, including one, §14503(d)(4), under which a volunteer could be liable notwithstanding the general rule of the Act if the applicable state law conditions a volunteer's protection from liability on the volunteer's organization's acceptance of vicarious liability. The United States is not intended to be vicariously liable in place of volunteers, and otherwise applicable exception could be read to subject such volunteers to tort liability where state law is as described. Accordingly, the liability exception of 42 U.S.C. §14503(d)(4) is excluded

(b) *Constructive State Licensure or Authority*

Subsection (b) provides that volunteers who perform services during a public health care emergency are deemed to be duly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which an alleged harm occurs. This constructive licensure or authorization applies so long as the volunteers acts within the scope of the volunteer's responsibilities with the healthcare facility, and is limited to those situations where the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice by another jurisdiction to perform or provide or engage in those healthcare services, activities, or practices involved.

(c) *Nonliability of Volunteer's Employer or Partner*

Subsection (c) extends the liability protections of the volunteer to the usual employer or business partner of a volunteer for any acts or omissions that occur while the volunteer is aiding in or facilitating the provision of healthcare during a public health emergency. The otherwise applicable liability provision of 42 U.S.C. §14503(c) shall not apply for purposes of any claim against an employer or partner of a volunteer under this section.

(d) *Nonliability of Host or Enabling Person, Entity or Organization*

Subsection (d) extends the liability protections of the volunteer to a person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to the volunteer to enable the volunteer to render medical services or assistance during a public health emergency. The host facility shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a public health emergency. The otherwise applicable liability provision of 42 U.S.C. §14503(c) shall not apply to a claim against such a person, entity or organization unless the harm was caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference of the person, entity or organization to the rights or safety of an individual harmed by the volunteer.

(e) Definitions.

Subsection (e) defines the terms "Volunteer", "Healthcare Facility" and "Public Health Emergency". A "Volunteer" is a person who does not expect or receive pay for volunteered services and who does not perform the volunteer services in his or her usual place of business or employment. A "Healthcare Facility" includes hospitals and clinics, but is not limited to them. The term also includes any platform, place or vehicle where the volunteer's services are performed or assistance is rendered. A "Public Health Emergency" is defined as an emergency declared by the Secretary of Health and Human Services under 42 U.S.C. §247d; an emergency declared by the Secretary of the Department of Homeland Security in accordance with 42 U.S.C. § 300hh-11, or an emergency or disaster declaration issued under the specified sections of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, i..e, 42 U.S.C. §5191 or 42 U.S.C. §5170. A public health emergency may be given retroactive effect, and it may be limited in terms of its geographic scope.

D. **Current Text of the VPA**.

[42 U.S.C.] §14503. Limitation on liability for volunteers

(a) Liability protection for volunteers

Except as provided in subsections (b) and (d) of this section, no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if -

(1) the volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

(2) if appropriate or required, the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity;

(3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(4) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to -

(A) possess an operator's license; or

(B) maintain insurance.

(b) Concerning responsibility of volunteers to organizations and entities

Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(c) No effect on liability of organization or entity

Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(d) Exceptions to volunteer liability protection

If the laws of a State limit volunteer liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit organization or governmental entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(4) A State law that makes a limitation of liability applicable only if the nonprofit organization or governmental entity provides a financially secure source of recovery for individuals who

suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the organization or entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

(e) Limitation on punitive damages based on actions of volunteers

(1) General rule

Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(f) Exceptions to limitations on liability

(1) In general

The limitations on the liability of a volunteer under this chapter shall not apply to any misconduct that -

(A) Constitutes a crime of violence (as that term is defined in section 16 of title 18) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(C) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(D) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(E) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) Rule of construction

Nothing in this subsection shall be construed to [a]ffect subsection (a)(3) or (e) of this section.

Bucholtz, Jeffrey (CIV)

From:	Bucholtz, Jeffrey (CIV)
Sent:	Tuesday, September 06, 2005 6:28 PM
To:	Hertling, Richard; Gorsuch, Neil M; Keisler, Peter D. (CIV)
Cc:	Ansell, Frederick; Brand, Rachel; Moschella, William
Subject:	RE: Katrina - healthcare worker liability initiative

Thanks, Richard. (Just for clarification, the first two documents are intended to produce identical results, one by amending and incorporating the VPA, the other by enacting a free-standing statute modeled on the VPA. In other words, the existing VPA contains the same limits on punitives as the second attachment would enact as a stand-alone provision.)

-----Original Message-----
From: Hertling, Richard
Sent: Tuesday, September 06, 2005 6:22 PM
To: Gorsuch, Neil M; Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV)
Cc: Ansell, Frederick; Brand, Rachel; Moschella, William
Subject: FW: Katrina - healthcare worker liability initiative

Neil and Jeff: OLP has reviewed these proposals and we support them in concept. As to the different proposals, we would prefer the second one, as it most explicitly addresses the issue of punitive damages. We see no basis for interposing any objection to moving forward expeditiously to seek the enactment of one of these proposals.

We believe that OMB will be considering a number of Katrina-related legislative items, and we think this type of legislation ought to be included in an administration package of some kind. Therefore, we encourage you to push HSC to move forward with seeking OMB clearance promptly.

Please let me know if OLP can provide any further assistance regarding this matter. rah

-----Original Message-----
From: Brand, Rachel
Sent: Tuesday, September 06, 2005 3:57 PM
To: Hertling, Richard
Subject: FW: Katrina - healthcare worker liability initiative

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert

(SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Hertling, Richard

From: Hertling, Richard
Sent: Tuesday, September 06, 2005 6:30 PM
To: Bucholtz, Jeffrey (CIV); Gorsuch, Neil M; Keisler, Peter D. (CIV)
Cc: Ansell, Frederick; Brand, Rachel; Moschella, William
Subject: RE: Katrina - healthcare worker liability initiative

thanks for the clarification. Either way, we support the proposal in concept and believe DOJ should endorse it. rah

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 6:28 PM
To: Hertling, Richard; Gorsuch, Neil M; Keisler, Peter D. (CIV)
Cc: Ansell, Frederick; Brand, Rachel; Moschella, William
Subject: RE: Katrina - healthcare worker liability initiative

Thanks, Richard. (Just for clarification, the first two documents are intended to produce identical results, one by amending and incorporating the VPA, the other by enacting a free-standing statute modeled on the VPA. In other words, the existing VPA contains the same limits on punitives as the second attachment would enact as a stand-alone provision.)

-----Original Message-----
From: Hertling, Richard
Sent: Tuesday, September 06, 2005 6:22 PM
To: Gorsuch, Neil M; Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV)
Cc: Ansell, Frederick; Brand, Rachel; Moschella, William
Subject: FW: Katrina - healthcare worker liability initiative

Neil and Jeff: OLP has reviewed these proposals and we support them in concept. As to the different proposals, we would prefer the second one, as it most explicitly addresses the issue of punitive damages. We see no basis for interposing any objection to moving forward expeditiously to seek the enactment of one of these proposals.

We believe that OMB will be considering a number of Katrina-related legislative items, and we think this type of legislation ought to be included in an administration package of some kind. Therefore, we encourage you to push HSC to move forward with seeking OMB clearance promptly.

Please let me know if OLP can provide any further assistance regarding this matter. rah

-----Original Message-----
From: Brand, Rachel
Sent: Tuesday, September 06, 2005 3:57 PM

To: Hertling, Richard
Subject: FW: Katrina - healthcare worker liability initiative

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a

public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Bucholtz, Jeffrey (CIV)

From:	Bucholtz, Jeffrey (CIV)
Sent:	Tuesday, September 6, 2005 6:31 PM
To:	Gorsuch, Neil M
Cc:	Keisler, Peter D. (CIV)
Subject:	FW: Katrina - healthcare worker liability initiative

Neil: Would you like me to pursue this with HSC? With OMB? (Is Raul there yet? I think Marc K. is still [redacted] Or are you still waiting for other pieces to fall into place within the Dept? Please let me know what I can do to be helpful but without getting out in front of anyone or stepping on any toes. Thanks,

Jeff

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 6:28 PM
To: Hertling, Richard; Gorsuch, Neil M; Keisler, Peter D. (CIV)
Cc: Ansell, Frederick; Brand, Rachel; Moschella, William
Subject: RE: Katrina - healthcare worker liability initiative

Thanks, Richard. (Just for clarification, the first two documents are intended to produce identical results, one by amending and incorporating the VPA, the other by enacting a free-standing statute modeled on the VPA. In other words, the existing VPA contains the same limits on punitives as the second attachment would enact as a stand-alone provision.)

-----Original Message-----
From: Hertling, Richard
Sent: Tuesday, September 06, 2005 6:22 PM
To: Gorsuch, Neil M; Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV)
Cc: Ansell, Frederick; Brand, Rachel; Moschella, William
Subject: FW: Katrina - healthcare worker liability initiative

Neil and Jeff: OLP has reviewed these proposals and we support them in concept. As to the different proposals, we would prefer the second one, as it most explicitly addresses the issue of punitive damages. We see no basis for interposing any objection to moving forward expeditiously to seek the enactment of one of these proposals.

We believe that OMB will be considering a number of Katrina-related legislative items, and we think this type of legislation ought to be included in an administration package of some kind. Therefore, we encourage you to push HSC to move forward with seeking OMB clearance promptly.

Please let me know if OLP can provide any further assistance regarding this matter. rah

-----Original Message-----
From: Brand, Rachel
Sent: Tuesday, September 06, 2005 3:57 PM
To: Hertling, Richard
Subject: FW: Katrina - healthcare worker liability initiative

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the

conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell [redacted]
rvenkayya@who.eop.gov

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Tuesday, September 06, 2005 6:54 PM
To:	Rajeev Venkayya MD (E-mail); Marc_Kesselman (E-mail)
Cc:	Moschella, William; McCallum, Robert (SMO); Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); Brand, Rachel; Hertling, Richard
Subject:	FW: Katrina - healthcare worker liability initiative
Attachments:	tmp.htm; Emergency Health & VPA.doc; Emergency Health Freestanding Section.doc; VPA document.doc

Rajeev, Marc - Just a heads-up to let you know that DOJ Leg Affairs, in conjunction with OLP, intends to send over to WH Leg Affairs tomorrow some language for consideration that would effect the change to the Volunteer Act discussed below. The aim is to encourage volunteerism in the wake of Katrina among out-of-state (and foreign) medical professionals by shielding them from tort liability under certain circumstances. This proposal will join a larger set of Katrina-related proposals sent to the WH today.

NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft

December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

[DRAFT] An Act to Grant Relief to Volunteers for Healthcare Services Rendered During Declared Healthcare Emergencies

(a) A volunteer, as defined in this section, while aiding or facilitating the provision of health or medical services during a Declared Healthcare Emergency, shall be deemed a volunteer of a nonprofit organization or governmental entity for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), provided that the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction to provide such healthcare. Subsections (c) and (d) of section 4 of such chapter (42 U.S.C. §14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

(b) An employer or business partner of a volunteer shall not be liable for any acts or omissions of a volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare in a declared healthcare emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply for purposes of any claim against an employer or partner of a volunteer under this section.

(c) A person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to a volunteer to enable the volunteer to render medical services or assistance under subsection (a) of this section shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply to a claim against such a person, entity or organization.

(d) Definitions
(1) "Volunteer" means an individual who provides healthcare services or assistance in a location other than his or her usual place of business or practice without expectation or receipt of remuneration for his or her services.
(2) "Healthcare Facility" means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile medical services platform or vehicle used for the provision of healthcare.
(3) "Declared Healthcare Emergency" means a public health emergency declared under this section by the President, the Secretary of Health & Human Services or the Secretary of Homeland Security. For purposes of this section, a Declared Healthcare Emergency may be given retroactive effect. A Declared Healthcare Emergency may be limited in time and geographic scope.

Sec. __ Relief to Volunteers for Healthcare Services Rendered During Declared Healthcare Emergencies

(a) A volunteer, as defined in this section, while aiding or facilitating the provision of health or medical services during a Declared Healthcare Emergency, who is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction to provide such healthcare, shall not be liable for harm caused by an act or omission of the volunteer if -

(1) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(2) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires the operator or the owner of the vehicle, craft, or vessel to -

(A) possess an operator's license; or

(B) maintain insurance.

(b) Limitation on punitive damages based on actions of volunteers

(1) General rule

Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer during a declared healthcare emergency unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(c) An employer or business partner of a volunteer shall not be liable for any acts or omissions of a volunteer that occur while the volunteer is aiding

in or facilitating the provision of healthcare in a declared healthcare emergency.

(d) A person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to a volunteer to enable the volunteer to render medical services or assistance under subsection (a) of this section shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a declared healthcare emergency.

(e) Definitions

(1) "Volunteer" means an individual who provides healthcare services or assistance in a location other than his or her usual place of business or practice without expectation or receipt of remuneration for his or her services.

(2) "Healthcare Facility" means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile medical services platform or vehicle used for the provision of healthcare.

(3) "Declared Healthcare Emergency" means a declared healthcare emergency declared under this section by the President, the Secretary of Health & Human Services, or the Secretary of Homeland Security. For purposes of this section, a Declared Healthcare Emergency may be given retroactive effect. A Declared Healthcare Emergency may be limited in time and geographic scope.

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Suggested Modification to the Volunteer Protection Act

A. Background.

The Volunteer Protection Act of 1997, Pub. L. 105-19, *codified at* 42 U.S.C. 14501 *et seq.* (VPA), is a balanced measure that was enacted with extensive bipartisan support. The VPA removes liability for ordinary negligence, while retaining liability for willful misconduct as outlined in the statute.

The proposed VPA revision below would provide substantial protection against tort liability for healthcare volunteers who perform services during public health emergencies, and protect their employers or partners, as well as those persons or entities whose facilities they use during a public health emergency. The suggested approach does not deem volunteers to be federal employees, and would not subject the United States to potential liability under the Federal Tort Claims Act. Adoption of a congressionally sanctioned VPA approach would represent an appropriate accommodation of the volunteers' interest in protection against tort liability, the public's interest in compensation for and deterrence of willful misconduct, and the United States' interest in protecting the public fisc.

B. Text of Proposed Legislation

[DRAFT] An Act to Grant Relief to Volunteers for Healthcare Services Rendered During Public Health Emergencies

(a) A volunteer, as defined in this section, while aiding or facilitating the provision of health or medical services during a public health emergency, shall be deemed a volunteer of a nonprofit organization or governmental entity for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), provided that the volunteer is properly licensed, certified, or authorized by the appropriate authorities of another jurisdiction to provide such healthcare. Subsection (d) of section 4 of such chapter (42 U.S.C. §14503(d)) shall not apply to any claim against a volunteer as defined herein.

(b) A volunteer providing health or medical services during a public health emergency shall be deemed to be duly licensed, certified, or authorized by the appropriate authorities of the jurisdiction in which the volunteer provides such services if that volunteer was properly licensed,

certified, or authorized by the appropriate authorities for the activities or practice by another jurisdiction to perform or provide the healthcare services, activities, practices or related services that he or she voluntarily provides in aid or facilitation of a response to a public health emergency.

(c) An employer or business partner of a volunteer shall not be liable for any acts or omissions of a volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare in a declared healthcare emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply for purposes of any claim against an employer or partner of a volunteer under this section.

(d) A person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to a volunteer to enable the volunteer to render medical services or assistance under subsection (a) of this section shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a public health emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply to a claim against such a person, entity or organization so long as the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference of the person, entity or organization to the rights or safety of an individual harmed by the volunteer.

(e) Definitions

(1) "Volunteer" means an individual who provides healthcare services or assistance in a location other than his or her usual place of business or practice without expectation or receipt of remuneration for his or her services.

(2) “Healthcare Facility” means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile medical services platform or vehicle used for the provision of healthcare.

(3) "Public Health Emergency" means a public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. §247d),a determination by the Secretary of the Department of Homeland Security in accordance with 42 U.S.C. § 300hh-11, or an emergency or disaster declaration under 42 U.S.C. §5191 or 42 U.S.C. §5170. For purposes of this section, a public health emergency may be given retroactive effect. A public health emergency can involve the provision of health and medical services and may be limited in geographic scope.

C. Explanation of VPA Revisions

(a) *Immunity of Public Health Emergency Volunteer*

A volunteer under this subsection, while aiding in or facilitating in the provision of healthcare in a public health emergency, is deemed a volunteer of a nonprofit organization or governmental entity for purposes of chapter 139 of title 42, United States Code (popularly known as the 'Volunteer Protection Act'). Subsection (d) of section 4 of such chapter, 42 U.S.C. §14503(d), which provides for liability of volunteers in certain situations, does not apply for purposes of any claim against such a volunteer. Subsection 14503(d) contains certain exceptions to liability protection for volunteers, including one, §14503(d)(4), under which a volunteer could be liable notwithstanding the general rule of the Act if the applicable state law conditions a volunteer's protection from liability on the volunteer's organization's acceptance of vicarious liability. The United States is not intended to be vicariously liable in place of volunteers, and otherwise applicable exception could be read to subject such volunteers to tort liability where state law is as described. Accordingly, the liability exception of 42 U.S.C. §14503(d)(4) is excluded

(b) *Constructive State Licensure or Authority*

Subsection (b) provides that volunteers who perform services during a public health care emergency are deemed to be duly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which an alleged harm occurs. This constructive licensure or authorization applies so long as the volunteers acts within the scope of the volunteer's responsibilities with the healthcare facility, and is limited to those situations where the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice by another jurisdiction to perform or provide or engage in those healthcare services, activities, or practices involved.

(c) *Nonliability of Volunteer's Employer or Partner*

Subsection (c) extends the liability protections of the volunteer to the usual employer or business partner of a volunteer for any acts or omissions that occur while the volunteer is aiding in or facilitating the provision of healthcare during a public health emergency. The otherwise applicable liability provision of 42 U.S.C. §14503(c) shall not apply for purposes of any claim against an employer or partner of a volunteer under this section.

(d) *Nonliability of Host or Enabling Person, Entity or Organization*

Subsection (d) extends the liability protections of the volunteer to a person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to the volunteer to enable the volunteer to render medical services or assistance during a public health emergency. The host facility shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a public health emergency. The otherwise applicable liability provision of 42 U.S.C. §14503(c) shall not apply to a claim against such a person, entity or organization unless the harm was caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference of the person, entity or organization to the rights or safety of an individual harmed by the volunteer.

(e) Definitions.

Subsection (e) defines the terms "Volunteer", "Healthcare Facility" and "Public Health Emergency". A "Volunteer" is a person who does not expect or receive pay for volunteered services and who does not perform the volunteer services in his or her usual place of business or employment. A "Healthcare Facility" includes hospitals and clinics, but is not limited to them. The term also includes any platform, place or vehicle where the volunteer's services are performed or assistance is rendered. A "Public Health Emergency" is defined as an emergency declared by the Secretary of Health and Human Services under 42 U.S.C. §247d; an emergency declared by the Secretary of the Department of Homeland Security in accordance with 42 U.S.C. § 300hh-11, or an emergency or disaster declaration issued under the specified sections of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, i..e, 42 U.S.C. §5191 or 42 U.S.C. §5170. A public health emergency may be given retroactive effect, and it may be limited in terms of its geographic scope.

D. **Current Text of the VPA**.

[42 U.S.C.] §14503. Limitation on liability for volunteers

(a) Liability protection for volunteers

Except as provided in subsections (b) and (d) of this section, no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if -

(1) the volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

(2) if appropriate or required, the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity;

(3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(4) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to -

(A) possess an operator's license; or

(B) maintain insurance.

(b) Concerning responsibility of volunteers to organizations and entities

Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(c) No effect on liability of organization or entity

Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(d) Exceptions to volunteer liability protection

If the laws of a State limit volunteer liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit organization or governmental entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(4) A State law that makes a limitation of liability applicable only if the nonprofit organization or governmental entity provides a financially secure source of recovery for individuals who

suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the organization or entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

(e) Limitation on punitive damages based on actions of volunteers

(1) General rule

Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(f) Exceptions to limitations on liability

(1) In general

The limitations on the liability of a volunteer under this chapter shall not apply to any misconduct that -

(A) Constitutes a crime of violence (as that term is defined in section 16 of title 18) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(C) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(D) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(E) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) Rule of construction

Nothing in this subsection shall be construed to [a]ffect subsection (a)(3) or (e) of this section.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, September 06, 2005 7:27 PM
To: Bradbury, Steve; Freeman, Sharee; Gorsuch, Neil M
Subject: Denver Military Base Katrina Issue

Steve, fyi
Sharee, re: Denver - can we please get info. on which base, and what specific directive this is emanating from, and any other additional you may have on this? I presume DHS is aware of this? Thanks very much.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 17:52:16 2005
Subject:

My Regional Director from Denver just called in and says that they have moved a group of evacuees to a military base in Denver and the base control is refusing to let anyone of the people leave the base. The Ministerial Alliance there has called our office to ask for help.

There is a standing refusal of the evacuees to board cruise ships for lodging. For a number of reasons, any CRSer could have told FEMA that this housing option for African American evacuees would be a no - go.

This is just an update. When you get out of the meeting let's talk.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 7:29 PM
To: Fisher, Alice
Subject: FW: A/C Waiver Memo
Attachments: DRAFT PRIVILEGE WAIVER Memo REDLINE (8-30-05).doc

Alice - Am so glad you're here at last! The a/c waiver memo is attached as you requested. As we discussed, Robert hasn't yet reviewed, let alone approved, this iteration. Accordingly, while we'd like to get your comments as soon as possible, please don't circulate this even within CRIM at the moment. We anticipate having something more final ready for (re)circulation within the next couple days. Many thanks. Neil

PS - here's my contact info --

Room 5706
direct dial: (202) 305-1434
[redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 11:04 AM
To: Buchanan, MaryBeth
Cc: Reyes, Luis (SMO); McCallum, Robert (SMO)
Subject: FW: A/C Waiver Memo

Mary Beth,

Following up on our conversation Wednesday morning, I've sought to move some of your very good changes up to the top of the memo, seeking to emphasize right up front our confidence that the Thompson memo has been applied correctly in most cases. I've made a few other wordsmithing edits, and would very much appreciate your additional views. Your edits are in red; mine are in blue.

You should know that Robert has not yet had a chance to review this, and probably won't be able to get to it until Tuesday. To keep things moving, however, I thought I would forward my tentative edits to you now for any comments you may have.

All the best,

NMG

MEMORANDUM

To: ALL UNITED STATES ATTORNEYS AND DEPARTMENT COMPONENT HEADS

From: Robert D. McCallum, Jr.
Acting Deputy Attorney General

Subject: Guidance for Federal Prosecutors Regarding Requests for Corporate Waiver of the Attorney-Client Privilege and Work Product Protection

In recent years, the Department has placed significant emphasis on the prosecution of corporate crimes, with historic rises in the number and scale of those prosecutions. In connection with the Department's initiative in this area, on January 20, 2003, former Deputy Attorney General Larry D. Thompson issued a Memorandum to all United States Attorneys' Offices regarding Principles of Federal Prosecution of Business Organizations. This memorandum, commonly known as the Thompson Memorandum, found at USAM 9-162, remains the Department's policy on charging business organizations and includes factors to be considered in making charging decisions.

One of the nine factors the Thompson Memorandum sets forth in determining whether to charge a corporation or other business organization is "the corporation's timely and voluntary disclosure of wrongdoing and its willingness to cooperate in the investigation of its agents, including, if necessary, the waiver of corporate attorney-client and work product protection." Thompson Memorandum, Section II.B.4. The Thompson Memorandum elaborates on this factor by providing that a federal prosecutor may ensure the complete and truthful cooperation of a corporation by requesting, "in appropriate circumstances[,]" that the corporation waive the attorney-client privilege and attorney work-product protection, which the Memorandum recognizes also may be "critical in enabling the government to evaluate the completeness of a corporation's voluntary disclosure and cooperation." Id., Section VI.B.

Since this guidance was issued, the Department has periodically reviewed its use and application. These examinations strongly suggest that the federal prosecutors have taken an appropriate and measured approach in seeking waivers of the attorney-client privilege and work-product protection. For example, the Department recently conducted a study of corporate charging decisions at 28 United States Attorneys' Offices and the Criminal Division's Fraud Section and Asset Forfeiture and Money Laundering Section. The study revealed that, out of 52 cases involving corporate entities reported, in 25 cases prosecutors decided not to charge the entities while in 14 cases dispositions were negotiated with the entities. The negotiated dispositions include seven cases that resulted in deferred prosecution agreements, four that resulted in cooperation/non-prosecution agreements, and three that resulted in guilty pleas. Of the 14 negotiated dispositions, in only nine cases was a privilege waiver reported to play a significant role.

The Department's periodic examinations of practices under the Thompson Memorandum have also provided insights into a number of preferred practices with respect to waiver requests. This memorandum provides further guidance to federal prosecutors regarding waiver requests consistent with the Thompson Memorandum and the preferred practices that have emerged since the Thompson Memorandum's adoption.

In applying the factors set forth in the Thompson Memorandum, federal prosecutors have always considered and should continue to consider carefully whether and the extent to which a request to a business entity for a waiver of attorney-client privilege or attorney work-product protection is necessary to establish corporate cooperation in an investigation. While cooperation is an important factor in the Department's charging decision regarding a corporate target, the Thompson Memorandum recognizes that the attorney-client privilege and work product protections serve important, long-recognized public policies encouraging candid communications between counsel and client and promoting sound corporate governance. Accordingly, the Thompson memorandum acknowledges that a business organization's full cooperation does not always require a waiver, expressly stating that the Department "does not . . . consider waiver of a corporation's attorney-client and work product protection an absolute requirement, and prosecutors should consider the willingness of a corporation to waive such protection *when necessary to provide timely and complete information* as one factor in evaluating the corporation's cooperation." Id. (emphasis added).

By its terms, the Thompson Memorandum, without in any way limiting the ability of federal prosecutors to obtain relevant evidence, instructs prosecutors to consider carefully whether available alternatives exist before deciding to seek a waiver. . At the most basic level, a business organization may, for example, provide complete access to its employees, business records, organizational charts, compliance program, and any third-party witnesses over which it may have influence, such as customers, vendors, accountants, and former employees. In many cases, such action may be sufficient for the government to obtain timely and complete information concerning a suspected crime. In other instances involving complex business organizations or large volumes of evidence, obtaining timely and complete information may require the corporation to take additional steps, such as identifying for investigators specific witnesses and documents central to the suspected criminal conduct. A business organization could, without providing counsel's notes or reports, identify promptly and make available to investigators all of the witnesses and documents involved in its own internal investigation by corporate counsel and provide assurances that the witnesses will make full disclosure. If such actions would be adequate for federal investigators to determine timely the complete underlying facts, then the federal prosecutors should, consistent with the Thompson Memorandum, consider them before requesting a waiver.

If the alternatives to a waiver are believed to be insufficient to acquire timely and complete information, federal prosecutors should seek supervisory approval before requesting that attorney-client privilege or work-product protection be waived. United States Attorneys and Department officials who oversee corporate prosecutions should institute a system of supervisory review in their offices for this purpose.

If approval for a waiver request is obtained, the Thompson Memorandum instructs that the "waiver should ordinarily be limited to the factual internal investigation and any contemporaneous advice given to the corporation concerning the conduct at issue." Id., Section VI.B, n.3. The Thompson Memorandum further provides that, "[e]xcept in unusual circumstances, prosecutors should not seek a waiver with respect to communications and work product related to advice concerning the government's criminal investigation." Id. The Thompson Memorandum, therefore, draws an important distinction between underlying factual information and factual work product, on the one hand, and opinion work product or attorney-client communications, on the other hand. It also draws a significant distinction between legal advice rendered "contemporaneous[ly]" with "the conduct at issue" and "advice concerning the government's criminal investigation." Id. By drawing these distinctions, the Thompson Memorandum seeks to balance the interests associated with long-recognized legal privileges and those required for the vigorous enforcement of the federal criminal law.

Consistent with the Thompson Memorandum, a waiver, when deemed necessary, should be limited in most cases to factual information gleaned by the corporation's own investigation, including, where warranted by the circumstances, corporate counsel's interview notes and other factual findings, as opposed to privileged communications or counsel's opinion work product.

As the Thompson Memorandum outlines, a waiver request seeking privileged communications or opinion work product created contemporaneously with the underlying conduct under investigation may also be sometimes appropriate. Id. (discussing "contemporaneous advice"). The need for such information, however, should be evaluated independently from the necessity of factual findings, interview notes, and other fact work product. Frequently, inquiry into "contemporaneous advice" may not be necessary.

Finally, the Thompson Memorandum indicates that a waiver request for opinion work product or attorney-client communications concerning the government's criminal investigation itself may be warranted. The Memorandum instructs, however, that "prosecutors should not seek a waiver with respect" to such information except in "unusual circumstances." Id. Prosecutors should exercise similar care when evaluating the need for a waiver for opinion work product or attorney-client communications that were created after the events under investigation and involve self-evaluation activities, so that companies are not discouraged from candidly engaging in self-evaluation and assessing ways to improve corporate governance and compliance. Of course, there may be cases in which even information falling into these categories may benecessary. One example would be a case in which there is strong reason to believe that counsel's advice about the government's current investigation constitutes an obstruction of justice, though undoubtedly there will be others as well.

DRAFT DRAFT DRAFT DRAFT DRAFT

DRAFT DRAFT DRAFT DRAFT DRAFT

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 7:30 PM
To: Buchanan, MaryBeth
Subject: RE: A/C Waiver Memo

Mary Beth - I was just wondering what you thought of my tinkering? I promise: no pride of authorship here; I want and value your frank assessment. Warm regards, Neil

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 11:04 AM
To: Buchanan, MaryBeth
Cc: Reyes, Luis (SMO); McCallum, Robert (SMO)
Subject: FW: A/C Waiver Memo

Mary Beth,

Following up on our conversation Wednesday morning, I've sought to move some of your very good changes up to the top of the memo, seeking to emphasize right up front our confidence that the Thompson memo has been applied correctly in most cases. I've made a few other wordsmithing edits, and would very much appreciate your additional views. Your edits are in red; mine are in blue.

You should know that Robert has not yet had a chance to review this, and probably won't be able to get to it until Tuesday. To keep things moving, however, I thought I would forward my tentative edits to you now for any comments you may have.

All the best,

NMG

<< File: DRAFT PRIVILEGE WAIVER Memo REDLINE (8-30-05).doc >>

Freeman, Sharee

From: Freeman, Sharee
Sent: Tuesday, September 6, 2005 7:38 PM
To: Reyes, Luis (SMO); Bradbury, Steve; Gorsuch, Neil M
Subject: RE: Denver Military Base Katrina Issue

Lowery? My RD is in the meeting with the Ministerial Alliance now. I tried to call and went into voice mail. I will advise when we know more.
-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, September 06, 2005 7:27 PM
To: Bradbury, Steve; Freeman, Sharee; Gorsuch, Neil M
Subject: Denver Military Base Katrina Issue

Steve, fyi
Sharee, re: Denver - can we please get info. on which base, and what specific directive this is emanating from, and any other additional you may have on this? I presume DHS is aware of this? Thanks very much.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 17:52:16 2005
Subject:

My Regional Director from Denver just called in and says that they have moved a group of evacuees to a military base in Denver and the base control is refusing to let anyone of the people leave the base. The Ministerial Alliance there has called our office to ask for help.

There is a standing refusal of the evacuees to board cruise ships for lodging. For a number of reasons, any CRSer could have told FEMA that this housing option for African American evacuees would be a no - go.

This is just an update. When you get out of the meeting let's talk.

Williams, Jan

From: Williams, Jan
Sent: Tuesday, September 06, 2005 8:04 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: resumes, as promised
Attachments: Todd, Gordon

[redacted]

GORDON D. TODD

[redacted]

EDUCATION

***Juris Doctor*, University of Virginia School of Law** (1997–2000)

- Elected to the Order of the Coif.
- Senior Editorial Board, VIRGINIA JOURNAL OF LAW & PUBLIC POLICY.
- Co-Founder & -Director, St. Thomas More Society for Catholic Law Students (UVA Chapter).

***A.B.*, *cum laude*, Political Science & Economics, Princeton University** (1991–1995)

- Academic Awards: Lynde Debate Prize (1995); John McLean Award for Rhetoric (1994); Junior Orator Award (1994); Spencer Trask Medal for Debate (1993).
- Thesis: *A Military, Political, and Economic Analysis of NATO Expansion into Central Europe*.
- President, The American Parliamentary Debate Association: Directed national organization responsible for intercollegiate parliamentary debate. (1994–1995).

LEGAL EXPERIENCE

Counsel to the Assistant Attorney General, Civil Rights Division, U.S. Department of Justice

- Principal policy and legal advisor to the Assistant Attorney General for 350-lawyer Division; involved in all Division functions, earning significant trial, appellate, and management experience.
- Oversee the Division's appellate litigation, including decisions to appeal, pleadings, *amicus* briefs, correspondence with the Office of the Solicitor General, and arguments in the courts of appeal.
- Direct implementation of the Division's key initiatives including religious discrimination litigation, the New Freedom Initiative, Public Outreach, and the Post-9/11 Backlash Initiative.
- Manage the Division's Administrative Section, as well as the Division's media and legislative affairs in conjunction with relevant Departmental offices; duties include public presentations, speeches, and Congressional and Executive briefings. (2003–Present).

Associate, Cooper & Kirk, PLLC

- Practiced trial and appellate constitutional litigation, specializing in civil rights, federal courts, and administrative law. Represented State agencies, utilities, and financial institutions in judicial and administrative proceedings. (2001–2003); (Summer & School Year Law Clerk 1997-1999).

Law Clerk, U.S. Court of Appeals for the Eighth Circuit

- Served as law clerk to the Honorable C. Arlen Beam. (2000–2001).

Assistant Commonwealth Attorney, Fluvanna County, VA, Commonwealth's Attorney's Office

- Prosecuted criminal matters in state trial courts through student practice clinic. (1999–2000).

Summer Associate, Williams & Connolly, LLP

- Assisted general litigation practice. (1999); (Legal Assistant 1995–1997).

Summer Associate, Weil, Gotshal & Manges, LLP

- Assisted general litigation practice. (1998, 1999).

PROFESSIONAL ACTIVITIES

Bar Admissions: Virginia State Bar (2001); District of Columbia Bar (2001)
Professional: Federalist Society (1997–Present); *Board Member*, Civil Rights Practice Group (2003)

Allyson_N._Ho@who.eop.gov

From:	Allyson_N._Ho@who.eop.gov
Sent:	Tuesday, September 06, 2005 8:08 PM
To:	Gorsuch, Neil M
Subject:	FW: Katrina - healthcare worker liability initiative
Attachments:	warning1.txt; Emergency Health & VPA.doc; Emergency Health Freestanding Section.doc; VPA document.doc

Neil, please include me on future emails concerning Hurricane Katrina matters. I'm the WH point man on legal reform/liability issues generally, and DPC's lead on DOJ's Hurricane Katrina efforts. Many thanks. (My direct line, in case you don't have it, is 456-5574).

-----Original Message-----
From: Rachel.Brand@usdoj.gov [mailto:Rachel.Brand@usdoj.gov]
Sent: Tuesday, September 06, 2005 6:59 PM
To: Ho, Allyson N.
Subject: FW: Katrina - healthcare worker liability initiative

FYI

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 6:54 PM
To: Rajeev Venkayya MD (E-mail); Marc_Kesselman (E-mail)
Cc: Moschella, William; McCallum, Robert (SMO); Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); Brand, Rachel; Hertling, Richard
Subject: FW: Katrina - healthcare worker liability initiative

Rajeev, Marc - Just a heads-up to let you know that DOJ Leg Affairs, in conjunction with OLP, intends to send over to WH Leg Affairs tomorrow some language for consideration that would effect the change to the Volunteer Act discussed below. The aim is to encourage volunteerism in the wake of Katrina among out-of-state (and foreign) medical professionals by shielding them from tort liability under certain circumstances. This proposal will join a larger set of Katrina-related proposals sent to the WH today.

NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore

Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

[DRAFT] An Act to Grant Relief to Volunteers for Healthcare Services Rendered During Declared Healthcare Emergencies

(a) A volunteer, as defined in this section, while aiding or facilitating the provision of health or medical services during a Declared Healthcare Emergency, shall be deemed a volunteer of a nonprofit organization or governmental entity for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), provided that the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction to provide such healthcare. Subsections (c) and (d) of section 4 of such chapter (42 U.S.C. §14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

(b) An employer or business partner of a volunteer shall not be liable for any acts or omissions of a volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare in a declared healthcare emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply for purposes of any claim against an employer or partner of a volunteer under this section.

(c) A person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to a volunteer to enable the volunteer to render medical services or assistance under subsection (a) of this section shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply to a claim against such a person, entity or organization.

(d) Definitions
(1) "Volunteer" means an individual who provides healthcare services or assistance in a location other than his or her usual place of business or practice without expectation or receipt of remuneration for his or her services.
(2) "Healthcare Facility" means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile medical services platform or vehicle used for the provision of healthcare.
(3) "Declared Healthcare Emergency" means a public health emergency declared under this section by the President, the Secretary of Health & Human Services or the Secretary of Homeland Security. For purposes of this section, a Declared Healthcare Emergency may be given retroactive effect. A Declared Healthcare Emergency may be limited in time and geographic scope.

Sec. __ Relief to Volunteers for Healthcare Services Rendered During Declared Healthcare Emergencies

(a) A volunteer, as defined in this section, while aiding or facilitating the provision of health or medical services during a Declared Healthcare Emergency, who is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction to provide such healthcare, shall not be liable for harm caused by an act or omission of the volunteer if -

(1) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(2) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires the operator or the owner of the vehicle, craft, or vessel to -

(A) possess an operator's license; or

(B) maintain insurance.

(b) Limitation on punitive damages based on actions of volunteers

(1) General rule

Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer during a declared healthcare emergency unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(c) An employer or business partner of a volunteer shall not be liable for any acts or omissions of a volunteer that occur while the volunteer is aiding

in or facilitating the provision of healthcare in a declared healthcare emergency.

(d) A person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to a volunteer to enable the volunteer to render medical services or assistance under subsection (a) of this section shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a declared healthcare emergency.

(e) Definitions

(1) "Volunteer" means an individual who provides healthcare services or assistance in a location other than his or her usual place of business or practice without expectation or receipt of remuneration for his or her services.

(2) "Healthcare Facility" means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile medical services platform or vehicle used for the provision of healthcare.

(3) "Declared Healthcare Emergency" means a declared healthcare emergency declared under this section by the President, the Secretary of Health & Human Services, or the Secretary of Homeland Security. For purposes of this section, a Declared Healthcare Emergency may be given retroactive effect. A Declared Healthcare Emergency may be limited in time and geographic scope.

Suggested Modification to the Volunteer Protection Act

A. Background.

The Volunteer Protection Act of 1997, Pub. L. 105-19, *codified at* 42 U.S.C. 14501 *et seq.* (VPA), is a balanced measure that was enacted with extensive bipartisan support. The VPA removes liability for ordinary negligence, while retaining liability for willful misconduct as outlined in the statute.

The proposed VPA revision below would provide substantial protection against tort liability for healthcare volunteers who perform services during public health emergencies, and protect their employers or partners, as well as those persons or entities whose facilities they use during a public health emergency. The suggested approach does not deem volunteers to be federal employees, and would not subject the United States to potential liability under the Federal Tort Claims Act. Adoption of a congressionally sanctioned VPA approach would represent an appropriate accommodation of the volunteers' interest in protection against tort liability, the public's interest in compensation for and deterrence of willful misconduct, and the United States' interest in protecting the public fisc.

B. Text of Proposed Legislation

[DRAFT] An Act to Grant Relief to Volunteers for Healthcare Services Rendered During Public Health Emergencies

(a) A volunteer, as defined in this section, while aiding or facilitating the provision of health or medical services during a public health emergency, shall be deemed a volunteer of a nonprofit organization or governmental entity for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), provided that the volunteer is properly licensed, certified, or authorized by the appropriate authorities of another jurisdiction to provide such healthcare. Subsection (d) of section 4 of such chapter (42 U.S.C. §14503(d)) shall not apply to any claim against a volunteer as defined herein.

(b) A volunteer providing health or medical services during a public health emergency shall be deemed to be duly licensed, certified, or authorized by the appropriate authorities of the jurisdiction in which the volunteer provides such services if that volunteer was properly licensed,

certified, or authorized by the appropriate authorities for the activities or practice by another jurisdiction to perform or provide the healthcare services, activities, practices or related services that he or she voluntarily provides in aid or facilitation of a response to a public health emergency.

(c) An employer or business partner of a volunteer shall not be liable for any acts or omissions of a volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare in a declared healthcare emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply for purposes of any claim against an employer or partner of a volunteer under this section.

(d) A person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to a volunteer to enable the volunteer to render medical services or assistance under subsection (a) of this section shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a public health emergency. The liability provision of 42 U.S.C. §14503(c) shall not apply to a claim against such a person, entity or organization so long as the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference of the person, entity or organization to the rights or safety of an individual harmed by the volunteer.

(e) Definitions

(1) "Volunteer" means an individual who provides healthcare services or assistance in a location other than his or her usual place of business or practice without expectation or receipt of remuneration for his or her services.

(2) "Healthcare Facility" means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile medical services platform or vehicle used for the provision of healthcare.

(3) "Public Health Emergency" means a public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. §247d),a determination by the Secretary of the Department of Homeland Security in accordance with 42 U.S.C. § 300hh-11, or an emergency or disaster declaration under 42 U.S.C. §5191 or 42 U.S.C. §5170. For purposes of this section, a public health emergency may be given retroactive effect. A public health emergency can involve the provision of health and medical services and may be limited in geographic scope.

C. Explanation of VPA Revisions

(a) *Immunity of Public Health Emergency Volunteer*

A volunteer under this subsection, while aiding in or facilitating in the provision of healthcare in a public health emergency, is deemed a volunteer of a nonprofit organization or governmental entity for purposes of chapter 139 of title 42, United States Code (popularly known as the 'Volunteer Protection Act'). Subsection (d) of section 4 of such chapter, 42 U.S.C. §14503(d), which provides for liability of volunteers in certain situations, does not apply for purposes of any claim against such a volunteer. Subsection 14503(d) contains certain exceptions to liability protection for volunteers, including one, §14503(d)(4), under which a volunteer could be liable notwithstanding the general rule of the Act if the applicable state law conditions a volunteer's protection from liability on the volunteer's organization's acceptance of vicarious liability. The United States is not intended to be vicariously liable in place of volunteers, and otherwise applicable exception could be read to subject such volunteers to tort liability where state law is as described. Accordingly, the liability exception of 42 U.S.C. §14503(d)(4) is excluded

(b) *Constructive State Licensure or Authority*

Subsection (b) provides that volunteers who perform services during a public health care emergency are deemed to be duly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which an alleged harm occurs. This constructive licensure or authorization applies so long as the volunteers acts within the scope of the volunteer's responsibilities with the healthcare facility, and is limited to those situations where the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice by another jurisdiction to perform or provide or engage in those healthcare services, activities, or practices involved.

(c) *Nonliability of Volunteer's Employer or Partner*

Subsection (c) extends the liability protections of the volunteer to the usual employer or business partner of a volunteer for any acts or omissions that occur while the volunteer is aiding in or facilitating the provision of healthcare during a public health emergency. The otherwise applicable liability provision of 42 U.S.C. §14503(c) shall not apply for purposes of any claim against an employer or partner of a volunteer under this section.

(d) *Nonliability of Host or Enabling Person, Entity or Organization*

Subsection (d) extends the liability protections of the volunteer to a person, entity or organization, including a healthcare facility, that works with, accepts services from, or opens its facilities to the volunteer to enable the volunteer to render medical services or assistance during a public health emergency. The host facility shall not be liable for any acts or omissions of the volunteer that occur while the volunteer is aiding in or facilitating the provision of healthcare services during a public health emergency. The otherwise applicable liability provision of 42 U.S.C. §14503(c) shall not apply to a claim against such a person, entity or organization unless the harm was caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference of the person, entity or organization to the rights or safety of an individual harmed by the volunteer.

(e) Definitions.

Subsection (e) defines the terms "Volunteer", "Healthcare Facility" and "Public Health Emergency". A "Volunteer" is a person who does not expect or receive pay for volunteered services and who does not perform the volunteer services in his or her usual place of business or employment. A "Healthcare Facility" includes hospitals and clinics, but is not limited to them. The term also includes any platform, place or vehicle where the volunteer's services are performed or assistance is rendered. A "Public Health Emergency" is defined as an emergency declared by the Secretary of Health and Human Services under 42 U.S.C. §247d; an emergency declared by the Secretary of the Department of Homeland Security in accordance with 42 U.S.C. § 300hh-11, or an emergency or disaster declaration issued under the specified sections of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, i..e, 42 U.S.C. §5191 or 42 U.S.C. §5170. A public health emergency may be given retroactive effect, and it may be limited in terms of its geographic scope.

D. **Current Text of the VPA**.

[42 U.S.C.] §14503. Limitation on liability for volunteers

(a) Liability protection for volunteers

Except as provided in subsections (b) and (d) of this section, no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if -

(1) the volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

(2) if appropriate or required, the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity;

(3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(4) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to -

(A) possess an operator's license; or

(B) maintain insurance.

(b) Concerning responsibility of volunteers to organizations and entities

Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(c) No effect on liability of organization or entity

Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(d) Exceptions to volunteer liability protection

If the laws of a State limit volunteer liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit organization or governmental entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(4) A State law that makes a limitation of liability applicable only if the nonprofit organization or governmental entity provides a financially secure source of recovery for individuals who

suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the organization or entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

(e) Limitation on punitive damages based on actions of volunteers

(1) General rule

Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(f) Exceptions to limitations on liability

(1) In general

The limitations on the liability of a volunteer under this chapter shall not apply to any misconduct that -

(A) Constitutes a crime of violence (as that term is defined in section 16 of title 18) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(C) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(D) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(E) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) Rule of construction

Nothing in this subsection shall be construed to [a]ffect subsection (a)(3) or (e) of this section.

EOP SECURITY NOTIFICATION
This message contained an unauthorized attachment.
The EOP mail server deleted it as a safety precaution.
For more information contact the EOP Information Assurance Office.

An attachment type application/octet-stream named "tmp.htm" constituted a security hazard.
esgeop02.eop.gov : j86Mx2W8014950

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, September 06, 2005 8:41 PM
To: Gorsuch, Neil M; Bradbury, Steve
Subject: Fw: Denver Military Base Katrina Issue

Neil: I have asked Sharee to advise her regional director out there to stand down on interfacing with military base personnel on this issue for the time being. We should figure out the veracity of this report and identify any relevant directive in play. I recommend we give [redacted] at DOD GC a call in the morn. Let me know what you think. Steve, pls advise if you have any thoughts. Thanks you guys.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Bradbury, Steve <Steve.Bradbury@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 19:27:26 2005
Subject: Denver Military Base Katrina Issue

Steve, fyi
Sharee, re: Denver - can we please get info. on which base, and what specific directive this is emanating from, and any other additional you may have on this? I presume DHS is aware of this? Thanks very much.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 17:52:16 2005
Subject:

My Regional Director from Denver just called in and says that they have moved a group of evacuees to a military base in Denver and the base control is refusing to let anyone of the people leave the base. The Ministerial Alliance there has called our office to ask for help.

There is a standing refusal of the evacuees to board cruise ships for lodging. For a number of reasons, any CRSer could have told FEMA that this housing option for African American evacuees would be a no - go.

This is just an update. When you get out of the meeting let's talk.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 9:29 PM
To: Reyes, Luis (SMO); Bradbury, Steve
Subject: Re: Denver Military Base Katrina Issue

I'll call [redacted] in the morning.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Bradbury, Steve <Steve.Bradbury@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 20:41:23 2005
Subject: Fw: Denver Military Base Katrina Issue

Neil: I have asked Sharee to advise her regional director out there to stand down on interfacing with military base personnel on this issue for the time being. We should figure out the veracity of this report and identify any relevant directive in play. I recommend we give [redacted] at DOD GC a call in the morn. Let me know what you think. Steve, pls advise if you have any thoughts. Thanks you guys.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Bradbury, Steve <Steve.Bradbury@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 19:27:26 2005
Subject: Denver Military Base Katrina Issue

Steve, fyi
Sharee, re: Denver - can we please get info. on which base, and what specific directive this is emanating from, and any other additional you may have on this? I presume DHS is aware of this? Thanks very much.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 17:52:16 2005
Subject:

My Regional Director from Denver just called in and says that they have moved a group of evacuees to a military base in Denver and the base control is refusing to let anyone of the people leave the base. The Ministerial Alliance there has called our office to ask for help

The Ministerial Alliance there has called our office to ask for help.

There is a standing refusal of the evacuees to board cruise ships for lodging. For a number of reasons, any CRSer could have told FEMA that this housing option for African American evacuees would be a no - go.

This is just an update. When you get out of the meeting let's talk.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 9:32 PM
To: 'Allyson_N._Ho@who.eop.gov'
Subject: Re: Katrina - healthcare worker liability initiative

Thanks for letting me know - I wasn't clear on who to alert - and thanks for your direct dial. Best, NMG

-----Original Message-----
From: Allyson_N._Ho@who.eop.gov <Allyson_N._Ho@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 20:08:19 2005
Subject: FW: Katrina - healthcare worker liability initiative

Neil, please include me on future emails concerning Hurricane Katrina matters. I'm the WH point man on legal reform/liability issues generally, and DPC's lead on DOJ's Hurricane Katrina efforts. Many thanks. (My direct line, in case you don't have it, is 456-5574).

-----Original Message-----
From: Rachel.Brand@usdoj.gov [mailto:Rachel.Brand@usdoj.gov]
Sent: Tuesday, September 06, 2005 6:59 PM
To: Ho, Allyson N.
Subject: FW: Katrina - healthcare worker liability initiative

FYI

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 6:54 PM
To: Rajeev Venkayya MD (E-mail); Marc_Kesselman (E-mail)
Cc: Moschella, William; McCallum, Robert (SMO); Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); Brand, Rachel; Hertling, Richard
Subject: FW: Katrina - healthcare worker liability initiative

Rajeev, Marc - Just a heads-up to let you know that DOJ Leg Affairs, in conjunction with OLP, intends to send over to WH Leg Affairs tomorrow some language for consideration that would effect the change to the Volunteer Act discussed below. The aim is to encourage volunteerism in the wake of Katrina among out-of-state (and foreign) medical professionals by shielding them from tort liability under certain circumstances. This proposal will join a larger set of Katrina-related proposals sent to the WH today.

NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-

mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 9:32 PM
To: Williams, Jan
Subject: Re: resumes, as promised

Thanks very much, as always. NMG

-----Original Message-----
From: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 20:03:57 2005
Subject: resumes, as promised

[redacted]

Allyson_N._Ho@who.eop.gov

From: Allyson_N._Ho@who.eop.gov
Sent: Wednesday, September 07, 2005 7:53 AM
To: Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Thanks again, Neil. Do you know if the DOJ-chaired law-enforcement and public-safety working group meeting has been scheduled yet? I received an email from DHS with the list of participants, but don't think it noted a time and place.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, September 06, 2005 9:32 PM
To: Ho, Allyson N.
Subject: Re: Katrina - healthcare worker liability initiative

Thanks for letting me know - I wasn't clear on who to alert - and thanks for your direct dial. Best, NMG

-----Original Message-----
From: Allyson_N._Ho@who.eop.gov <Allyson_N._Ho@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 20:08:19 2005
Subject: FW: Katrina - healthcare worker liability initiative

Neil, please include me on future emails concerning Hurricane Katrina matters. I'm the WH point man on legal reform/liability issues generally, and DPC's lead on DOJ's Hurricane Katrina efforts. Many thanks. (My direct line, in case you don't have it, is 456-5574).

-----Original Message-----
From: Rachel.Brand@usdoj.gov [mailto:Rachel.Brand@usdoj.gov]
Sent: Tuesday, September 06, 2005 6:59 PM
To: Ho, Allyson N.
Subject: FW: Katrina - healthcare worker liability initiative

FYI

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 6:54 PM
To: Rajeev Venkayya MD (E-mail); Marc_Kesselman (E-mail)
Cc: Moschella, William; McCallum, Robert (SMO); Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); Brand, Rachel; Hertling, Richard
Subject: FW: Katrina - healthcare worker liability initiative

Rajeev, Marc - Just a heads-up to let you know that DOJ Leg Affairs, in conjunction with OLP, intends to send over to WH Leg Affairs tomorrow some language for consideration that would effect the change to the Volunteer Act discussed below. The aim is to encourage volunteerism in the wake of Katrina among out-of-state (and foreign) medical professionals by shielding them from tort liability under certain circumstances. This proposal will join a larger set of Katrina-related proposals sent to the WH today.

NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence

(except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

rvenkayya@who.eop.gov

Beach, Andrew

Subject:	Canceled: Senior Management Meeting
Start:	Monday, September 26, 2005 9:00 AM
End:	Monday, September 26, 2005 9:20 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M
Importance:	High

When: Monday, September 26, 2005 9:00 AM-9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer, Jeff Oldham, Martha Pacold

Beach, Andrew

Subject:	Canceled: Senior Management Meeting
Start:	Monday, October 10, 2005 9:00 AM
End:	Monday, October 10, 2005 9:20 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M
Importance:	High

When: Monday, October 10, 2005 9:00 AM-9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer, Jeff Oldham, Martha Pacold

Beach, Andrew

Subject:	Canceled: Component Coordination Meeting
Start:	Monday, September 26, 2005 9:20 AM
End:	Monday, September 26, 2005 9:40 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M
Importance:	High

When: Monday, September 26, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer, Jeff Oldham, Martha Pacold

Beach, Andrew

Subject:	Canceled: Component Coordination Meeting
Start:	Monday, October 10, 2005 9:20 AM
End:	Monday, October 10, 2005 9:40 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Moschella, William; Scolinos, Tasia; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M
Importance:	High

When: Monday, October 10, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Will Moschella, Tasia Scolinos, Courtney Elwood, Rachel Brand, Neil Gorsuch, Jan Williams, Crystal Roberts, Bill Mercer, Jeff Oldham, Martha Pacold

Elwood, Courtney

From: Elwood, Courtney
Sent: Wednesday, September 7, 2005 9:06 AM
To: Gorsuch, Neil M
Cc: Bucholtz, Jeffrey (CIV)
Subject: RE: Katrina - healthcare worker liability initiative

I just read this very quickly. Do you think that eliminating liability for "ordinary negligence," but not "for gross negligence and worse" is sufficient? Won't the poor volunteer just end up litigating whether his negligence amounted to "gross" negligence? I am certainly in favor of maitaining potential liability for "wilful misconduct," but should it also extend to "gross negligence"?

It has been a long time since I took a torts class, so perhaps I am missing something.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Moschella, William

From:	Moschella, William
Sent:	Wednesday, September 7, 2005 9:07 AM
To:	'Rajeev_V._Venkayya@who.eop.gov'; Christopher_W._Frech@who.eop.gov
Cc:	Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Hertling, Richard; Brand, Rachel; Keisler, Peter D. (CIV); Gorsuch, Neil M; DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov; John_M._Mitnick@who.eop.gov
Subject:	RE: healthcare worker liability

For timing purposes, DOJ is putting this provision into final legislative form with a section-by-section analysis. We hope to submit it to OMB by COB today after a very short internal circulation.

We have already provided to OMB (last night) a package of Katrina related proposals on other subjects.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Wednesday, September 07, 2005 12:07 AM
To: Christopher_W._Frech@who.eop.gov
Cc: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); Moschella, William; McCallum, Robert (SMO); Hertling, Richard; Brand, Rachel; Keisler, Peter D. (CIV); Gorsuch, Neil M; DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov; John_M._Mitnick@who.eop.gov
Subject: FW: healthcare worker liability

Chris,

As the events of the past week unfolded, it once again became clear that we need to address the issue of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the Hill. I ran a working group on the subject last year, and we took an option of amendment of the Volunteer Protection Act all the way to Deputies and received approval. There was a desire to fold it into the MedMal legislation, and not much happened after that.

DOJ was extremely helpful in the original assessment of this issue, and provided legislative language to address the problem at that time. I contacted them today and asked them to update documents that they had prepared in Nov 2004, and they provided the attached revision.

DOJ just informed me that they plan to formally submit this to OLA tomorrow to be considered as part of a broader legislative package. I will leave it to them to officially transmit that language, but I wanted you to know that this approach has already been vetted by the HSC Deputies Committee, and we fully support it. Please let me know if I can provide you with any additional background information. Thanks.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, September 06, 2005 3:24 PM
To: Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; DL-HSC-CHEM-BIO; Leggitt, Lance B.
Subject: RE: healthcare worker liability

Rajeev,

I think the "Emergency Health Freestanding Section" document is a sound approach and would resolve many of the problems we have had this week. In the attached version I have added two passages, neither of which is essential but might prove helpful later on.

The first change is to add the bolded language in paragraph (a):

the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction (including foreign countries) to provide such healthcare.

This is consistent with the discussions we had last year that a Canadian doctor who helped out at 9/11 should receive the same protection as a Massachusetts doctor. Explicitly mentioning foreign countries may make it easier to recruit foreign health care volunteers.

The second change is to add the bolded language in the next sentence:

Subsection (b) of section 3 and subsections (c) and (d) of section 4 of such chapter (42 U.S.C. § § 14502(b) and 14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

This change addresses the opt-out language of the VPA. 42 U.S.C. § 14502(b) provides that the VPA's protections do not apply if a state has specifically elected to make the VPA inapplicable. This change would remove the opt-out option for declared national emergencies. We have researched Louisiana or Mississippi law on the issue, and it does not appear that either has enacted such legislation. It would probably expedite relief efforts in future catatrosphes if the opt-out question were taken off the table. I don't know whether the issue is worth including in emergency legislation.

One other small matter. The "Emergency Health Freestanding Section" document contains the language, "for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), ... and subsections (c) and (d) of section 4 of such chapter ...." I have

not found the reference that section 4 is Section 14503; but, relying on it I have referred to the previous section (14502) as "section 3."

Please call if I can be of further assistance.

Paul

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell [redacted]
rvenkayya@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 9:08 AM
To: Shaw, Aloma A
Subject: Will be in circa 930. Reachable on cell.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, September 7, 2005 9:09 AM
To: Gorsuch, Neil M
Subject: RE: Will be in circa 930. Reachable on cell.

10 4!

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 9:08 AM
To: Shaw, Aloma A
Subject: Will be in circa 930. Reachable on cell.

Beach, Andrew

Subject:	Updated: Senior Management Meeting
Start:	Friday, September 9, 2005 8:35 AM
End:	Friday, September 9, 2005 8:55 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M

When: Friday, September 09, 2005 8:35 AM-8:55 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Bill Mercer, Jeff Oldham, Martha Pacold

Otus2005, Ag

Subject:	Declined: Updated: Senior Management Meeting
Start:	Friday, September 9, 2005 8:35 AM
End:	Friday, September 9, 2005 8:55 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag
Optional Attendees:	Gorsuch, Neil M; Ullyot, Theodore; Elwood, Courtney

Will be out on Friday at a family birthday celebration. Neil will cover. Robt.

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 9:25 AM
To: Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Courtney: Good question. The existing VPA preserves liability for gross negligence and worse. In an ideal world, I agree that we would eliminate liability for gross negligence as well as ordinary negligence, for precisely the reason you articulate. The HSC working group that developed this proposal last year was trying to stick closely to the balance struck by the VPA to increase the chances that the proposal would be broadly acceptable. I certainly don't have any objection to taking the opportunity in a new bill to go beyond the VPA and eliminate additional liability, if others think that we could still get the bill through quickly and successfully.

The existing VPA provides that the volunteer shall not be liable if "the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer." 42 USC 14503(a)(3). If we were to propose a bill that amended the VPA (which otherwise would seem like the simplest way to proceed), we'd probably have to include a provision that amended section 14503(a)(3) and thus called attention to the departure from the existing VPA re: gross negligence. If we were to propose a stand-alone bill that didn't incorporate or refer to the VPA, we could include a provision that paralleled 14503(a)(3) except for omitting the words "gross negligence," and then we could see whether anyone noticed that those two little words were missing.

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:06 AM
To: Gorsuch, Neil M
Cc: Bucholtz, Jeffrey (CIV)
Subject: RE: Katrina - healthcare worker liability initiative

I just read this very quickly. Do you think that eliminating liability for "ordinary negligence," but not "for gross negligence and worse" is sufficient? Won't the poor volunteer just end up litigating whether his negligence amounted to "gross" negligence? I am certainly in favor of maitaining potential liability for "wilful misconduct," but should it also extend to "gross negligence"?

It has been a long time since I took a torts class, so perhaps I am missing something.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore

(SMO); Elwood, Courtney; Sampson, Kyle; Ollyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Elwood, Courtney

From:	Elwood, Courtney
Sent:	Wednesday, September 7, 2005 9:33 AM
To:	Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject:	RE: Katrina - healthcare worker liability initiative

Why don't you give it some thought and talk to others. Perhaps a broader exemption could be a starting point in the legislation and, if we encounter push back, we could retreat to this position.

I defer to others, though.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 9:25 AM
To: Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Courtney: Good question. The existing VPA preserves liability for gross negligence and worse. In an ideal world, I agree that we would eliminate liability for gross negligence as well as ordinary negligence, for precisely the reason you articulate. The HSC working group that developed this proposal last year was trying to stick closely to the balance struck by the VPA to increase the chances that the proposal would be broadly acceptable. I certainly don't have any objection to taking the opportunity in a new bill to go beyond the VPA and eliminate additional liability, if others think that we could still get the bill through quickly and successfully.

The existing VPA provides that the volunteer shall not be liable if "the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer." 42 USC 14503(a)(3). If we were to propose a bill that amended the VPA (which otherwise would seem like the simplest way to proceed), we'd probably have to include a provision that amended section 14503(a)(3) and thus called attention to the departure from the existing VPA re: gross negligence. If we were to propose a stand-alone bill that didn't incorporate or refer to the VPA, we could include a provision that paralleled 14503(a)(3) except for omitting the words "gross negligence," and then we could see whether anyone noticed that those two little words were missing.

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:06 AM
To: Gorsuch, Neil M
Cc: Bucholtz, Jeffrey (CIV)
Subject: RE: Katrina - healthcare worker liability initiative

I just read this very quickly. Do you think that eliminating liability for "ordinary negligence" but

I just read this very quickly. Do you think that eliminating liability for "ordinary negligence," but not "for gross negligence and worse" is sufficient? Won't the poor volunteer just end up litigating whether his negligence amounted to "gross" negligence? I am certainly in favor of maitaining potential liability for "wilful misconduct," but should it also extend to "gross negligence"?

It has been a long time since I took a torts class, so perhaps I am missing something.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case

under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Bucholtz, Jeffrey (CIV)

From:	Bucholtz, Jeffrey (CIV)
Sent:	Wednesday, September 7, 2005 9:45 AM
To:	Moschella, William; Hertling, Richard; Seidel, Rebecca
Cc:	Gorsuch, Neil M
Subject:	FW: Katrina - healthcare worker liability initiative

Will, Richard, Rebecca: See Courtney's e-mail below asking whether our medical volunteer bill should bar liability for gross negligence as well as ordinary negligence (thus providing liability protection beyond what the VPA provides). Doing so seems desirable from a policy perspective, but not if it would make the bill less likely to pass quickly. What do you think? Thanks,

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:33 AM
To: Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Why don't you give it some thought and talk to others. Perhaps a broader exemption could be a starting point in the legislation and, if we encounter push back, we could retreat to this position.

I defer to others, though.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 9:25 AM
To: Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Courtney: Good question. The existing VPA preserves liability for gross negligence and worse. In an ideal world, I agree that we would eliminate liability for gross negligence as well as ordinary negligence, for precisely the reason you articulate. The HSC working group that developed this proposal last year was trying to stick closely to the balance struck by the VPA to increase the chances that the proposal would be broadly acceptable. I certainly don't have any objection to taking the opportunity in a new bill to go beyond the VPA and eliminate additional liability, if others think that we could still get the bill through quickly and successfully.

The existing VPA provides that the volunteer shall not be liable if "the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer." 42 USC 14503(a)(3). If we were to propose a bill that amended the VPA (which otherwise would seem like the simplest way to proceed), we'd probably have to include a provision that amended section 14503(a)(3) and thus called attention

to the departure from the existing VPA re: gross negligence. If we were to propose a stand-alone bill that didn't incorporate or refer to the VPA, we could include a provision that paralleled 14503(a)(3) except for omitting the words "gross negligence," and then we could see whether anyone noticed that those two little words were missing.

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:06 AM
To: Gorsuch, Neil M
Cc: Bucholtz, Jeffrey (CIV)
Subject: RE: Katrina - healthcare worker liability initiative

I just read this very quickly. Do you think that eliminating liability for "ordinary negligence," but not "for gross negligence and worse" is sufficient? Won't the poor volunteer just end up litigating whether his negligence amounted to "gross" negligence? I am certainly in favor of maitaining potential liability for "wilful misconduct," but should it also extend to "gross negligence"?

It has been a long time since I took a torts class, so perhaps I am missing something.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM

To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Hertling, Richard

From: Hertling, Richard
Sent: Wednesday, September 7, 2005 9:51 AM
To: Bucholtz, Jeffrey (CIV); Moschella, William; Seidel, Rebecca
Cc: Gorsuch, Neil M; Ansell, Frederick
Subject: RE: Katrina - healthcare worker liability initiative

Please make sure Fred Ansell is copied on all messages involving this issue.

On the substance, my concern has been that our work reflect the substance of the HSC-led working group of last year. Those efforts resulted in a proposal to permit liability for "gross negligence." We can draft it either way, but we need to finalize this either way promptly. rah

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 9:45 AM
To: Moschella, William; Hertling, Richard; Seidel, Rebecca
Cc: Gorsuch, Neil M
Subject: FW: Katrina - healthcare worker liability initiative

Will, Richard, Rebecca: See Courtney's e-mail below asking whether our medical volunteer bill should bar liability for gross negligence as well as ordinary negligence (thus providing liability protection beyond what the VPA provides). Doing so seems desirable from a policy perspective, but not if it would make the bill less likely to pass quickly. What do you think? Thanks,

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:33 AM
To: Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Why don't you give it some thought and talk to others. Perhaps a broader exemption could be a starting point in the legislation and, if we encounter push back, we could retreat to this position.

I defer to others, though.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 9:25 AM
To: Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Courtney: Good question. The existing VPA preserves liability for gross negligence and worse. In an ideal world, I agree that we would eliminate liability for gross negligence as well as ordinary negligence, for precisely the reason you articulate. The HSC working group that developed this proposal last year was trying to stick closely to the balance struck by the VPA to increase the chances that the proposal would be broadly acceptable. I certainly don't have any objection to taking the opportunity in a new bill to go beyond the VPA and eliminate additional liability, if others think that we could still get the bill through quickly and successfully.

The existing VPA provides that the volunteer shall not be liable if "the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer." 42 USC 14503(a)(3). If we were to propose a bill that amended the VPA (which otherwise would seem like the simplest way to proceed), we'd probably have to include a provision that amended section 14503(a)(3) and thus called attention to the departure from the existing VPA re: gross negligence. If we were to propose a stand-alone bill that didn't incorporate or refer to the VPA, we could include a provision that paralleled 14503(a)(3) except for omitting the words "gross negligence," and then we could see whether anyone noticed that those two little words were missing.

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:06 AM
To: Gorsuch, Neil M
Cc: Bucholtz, Jeffrey (CIV)
Subject: RE: Katrina - healthcare worker liability initiative

I just read this very quickly. Do you think that eliminating liability for "ordinary negligence," but not "for gross negligence and worse" is sufficient? Won't the poor volunteer just end up litigating whether his negligence amounted to "gross" negligence? I am certainly in favor of maitaining potential liability for "wilful misconduct," but should it also extend to "gross negligence"?

It has been a long time since I took a torts class, so perhaps I am missing something.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)

Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 7, 2005 10:00 AM
To: Kim, Wan (CRT)
Subject: RE: coffee?

maybe round 2 or 3? or tomorrow am? this am is booked i'm afraid

-----Original Message-----
From: Kim, Wan (CRT)
Sent: Wednesday, September 07, 2005 9:57 AM
To: Gorsuch, Neil M
Subject: coffee?

Kim, Wan (CRT)

From: Kim, Wan (CRT)
Sent: Wednesday, September 7, 2005 10:00 AM
To: Gorsuch, Neil M
Subject: RE: coffee?

3 would be perfect.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 10:00 AM
To: Kim, Wan (CRT)
Subject: RE: coffee?

maybe round 2 or 3? or tomorrow am? this am is booked i'm afraid

-----Original Message-----
From: Kim, Wan (CRT)
Sent: Wednesday, September 07, 2005 9:57 AM
To: Gorsuch, Neil M
Subject: coffee?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 10:02 AM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV); Moschella, William; Seidel, Rebecca
Cc: Ansell, Frederick
Subject: RE: Katrina - healthcare worker liability initiative

I think we need advice from OLA and OLP on what is do-able and the best tactical approach. The most pressing need is to encourage volunteers from out of state to help equally with those in state. Doing so would be a minor amendment to the law. It would be a much bigger deal, I suspect, to change the law to eliminate liability for gross negligence for all volunteers.

-----Original Message-----
From: Hertling, Richard
Sent: Wednesday, September 07, 2005 9:51 AM
To: Bucholtz, Jeffrey (CIV); Moschella, William; Seidel, Rebecca
Cc: Gorsuch, Neil M; Ansell, Frederick
Subject: RE: Katrina - healthcare worker liability initiative

Please make sure Fred Ansell is copied on all messages involving this issue.

On the substance, my concern has been that our work reflect the substance of the HSC-led working group of last year. Those efforts resulted in a proposal to permit liability for "gross negligence." We can draft it either way, but we need to finalize this either way promptly. rah

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 9:45 AM
To: Moschella, William; Hertling, Richard; Seidel, Rebecca
Cc: Gorsuch, Neil M
Subject: FW: Katrina - healthcare worker liability initiative

Will, Richard, Rebecca: See Courtney's e-mail below asking whether our medical volunteer bill should bar liability for gross negligence as well as ordinary negligence (thus providing liability protection beyond what the VPA provides). Doing so seems desirable from a policy perspective, but not if it would make the bill less likely to pass quickly. What do you think? Thanks,

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:33 AM
To: Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Why don't you give it some thought and talk to others. Perhaps a broader exemption could be a starting point in the legislation and, if we encounter push back, we could retreat to this position.

I defer to others, though.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 9:25 AM
To: Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Courtney: Good question. The existing VPA preserves liability for gross negligence and worse. In an ideal world, I agree that we would eliminate liability for gross negligence as well as ordinary negligence, for precisely the reason you articulate. The HSC working group that developed this proposal last year was trying to stick closely to the balance struck by the VPA to increase the chances that the proposal would be broadly acceptable. I certainly don't have any objection to taking the opportunity in a new bill to go beyond the VPA and eliminate additional liability, if others think that we could still get the bill through quickly and successfully.

The existing VPA provides that the volunteer shall not be liable if "the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer." 42 USC 14503(a)(3). If we were to propose a bill that amended the VPA (which otherwise would seem like the simplest way to proceed), we'd probably have to include a provision that amended section 14503(a)(3) and thus called attention to the departure from the existing VPA re: gross negligence. If we were to propose a stand-alone bill that didn't incorporate or refer to the VPA, we could include a provision that paralleled 14503(a)(3) except for omitting the words "gross negligence," and then we could see whether anyone noticed that those two little words were missing.

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:06 AM
To: Gorsuch, Neil M
Cc: Bucholtz, Jeffrey (CIV)
Subject: RE: Katrina - healthcare worker liability initiative

I just read this very quickly. Do you think that eliminating liability for "ordinary negligence," but not "for gross negligence and worse" is sufficient? Won't the poor volunteer just end up litigating whether his negligence amounted to "gross" negligence? I am certainly in favor of maitaining potential liability for "wilful misconduct," but should it also extend to "gross negligence"?

It has been a long time since I took a torts class, so perhaps I am missing something.

-----Original Message-----
From: Gorsuch, Neil M

Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree.

The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 10:03 AM
To: Kim, Wan (CRT)
Subject: RE: coffee?

I'll stop by then

-----Original Message-----
From: Kim, Wan (CRT)
Sent: Wednesday, September 07, 2005 10:00 AM
To: Gorsuch, Neil M
Subject: RE: coffee?

3 would be perfect.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 10:00 AM
To: Kim, Wan (CRT)
Subject: RE: coffee?

maybe round 2 or 3? or tomorrow am? this am is booked i'm afraid

-----Original Message-----
From: Kim, Wan (CRT)
Sent: Wednesday, September 07, 2005 9:57 AM
To: Gorsuch, Neil M
Subject: coffee?

Hertling, Richard

From: Hertling, Richard
Sent: Wednesday, September 07, 2005 10:06 AM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV); Moschella, William; Seidel, Rebecca
Cc: Ansell, Frederick
Subject: RE: Katrina - healthcare worker liability initiative

I think OLP's view is that the Volunteer Protection Act allows suits for gross negligence. Because this is intended to be an expansion of that law to this novel situation, I think we risk too much by trying to do away with liability for gross negligence. rah

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 10:02 AM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV); Moschella, William;
Seidel, Rebecca
Cc: Ansell, Frederick
Subject: RE: Katrina - healthcare worker liability initiative

I think we need advice from OLA and OLP on what is do-able and the best tactical approach. The most pressing need is to encourage volunteers from out of state to help equally with those in state. Doing so would be a minor amendment to the law. It would be a much bigger deal, I suspect, to change the law to eliminate liability for gross negligence for all volunteers.

-----Original Message-----
From: Hertling, Richard
Sent: Wednesday, September 07, 2005 9:51 AM
To: Bucholtz, Jeffrey (CIV); Moschella, William; Seidel, Rebecca
Cc: Gorsuch, Neil M; Ansell, Frederick
Subject: RE: Katrina - healthcare worker liability initiative

Please make sure Fred Ansell is copied on all messages involving this issue.

On the substance, my concern has been that our work reflect the substance of the HSC-led working group of last year. Those efforts resulted in a proposal to permit liability for "gross negligence." We can draft it either way, but we need to finalize this either way promptly. rah

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 9:45 AM
To: Moschella, William; Hertling, Richard; Seidel, Rebecca
Cc: Gorsuch, Neil M
Subject: FW: Katrina - healthcare worker liability initiative

Will, Richard, Rebecca: See Courtney's e-mail below asking whether our medical volunteer bill should bar liability for gross negligence as well as ordinary negligence (thus providing liability protection beyond what the VPA provides). Doing so seems desirable from a policy perspective, but not if it would make the bill less likely to pass quickly. What do you think? Thanks,

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:33 AM
To: Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Why don't you give it some thought and talk to others. Perhaps a broader exemption could be a starting point in the legislation and, if we encounter push back, we could retreat to this position.

I defer to others, though.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 9:25 AM
To: Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Courtney: Good question. The existing VPA preserves liability for gross negligence and worse. In an ideal world, I agree that we would eliminate liability for gross negligence as well as ordinary negligence, for precisely the reason you articulate. The HSC working group that developed this proposal last year was trying to stick closely to the balance struck by the VPA to increase the chances that the proposal would be broadly acceptable. I certainly don't have any objection to taking the opportunity in a new bill to go beyond the VPA and eliminate additional liability, if others think that we could still get the bill through quickly and successfully.

The existing VPA provides that the volunteer shall not be liable if "the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer." 42 USC 14503(a)(3). If we were to propose a bill that amended the VPA (which otherwise would seem like the simplest way to proceed), we'd probably have to include a provision that amended section 14503(a)(3) and thus called attention to the departure from the existing VPA re: gross negligence. If we were to propose a stand-alone bill that didn't incorporate or refer to the VPA, we could include a provision that paralleled 14503(a)(3) except for omitting the words "gross negligence," and then we could see whether anyone noticed that those two little words were missing.

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:06 AM
To: Gorsuch, Neil M

Cc: Bucholtz, Jeffrey (CIV)
Subject: RE: Katrina - healthcare worker liability initiative

I just read this very quickly. Do you think that eliminating liability for "ordinary negligence," but not "for gross negligence and worse" is sufficient? Won't the poor volunteer just end up litigating whether his negligence amounted to "gross" negligence? I am certainly in favor of maitaining potential liability for "wilful misconduct," but should it also extend to "gross negligence"?

It has been a long time since I took a torts class, so perhaps I am missing something.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence

(except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Moschella, William

From:	Moschella, William
Sent:	Wednesday, September 07, 2005 10:07 AM
To:	Gorsuch, Neil M
Cc:	Ansell, Frederick; Hertling, Richard; Bucholtz, Jeffrey (CIV); Seidel, Rebecca; Clinger, James H
Subject:	RE: Katrina - healthcare worker liability initiative

Two issues: First, OLP looked at the documents and believes (from a quick drafting standpoint) a stand alone bill would be easier and quicker to put together. It is there believe that amending current law is more complicated than was previously thought.

Second, I am not adverse to proposing eliminating gross negligence and to point out to the Hill the differences between our proposal and current law. It might be worth pushing the envelope in this environment because we always have a fall back position. Also, since OLP is drafting a stand alone bill, it would be distinguishable from prior law.

Neil, you should contact the WH to see whether there would be any hold up there on the policy issue. If not, I say we try to get this done without gross negligence in the House.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 10:02 AM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV); Moschella, William;
Seidel, Rebecca
Cc: Ansell, Frederick
Subject: RE: Katrina - healthcare worker liability initiative

I think we need advice from OLA and OLP on what is do-able and the best tactical approach. The most pressing need is to encourage volunteers from out of state to help equally with those in state. Doing so would be a minor amendment to the law. It would be a much bigger deal, I suspect, to change the law to eliminate liability for gross negligence for all volunteers.

-----Original Message-----
From: Hertling, Richard
Sent: Wednesday, September 07, 2005 9:51 AM
To: Bucholtz, Jeffrey (CIV); Moschella, William; Seidel, Rebecca
Cc: Gorsuch, Neil M; Ansell, Frederick
Subject: RE: Katrina - healthcare worker liability initiative

Please make sure Fred Ansell is copied on all messages involving this issue.

On the substance, my concern has been that our work reflect the substance of the HSC-led working group of last year. Those efforts resulted in a proposal to permit liability for "gross negligence." We

can draft it either way, but we need to finalize this either way promptly. rah

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 9:45 AM
To: Moschella, William; Hertling, Richard; Seidel, Rebecca
Cc: Gorsuch, Neil M
Subject: FW: Katrina - healthcare worker liability initiative

Will, Richard, Rebecca: See Courtney's e-mail below asking whether our medical volunteer bill should bar liability for gross negligence as well as ordinary negligence (thus providing liability protection beyond what the VPA provides). Doing so seems desirable from a policy perspective, but not if it would make the bill less likely to pass quickly. What do you think? Thanks,

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:33 AM
To: Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Why don't you give it some thought and talk to others. Perhaps a broader exemption could be a starting point in the legislation and, if we encounter push back, we could retreat to this position.

I defer to others, though.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 9:25 AM
To: Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Courtney: Good question. The existing VPA preserves liability for gross negligence and worse. In an ideal world, I agree that we would eliminate liability for gross negligence as well as ordinary negligence, for precisely the reason you articulate. The HSC working group that developed this proposal last year was trying to stick closely to the balance struck by the VPA to increase the chances that the proposal would be broadly acceptable. I certainly don't have any objection to taking the opportunity in a new bill to go beyond the VPA and eliminate additional liability, if others think that we could still get the bill through quickly and successfully.

The existing VPA provides that the volunteer shall not be liable if "the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer." 42 USC 14503(a)(3). If we were to propose a bill that amended the VPA (which otherwise would seem like the simplest way to proceed), we'd probably have to include a provision that amended section 14503(a)(3) and thus called attention to the departure from the existing VPA re: gross negligence. If we were to propose a stand-alone bill that didn't incorporate or refer to the VPA, we could include a provision that paralleled 14503(a)(3)

except for omitting the words "gross negligence," and then we could see whether anyone noticed that those two little words were missing.

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:06 AM
To: Gorsuch, Neil M
Cc: Bucholtz, Jeffrey (CIV)
Subject: RE: Katrina - healthcare worker liability initiative

I just read this very quickly. Do you think that eliminating liability for "ordinary negligence," but not "for gross negligence and worse" is sufficient? Won't the poor volunteer just end up litigating whether his negligence amounted to "gross" negligence? I am certainly in favor of maitaining potential liability for "wilful misconduct," but should it also extend to "gross negligence"?

It has been a long time since I took a torts class, so perhaps I am missing something.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M

Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Wednesday, September 07, 2005 10:08 AM
To:	Moschella, William
Cc:	Ansell, Frederick; Hertling, Richard; Bucholtz, Jeffrey (CIV); Seidel, Rebecca; Clinger, James H
Subject:	RE: Katrina - healthcare worker liability initiative

I will contact WH this am and be back shortly.

-----Original Message-----
From: Moschella, William
Sent: Wednesday, September 07, 2005 10:07 AM
To: Gorsuch, Neil M
Cc: Ansell, Frederick; Hertling, Richard; Bucholtz, Jeffrey (CIV);
Seidel, Rebecca; Clinger, James H
Subject: RE: Katrina - healthcare worker liability initiative

Two issues: First, OLP looked at the documents and believes (from a quick drafting standpoint) a stand alone bill would be easier and quicker to put together. It is there believe that amending current law is more complicated than was previously thought.

Second, I am not adverse to proposing eliminating gross negligence and to point out to the Hill the differences between our proposal and current law. It might be worth pushing the envelope in this environment because we always have a fall back position. Also, since OLP is drafting a stand alone bill, it would be distinguishable from prior law.

Neil, you should contact the WH to see whether there would be any hold up there on the policy issue. If not, I say we try to get this done without gross negligence in the House.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 10:02 AM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV); Moschella, William;
Seidel, Rebecca
Cc: Ansell, Frederick
Subject: RE: Katrina - healthcare worker liability initiative

I think we need advice from OLA and OLP on what is do-able and the best tactical approach. The most pressing need is to encourage volunteers from out of state to help equally with those in state. Doing so would be a minor amendment to the law. It would be a much bigger deal, I suspect, to change the law to eliminate liability for gross negligence for all volunteers.

-----Original Message-----

From: Hertling, Richard
Sent: Wednesday, September 07, 2005 9:51 AM
To: Bucholtz, Jeffrey (CIV); Moschella, William; Seidel, Rebecca
Cc: Gorsuch, Neil M; Ansell, Frederick
Subject: RE: Katrina - healthcare worker liability initiative

Please make sure Fred Ansell is copied on all messages involving this issue.

On the substance, my concern has been that our work reflect the substance of the HSC-led working group of last year. Those efforts resulted in a proposal to permit liability for "gross negligence." We can draft it either way, but we need to finalize this either way promptly. rah

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 9:45 AM
To: Moschella, William; Hertling, Richard; Seidel, Rebecca
Cc: Gorsuch, Neil M
Subject: FW: Katrina - healthcare worker liability initiative

Will, Richard, Rebecca: See Courtney's e-mail below asking whether our medical volunteer bill should bar liability for gross negligence as well as ordinary negligence (thus providing liability protection beyond what the VPA provides). Doing so seems desirable from a policy perspective, but not if it would make the bill less likely to pass quickly. What do you think? Thanks,

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:33 AM
To: Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Why don't you give it some thought and talk to others. Perhaps a broader exemption could be a starting point in the legislation and, if we encounter push back, we could retreat to this position.

I defer to others, though.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 9:25 AM
To: Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Courtney: Good question. The existing VPA preserves liability for gross negligence and worse. In an ideal world, I agree that we would eliminate liability for gross negligence as well as ordinary negligence, for precisely the reason you articulate. The HSC working group that developed this proposal last year was trying to stick closely to the balance struck by the VPA to increase the chances

that the proposal would be broadly acceptable. I certainly don't have any objection to taking the opportunity in a new bill to go beyond the VPA and eliminate additional liability, if others think that we could still get the bill through quickly and successfully.

The existing VPA provides that the volunteer shall not be liable if "the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer." 42 USC 14503(a)(3). If we were to propose a bill that amended the VPA (which otherwise would seem like the simplest way to proceed), we'd probably have to include a provision that amended section 14503(a)(3) and thus called attention to the departure from the existing VPA re: gross negligence. If we were to propose a stand-alone bill that didn't incorporate or refer to the VPA, we could include a provision that paralleled 14503(a)(3) except for omitting the words "gross negligence," and then we could see whether anyone noticed that those two little words were missing.

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:06 AM
To: Gorsuch, Neil M
Cc: Bucholtz, Jeffrey (CIV)
Subject: RE: Katrina - healthcare worker liability initiative

I just read this very quickly. Do you think that eliminating liability for "ordinary negligence," but not "for gross negligence and worse" is sufficient? Won't the poor volunteer just end up litigating whether his negligence amounted to "gross" negligence? I am certainly in favor of maitaining potential liability for "wilful misconduct," but should it also extend to "gross negligence"?

It has been a long time since I took a torts class, so perhaps I am missing something.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned

about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 10:08 AM
To: Elwood, Courtney; Bucholtz, Jeffrey (CIV)
Subject: RE: Katrina - healthcare worker liability initiative

Courtney - I couldn't agree more on the substance. The only question is a matter of tactics and what's do-able. On this, Jeff and I will consult OLP, OLA, and the WH this morning. NMG

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:33 AM
To: Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Why don't you give it some thought and talk to others. Perhaps a broader exemption could be a starting point in the legislation and, if we encounter push back, we could retreat to this position.

I defer to others, though.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 9:25 AM
To: Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Courtney: Good question. The existing VPA preserves liability for gross negligence and worse. In an ideal world, I agree that we would eliminate liability for gross negligence as well as ordinary negligence, for precisely the reason you articulate. The HSC working group that developed this proposal last year was trying to stick closely to the balance struck by the VPA to increase the chances that the proposal would be broadly acceptable. I certainly don't have any objection to taking the opportunity in a new bill to go beyond the VPA and eliminate additional liability, if others think that we could still get the bill through quickly and successfully.

The existing VPA provides that the volunteer shall not be liable if "the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer." 42 USC 14503(a)(3). If we were to propose a bill that amended the VPA (which otherwise would seem like the simplest way to proceed), we'd probably have to include a provision that amended section 14503(a)(3) and thus called attention to the departure from the existing VPA re: gross negligence. If we were to propose a stand-alone bill that didn't incorporate or refer to the VPA, we could include a provision that paralleled 14503(a)(3) except for omitting the words "gross negligence," and then we could see whether anyone noticed that those two little words were missing.

Jeff

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:06 AM
To: Gorsuch, Neil M
Cc: Bucholtz, Jeffrey (CIV)
Subject: RE: Katrina - healthcare worker liability initiative

I just read this very quickly. Do you think that eliminating liability for "ordinary negligence," but not "for gross negligence and worse" is sufficient? Won't the poor volunteer just end up litigating whether his negligence amounted to "gross" negligence? I am certainly in favor of maitaining potential liability for "wilful misconduct," but should it also extend to "gross negligence"?

It has been a long time since I took a torts class, so perhaps I am missing something.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense

Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Otus2005, Ag

Subject:	Accepted: Updated: Senior Management Meeting
Start:	Wednesday, September 07, 2005 10:15 AM
End:	Wednesday, September 07, 2005 10:30 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Seidel, Rebecca

From:	Seidel, Rebecca
Sent:	Wednesday, September 07, 2005 10:31 AM
To:	Moschella, William; Gorsuch, Neil M
Cc:	Ansell, Frederick; Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Subject:	RE: Katrina - healthcare worker liability initiative

I just want to note a couple things

1) I think folks would notice the 2 little words that would be missing - fyi [redacted]on Leahy's staff would be involved in any Hill action on this. trust me, [redacted] will notice and [redacted] will go ballistic. Passing in House will give leverage, but it likely won't go in Senate (but we should still press to say that willful misconduct is all that is needed). Doing as a standalone is helpful - but everyone (especially [redacted] will look for analogous provisions in current law, and I believe [redacted] is very familiar with VPA.
2) that being said - I agree, go for all and have fallback. I remember when we were doing Terrorism Insurance - WH went to the Hill with a good, balanced proposal which would have been a good final compromise doc. of course it became starting point for negotiations instead of end point and went downhill.

-----Original Message-----
From: Moschella, William
Sent: Wednesday, September 07, 2005 10:07 AM
To: Gorsuch, Neil M
Cc: Ansell, Frederick; Hertling, Richard; Bucholtz, Jeffrey (CIV);
Seidel, Rebecca; Clinger, James H
Subject: RE: Katrina - healthcare worker liability initiative

Two issues: First, OLP looked at the documents and believes (from a quick drafting standpoint) a stand alone bill would be easier and quicker to put together. It is there believe that amending current law is more complicated than was previously thought.

Second, I am not adverse to proposing eliminating gross negligence and to point out to the Hill the differences between our proposal and current law. It might be worth pushing the envelope in this environment because we always have a fall back position. Also, since OLP is drafting a stand alone bill, it would be distinguishable from prior law.

Neil, you should contact the WH to see whether there would be any hold up there on the policy issue. If not, I say we try to get this done without gross negligence in the House.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 10:02 AM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV); Moschella, William;
Seidel, Rebecca
Cc: Ansell, Frederick

Subject: RE: Katrina - healthcare worker liability initiative

I think we need advice from OLA and OLP on what is do-able and the best tactical approach. The most pressing need is to encourage volunteers from out of state to help equally with those in state. Doing so would be a minor amendment to the law. It would be a much bigger deal, I suspect, to change the law to eliminate liability for gross negligence for all volunteers.

-----Original Message-----
From: Hertling, Richard
Sent: Wednesday, September 07, 2005 9:51 AM
To: Bucholtz, Jeffrey (CIV); Moschella, William; Seidel, Rebecca
Cc: Gorsuch, Neil M; Ansell, Frederick
Subject: RE: Katrina - healthcare worker liability initiative

Please make sure Fred Ansell is copied on all messages involving this issue.

On the substance, my concern has been that our work reflect the substance of the HSC-led working group of last year. Those efforts resulted in a proposal to permit liability for "gross negligence." We can draft it either way, but we need to finalize this either way promptly. rah

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 9:45 AM
To: Moschella, William; Hertling, Richard; Seidel, Rebecca
Cc: Gorsuch, Neil M
Subject: FW: Katrina - healthcare worker liability initiative

Will, Richard, Rebecca: See Courtney's e-mail below asking whether our medical volunteer bill should bar liability for gross negligence as well as ordinary negligence (thus providing liability protection beyond what the VPA provides). Doing so seems desirable from a policy perspective, but not if it would make the bill less likely to pass quickly. What do you think? Thanks,

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:33 AM
To: Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Why don't you give it some thought and talk to others. Perhaps a broader exemption could be a starting point in the legislation and, if we encounter push back, we could retreat to this position.

I defer to others, though.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)

Sent: Wednesday, September 07, 2005 9:25 AM
To: Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Courtney: Good question. The existing VPA preserves liability for gross negligence and worse. In an ideal world, I agree that we would eliminate liability for gross negligence as well as ordinary negligence, for precisely the reason you articulate. The HSC working group that developed this proposal last year was trying to stick closely to the balance struck by the VPA to increase the chances that the proposal would be broadly acceptable. I certainly don't have any objection to taking the opportunity in a new bill to go beyond the VPA and eliminate additional liability, if others think that we could still get the bill through quickly and successfully.

The existing VPA provides that the volunteer shall not be liable if "the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer." 42 USC 14503(a)(3). If we were to propose a bill that amended the VPA (which otherwise would seem like the simplest way to proceed), we'd probably have to include a provision that amended section 14503(a)(3) and thus called attention to the departure from the existing VPA re: gross negligence. If we were to propose a stand-alone bill that didn't incorporate or refer to the VPA, we could include a provision that paralleled 14503(a)(3) except for omitting the words "gross negligence," and then we could see whether anyone noticed that those two little words were missing.

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:06 AM
To: Gorsuch, Neil M
Cc: Bucholtz, Jeffrey (CIV)
Subject: RE: Katrina - healthcare worker liability initiative

I just read this very quickly. Do you think that eliminating liability for "ordinary negligence," but not "for gross negligence and worse" is sufficient? Won't the poor volunteer just end up litigating whether his negligence amounted to "gross" negligence? I am certainly in favor of maitaining potential liability for "wilful misconduct," but should it also extend to "gross negligence"?

It has been a long time since I took a torts class, so perhaps I am missing something.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of

draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some* jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----

From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Ansell, Frederick

From:	Ansell, Frederick
Sent:	Wednesday, September 07, 2005 10:34 AM
To:	Seidel, Rebecca; Moschella, William; Gorsuch, Neil M
Cc:	Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Subject:	RE: Katrina - healthcare worker liability initiative

I can put such language in the proposal. Note that the healthcare volunteer is not the only situation in which this comes up. The HSC group's proposal also made life easier than the VPA for the entity that opens up its facility to the healthcare volunteer and to the employer of the healthcare volunteer. They were exempted from various restrictions contained in the VPA unless their own conduct was, among other things, grossly negligent. I assume from the discussion that the draft should provide immnuity not only for the healthcare volunteer based on gross negligence, but from the healthcare volunteer's employer/business partner and the entity where the services are rendered as well based on gross negligence.

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, September 07, 2005 10:31 AM
To: Moschella, William; Gorsuch, Neil M
Cc: Ansell, Frederick; Hertling, Richard; Bucholtz, Jeffrey (CIV);
Clinger, James H
Subject: RE: Katrina - healthcare worker liability initiative

I just want to note a couple things

1) I think folks would notice the 2 little words that would be missing - fyi [redacted] on Leahy's staff would be involved in any Hill action on this. trust me, [redacted] will notice and [redacted] will go ballistic. Passing in House will give leverage, but it likely won't go in Senate (but we should still press to say that willful misconduct is all that is needed). Doing as a standalone is helpful - but everyone (especially [redacted] will look for analogous provisions in current law, and I believe [redacted] is very familiar with VPA.
2) that being said - I agree, go for all and have fallback. I remember when we were doing Terrorism Insurance - WH went to the Hill with a good, balanced proposal which would have been a good final compromise doc. of course it became starting point for negotiations instead of end point and went downhill.

-----Original Message-----
From: Moschella, William
Sent: Wednesday, September 07, 2005 10:07 AM
To: Gorsuch, Neil M
Cc: Ansell, Frederick; Hertling, Richard; Bucholtz, Jeffrey (CIV);
Seidel, Rebecca; Clinger, James H
Subject: RE: Katrina - healthcare worker liability initiative

Two issues: First, OLP looked at the documents and believes (from a quick drafting standpoint) a stand alone bill would be easier and quicker to put together. It is there believe that amending current law is more complicated than was previously thought.

Second, I am not adverse to proposing eliminating gross negligence and to point out to the Hill the differences between our proposal and current law. It might be worth pushing the envelope in this environment because we always have a fall back position. Also, since OLP is drafting a stand alone bill, it would be distinguishable from prior law.

Neil, you should contact the WH to see whether there would be any hold up there on the policy issue. If not, I say we try to get this done without gross negligence in the House.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 10:02 AM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV); Moschella, William; Seidel, Rebecca
Cc: Ansell, Frederick
Subject: RE: Katrina - healthcare worker liability initiative

I think we need advice from OLA and OLP on what is do-able and the best tactical approach. The most pressing need is to encourage volunteers from out of state to help equally with those in state. Doing so would be a minor amendment to the law. It would be a much bigger deal, I suspect, to change the law to eliminate liability for gross negligence for all volunteers.

-----Original Message-----
From: Hertling, Richard
Sent: Wednesday, September 07, 2005 9:51 AM
To: Bucholtz, Jeffrey (CIV); Moschella, William; Seidel, Rebecca
Cc: Gorsuch, Neil M; Ansell, Frederick
Subject: RE: Katrina - healthcare worker liability initiative

Please make sure Fred Ansell is copied on all messages involving this issue.

On the substance, my concern has been that our work reflect the substance of the HSC-led working group of last year. Those efforts resulted in a proposal to permit liability for "gross negligence." We can draft it either way, but we need to finalize this either way promptly. rah

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 9:45 AM
To: Moschella, William; Hertling, Richard; Seidel, Rebecca
Cc: Gorsuch, Neil M
Subject: FW: Katrina - healthcare worker liability initiative

Will, Richard, Rebecca: See Courtney's e-mail below asking whether our medical volunteer bill should bar liability for gross negligence as well as ordinary negligence (thus providing liability protection beyond what the VPA provides). Doing so seems desirable from a policy perspective, but not if it would

make the bill less likely to pass quickly. What do you think? Thanks,

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:33 AM
To: Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Why don't you give it some thought and talk to others. Perhaps a broader exemption could be a starting point in the legislation and, if we encounter push back, we could retreat to this position.

I defer to others, though.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 9:25 AM
To: Elwood, Courtney; Gorsuch, Neil M
Subject: RE: Katrina - healthcare worker liability initiative

Courtney: Good question. The existing VPA preserves liability for gross negligence and worse. In an ideal world, I agree that we would eliminate liability for gross negligence as well as ordinary negligence, for precisely the reason you articulate. The HSC working group that developed this proposal last year was trying to stick closely to the balance struck by the VPA to increase the chances that the proposal would be broadly acceptable. I certainly don't have any objection to taking the opportunity in a new bill to go beyond the VPA and eliminate additional liability, if others think that we could still get the bill through quickly and successfully.

The existing VPA provides that the volunteer shall not be liable if "the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer." 42 USC 14503(a)(3). If we were to propose a bill that amended the VPA (which otherwise would seem like the simplest way to proceed), we'd probably have to include a provision that amended section 14503(a)(3) and thus called attention to the departure from the existing VPA re: gross negligence. If we were to propose a stand-alone bill that didn't incorporate or refer to the VPA, we could include a provision that paralleled 14503(a)(3) except for omitting the words "gross negligence," and then we could see whether anyone noticed that those two little words were missing.

Jeff

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 9:06 AM
To: Gorsuch, Neil M
Cc: Bucholtz, Jeffrey (CIV)
Subject: RE: Katrina - healthcare worker liability initiative

I just read this very quickly. Do you think that eliminating liability for "ordinary negligence," but not "for gross negligence and worse" is sufficient? Won't the poor volunteer just end up litigating whether his negligence amounted to "gross" negligence? I am certainly in favor of maitaining potential liability for "wilful misconduct," but should it also extend to "gross negligence"?

It has been a long time since I took a torts class, so perhaps I am missing something.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 3:53 PM
To: Moschella, William; Brand, Rachel; Seidel, Rebecca
Cc: Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Ullyot, Theodore
Subject: FW: Katrina - healthcare worker liability initiative

Following up from our conversation at the OASG component meeting this afternoon, here is a piece of draft legislation that was considered last year to extend the Volunteer Protection Act to cover volunteers who are certified by a medical (or other appropriate) authority in SOME jurisdiction even if not the jurisdiction where the volunteer is performing services. The proposal carves out liability for negligence but not willful misconduct. (Question for Torts: Is the "some jurisdiction" language sufficiently clear to protect foreign workers who wish to come to the US to help?)

Adding something along these lines to our legislative package could do much to help encourage additional volunteers, both from across the US and abroad. Certainly CIV seems to have received a lot of questions from entities and countries who would (otherwise) like to help but who are concerned about potential tort liability. Note that it appears from Jeff's email that the WH HSC is taking a look at this.

NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 06, 2005 2:36 PM
To: Gorsuch, Neil M
Cc: Keisler, Peter D. (CIV)
Subject: Katrina - healthcare worker liability initiative

Neil: As I mentioned before, last year Paul Figley was part of a working group chaired by Rajeev Venkayya of the HSC that considered issues relating to health care in emergency situations. The group developed a proposal basically to adapt the Volunteer Protection Act to ensure that it applied in such situations and to extend it in a few respects. The outline of the liability protection approach that the group developed was the same as in the existing VPA: the volunteer isn't liable for ordinary negligence (except car accidents) but is liable for gross negligence and worse. The refinements/extensions of the VPA included (1) specifying that the employer or business partner of the volunteer isn't liable for the conduct of the volunteer (such vicarious liability may exist under the existing VPA); and (2) specifying that the volunteer need only be certified by medical or other appropriate authorities in *some*

jurisdiction (as opposed to the jurisdiction in which the volunteer provides services, as is the case under the existing VPA). The trigger for these protections is a declaration by the Secretary of HHS of a public health emergency.

I thought this proposal made good sense last year and still do. The working group didn't end up proposing legislation last year, for reasons not clear to me. But now, as you can see from Rajeev's e-mail below, Rajeev is revisiting the issue and intends to propose the approach developed by the group last year. I don't have any concerns about the proposal, but I wanted to make sure you knew about it. (Paul raised one additional refinement/extension of the VPA to suggest to Rajeev, with which I agree. The VPA allows states to opt out of its provisions. LA, AL, and MS haven't opted out, so that's not a concern in the current emergency, but while we're at it legislatively I thought it might be worthwhile to eliminate the opt-out right in the context of an HHS-declared emergency.)

Please let me know if you'd like more info. Thanks,

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Brand, Rachel

From: Brand, Rachel
Sent: Wednesday, September 07, 2005 11:13 AM
To: Gunn, Currie (SMO); McCallum, Robert (SMO); Gorsuch, Neil M
Cc: Martinson, Wanda; McIntosh, Brent

I now have to be with AG during lunch today, so Brent will attend the Bill Ide in my place.

****

Rachel L. Brand
Assistant Attorney General
Office of Legal Policy
U.S. Department of Justice
(202) 616-0038
Fax (202) 514-2424

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Wednesday, September 07, 2005 11:49 AM
To: Senger, Jeffrey M; Gorsuch, Neil M
Cc: Gunn, Currie (SMO)
Subject: RE: Law Enforcement Working Group

This was held at EEOB Room 450 yesterday. There may be a follow-up there today, but I cannot tell if it is the same meeting from the information I have. Currie, may know. Currie?

-----Original Message-----
From: Senger, Jeffrey M
Sent: Wednesday, September 07, 2005 11:34 AM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: Law Enforcement Working Group

Neil and Lou,
I just got a call from Allyson Ho asking if I could tell her where and when the Law Enforcement Working Group that is considering Hurricane Katrina matters is meeting. She had heard there may be something today. Have you heard anything?
Thanks,
Jeff

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 7, 2005 1:33 PM
To: Nichols, Carl (CIV)
Subject: RE: Are you keeping WH and OAG up to date on BRAC?

Yep

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Wednesday, September 07, 2005 12:20 PM
To: Gorsuch, Neil M
Subject: Are you keeping WH and OAG up to date on BRAC?

I'm happy to do so -- just didn't want to duplicate

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 2:26 PM
To: Reyes, Luis (SMO)
Subject: RE: Denver Military Base Katrina Issue

Any further developments on this?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, September 06, 2005 8:41 PM
To: Gorsuch, Neil M; Bradbury, Steve
Subject: Fw: Denver Military Base Katrina Issue

Neil: I have asked Sharee to advise her regional director out there to stand down on interfacing with military base personnel on this issue for the time being. We should figure out the veracity of this report and identify any relevant directive in play. I recommend we give [redacted]at DOD GC a call in the morn. Let me know what you think. Steve, pls advise if you have any thoughts. Thanks you guys.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Bradbury, Steve <Steve.Bradbury@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 19:27:26 2005
Subject: Denver Military Base Katrina Issue

Steve, fyi
Sharee, re: Denver - can we please get info. on which base, and what specific directive this is emanating from, and any other additional you may have on this? I presume DHS is aware of this? Thanks very much.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 17:52:16 2005
Subject:

My Regional Director from Denver just called in and says that they have moved a group of evacuees to a military base in Denver and the base control is refusing to let anyone of the people leave the base. The Ministerial Alliance there has called our office to ask for help.

There is a standing refusal of the evacuees to board cruise ships for lodging. For a number of reasons, any CRSer could have told FEMA that this housing option for African American evacuees would be a no - go.

This is just an update. When you get out of the meeting let's talk.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Wednesday, September 07, 2005 2:29 PM
To: Gorsuch, Neil M
Subject: RE: Denver Military Base Katrina Issue

None to my knowledge, but need to touch base with Sharee who is training in Atlanta as we speak. DId you by chance talk to [redacted]?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 2:26 PM
To: Reyes, Luis (SMO)
Subject: RE: Denver Military Base Katrina Issue

Any further developments on this?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, September 06, 2005 8:41 PM
To: Gorsuch, Neil M; Bradbury, Steve
Subject: Fw: Denver Military Base Katrina Issue

Neil: I have asked Sharee to advise her regional director out there to stand down on interfacing with military base personnel on this issue for the time being. We should figure out the veracity of this report and identify any relevant directive in play. I recommend we give [redacted] at DOD GC a call in the morn. Let me know what you think. Steve, pls advise if you have any thoughts. Thanks you guys.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Bradbury, Steve <Steve.Bradbury@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 19:27:26 2005
Subject: Denver Military Base Katrina Issue

Steve, fyi
Sharee, re: Denver - can we please get info. on which base, and what specific directive this is emanating from, and any other additional you may have on this? I presume DHS is aware of this? Thanks very much.

-----Original Message-----

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 17:52:16 2005
Subject:

My Regional Director from Denver just called in and says that they have moved a group of evacuees to a military base in Denver and the base control is refusing to let anyone of the people leave the base. The Ministerial Alliance there has called our office to ask for help.

There is a standing refusal of the evacuees to board cruise ships for lodging. For a number of reasons, any CRSer could have told FEMA that this housing option for African American evacuees would be a no - go.

This is just an update. When you get out of the meeting let's talk.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 2:40 PM
To: Reyes, Luis (SMO)
Subject: RE: Denver Military Base Katrina Issue

I have. [redacted] needs to know the name of the base and the commander who supposedly is refusing to allow people to leave. Can you get this?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, September 07, 2005 2:29 PM
To: Gorsuch, Neil M
Subject: RE: Denver Military Base Katrina Issue

None to my knowledge, but need to touch base with Sharee who is training in Atlanta as we speak. DId you by chance talk to [redacted]?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 2:26 PM
To: Reyes, Luis (SMO)
Subject: RE: Denver Military Base Katrina Issue

Any further developments on this?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, September 06, 2005 8:41 PM
To: Gorsuch, Neil M; Bradbury, Steve
Subject: Fw: Denver Military Base Katrina Issue

Neil: I have asked Sharee to advise her regional director out there to stand down on interfacing with military base personnel on this issue for the time being. We should figure out the veracity of this report and identify any relevant directive in play. I recommend we give [redacted] at DOD GC a call in the morn. Let me know what you think. Steve, pls advise if you have any thoughts. Thanks you guys.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Bradbury, Steve <Steve.Bradbury@SMOJMD.USDOJ.gov>; Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 19:27:26 2005

Sent: Tue Sep 06 19:27:26 2005
Subject: Denver Military Base Katrina Issue

Steve, fyi
Sharee, re: Denver - can we please get info. on which base, and what specific directive this is emanating from, and any other additional you may have on this? I presume DHS is aware of this? Thanks very much.

-----Original Message-----
From: Freeman, Sharee <Sharee.Freeman@CRS.USDOJ.GOV>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Tue Sep 06 17:52:16 2005
Subject:

My Regional Director from Denver just called in and says that they have moved a group of evacuees to a military base in Denver and the base control is refusing to let anyone of the people leave the base. The Ministerial Alliance there has called our office to ask for help.

There is a standing refusal of the evacuees to board cruise ships for lodging. For a number of reasons, any CRSer could have told FEMA that this housing option for African American evacuees would be a no - go.

This is just an update. When you get out of the meeting let's talk.

Beach, Andrew

From:	Beach, Andrew
Sent:	Wednesday, September 7, 2005 2:45 PM
To:	Beach, Andrew; Taylor, Jeffrey (OAG); Ullyot, Theodore; Sampson, Kyle
Cc:	Monheim, Thomas; Gorsuch, Neil M; Keisler, Peter D. (CIV)
Subject:	RE: Policy Time on Avian Flu - September 9th

Tom/Neil/Peter:
any input for us on this?

-----Original Message-----
From: Beach, Andrew
Sent: Wednesday, September 07, 2005 2:31 PM
To: Taylor, Jeffrey (OAG); Ullyot, Theodore; Brand, Rachel; Sampson, Kyle
Cc: Beach, Andrew
Subject: Policy Time on Avian Flu - September 9th

There will be a POTUS Policy Time on Friday, September 9th, from 10:50 - 11:35 a.m. to discuss Avian Flu (Roosevelt Room).

assuming the AG needs to attend:
1. how much PREP is required (if any)?
2. if PREP, who needs to participate?

Andrew Beach
Assistant to the Attorney General
& Director of Scheduling
US Department of Justice
951 Constitution Ave., NW
Washington, DC 20530
Tel: (202) 514-4195; FAX: (202) 307-2825
E-mail: andrew.beach@usdoj.gov

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Wednesday, September 7, 2005 2:53 PM
To:	Beach, Andrew; Taylor, Jeffrey (OAG); Ullyot, Theodore; Sampson, Kyle
Cc:	Monheim, Thomas; Keisler, Peter D. (CIV)
Subject:	RE: Policy Time on Avian Flu - September 9th

Peter and/or Jeff Bucholtz should be included in any briefing. While you will have a better handle on the AG's prep needs, I think we'd need likely need at least 30 mins.

-----Original Message-----
From: Beach, Andrew
Sent: Wednesday, September 07, 2005 2:45 PM
To: Beach, Andrew; Taylor, Jeffrey (OAG); Ullyot, Theodore; Sampson, Kyle
Cc: Monheim, Thomas; Gorsuch, Neil M; Keisler, Peter D. (CIV)
Subject: RE: Policy Time on Avian Flu - September 9th

Tom/Neil/Peter:
any input for us on this?

-----Original Message-----
From: Beach, Andrew
Sent: Wednesday, September 07, 2005 2:31 PM
To: Taylor, Jeffrey (OAG); Ullyot, Theodore; Brand, Rachel; Sampson, Kyle
Cc: Beach, Andrew
Subject: Policy Time on Avian Flu - September 9th

There will be a POTUS Policy Time on Friday, September 9th, from 10:50 - 11:35 a.m. to discuss Avian Flu (Roosevelt Room).

assuming the AG needs to attend:
1. how much PREP is required (if any)?
2. if PREP, who needs to participate?

Andrew Beach
Assistant to the Attorney General
& Director of Scheduling
US Department of Justice
951 Constitution Ave., NW
Washington, DC 20530
Tel: (202) 514-4195; FAX: (202) 307-2825

E-mail: andrew.beach@usdoj.gov

Shiels, Marnie

From: Shiels, Marnie
Sent: Wednesday, September 7, 2005 3:18 PM
To: Gorsuch, Neil M
Cc: Bottner, Andrea
Subject: OVW grant solicitation template
Attachments: Fiscal Year 2006 template.doc

Diane Stuart asked that I send you a copy of our solicitation template, in case you (or someone on your staff) would like to review it. The template will be used as the basis for all of our grant solicitations, so that they have common language as much as possible. There will be some changes to this language made later, due to the conversion from the OJP Grants Management System to Grants.gov, but the changes will not be substantive. We are working with OJP to determine the necessary changes as soon as possible.

I would greatly appreciate your comments, if any, by September 16, because the individual solicitations are already under development and in need of this template language. Also, please let me know if you would like to review copies of the individual grant program solicitations.

Thank you very much!

Marnie Shiels

U.S. Department of Justice
Office on Violence Against Women

OVW

[Insert Program] Fiscal Year 2006 Solicitation

[if applicable: LETTER OF INTENT DEADLINE:
[Insert date]]

GRANTS.GOV REGISTRATION DEADLINE:
[Insert date – must be at least 3 weeks prior to application deadline]

APPLICATION DEADLINE:
[Insert date]

[Font and point size:
Font=Arial
Headings- 14 pt. bold
Sub-headings- 12 pt. bold and underlined
Sub-sub-headings- 11 pt. bold
Text- 12 pt.]

U.S. Department of Justice
Office on Violence Against Women
800 K Street, NW, Suite 920
Washington, DC 20531

Alberto Gonzales
Attorney General
U.S. Department of Justice

Diane M. Stuart
Director
Office on Violence Against Women

Department of Justice Response Center
1-800-421-6770

TTY
202-307-2277

Office on Violence Against Women
www.ojp.usdoj.gov/vawo

[Insert program]
www.ojp.usdoj.gov/fundopps.htm

Grants.gov Customer Support Hotline
1-800-518-4726

DOJ_NMG_ 0146888

About the Office on Violence Against Women

The Office on Violence Against Women (OVW) is a component of the U.S. Department of Justice. Created in 1995, OVW implements the Violence Against Women Act (VAWA) and subsequent legislation and provides national leadership against domestic violence, sexual assault, and stalking. Since its inception, the Office has launched a multifaceted approach to responding to these crimes. By forging state, local and tribal partnerships among police, prosecutors, the judiciary, victim advocates, health care providers, faith leaders, and others, OVW grants help provide victims with the protection and services they need to pursue safe and healthy lives and enable communities to hold offenders accountable.

About the [insert program name]

[Insert program specific information]

Availability of Funds

[Use the following text if we do not yet have an appropriation for the current fiscal year:
The ability of OVW to make awards under [insert program] in Fiscal Year 2006 is contingent upon Congressional appropriation of funds for that purpose.]

Award Period

[Insert program specific information]

Award Amounts

[Insert program specific information]

[This section is optional]
Letter of Intent

All applicants who intend to apply for FY 2006 funding under this program are encouraged to **submit a non-binding letter of intent**, (please see Appendix [insert appropriate letter]), to OVW by **[insert date]**. You may fax the letter to OVW at [insert fax number]. OVW will use these letters to forecast the number of peer review panels needed to review competitive applications.

Application Due Date

Please note that final applications are due **by 5:30 pm (EST) [insert date], and will be accepted only through Grants.gov, an e-Government initiative that is included in the President's Management Agenda. Please note that Grants.gov is not the Grants Management System (GMS) that OVW applicants have submitted applications to in previous years.** Applicants should register with Grants.gov **by [Insert date]**. First-time registering will take up to one week to be validated and confirmed and for you to receive your user names and passwords. In addition, an original hard copy must be sent to Aspen Systems Corporation via overnight delivery not later than **[insert date].** We strongly recommend that you use a trackable shipping method which will allow you to confirm the delivery of your application. Applications should retain proof of timely submission.

DOJ_NMG_ 0146889

Please refer to the "How to Apply" section on page **[insert number]** of this solicitation for further instructions.

Program Eligibility

[Insert program specific information] **It is very important that you review this information carefully. Applications that are submitted by non-eligible entities will be screened out of the review process during an initial review process.**

Types of Applicants

[Insert program specific information]

Program Scope

[Insert program specific information]

Activities that May Compromise Victim Safety

Ensuring victim safety is the guiding principle underlying this Program. Experience has shown that certain practices may compromise victim safety rather than enhance it. Certain responses by the authorities may have the effect of minimizing or trivializing the offender's criminal behavior. Accordingly, consistent with the goals of ensuring victim safety while holding perpetrators accountable for their criminal conduct, applicants are strongly discouraged from proposing projects that include any activities that may compromise victim safety such as the following:

- [Insert program specific activities]

Review Process

[NOTE: This section is not needed for STOP Formula and State Coalitions]

All applications will be subject to internal review by OVW staff and peer review and will be scored according to the criteria set forth in this solicitation. **If the application fails to meet the criteria listed below for the initial internal review, the application will not receive further consideration. If applications that are partially beyond the scope of the program are sent to peer review, only those sections of the application that are within scope will be reviewed.** Criteria for the initial internal review follow:

- Whether the application is complete;
- Whether the proposed activities are within the scope of the program (see page [insert page number]);
- Whether all statutory eligibility criteria are met (see page [insert page number]);
- [If applicable: Whether the minimum requirements for the program are met (see page [insert page number])];
- [If applicable: Whether the certification requirements for the program are met (see page [insert page number])];
- Whether the application proposes significant activities that may compromise victim safety (see page [insert page number])];

DOJ_NMG_ 0146890

- Whether the proposed budget is within the established limits (see page [insert page number])];

In addition, applications for continuation funding will be reviewed for prior compliance with Program and Office requirements and the status of current grant-funded activities. (See page [insert page number] for further details on criteria for this review.)

OVW will establish panels of experts and practitioners to review applications. [Insert language about tribal applications if appropriate.] Each panel will review the information provided in the application against the selection criteria for the program. Following peer review, a second internal review will consider the geographic distribution of the applications for a national and statewide perspective, the ratio of population to services, the existence of underserved communities, and the type of projects already funded within an applicant's state or community. The total points possible for an application are 100 (65 points for Narrative, 15 points for Budget, and 20 points for the MOU [use EMOU, IMOU, and/or MOE as applicable]. Applications with the highest composite scores will be considered for funding.

Application Content

Applicants must complete each of the following sections as part of their proposals. **It is the responsibility of the applicant to ensure the application is complete. OVW will remove the application from consideration prior to peer review if the application is incomplete.** For each section listed below, please note the corresponding maximum point value that may be assigned during the review process. The proposal should follow the order below for easy reading. Please be sure to number each page of the application. Please note that incomplete applications may not be considered for funding. Peer reviewers will not receive materials submitted beyond those required by this solicitation.

Applications must use the following page format requirements:

- Double spaced (except for the Summary Data Sheet and Abstract which should be single spaced)
- 8 ½ x 11 inch paper
- One inch margins
- Type no smaller than 12 point, Times New Roman font
- No more than one page each for Summary Data Sheet and Abstract
- No more than 5 pages for Status of the Project (if applicable)
- No more than 20 pages for the Project Narrative
- Include your application number on every page and all attachments

Peer reviewers will not review applications exceeding the page limits, or their equivalent.

The following will be submitted online through Grants.gov.

DUNS Number

DOJ_NMG_ 0146891

A Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number must be included in every application for a new award or renewal of an award. **The DUNS number will be entered into Grants.gov by the applicant. An application will not be considered complete until a valid DUNS number is provided by the applicant.** Individual persons who receive a grant or cooperative agreement from the Federal government are exempt from this requirement.

Applicants can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1-800-333-0505.

If you have any questions about the DUNS number requirement, please contact the Office of the Comptroller's Customer Service Center at 1-800-458-0786.

Application for Federal Assistance (SF-424)

The SF-424 will be filled out online through Grants.gov. However, it should also be printed out and included in the hard copy that it submitted. The Catalog of Federal Domestic Assistance number for this program is **[Insert number]** (block 10). The cognizant Federal audit agency and fiscal year of the applicant organization should be listed in block 11 of the form. Please be sure that the amount requested matches the amount in the submitted budget.

Applicants must ensure that the information for the authorizing official and alternate contact is filled out correctly. The authorizing official is the individual authorized to accept grant funds on behalf of the jurisdiction or non-governmental private entity applying. If the individual applying online is not the authorizing official, that individual must list the authorizing official's name and contact information where appropriate.

Standard Assurances and Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (Form 4061/6)

Review the assurances and certification forms. Agreement to these assurances and certifications will be assumed upon receipt of an application received through Grants.gov. **NOTE:** If the authorizing official is not the individual submitting the application via Grants.gov, be sure the correct authorizing official information has been entered.

The following will be submitted as attachments in Grants.gov. Please save your attachments with names that indicate the substance of the attachment (e.g. save your program narrative as "Program Narrative").

Summary Data Sheet

[Insert program specific information] Is the applicant organization a faith-based entity? Are one or more of the applicant's MOU partners faith-based organizations? If so, please list each one and the amount of program funding they will receive.

Abstract/Proposal Summary:

[Insert program specific information]

DOJ_NMG_ 0146892

Status of the Current Project: [Do not include this section for STOP or State Coalitions]. Applicants for continuation funding only. This section will be used for internal review only. The application may receive a deduction in points based on the criteria listed below. This section should be provided on a separate page as it is a separate section from the program narrative and does not count toward the page limits of the narrative. State what has been accomplished with previous funding under the [Insert program], including the following:

- A description of the goals and objectives from the prior grant period and a brief discussion of the status of the existing project:
- The status of any project products;
- Any unanticipated obstacles to project implementation.

This section should be as clear and succinct as possible.

Current projects will be rated by OVW using the following criteria:

- Whether progress reports submitted by the applicant, in conjunction with monitoring conducted by OVW, demonstrate the effectiveness of the current project, indicating progress toward meeting project goals and objectives, and demonstrate that the current project has progressed in a timely manner as outlined in the original proposal;
- Whether the grantee has demonstrated that past activities supported with [Insert program] funds have been limited to program Purpose Areas;
- Whether the grantee has complied with all special conditions of its existing grant award from the Department of Justice;
- Whether the grantee has adhered to programmatic and financial reporting requirements;
- Whether the grantee has completed the project goals, objectives, and products according to the approved time line;
- Whether the grantee has demonstrated a commitment to sustaining the project after federal funds are no longer available;
- Whether the grantee appropriately utilized and actively participated in OVW-sponsored workshops and other technical assistance events as required by a special condition of the current award;
- Whether the grantee has received financial clearances on all current grants from DOJ;
- Whether the grantee has complied with the Office of Management and Budget audit requirement;
- How much funding is remaining in the current award.

Project Narrative:

The narrative should include the following (totaling 65 [This should be 85 for Tribal Coalitions] points): [NOTE: For STOP and State Coalitions, leave out point values]

Need for the Project: 10 points

[Insert program specific information]

DOJ_NMG_ 0146893

What Will be Done: 40 points
[Insert program specific information]

Who Will Implement the Project: 10 [30 For Tribal Coalitions] points
[Insert program specific information]

Sustainability Plan: 5 points [Not included for STOP or State Coalitions]
Because this is a competitive, discretionary program, there is no guarantee of continuation funding. Applicants are required to include a plan describing their commitment and capacity to continue the project if Federal funding through the [Insert program] were no longer available.

The plan will be evaluated on whether it proposes feasible strategies to preserve project activities long-term. **Continuation or supplemental funding is not guaranteed and applicants are encouraged to seek additional means of support to sustain their current projects.**

Budget Detail Worksheet and Narrative: 15 Points
Each application must include a detailed budget and budget narrative for the project. The budget must be complete, reasonable, and cost-effective in relation to the proposed project. The budget should provide the basis for the computation of all project-related costs. It should cover the cost of all components of the project. There must be a clear link between the proposed activities and the proposed budget items. The budget should include only those activities, products, and resources that are necessary for project implementation and discussed in the project narrative.

In developing the budget, applicants should fairly compensate all project partners for their participation in any project-related activities, including but not limited to compensation for time and travel expenses to attend or provide project development, training, and implementation. The budget **must** include compensation for all services rendered by project partners, including nonprofit, nongovernmental domestic violence and/or sexual assault victim services programs and state and tribal domestic violence and/or sexual assault coalitions.

Budget Caps
[Insert program specific information]

OVW has the discretion to make grants for greater or lesser amounts than requested and to negotiate the scope of work and budget with applicants prior to award of a grant.

[If appropriate (STOP, STOP VAIW, and Coalitions), insert section on match here]

Budget requirements
The following is a short list of budget guidelines:

- Applicants are strongly discouraged from requesting consultant rates in excess of $450 per day because they require prior approval from the Director of the Office on Violence Against Women.

DOJ_NMG_ 0146894

- Applicants **may not** allocate any funds for building renovations. This includes such seemingly minor things as painting or carpeting.

- [Do not include this for STOP, STOP VAIW, and the Coalition Programs. Instead add a separate section on match as indicated above] A contribution of non-Federal dollars ("match") is not required for this program, but applicants are encouraged to maximize the impact of federal dollars by contributing to the costs of their projects. Supplemental contributions may be cash, in-kind services, or a combination of both. Any non-Federal contributions can be discussed in the project narrative; however, these supplemental contributions should **not** be included in the budget or budget narrative.

- All applicants **are required** to allocate funds ([Insert appropriate amount]), to support travel costs associated with technical assistance and capacity-building activities sponsored by OVW-designated technical assistance providers. Applications selected for funding which do not include the entire recommended amount will not receive additional funds for this purpose, but will be required to adjust their budgets to cover these costs prior to final approval of the proposal. This required amount must be included in the *"travel"* category. Please provide an estimated breakdown for this amount (include the number of trips, number of travelers, airfare or mileage, lodging, per diem, etc.). These funds are to be used **only** for OVW-designated technical assistance unless otherwise approved by OVW. Travel funds should be used to support travel by all partners, including nonprofit, nongovernmental victim services providers.

- Applicants are also encouraged to include funds in their budgets to attend Financial Management Training Seminars sponsored by OJP's Office of the Comptroller. These seminars instruct participants in the financial administration of OJP and OVW formula and discretionary grant programs. A schedule listing the financial training seminars is available at **www.ojp.usdoj.gov/oc/fmts.htm.**

A Sample Budget Detail Worksheet is included in Appendix [Insert letter] of this solicitation. The budget and budget narrative should be submitted online as one attachment. When preparing these items, please use the Budget Detail Worksheet as a guide and be sure to include all necessary budget categories. The budget should clearly describe the proposed amounts and uses of grant funds for the duration of the grant period and how the amounts of the specific budget items were determined.

The following can be submitted either via fax to [Insert fax number], or electronically through Grants.gov. Please be sure to include your application number prominently on the cover sheet and all pages of the fax.

Memorandum of Understanding (MOU) [EMOU, IMOU, and MOE can also be included here if appropriate. Leave this out for Tribal Coalitions.]: 20 points

[Insert program specific information]

The MOU should be a single document that includes signatures and dates from all partners.

DOJ_NMG_ 0146895

Letter of Nonsupplanting
Applicants must submit a letter to OVW's Director, Diane M. Stuart, certifying that Federal funds will not be used to supplant State or local funds should a grant award be made. This letter must be faxed to [Insert fax number] or electronically scanned and submitted as an attachment via Grants.gov. If faxed, the application number must be prominently included on the fax cover page as well as the letter. Please refer to Appendix [Insert letter] for a sample letter.

Financial Capability Questionnaire
[Insert the following section, if appropriate:] All nonprofit, nongovernmental organizations that apply for funding with OVW that have not previously (or within the last 3 years) received funding from OVW or OJP must complete a Financial Capability Questionnaire. The form can be found at http://www.ojp.usdoj.gov/oc. Please fax this form to [Insert number] and include the application number predominantly on the cover page and on each page of the form. When submitting your application, please make sure that your current year's audit report has been submitted to the Federal Audit Clearinghouse, Bureau of the Census, 1201 East 10th Street, Jacksonville, IN 47132.

Indirect Cost Rate Agreement [Leave out for STOP]
If your organization is requesting indirect costs for this project, please include a copy of your current, signed indirect cost rate agreement.

[Insert other program specific sections of the application in the appropriate application content section (i.e. on Grants.gov, attachment, or fax)]

Additional Program Requirements

Technical Assistance
[Insert program specific information]

Performance Measurement
There are two [Change this to "three" for STOP, Campus, and Safe Havens] statutory requirements that require OVW grantees to collect and maintain data that measures the effectiveness of the funded projects. First, the Government Performance and Results Act of 1993 (GPRA) requires agencies to report on the results of government programs and activities. Second, the Violence Against Women Act of 2000 mandates that all OVW grant recipients report on the effectiveness of their programs. [For STOP, Safe Havens, and Campus, add a description of the third requirement – see Jen Kaplan for language)] To address these statutory requirements, OVW has developed a(n) [Insert program] semi-annual Progress Report that requests specific data on grantee activities. Information that grantees must collect for this progress report includes:

[Insert program specific information. You may want to check with Jen Kaplan or Marylouise Kelley to make sure you have the most current measures.]

Reporting Requirements

DOJ_NMG_ 0146896

Grantees will be required to submit quarterly Financial Status Reports and semi-annual Progress Reports. In addition, grant recipients who expend $500,000 or more in Federal funds during their fiscal year are required to submit a single organization-wide audit. Additional information on these reporting requirements will be provided to successful applicants in the award package.

OJP Financial Guide

All grantees are required to comply with the regulations and requirements outlined in the OJP Financial Guide. The Financial Guide includes information on allowable costs, methods of payment, audit requirements, accounting systems, and financial records. Copies are available from the Department of Justice Response Center (1-800-421-6770) and also through the OJP web page: http://www.ojp.usdoj.gov/FinGuide.

Suspension or Termination of Funding

OVW may suspend funding in whole or in part, terminate funding, or impose another sanction on a recipient who has failed to comply substantially with the following:

- The requirements of VAWA and statutory objectives of [Insert program];
- Timely submission of quarterly Financial Status Reports;
- Timely submission of semi-annual Progress Reports;
- The regulations and/or guidelines issued for the [Insert program] and any other regulations applicable to OVW grantees; or
- The application submitted in accordance with the provisions of VAWA or any other applicable federal Act.

OVW will provide reasonable notice of its intent to impose sanctions and will attempt informally to resolve the problem. Hearing and appeal procedures will follow those in the Department of Justice regulations at 28 CFR Part 18. References to the Office of Justice Programs and its components are deemed to refer to the Office on Violence Against Women. The responsible agency official, as defined by 28 CFR § 18.3(h), is the Director, Office on Violence Against Women.

Single Point of Contact Review

Executive Order 12372 requires applicants from State and local units of government or other organizations providing services with a State to submit a copy of the application to the State Single Point of Contact (SPOC) if one exists, and if this program has been selected for review of the State. Applicants must contact the State SPOC to determine if the program has been selected for State review. The date that the application was sent to the SPOC or the reason such submission is not required should be indicated on the Form SF-424. The list of SPOCs can be found at: **http://www.whitehouse.gov/omb/grants/spoc.html.**

Faith-Based Organizations

Consistent with President Bush Executive Order 13279, December 12, 2002, and 28 CFR Part 38, it is OVW policy that faith-based and community organizations, that statutorily qualify as eligible applicants under OVW programs, are invited and

DOJ_NMG_ 0146897

encouraged to apply for assistance awards. Faith-based and community organizations will be considered for awards on the same basis as other eligible applicants and, if they receive assistance awards, will be treated on an equal basis with non faith-based and community organization grantees in the administration of such awards. No eligible applicant or grantee will be discriminated against on the basis of its religious character or affiliation, religious name, or the religious composition of its board of directors or persons working in the organization.

Civil Rights Compliance

All recipients of Federal grant funds are required to comply with nondiscrimination requirements contained in various Federal laws. In the event that a court or administrative agency makes a finding of discrimination on grounds of race, color, religion, national origin, gender, disability, or age against a recipient of funds after a due process hearing, the recipient must agree to forward a copy of the finding to the Office for Civil Rights of OJP. All applicants should consult the Assurances required with the application funds to understand the applicable legal and administrative requirements.

Services to Limited-English-Proficient (LEP) Persons:

National origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI and the Safe Streets Act, recipients are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including interpretation and translation services, where necessary. Grantees are encouraged to consider the need for language services for LEP persons served or encountered both in developing their proposals and budgets and in conducting their programs and activities. Reasonable costs associated with providing meaningful access for LEP individuals are considered allowable program costs. The U.S. Department of Justice has issued guidance for grantees to assist them in complying with Title VI requirements. The guidance document can be accessed on the Internet at **www.lep.gov** or by contacting the Office of Justice Program's Office for Civil Rights at (202) 307-0690, or by writing to the following address:

Office for Civil Rights
Office of Justice Programs
U.S. Department of Justice
810 7th Street, N.W., 8th Floor
Washington, DC 20531

Anti-Lobbying Act

In 2002, the Anti-Lobbying Act, 18 U.S.C. § 1913, was amended to expand significantly the restriction on use of appropriated funding for lobbying. This expansion also makes the anti-lobbying restrictions enforceable via large civil penalties, with civil fines between $10,000 and $100,000 per each individual occurrence of lobbying activity. These restrictions are in addition to the anti-lobbying and lobbying disclosure restrictions imposed by 31 U.S.C. § 1352. The Office of Management and Budget (OMB) is currently in the process of amending the OMB cost circulars and the common rule (codified at 28 C.F.R. part 69 for DOJ grantees) to reflect these modifications. However, in the interest of full disclosure, all applicants must understand that no

DOJ_NMG_ 0146898

federally-appropriated funding made available under this grant program may be used, either directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation, or policy, at any level of government, without the express approval of OVW. Any violation of this prohibition is subject to a minimum $10,000 fine for each occurrence. This prohibition applies to all activity, even if currently allowed within the parameters of the existing OMB circulars.

How To Apply

Applicants must submit a fully executed application to OVW through **Grants.gov**, including all required supporting documentation. **Faxed applications will not be accepted. However, certain supporting documentation may be submitted to Grants.gov via fax as described below.** Applications submitted via Grants.gov must be in the following work processing formats: Microsoft Word (.doc), PDF files, (.pdf) or Text Documents (.txt). (Please refer to Appendix [Insert letter], the Step-by-Step Guide to Grants.gov.)

The following documents must be submitted via Grants.gov:

- The SF-424;
- Standard Assurances and Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug Free Workplace Requirements;
- the project abstract and project narrative; and
- the budget, budget summary, and budget narrative.

Note: The Catalog of Federal Domestic Assistance number for the [Insert Program is [Insert number].

Supporting documentation can be submitted either via fax to [Insert fax number], or electronically through Grants.gov, and should include:

- Letter of nonsupplanting
- An MOU [Insert EMOU, IMOU, and/or MOE as applicable and delete this for Tribal Coalitions]
- A current Indirect Cost Rate Agreement (if applicable)
- [Insert any other program specific attachments]

The application number must be prominently included on the cover page of all faxes, as well as each page of the faxed documents. Detailed instructions on how to use the Grants.gov system to submit your application online are available at OVW's web page, www.ojp.usdoj.gov/vawo. Also, a toll-free telephone number has been established for you to receive technical assistance as you work through the online application process, 1-888-549-9901.

DOJ_NMG_ 0146899

To help expedite the peer review process, **applicants must send via overnight delivery a complete hard-copy original of the application, postmarked by [Insert date] to:**
Aspen Systems Corporation
OVW [Insert program name]
Mail Stop 2K
2277 Research Boulevard
Rockville, MD 20850
(301) 519-5000

A complete application must include the following:

- SF 424
- Standard Assurances and Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug Free Workplace Requirements;
- the project abstract, project narrative, and for continuation applicants, the status of the project;
- the budget, budget summary, and budget narrative.
- Letter of nonsupplanting
- An MOU [Insert EMOU, IMOU, and/or MOE as applicable and delete this for Tribal Coalitions]
- A current Indirect Cost Rate Agreement (if applicable)
- [Insert any other program specific attachments]

Applicants that fail to submit the required hard copy original will not be considered for funding.

Application Due Date
Application must be electronically received by the close of business (5:30 p.m. EST) on **[Insert date].** The application attachments (e.g., MOU, Letter of Non-Supplanting, etc) that may be faxed to [Insert fax number] or submitted through Grants.gov as attachments must be received by 5:30 p.m. EST on **[Insert date]**. The hard copy original must be sent to OVW c/o Aspen Systems Corporation at the address provided above via overnight delivery not later than **[Insert date].** Applicants should retain proof of timely submission.

We recommend that you register through Grants.gov at least three weeks before the application due date, or no later than **[Insert date].** All applicants must receive confirmation of eligibility that they are eligible to submit an application through Grants.gov prior to completing the application submission process.

For additional information, please contact the Office on Violence Against Women at (202) 307-6026.

DOJ_NMG_ 0146900

DOJ_NMG_ 0146901

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, September 07, 2005 3:23 PM
To: Byrnes, Kathleen T
Cc: Gorsuch, Neil M
Subject: RE: Neil Gorsuch

Great. Thank you for your update.

-----Original Message-----
From: Byrnes, Kathleen T
Sent: Wednesday, September 07, 2005 3:01 PM
To: Shaw, Aloma A
Subject: RE: Neil Gorsuch

Aloma,

I've called the FBI supervisor twice today and am still waiting for her to advise us of the status of his background. Will let you know as soon as I hear from them. We cannot upgrade his clearance to final until they finish the background.

-----Original Message-----
From: Rice, Dorianna C
Sent: Wednesday, September 07, 2005 9:26 AM
To: Kathleen Byrnes
Subject: FW: Neil Gorsuch

Hi Kathy - would you please research and get back to Aloma. Thanks

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, September 07, 2005 9:20 AM
To: Rice, Dorianna C
Subject: Neil Gorsuch

Dorianna:
Neil Gorsuch, Principal Deputy Associate Attorney General, was employed by the Associate AG's office June 13, 2005. Presently he has an interim top secret security clearance. He'd like to know when his clearance will be final?

Thank you,
Aloma Shaw
Staff Assistant
Office of the Associate Attorney General

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, September 7, 2005 3:29 PM
To: Gorsuch, Neil M
Subject: AG Meetings

Neil:

Andy Beach will reinvent this series of Sr. Mgmt. & Component meetings. Your calendar is not the only one not receiving updates. Until such time, I will advise you daily of the time for each morning meeting.

Thursday - Sept 9 meetings start at **8:50**.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, September 07, 2005 3:33 PM
To: Gorsuch, Neil M
Subject: Call Allison Ho [redacted]

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Wednesday, September 07, 2005 4:11 PM
To: JCC; Carter, Cyntoria; Long, Linda E; Powell, SeLena Y; Schreiber, Jayne; Sours, Raquel; Hughes, Karen; Skelly-Nolen, Peggy; Baker, James; Mercer, Bill (ODAG); Shaw, Aloma A; Gorsuch, Neil M
Subject: Acting DAG Robert McCallum's whereabouts on Sept. 8-11, 2005

Mr. McCallum will depart the office [redacted] tomorrow at approximately 10:30 a.m. [redacted]

He is reachable by the following:

Sept. 8, 2005 - after 2:00 p.m.
[redacted]

Return Sunday, Sept. 11, 2005 at 10:00 p.m. to Washington, D.C.

Please feel free to contact me with any questions.

Currie Gunn
Office of the Associate Attorney General
202-514-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 7, 2005 4:22 PM
To: Shaw, Aloma A
Subject: RE: Neil Gorsuch

Thanks for staying on top of this

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, September 07, 2005 3:23 PM
To: Byrnes, Kathleen T
Cc: Gorsuch, Neil M
Subject: RE: Neil Gorsuch

Great. Thank you for your update.

-----Original Message-----
From: Byrnes, Kathleen T
Sent: Wednesday, September 07, 2005 3:01 PM
To: Shaw, Aloma A
Subject: RE: Neil Gorsuch

Aloma,

I've called the FBI supervisor twice today and am still waiting for her to advise us of the status of his background. Will let you know as soon as I hear from them. We cannot upgrade his clearance to final until they finish the background.

-----Original Message-----
From: Rice, Dorianna C
Sent: Wednesday, September 07, 2005 9:26 AM
To: Kathleen Byrnes
Subject: FW: Neil Gorsuch

Hi Kathy - would you please research and get back to Aloma. Thanks

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, September 07, 2005 9:20 AM
To: Rice, Dorianna C
Subject: Neil Gorsuch

Dorianna:
Neil Gorsuch, Principal Deputy Associate Attorney General, was employed by the Associate AG's office June 13, 2005. Presently he has an interim top secret security clearance. He'd like to know when his clearance will be final?

Thank you,
Aloma Shaw
Staff Assistant
Office of the Associate Attorney General

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 7, 2005 4:23 PM
To: Shaw, Aloma A
Subject: RE: AG Meetings

Just recvd email saying tomorrow is cancelled. Is this right?

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, September 07, 2005 3:29 PM
To: Gorsuch, Neil M
Subject: AG Meetings

Neil:

Andy Beach will reinvent this series of Sr. Mgmt. & Component meetings. Your calendar is not the only one not receiving updates. Until such time, I will advise you daily of the time for each morning meeting.

Thursday - Sept 9 meetings start at **8:50**.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 7, 2005 4:29 PM
To: [redacted]@khhte.com'
Subject: RE: hi there

Tom - Thanks for the email. It's good hear from you. I'd be honored to serve as a reference for you in any capacity. In terms of DOJ, all of the available civil service (ie, nonpolitical) jobs are posted on-line under "Employment" on the usdoj.gov. The best way to proceed is to apply online and then let me know which job you're seeking so I can put in a note of recommendation to the appropriate office. As to the book, Princeton wants to wait until just after the Supreme Court rules in the Oregon case to issue the book, so it'll probably be out around this time next year. I am deeply grateful for all your help and will definitely keep you abreast of any changes on the publication schedule. All the best, Neil

-----Original Message-----
From: [redacted]@khhte.com [mailto:[redacted]@khhte.com]
Sent: Wednesday, September 07, 2005 3:45 PM
To: Gorsuch, Neil M
Subject: hi there

Hi Neil,

First of all I just wanted to touch base with you to see how the new job was going. I hope all is well. Everything is pretty much the same here, just different weather. :)

Second, do you have any news on the book? Jessica mentioned that the publication date might end up being next year. Do you know what the hold up was and when it will be published?

[redacted]

[redacted]

Anyway, thanks for all of your help. I hope all is well and I wish you the best in your new position.

Thanks again,

Tom

Tom

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 7, 2005 5:58 PM
To: Gorsuch, Neil M
Subject: FW: TBD: PREP: Policy Time w/ President Bush

Neil, shouldn't you be part of this AG briefing as well?

-----Original Appointment-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 5:21 PM
To: Otus2005, Ag
Subject: Accepted: TBD: PREP: Policy Time w/ President Bush
When: Friday, September 09, 2005 9:45 AM-10:15 AM (GMT-05:00) Eastern Time (US & Canada).
Where:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 7, 2005 6:11 PM
To: Bucholtz, Jeffrey (CIV); Hertling, Richard
Cc: Moschella, William; Seidel, Rebecca; Ansell, Frederick; Brand, Rachel; Elwood, Courtney; McCallum, Robert (SMO)
Subject: RE: healthcare volunteer liability

I ran the traps today and White House DPC, HSC, and Counsel's office all strongly support pushing the envelope, at least in our initial draft. Accordingly, Fred, Jeff, and I spoke this afternoon about a new draft that would (a) provide immunity for individuals to claims sounding in negligence and gross negligence; (b) provide even greater immunity for organizations with which the individuals are associated; (c) cover in-state and out-of-state medical professionals equally; and (d) allow the fedl govt to allow certain foreign medical professionals to help in emergency relief and receive the same protections as US volunteers. Jeff and Fred are working on language now.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 7, 2005 6:12 PM
To: Marc_Kesselman (E-mail)
Subject: Katrina - Volunteer Act amendment

Marc - When you have a minute could you give me a ring? I want to alert you to a piece of draft legislation amending the Volunteer Act we are working on. Thanks, NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Elwood, Courtney

From: Elwood, Courtney
Sent: Wednesday, September 7, 2005 6:21 PM
To: Gorsuch, Neil M
Subject: RE: healthcare volunteer liability

Good to hear.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 6:11 PM
To: Bucholtz, Jeffrey (CIV); Hertling, Richard
Cc: Moschella, William; Seidel, Rebecca; Ansell, Frederick; Brand, Rachel; Elwood, Courtney; McCallum, Robert (SMO)
Subject: RE: healthcare volunteer liability

I ran the traps today and White House DPC, HSC, and Counsel's office all strongly support pushing the envelope, at least in our initial draft. Accordingly, Fred, Jeff, and I spoke this afternoon about a new draft that would (a) provide immunity for individuals to claims sounding in negligence and gross negligence; (b) provide even greater immunity for organizations with which the individuals are associated; (c) cover in-state and out-of-state medical professionals equally; and (d) allow the fedl govt to allow certain foreign medical professionals to help in emergency relief and receive the same protections as US volunteers. Jeff and Fred are working on language now.

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 07, 2005 6:32 PM
To: Gorsuch, Neil M
Subject: RE: healthcare volunteer liability

Thanks, Neil. Sounds good.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 6:11 PM
To: Bucholtz, Jeffrey (CIV); Hertling, Richard
Cc: Moschella, William; Seidel, Rebecca; Ansell, Frederick; Brand, Rachel; Elwood, Courtney; McCallum, Robert (SMO)
Subject: RE: healthcare volunteer liability

I ran the traps today and White House DPC, HSC, and Counsel's office all strongly support pushing the envelope, at least in our initial draft. Accordingly, Fred, Jeff, and I spoke this afternoon about a new draft that would (a) provide immunity for individuals to claims sounding in negligence and gross negligence; (b) provide even greater immunity for organizations with which the individuals are associated; (c) cover in-state and out-of-state medical professionals equally; and (d) allow the fedl govt to allow certain foreign medical professionals to help in emergency relief and receive the same protections as US volunteers. Jeff and Fred are working on language now.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 7, 2005 6:41 PM
To: Keisler, Peter D. (CIV)
Subject: FW: healthcare volunteer liability

FYI.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 6:11 PM
To: Bucholtz, Jeffrey (CIV); Hertling, Richard
Cc: Moschella, William; Seidel, Rebecca; Ansell, Frederick; Brand, Rachel; Elwood, Courtney; McCallum, Robert (SMO)
Subject: RE: healthcare volunteer liability

I ran the traps today and White House DPC, HSC, and Counsel's office all strongly support pushing the envelope, at least in our initial draft. Accordingly, Fred, Jeff, and I spoke this afternoon about a new draft that would (a) provide immunity for individuals to claims sounding in negligence and gross negligence; (b) provide even greater immunity for organizations with which the individuals are associated; (c) cover in-state and out-of-state medical professionals equally; and (d) allow the fedl govt to allow certain foreign medical professionals to help in emergency relief and receive the same protections as US volunteers. Jeff and Fred are working on language now.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 7, 2005 6:51 PM
To: Elwood, Courtney
Subject: RE: healthcare volunteer liability

It's rewarding to feel like we might actually effect a change here. The calls from State and HHS on behalf of groups asking, quite legitimately, about potential tort liability if out of state and foreign medical professionals volunteer in LA and MS and AL was just too depressing and it just seemd that we had to do something.

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, September 07, 2005 6:21 PM
To: Gorsuch, Neil M
Subject: RE: healthcare volunteer liability

Good to hear.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 6:11 PM
To: Bucholtz, Jeffrey (CIV); Hertling, Richard
Cc: Moschella, William; Seidel, Rebecca; Ansell, Frederick; Brand, Rachel; Elwood, Courtney; McCallum, Robert (SMO)
Subject: RE: healthcare volunteer liability

I ran the traps today and White House DPC, HSC, and Counsel's office all strongly support pushing the envelope, at least in our initial draft. Accordingly, Fred, Jeff, and I spoke this afternoon about a new draft that would (a) provide immunity for individuals to claims sounding in negligence and gross negligence; (b) provide even greater immunity for organizations with which the individuals are associated; (c) cover in-state and out-of-state medical professionals equally; and (d) allow the fedl govt to allow certain foreign medical professionals to help in emergency relief and receive the same protections as US volunteers. Jeff and Fred are working on language now.

Buchanan, MaryBeth

From: Buchanan, MaryBeth
Sent: Wednesday, September 7, 2005 7:47 PM
To: Gorsuch, Neil M
Subject: RE: A/C Waiver Memo

I apologize for the delay in my response. We have been preparing for the AG's visit and the office retreat we held yesterday. Your changes have improved and made the memo more positive. My only suggestion is that we strike the last sentence of the next to last paragraph. (Frequently, inquiry into "contemporaneous advice" may not be necessary). I think this was one of the changes we talked about last week. It may still be a good idea to send this to a select group of people --at least Alice Fisher-- before sending it to the larger group including Karin immergut and others from the AGAC. What do you think?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 7:30 PM
To: Buchanan, MaryBeth
Subject: RE: A/C Waiver Memo

Mary Beth - I was just wondering what you thought of my tinkering? I promise: no pride of authorship here; I want and value your frank assessment. Warm regards, Neil

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 11:04 AM
To: Buchanan, MaryBeth
Cc: Reyes, Luis (SMO); McCallum, Robert (SMO)
Subject: FW: A/C Waiver Memo

Mary Beth,

Following up on our conversation Wednesday morning, I've sought to move some of your very good changes up to the top of the memo, seeking to emphasize right up front our confidence that the Thompson memo has been applied correctly in most cases. I've made a few other wordsmithing edits, and would very much appreciate your additional views. Your edits are in red; mine are in blue.

You should know that Robert has not yet had a chance to review this, and probably won't be able to get to it until Tuesday. To keep things moving, however, I thought I would forward my tentative edits to you now for any comments you may have.

All the best,

NMG

<< File: DRAFT PRIVILEGE WAIVER Memo REDLINE (8-30-05).doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 07, 2005 7:52 PM
To: Buchanan, MaryBeth
Subject: Re: A/C Waiver Memo

Thanks, Mary Beth. Robt and I are doing some addl tinkering and hopefully will have this ready tomorrow for circulation to a select initial grp. In the interim I spoke w Alice and gave her the last draft. Be in touch soon. Good luck with the AG visit. NMG

-----Original Message-----
From: Buchanan, MaryBeth <MaryBeth.Buchanan@usa.usdoj.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Sep 07 19:47:19 2005
Subject: RE: A/C Waiver Memo

I apologize for the delay in my response. We have been preparing for the AG's visit and the office retreat we held yesterday. Your changes have improved and made the memo more positive. My only suggestion is that we strike the last sentence of the next to last paragraph. (Frequently, inquiry into "contemporaneous advice" may not be necessary). I think this was one of the changes we talked about last week. It may still be a good idea to send this to a select group of people --at least Alice Fisher-- before sending it to the larger group including Karin immergut and others from the AGAC. What do you think?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 06, 2005 7:30 PM
To: Buchanan, MaryBeth
Subject: RE: A/C Waiver Memo

Mary Beth - I was just wondering what you thought of my tinkering? I promise: no pride of authorship here; I want and value your frank assessment. Warm regards, Neil

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 02, 2005 11:04 AM
To: Buchanan, MaryBeth
Cc: Reyes, Luis (SMO); McCallum, Robert (SMO)
Subject: FW: A/C Waiver Memo

Mary Beth,

Following up on our conversation Wednesday morning, I've sought to move some of your very good changes up to the top of the memo, seeking to emphasize right up front our confidence that the Thompson memo has been applied correctly in most cases. I've made a few other wordsmithing edits, and would very much appreciate your additional views. Your edits are in red; mine are in blue

and would very much appreciate your additional views. Your edits are in red; mine are in blue.

You should know that Robert has not yet had a chance to review this, and probably won't be able to get to it until Tuesday. To keep things moving, however, I thought I would forward my tentative edits to you now for any comments you may have.

All the best,

NMG

<< File: DRAFT PRIVILEGE WAIVER Memo REDLINE (8-30-05).doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 8, 2005 7:51 AM
To: Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 8, 2005 8:32 AM
To: Gorsuch, Neil M
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Sep 08 07:51:05 2005
Subject:

McAtamney, James A

From: McAtamney, James A
Sent: Thursday, September 8, 2005 9:15 AM
To: [redacted] (USMS); [redacted] (LEO); Barnes, Matthew G.; '[redacted]@atf.gov'; '[redacted]@ic.fbi.gov'; '[redacted]@ic.fbi.gov'; '[redacted]@ic.fbi.gov'; Burton, Dawn (ODAG); Monheim, Thomas; Taylor, Jeffrey (OAG); Gorsuch, Neil M; Roberts, Crystal; Tzitzon, Nicholas; '[redacted]@osd.mil'; '[redacted]@osd.mil'; '[redacted]@us.army.mil'; 'James Smyser'; [redacted] (DHS); '[redacted]@ios.doi.gov'
Cc: '[redacted]@ic.fbi.gov'; Avergun, Jodi L.; Bizzarro, Linda; Bradbury, Steve; Domenech, Edgar; Dunlap, James L; [redacted] (DHS); Eisenberg, John; Ferber, Alan L; '[redacted]@ic.fbi.gov'; Hart, Rosemary; IIMG, JUSTICE (DHS); JCC; [redacted]; Luzinski, Stephen A.; Mercer, Bill (ODAG); [redacted] (DHS); Ullyot, Theodore; Vasaio, Tony; Wulf, David M.; 'Kirstjen_M._Nielsen@who.eop.gov'; [redacted] (DHS); 'aho@who.eop.gov'; Sesker, Sonya J; [redacted] (USMS); Edelman, Ronnie; Frisch, Stuart; Goggin, Wendy H.; Hart, Rosemary; Kenney, Kathleen M.; Madan, Rafael A.; Sabin, Barry; Sampson, Kyle; Schools, Scott (USAEO); '[redacted]@atf.gov'; '[redacted]@ic.fbi.gov'
Subject: Meeting of Law Enforcement/Public Safety Working Group
Attachments: 05-09-05 Katrina Task Force Letter.pdf; dojmap.bmp; LEPS WG Issues.doc
Importance: High

Good Morning,

The Law Enforcement/Public Safety Working Group of the White House Hurricane Katrina Task Force will meet at 2:00 p.m. today, September 8, 2005, at the Department of Justice in the Justice Command Center, Room 6100. The purpose of the meeting is to answer the questions posed in the attached memorandum from the Deputy Secretary of Homeland Security

- Outline the major challenges, objectives and milestones for the Working Group
- Identify preliminary recommendations or clusters of policy options or other measures under consideration. Of course, at this stage you may only be able to identify problems, rather than fixed solutions or policy options.

To begin the discussion, we have prepared the attached list of issues that affect the law enforcement community within and responding to the affected areas. We welcome additional suggestions based on the experiences of personnel from your organizations.

Please review the issue paper and be prepared to discuss it and the two taskings at the meeting. If you believe additional issues should be included, please send them to the above addressees so all will be prepared to discuss them as well.

For clearance in to the Department of Justice, please confirm your attendance with my assistant, Sonya Sesker, e-mail above, or at 514-4834.

For your information, attached is a map to the Department. The visitor entrance is at 950 Constitution Ave. NW. Nearest metro is Archives/Navy Memorial.

Mac

James A. McAtamney
Senior Counsel for National Security Affairs
Office of the Deputy Attorney General
U.S. Department of Justice
RFK Building, Room 4311
(202) 514-6907
Fax: (202) 307-0097
Unclassified e-mail: james.a.mcatamney@usdoj.gov



Deputy Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

September 5, 2005

Dear Colleague:

As you know, last Thursday, President Bush formed the Cabinet-level White House Hurricane Katrina Task Force, which is chaired by Secretary Chertoff. This letter outlines details about the Task Force staffing and next steps for our work together.

Secretary Chertoff has appointed [redacted] to head the staff that we have assembled to support the Task Force. [redacted] will report directly to me. For now, he can be reached through our HSOC [redacted]) and by email at [redacted]@dhs.gov. We are physically setting up this office today, and will shortly circulate a more complete point-of-contact list, as suggested in today's coordination call.

One of the key components of the Task Force staff will be a "problem buster" unit lead by [redacted] [redacted]. [redacted] also can be contacted through the HSOC or by email at [redacted]@dhs.gov. The idea for this small group is to help bird-dog high-impact or highly visible issues that are quickly resolvable. This is not a substitute for the FEMA coordination functions or the in-theater decision process; rather, it is an adjunct to the Secretary's staff that will allow us to slice through certain problems faster and, for example, to assure that we are conducting appropriate follow-up to the immediate issues that you ask Secretary Chertoff or me personally to address.

As to next steps, at our deputies meeting last Friday, we initially identified thirteen possible Working Groups to manage mid- and long-term policy development and operational integration issues. After further discussion among deputies -- and with the support of DPC and HSC at the White House -- I have consolidated closely related tasks to yield eight Working Groups. Please see the attached list.

Most of these groups are well underway. With two exceptions, we have identified a lead agency for each, and we are asking the Deputy Secretary of each lead agency to assume the formal lead for Working Groups assigned to your department. We'd ask that agency leads also appoint an alternate.

Participation by a department or agency in Working Groups will be by self-nomination, but I'd ask both Working Group leads and participants to review the attached list and email a name and full contact information for participation in those groups for which your agency has an equity or interest. Participants for these groups should be at the assistant secretary level or higher, and individuals should enjoy direct access to your views and those of your department or agency head. These names should be sent to [redacted] by 11:00am Tuesday.

We will convene a meeting of Working Group chairs on Tuesday, September 6, 2005, from 4:00 p.m. to 5:00 p.m. in the Eisenhower Executive Office Building Room 180 to discuss the way ahead. Please provide clearance information to Elliott Langer of the Homeland Security Council Executive Secretariat at 202-456-1990 or elanger@who.eop.gov. Also on Tuesday, we hope to circulate a listing of all Working Group members to each of you.

We ask that each Working Group meet on Wednesday, September 7 (time and place to be determined by the lead) and to produce a brief initial assessment and status report. At that meeting, each Working Group must accomplish at least two common tasks:

1. Outline the major challenges, objectives and milestones for the Working Group.

2. Identify preliminary recommendations or clusters of policy options or other measures under consideration. Of course, at this stage you may only be able to identify problems, rather than fixed solutions or policy options.

The two tasks are due to the Task Force staff ([redacted]) by close of business on Thursday, September 8, 2005.

Once we have compiled the results of the initial Working Group meetings, we will convene a Deputies Committee meeting to scope the process to ensure that our efforts are properly focused to achieve measurable results. I look forward to working with you and your team to make this effort a success.

Also, I have attached a list of ten tasks that are near-term priorities on the ground. Those priorities are being addressed by FEMA, DOD and other interagency partners in-theater. At DHS, we are using this to capture a list of the major moving parts, and I thought this may be useful information for you.

Thank you for your efforts and on-going support. If you have any questions, please contact me or [redacted].

Sincerely,

\\original signed\\
[redacted]

Attachments: Working Group List
Near-Term Tasks Ahead

WHITE HOUSE TASK FORCE ON HURRICANE KATRINA
MID- AND LONG-TERM OBJECTIVES
SEPTEMBER 5, 2005

Working Group	Lead
1. Managing national and regional economic impacts: business and civic restoration	**Treasury/Commerce**
2. Health care: chronic care and facilities restoration	**HHS**
3. Consolidated services and benefits for displaced individuals	**HHS**
4. Environmental impacts and clean-up	**HHS/EPA**
5. Transportation network restoration	**DOT**
6. Energy supply	**DOE**
7. Law enforcement/public safety	**DOJ**
8. Charitable giving	**WH**

Note: Each Working Group is chaired by the lead department/agency at the Deputy Secretary level. Members are senior officials from the relevant departments, agencies and the White House.

HURRICANE KATRINA
SEPTEMBER 5, 2005

I. Immediate Issues -- Ten Core Operational Functions

1. Implement an **effective command and control structure** linking DOD and state and local assets to DHS. Activate and manage federal interagency incident support through the National Response Plan.

2. Continue **search and rescue** missions in the Mississippi coastal counties, Louisiana's hardest-hit parishes, and particularly the city of New Orleans.

3. Provide essential **life-sustaining necessities** in the tri-state region -- food, water and shelter.

4. **Evacuate** the uninhabitable portions of New Orleans and other parishes and maintain effective **perimeter control** of evacuated areas.

5. Retrieve and **identify the dead, and care for their families**.

6. **Restore the levees and de-water** New Orleans.

7. Assist with:
    a. **Medical needs** -- in the tri-state area and among those evacuated
    b. Ensuring **law and order**, especially in New Orleans
    c. Restoration of **critical infrastructure**, public, and private
    d. **Disease control** and prevention
    e. Debris removal

8. Provide **shelter and support** for those displaced -- in the region and around the country.
    a. **Aggressively monitor and support** needs at short-term relocation shelters
    b. Ensure **safety** at the shelters
    c. Move as many as possible as quickly as possible to **transitional housing**, if not directly to permanent housing

9. Ensure that those eligible for **benefits** get them quickly and efficiently.
    a. **Consolidate benefit delivery** as much as possible. Create turnkey application centers at shelters
    b. Mobilize **a nationwide benefits delivery initiative**, not a purely localized one

10. **Communicate effectively** and routinely with:
    a. **Victims** of the disaster -- at all locations possible
    b. **State and local leaders** -- to identify and quickly resolve needs and problems (includes leaders in all states that are sheltering persons displaced by Katrina)

c. The **public and the media**
d. The **Congress**

II. Week Two and Beyond -- Key Objectives and Work Structure

Two Key Objectives:

- Plan for **long-term community restoration** in the tri-state area.

- Develop a comprehensive plan for **returning displaced citizens to home and work** as quickly as possible.


MAPQUEST
0
300m
900ft
Zei Aly Nw
New York Ave Nw
H St Nw
I St Nw
Washington City
H St Nw
9th St Nw
8th St Nw
G Pl Nw
G St Nw
Mci Center
5th St Nw
F St Nw
11th St Nw
10th St Nw
Pennsylvania Ave Nw
E St Nw
Washington
D St Nw
1st St Nw
14th St Nw
16th St Nw
Ellipse Rd Nw
15th St Nw
DOJ
9th St Nw
7th St Nw
6th St Nw
C St Nw
2nd St Nw
Constitution Ave N
Archives
Madison Dr Nw
4th St Nw
3rd St Nw
Washington Monument
12th St Nw
The Mall
395
Jefferson Dr Sw
ENTER HERE
Maryland Ave Sw
15th St Sw
Independence Ave Sw
©2004 MapQuest.com, Inc.; ©2004 Navigation Technologies

Discussion Issues for Law Enforcement/Public Safety Working Group

1. **Immediate assistance to State and Local Law Enforcement in affected areas**: Determine policies for certain types of activities to guide future inquiries/requests, ensure coordination of federal resources.

2. **Reconstitution of Federal Justice System**: Houma Court, Detention facilities, USMS transport, and necessary statutory authorities in place.

3. **Review of needed statutory adjustments such as extension of statute of limitations, flexibilities for judicial and legal functions.**

4. **Assess need for increased federal, state or local assistance to areas welcoming evacuees**. Also, identification and use of existing programs or systems to aid evacuees, like National Center for Missing and Exploited Children, to locate and ID missing young and adult evacuees for family members.

5. **Assistance to Crime Victims dislocated into new jurisdictions**: Ability to receive victimization reports, gather evidence, how to handle crimes committed outside current jurisdiction.

6. **Whether and how to gather identification information from evacuees**.

7. **Efficacy of State and Local law enforcement in affected areas**. Whether, how and when to begin rebuilding, what is federal role.

8. **Ensuring that lessons learned are immediately fed into system and appropriate changes are made.**

9. **Potential changes to National Response Plan** with respect to Law Enforcement functions.

10. **Communications needs/capabilities for law enforcement community in affected areas.**

11. **Care of unaccompanied minors and implementation of "Megan's Act" to register evacuated sexual offenders.**

12. **Assisting and coordinating with the custodial penal systems of both state and local law enforcement**.

13. **Coordination of fraud prevention/prosecution preparations to prevent waste of resources and ensure that resources get to the people that need them**

[redacted]@omm.com

From: [redacted]@omm.com
Sent: Thursday, September 08, 2005 9:26 AM
To: Henke, Tracy (SMO); Clement, Paul D; Gorsuch, Neil M; Reyes, Luis (SMO); Swenson, Lily F; Senger, Jeffrey M; Kessler, Elizabeth A; Davis, Deborah J; Schlozman, Brad (CRT)
Cc: Gunn, Currie (SMO); Shaw, Aloma A
Subject: RE: Dinner with Mike Wiggins

[redacted]

-----Original Message-----
From: Deborah.J.Davis@usdoj.gov [mailto:Deborah.J.Davis@usdoj.gov]
Sent: Thursday, September 08, 2005 9:24 AM
To: Paul.D.Clement@usdoj.gov; Brad.Schlozman@usdoj.gov; Lily.Fu.Swenson@usdoj.gov; Jeffrey.M.Senger@usdoj.gov; Tracy.Henke@usdoj.gov; Elizabeth.A.Kessler@usdoj.gov; Neil.Gorsuch@usdoj.gov; Luis.A.Reyes@usdoj.gov; [redacted]
Cc: Aloma.A.Shaw@usdoj.gov; Currie.Gunn@usdoj.gov
Subject: Dinner with Mike Wiggins

Reservations have been made at Mortons Steak House (1631 Crystal Square Acade in Arlington, Va. -- Phone: 703-418-1444) for Tuesday, September 13, 2005 at 7:00 pm for dinner w/Mike Wiggins. This was the date most agreeable to everyone. If, for some reason you can not attend, please let me or Luis Reyes know so that I can adjust reservations accordingly.

Invitees:
[redacted]
Paul Clement
Neil Gorsuch
Tracy Henke
Elizabeth Kessler
Robert McCallum
Luis Reyes
Brad Schlozman
Jeffrey Senger
Lily Swenson

Deborah J. Davis

Staff Assistant

Phone (202) 514-1773 / Fax (202) 514-0238

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 08, 2005 9:27 AM
To: McCallum, Robert (SMO)
Cc: Reyes, Luis (SMO)
Subject: A/C memo
Attachments: DRAFT PRIV WAIVER MCC cleanrevisionII(9-8-05).doc

Robert -

I've attached just a couple minor nits for your consideration. Also, Mary Beth reports that she very much liked the last draft I sent her so I'm willing to bet she'll like this one even more. She did make one suggestion, proposing the elimination of the last sentence of the penultimate paragraph ("Frequently, federal prosecutors have determined that inquiry into 'contemporary advice' is not necessary.") I don't feel strongly about this (and don't think Mary Beth did either), but if pushed, I'd recommend retaining the sentence -- we should recognize that contemporary advice is worthy of particular respect and the prior discussion doesn't fully accomplish that (noting only that the need for contemporary advice should be weighed "independently" from the need for other work product and communications).

Once you review and decide this, I'm happy to run the comment process traps, inviting comments to you or me from, I think, this group in the initial distribution: OAG (Jeff, Ted, Courtney, Kyle), ODAG (Mercer, Margolis), EOUSA (Battle, Buchanan), CRIM (Fisher), OLP (Brand, McIntosh). Let me know if you think I've missed anyone. I suggest we ask for return comments by Monday so we can distribute to the larger group the same day (hopefully).

NMG

MEMORANDUM

To: ALL UNITED STATES ATTORNEYS AND DEPARTMENT COMPONENT HEADS

From: Robert D. McCallum, Jr.
Acting Deputy Attorney General

Subject: Guidance for Federal Prosecutors Regarding Requests for Corporate Waiver of the Attorney-Client Privilege and Work Product Protection

In recent years, the Department has placed significant emphasis on the prosecution of corporate crimes. In connection with the Department's initiative in this area, former Deputy Attorney General Larry D. Thompson issued a Memorandum on January 20, 2003, to all United States Attorneys' Offices regarding Principles of Federal Prosecution of Business Organizations. This memorandum, commonly known as the Thompson Memorandum, found at USAM 9-162, remains the Department's policy on charging business organizations and includes factors to be considered in making charging decisions.

One of the nine factors the Thompson Memorandum sets forth in determining whether to charge a corporation or other business organization is "the corporation's timely and voluntary disclosure of wrongdoing and its willingness to cooperate in the investigation of its agents, including, if necessary, the waiver of corporate attorney-client and work product protection." Thompson Memorandum, Section II.B.4. The Thompson Memorandum elaborates on this factor by providing that a federal prosecutor may ensure the complete and truthful cooperation of a corporation by requesting, "in appropriate circumstances[,]" that the corporation waive the attorney-client privilege and attorney work-product protection, which the Memorandum recognizes also may be "critical in enabling the government to evaluate the completeness of a corporation's voluntary disclosure and cooperation." Id., Section VI.B.

The Thompson Memorandum recognizes that the attorney-client privilege and work product protection serve important, long-recognized public policies encouraging candid communications between counsel and client and promoting sound corporate governance. Accordingly, the Thompson memorandum acknowledges that, while cooperation is an important factor in the Department's charging decisions, a business organization's full cooperation may not always require a waiver, expressly stating that the Department "does not . . . consider waiver of a corporation's attorney-client and work product protection an absolute requirement, and prosecutors should consider the willingness of a corporation to waive such protection *when necessary to provide timely and complete information* as one factor in evaluating the corporation's cooperation." Id. (emphasis added). In applying the factors set forth in the Thompson Memorandum, federal prosecutors have always considered and continue to consider carefully whether and the extent to which a request to a business entity for a waiver of attorney-

client privilege or attorney work-product protection is necessary to establish corporate cooperation in an investigation.

Since the Thompson Memorandum was issued, the Department has periodically reviewed its use and application. These reviews confirm that federal prosecutors have taken an appropriate and measured approach in seeking waivers of the attorney-client privilege and work-product protection and do not "routinely" request such waivers. For example, the Department recently conducted a study of corporate charging decisions at 28 United States Attorneys' Offices and the Criminal Division's Fraud Section and Asset Forfeiture and Money Laundering Section. The study revealed that, out of 52 cases involving corporate entities reported, in 25 cases prosecutors decided not to charge the entities while in 14 cases dispositions were negotiated with the entities. The negotiated dispositions include seven cases that resulted in deferred prosecution agreements, four that resulted in cooperation/non-prosecution agreements, and three that resulted in guilty pleas. Of the 14 negotiated dispositions, in only nine cases was a privilege waiver reported to play a significant role.

The surveys reflect that, at a most basic level, federal prosecutors have consistently explored as a threshold issue in determining "cooperation" whether a business organization has provided or will provide complete access to its employees, business records, organizational charts, compliance program, and any third-party witnesses over which it may have influence, such as customers, vendors, accountants, and former employees. In many cases, such action has been sufficient for the government to obtain timely and complete information concerning a suspected crime. In other instances involving complex business organizations or large volumes of evidence, obtaining timely and complete information has required the corporation to take additional steps, such as identifying for investigators specific witnesses and documents central to the suspected criminal conduct. Business organizations have, without providing counsel's notes or reports, identified promptly and made available to investigators all of the witnesses and documents involved in their own internal investigations by corporate counsel and provided assurances that witnesses will make full disclosure. When such actions have been adequate for federal investigators to determine timely the complete underlying facts, then the federal prosecutors have, consistent with the Thompson Memorandum, determined a waiver to be unnecessary and have not required one in order to establish cooperation.

The Department's periodic examinations of the actual application of the Thompson Memorandum by federal prosecutors have also revealed one important "best" or "preferred" practice with respect to waiver requests. A majority of United States Attorneys have required either an informal or a formal review by a senior, uninvolved colleague with supervisory experience before their federal prosecutors may request that the attorney-client privilege or work-product protection be waived, and the Department has determined that, consistent with this practice, a formal, written review process for such requests should be instituted by each United States Attorney for his/her district. Such a review process, which may vary from district to district, should be designed to ensure that the "appropriate circumstances" referenced in the Thompson Memorandum are present when federal prosecutors request a waiver. Such a formal review process serves to protect the considerable societal benefits associated with these long-

recognized legal privileges in relation to the equally significant societal benefits of vigorous enforcement of the federal criminal law. Each United States Attorney is directed to provide the Executive Office of the United States Attorneys with a copy of the review process adopted in that district within sixty days.

In the formulation of the review process and in the review process itself, the United States Attorneys should continue to apply the factors discussed in the Thompson Memorandum. Specifically, the Thompson Memorandum instructs that the "waiver should ordinarily be limited to the factual internal investigation and any contemporaneous advice given to the corporation concerning the conduct at issue." Id., Section VI.B, n.3. It further provides that, "[e]xcept in unusual circumstances, prosecutors should not seek a waiver with respect to communications and work product related to advice concerning the government's criminal investigation." Id. The Thompson Memorandum, therefore, draws an important distinction between underlying factual information and factual work product, on the one hand, and opinion work product or attorney-client communications, on the other hand. It also draws a significant distinction between legal advice rendered "contemporaneous[ly]" with "the conduct at issue" and "advice concerning the government's criminal investigation." Id. Consistent with the Thompson Memorandum, such waivers, when determined to be necessary, have been and should be limited in most cases to factual information gleaned by the corporation's own investigation, including, where warranted by the circumstances, corporate counsel's interview notes and other factual work product, as opposed to privileged attorney-client communications or counsel's opinion work product.

As the Thompson Memorandum outlines, a waiver request seeking privileged communications or opinion work product created contemporaneously with the underlying conduct under investigation may also be sometimes appropriate. Id. (discussing "contemporaneous advice"). However, the need for such information has generally been evaluated independently from the need for interview notes and other fact work product. Frequently, federal prosecutors have determined that inquiry into "contemporaneous advice" is not necessary.

Finally, the Thompson Memorandum indicates that a waiver request for opinion work product or attorney-client communications concerning the government's criminal investigation itself may be warranted. The Memorandum instructs, however, that "prosecutors should not seek a waiver with respect" to such information except in "unusual circumstances." Id. Prosecutors have exercised care when evaluating the need for a waiver for opinion work product or attorney-client communications that were created after the events under investigation and involve self-evaluation activities, and should continue that practice so that companies are not discouraged from engaging in candid self-evaluation and assessing ways to improve corporate governance and compliance. Of course, there will be cases in which even information falling into these categories may be necessary. One example would be a case in which there is strong reason to believe that counsel's advice about the government's current investigation constitutes an obstruction of justice, though undoubtedly there will be others as well. Under the Thompson Memorandum, federal prosecutors retain the discretion in such circumstances to obtain relevant

evidence by requesting waivers after the appropriate formal review process instituted by this additional guidance.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 08, 2005 9:29 AM
To: Allyson Ho (E-mail)
Subject: FW: Meeting of Law Enforcement/Public Safety Working Group
Attachments: 05-09-05 Katrina Task Force Letter.pdf; dojmap.bmp; LEPS WG Issues.doc
Importance: High

Just received this and thought I'd pass it along, though I suspect you know about it already. Best, NMG

-----Original Message-----
From: McAtamney, James A
Sent: Thursday, September 08, 2005 9:15 AM
To: [redacted](USMS); [redacted](LEO); Barnes, Matthew G.; [redacted]@atf.gov'; [redacted]@ic.fbi.gov'; [redacted]@ic.fbi.gov'; [redacted]@ic.fbi.gov'; Burton, Dawn (ODAG); Monheim, Thomas; Taylor, Jeffrey (OAG); Gorsuch, Neil M; Roberts, Crystal; Tzitzon, Nicholas; [redacted]@osd.mil'; [redacted]@osd.mil'; [redacted]@us.army.mil'; 'James Smyser'; [redacted](DHS); [redacted]@ios.doi.gov'
Cc: [redacted]@ic.fbi.gov'; Avergun, Jodi L.; Bizzarro, Linda; Bradbury, Steve; Domenech, Edgar; Dunlap, [redacted](DHS); Eisenberg, John; Ferber, Alan L; [redacted]@ic.fbi.gov'; Hart, Rosemary; IIMG, JUSTICE (DHS); JCC; [redacted]; Luzinski, Stephen A.; Mercer, Bill (ODAG); [redacted](DHS); Ullyot, Theodore; Vasaio, Tony; [redacted]; 'Kirstjen_M._Nielsen@who.eop.gov'; [redacted](DHS); 'aho@who.eop.gov'; Sesker, Sonya J; [redacted](USMS); Edelman, Ronnie; Frisch, Stuart; Goggin, Wendy H.; Hart, Rosemary; Kenney, Kathleen M.; Madan, Rafael A.; Sabin, Barry; Sampson, Kyle; Schools, Scott (USAEO); [redacted]@atf.gov'; [redacted]@ic.fbi.gov'
Subject: Meeting of Law Enforcement/Public Safety Working Group
Importance: High

Good Morning,

The Law Enforcement/Public Safety Working Group of the White House Hurricane Katrina Task Force will meet at 2:00 p.m. today, September 8, 2005, at the Department of Justice in the Justice Command Center, Room 6100. The purpose of the meeting is to answer the questions posed in the attached memorandum from the Deputy Secretary of Homeland Security

- Outline the major challenges, objectives and milestones for the Working Group
- Identify preliminary recommendations or clusters of policy options or other measures under consideration. Of course, at this stage you may only be able to identify problems, rather than fixed solutions or policy options.

To begin the discussion, we have prepared the attached list of issues that affect the law enforcement community within and responding to the affected areas. We welcome additional suggestions based on the experiences of personnel from your organizations.

Please review the issue paper and be prepared to discuss it and the two taskings at the meeting. If you believe additional issues should be included, please send them to the above addressees so all will be prepared to discuss them as well.

For clearance in to the Department of Justice, please confirm your attendance with my assistant,

Sonya Sesker, e-mail above, or at 514-4834.

For your information, attached is a map to the Department. The visitor entrance is at 950 Constitution Ave. NW. Nearest metro is Archives/Navy Memorial.

Mac

James A. McAtamney
Senior Counsel for National Security Affairs
Office of the Deputy Attorney General
U.S. Department of Justice
RFK Building, Room 4311
(202) 514-6907
Fax: (202) 307-0097
Unclassified e-mail: james.a.mcatamney@usdoj.gov
[redacted]

Deputy Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

September 5, 2005

Dear Colleague:

As you know, last Thursday, President Bush formed the Cabinet-level White House Hurricane Katrina Task Force, which is chaired by Secretary Chertoff. This letter outlines details about the Task Force staffing and next steps for our work together.

Secretary Chertoff has appointed [redacted] to head the staff that we have assembled to support the Task Force. [redacted] will report directly to me. For now, [redacted] can be reached through our HSOC ([redacted]) and by email at [redacted]@dhs.gov. We are physically setting up this office today, and will shortly circulate a more complete point-of-contact list, as suggested in today's coordination call.

One of the key components of the Task Force staff will be a "problem buster" unit lead by [redacted]. [redacted] also can be contacted through the HSOC or by email at [redacted]@dhs.gov. The idea for this small group is to help bird-dog high-impact or highly visible issues that are quickly resolvable. This is not a substitute for the FEMA coordination functions or the in-theater decision process; rather, it is an adjunct to the Secretary's staff that will allow us to slice through certain problems faster and, for example, to assure that we are conducting appropriate follow-up to the immediate issues that you ask Secretary Chertoff or me personally to address.

As to next steps, at our deputies meeting last Friday, we initially identified thirteen possible Working Groups to manage mid- and long-term policy development and operational integration issues. After further discussion among deputies -- and with the support of DPC and HSC at the White House -- I have consolidated closely related tasks to yield eight Working Groups. Please see the attached list.

Most of these groups are well underway. With two exceptions, we have identified a lead agency for each, and we are asking the Deputy Secretary of each lead agency to assume the formal lead for Working Groups assigned to your department. We'd ask that agency leads also appoint an alternate.

Participation by a department or agency in Working Groups will be by self-nomination, but I'd ask both Working Group leads and participants to review the attached list and email a name and full contact information for participation in those groups for which your agency has an equity or interest. Participants for these groups should be at the assistant secretary level or higher, and individuals should enjoy direct access to your views and those of your department or agency head. These names should be sent to [redacted] by 11:00am Tuesday.

We will convene a meeting of Working Group chairs on Tuesday, September 6, 2005, from 4:00 p.m. to 5:00 p.m. in the Eisenhower Executive Office Building Room 180 to discuss the way ahead. Please provide clearance information to Elliott Langer of the Homeland Security Council Executive Secretariat at 202-456-1990 or elanger@who.eop.gov. Also on Tuesday, we hope to circulate a listing of all Working Group members to each of you.

We ask that each Working Group meet on Wednesday, September 7 (time and place to be determined by the lead) and to produce a brief initial assessment and status report. At that meeting, each Working Group must accomplish at least two common tasks:

1. Outline the major challenges, objectives and milestones for the Working Group.

2. Identify preliminary recommendations or clusters of policy options or other measures under consideration. Of course, at this stage you may only be able to identify problems, rather than fixed solutions or policy options.

The two tasks are due to the Task Force staff ([redacted]) by close of business on Thursday, September 8, 2005.

Once we have compiled the results of the initial Working Group meetings, we will convene a Deputies Committee meeting to scope the process to ensure that our efforts are properly focused to achieve measurable results. I look forward to working with you and your team to make this effort a success.

Also, I have attached a list of ten tasks that are near-term priorities on the ground. Those priorities are being addressed by FEMA, DOD and other interagency partners in-theater. At DHS, we are using this to capture a list of the major moving parts, and I thought this may be useful information for you.

Thank you for your efforts and on-going support. If you have any questions, please contact me or [redacted].

Sincerely,

\\original signed\\
[redacted]

Attachments: Working Group List
Near-Term Tasks Ahead

WHITE HOUSE TASK FORCE ON HURRICANE KATRINA
MID- AND LONG-TERM OBJECTIVES
SEPTEMBER 5, 2005

Working Group	Lead
1. Managing national and regional economic impacts: business and civic restoration	**Treasury/Commerce**
2. Health care: chronic care and facilities restoration	**HHS**
3. Consolidated services and benefits for displaced individuals	**HHS**
4. Environmental impacts and clean-up	**HHS/EPA**
5. Transportation network restoration	**DOT**
6. Energy supply	**DOE**
7. Law enforcement/public safety	**DOJ**
8. Charitable giving	**WH**

Note: Each Working Group is chaired by the lead department/agency at the Deputy Secretary level. Members are senior officials from the relevant departments, agencies and the White House.

HURRICANE KATRINA
SEPTEMBER 5, 2005

I. Immediate Issues -- Ten Core Operational Functions

1. Implement an **effective command and control structure** linking DOD and state and local assets to DHS. Activate and manage federal interagency incident support through the National Response Plan.

2. Continue **search and rescue** missions in the Mississippi coastal counties, Louisiana's hardest-hit parishes, and particularly the city of New Orleans.

3. Provide essential **life-sustaining necessities** in the tri-state region -- food, water and shelter.

4. **Evacuate** the uninhabitable portions of New Orleans and other parishes and maintain effective **perimeter control** of evacuated areas.

5. Retrieve and **identify the dead, and care for their families**.

6. **Restore the levees and de-water** New Orleans.

7. Assist with:
    a. **Medical needs** -- in the tri-state area and among those evacuated
    b. Ensuring **law and order**, especially in New Orleans
    c. Restoration of **critical infrastructure**, public, and private
    d. **Disease control** and prevention
    e. Debris removal

8. Provide **shelter and support** for those displaced -- in the region and around the country.
    a. **Aggressively monitor and support** needs at short-term relocation shelters
    b. Ensure **safety** at the shelters
    c. Move as many as possible as quickly as possible to **transitional housing**, if not directly to permanent housing

9. Ensure that those eligible for **benefits** get them quickly and efficiently.
    a. **Consolidate benefit delivery** as much as possible. Create turnkey application centers at shelters
    b. Mobilize **a nationwide benefits delivery initiative**, not a purely localized one

10. **Communicate effectively** and routinely with:
    a. **Victims** of the disaster -- at all locations possible
    b. **State and local leaders** -- to identify and quickly resolve needs and problems (includes leaders in all states that are sheltering persons displaced by Katrina)

c. The **public and the media**
d. The **Congress**

II. Week Two and Beyond -- Key Objectives and Work Structure

Two Key Objectives:

- Plan for **long-term community restoration** in the tri-state area.

- Develop a comprehensive plan for **returning displaced citizens to home and work** as quickly as possible.


MAPQUEST
0
300m
900ft
Zei Aly Nw
New York Ave NW
H St Nw
I St Nw
Washington City
H St Nw
G Pl Nw
9th St Nw
8th St Nw
G St Nw
MCI Center
5th St Nw
F St Nw
11th St Nw
10th St Nw
Pennsylvania Ave Nw
E St Nw
Washington
D St Nw
1st St Nw
14th St Nw
15th St Nw
16th St Nw
Ellipse Rd Nw
DOJ
9th St Nw
7th St Nw
6th St Nw
C St Nw
2nd St Nw
Constitution Ave N
Archives
Madison Dr Nw
4th St Nw
3rd St Nw
Washington Monument
12th St Nw
The Mall
395
Jefferson Dr Sw
ENTER HERE
15th St Sw
Independence Ave Sw
Maryland Ave Sw
©2004 MapQuest.com, Inc.; ©2004 Navigation Technologies

Discussion Issues for Law Enforcement/Public Safety Working Group

1. **Immediate assistance to State and Local Law Enforcement in affected areas**: Determine policies for certain types of activities to guide future inquiries/requests, ensure coordination of federal resources.

2. **Reconstitution of Federal Justice System**: Houma Court, Detention facilities, USMS transport, and necessary statutory authorities in place.

3. **Review of needed statutory adjustments such as extension of statute of limitations, flexibilities for judicial and legal functions.**

4. **Assess need for increased federal, state or local assistance to areas welcoming evacuees**. Also, identification and use of existing programs or systems to aid evacuees, like National Center for Missing and Exploited Children, to locate and ID missing young and adult evacuees for family members.

5. **Assistance to Crime Victims dislocated into new jurisdictions**: Ability to receive victimization reports, gather evidence, how to handle crimes committed outside current jurisdiction.

6. **Whether and how to gather identification information from evacuees**.

7. **Efficacy of State and Local law enforcement in affected areas**. Whether, how and when to begin rebuilding, what is federal role.

8. **Ensuring that lessons learned are immediately fed into system and appropriate changes are made.**

9. **Potential changes to National Response Plan** with respect to Law Enforcement functions.

10. **Communications needs/capabilities for law enforcement community in affected areas.**

11. **Care of unaccompanied minors and implementation of "Megan's Act" to register evacuated sexual offenders.**

12. **Assisting and coordinating with the custodial penal systems of both state and local law enforcement**.

13. **Coordination of fraud prevention/prosecution preparations to prevent waste of resources and ensure that resources get to the people that need them**

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, September 8, 2005 9:30 AM
To: Byrnes, Kathleen T
Cc: Gorsuch, Neil M
Subject: RE: Neil Gorsuch

Thanks so much Kathleen for your attention to this matter. As soon as I get the form and Neil has signed it, I'll send it over to you today by special messenger.

Aloma

-----Original Message-----
From: Byrnes, Kathleen T
Sent: Thursday, September 08, 2005 8:59 AM
To: Shaw, Aloma A
Subject: RE: Neil Gorsuch

Aloma,

Heard from the FBI and they still have quite a few leads before they complete their investigation. In order to possibly speed things up I'm going to fax you a financial form that Neil needs to sign. This way, the FBI doesn't have to send an investigator to see him. This form is needed to verify state tax records. Please ask him to only sign, date, and put his address. The FBI fills out the rest. I will need you to mail this to me via Intraoffice mail as an original signature is needed. Please let me know when you mail it so I can be on the lookout for it and send it to the FBI. We are at 20 Massachusetts Ave, Room 6221 and put to my attention.

Please let me know your fax# so I can fax the form to you.

Thks,

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, September 07, 2005 3:23 PM
To: Byrnes, Kathleen T
Cc: Gorsuch, Neil M
Subject: RE: Neil Gorsuch

Great. Thank you for your update.

-----Original Message-----
From: Byrnes, Kathleen T
Sent: Wednesday, September 07, 2005 3:01 PM
To: Shaw, Aloma A
Subject: RE: Neil Gorsuch

Aloma,

I've called the FBI supervisor twice today and am still waiting for her to advise us of the status of his background. Will let you know as soon as I hear from them. We cannot upgrade his clearance to final until they finish the background.

-----Original Message-----
From: Rice, Dorianna C
Sent: Wednesday, September 07, 2005 9:26 AM
To: Kathleen Byrnes
Subject: FW: Neil Gorsuch

Hi Kathy - would you please research and get back to Aloma. Thanks

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, September 07, 2005 9:20 AM
To: Rice, Dorianna C
Subject: Neil Gorsuch

Dorianna:

Neil Gorsuch, Principal Deputy Associate Attorney General, was employed by the Associate AG's office June 13, 2005. Presently he has an interim top secret security clearance. He'd like to know when his clearance will be final?

Thank you,
Aloma Shaw
Staff Assistant
Office of the Associate Attorney General

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 08, 2005 9:30 AM
To: Shaw, Aloma A
Subject: FW: Meeting of Law Enforcement/Public Safety Working Group
Attachments: 05-09-05 Katrina Task Force Letter.pdf; dojmap.bmp; LEPS WG Issues.doc
Importance: High

would you please accept on my behalf?

-----Original Message-----
From: McAtamney, James A
Sent: Thursday, September 08, 2005 9:15 AM
To: [redacted](USMS); [redacted] (LEO); Barnes, Matthew G.; [redacted]@atf.gov'; [redacted]@ic.fbi.gov'; [redacted]@ic.fbi.gov'; [redacted]@ic.fbi.gov'; Burton, Dawn (ODAG); Monheim, Thomas; Taylor, Jeffrey (OAG); Gorsuch, Neil M; Roberts, Crystal; Tzitzon, Nicholas; [redacted]@osd.mil'; [redacted]@osd.mil'; [redacted]@us.army.mil'; 'James Smyser'; [redacted] (DHS); [redacted]@ios.doi.gov'
Cc: [redacted]@ic.fbi.gov'; Avergun, Jodi L.; Bizzarro, Linda; Bradbury, Steve; Domenech, Edgar; Dunlap, James L; [redacted] (DHS); Eisenberg, John; Ferber, Alan L; [redacted]@ic.fbi.gov'; Hart, Rosemary; IIMG, JUSTICE (DHS); JCC; [redacted]; Luzinski, Stephen A.; Mercer, Bill (ODAG); [redacted] (DHS); Ullyot, Theodore; Vasaio, Tony; [redacted]; 'Kirstjen_M._Nielsen@who.eop.gov'; [redacted] (DHS); 'aho@who.eop.gov'; Sesker, Sonya J; [redacted] (USMS); Edelman, Ronnie; Frisch, Stuart; Goggin, Wendy H.; Hart, Rosemary; Kenney, Kathleen M.; Madan, Rafael A.; Sabin, Barry; Sampson, Kyle; Schools, Scott (USAEO); [redacted]@atf.gov'; [redacted]@ic.fbi.gov'
Subject: Meeting of Law Enforcement/Public Safety Working Group
Importance: High

Good Morning,

The Law Enforcement/Public Safety Working Group of the White House Hurricane Katrina Task Force will meet at 2:00 p.m. today, September 8, 2005, at the Department of Justice in the Justice Command Center, Room 6100. The purpose of the meeting is to answer the questions posed in the attached memorandum from the Deputy Secretary of Homeland Security

- Outline the major challenges, objectives and milestones for the Working Group
- Identify preliminary recommendations or clusters of policy options or other measures under consideration. Of course, at this stage you may only be able to identify problems, rather than fixed solutions or policy options.

To begin the discussion, we have prepared the attached list of issues that affect the law enforcement community within and responding to the affected areas. We welcome additional suggestions based on the experiences of personnel from your organizations.

Please review the issue paper and be prepared to discuss it and the two taskings at the meeting. If you believe additional issues should be included, please send them to the above addressees so all will be prepared to discuss them as well.

For clearance in to the Department of Justice, please confirm your attendance with my assistant,

Sonya Sesker, e-mail above, or at 514-4834.

For your information, attached is a map to the Department. The visitor entrance is at 950 Constitution Ave. NW. Nearest metro is Archives/Navy Memorial.

Mac

James A. McAtamney
Senior Counsel for National Security Affairs
Office of the Deputy Attorney General
U.S. Department of Justice
RFK Building, Room 4311
(202) 514-6907
Fax: (202) 307-0097
Unclassified e-mail: james.a.mcatamney@usdoj.gov
[redacted]

Deputy Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

September 5, 2005

Dear Colleague:

As you know, last Thursday, President Bush formed the Cabinet-level White House Hurricane Katrina Task Force, which is chaired by Secretary Chertoff. This letter outlines details about the Task Force staffing and next steps for our work together.

Secretary Chertoff has appointed [redacted] to head the staff that we have assembled to support the Task Force. [redacted] will report directly to me. For now, he can be reached through our HSOC ([redacted]) and by email at [redacted]@dhs.gov. We are physically setting up this office today, and will shortly circulate a more complete point-of-contact list, as suggested in today's coordination call.

One of the key components of the Task Force staff will be a "problem buster" unit lead by [redacted]. [redacted] also can be contacted through the HSOC or by email at [redacted]@dhs.gov. The idea for this small group is to help bird-dog high-impact or highly visible issues that are quickly resolvable. This is not a substitute for the FEMA coordination functions or the in-theater decision process; rather, it is an adjunct to the Secretary's staff that will allow us to slice through certain problems faster and, for example, to assure that we are conducting appropriate follow-up to the immediate issues that you ask Secretary Chertoff or me personally to address.

As to next steps, at our deputies meeting last Friday, we initially identified thirteen possible Working Groups to manage mid- and long-term policy development and operational integration issues. After further discussion among deputies -- and with the support of DPC and HSC at the White House -- I have consolidated closely related tasks to yield eight Working Groups. Please see the attached list.

Most of these groups are well underway. With two exceptions, we have identified a lead agency for each, and we are asking the Deputy Secretary of each lead agency to assume the formal lead for Working Groups assigned to your department. We'd ask that agency leads also appoint an alternate.

Participation by a department or agency in Working Groups will be by self-nomination, but I'd ask both Working Group leads and participants to review the attached list and email a name and full contact information for participation in those groups for which your agency has an equity or interest. Participants for these groups should be at the assistant secretary level or higher, and individuals should enjoy direct access to your views and those of your department or agency head. These names should be sent to [redacted] by 11:00am Tuesday.

We will convene a meeting of Working Group chairs on Tuesday, September 6, 2005, from 4:00 p.m. to 5:00 p.m. in the Eisenhower Executive Office Building Room 180 to discuss the way ahead. Please provide clearance information to Elliott Langer of the Homeland Security Council Executive Secretariat at 202-456-1990 or elanger@who.eop.gov. Also on Tuesday, we hope to circulate a listing of all Working Group members to each of you.

We ask that each Working Group meet on Wednesday, September 7 (time and place to be determined by the lead) and to produce a brief initial assessment and status report. At that meeting, each Working Group must accomplish at least two common tasks:

1. Outline the major challenges, objectives and milestones for the Working Group.

2. Identify preliminary recommendations or clusters of policy options or other measures under consideration. Of course, at this stage you may only be able to identify problems, rather than fixed solutions or policy options.

The two tasks are due to the Task Force staff ([redacted]) by close of business on Thursday, September 8, 2005.

Once we have compiled the results of the initial Working Group meetings, we will convene a Deputies Committee meeting to scope the process to ensure that our efforts are properly focused to achieve measurable results. I look forward to working with you and your team to make this effort a success.

Also, I have attached a list of ten tasks that are near-term priorities on the ground. Those priorities are being addressed by FEMA, DOD and other interagency partners in-theater. At DHS, we are using this to capture a list of the major moving parts, and I thought this may be useful information for you.

Thank you for your efforts and on-going support. If you have any questions, please contact me or [redacted].

Sincerely,

\\original signed\\
[redacted]

Attachments: Working Group List
Near-Term Tasks Ahead

WHITE HOUSE TASK FORCE ON HURRICANE KATRINA
MID- AND LONG-TERM OBJECTIVES
SEPTEMBER 5, 2005

Working Group	Lead
1. Managing national and regional economic impacts: business and civic restoration	**Treasury/Commerce**
2. Health care: chronic care and facilities restoration	**HHS**
3. Consolidated services and benefits for displaced individuals	**HHS**
4. Environmental impacts and clean-up	**HHS/EPA**
5. Transportation network restoration	**DOT**
6. Energy supply	**DOE**
7. Law enforcement/public safety	**DOJ**
8. Charitable giving	**WH**

Note: Each Working Group is chaired by the lead department/agency at the Deputy Secretary level. Members are senior officials from the relevant departments, agencies and the White House.

HURRICANE KATRINA
SEPTEMBER 5, 2005

I. Immediate Issues -- Ten Core Operational Functions

1. Implement an **effective command and control structure** linking DOD and state and local assets to DHS. Activate and manage federal interagency incident support through the National Response Plan.

2. Continue **search and rescue** missions in the Mississippi coastal counties, Louisiana's hardest-hit parishes, and particularly the city of New Orleans.

3. Provide essential **life-sustaining necessities** in the tri-state region -- food, water and shelter.

4. **Evacuate** the uninhabitable portions of New Orleans and other parishes and maintain effective **perimeter control** of evacuated areas.

5. Retrieve and **identify the dead, and care for their families**.

6. **Restore the levees and de-water** New Orleans.

7. Assist with:
    a. **Medical needs** -- in the tri-state area and among those evacuated
    b. Ensuring **law and order**, especially in New Orleans
    c. Restoration of **critical infrastructure**, public, and private
    d. **Disease control** and prevention
    e. Debris removal

8. Provide **shelter and support** for those displaced -- in the region and around the country.
    a. **Aggressively monitor and support** needs at short-term relocation shelters
    b. Ensure **safety** at the shelters
    c. Move as many as possible as quickly as possible to **transitional housing**, if not directly to permanent housing

9. Ensure that those eligible for **benefits** get them quickly and efficiently.
    a. **Consolidate benefit delivery** as much as possible. Create turnkey application centers at shelters
    b. Mobilize **a nationwide benefits delivery initiative**, not a purely localized one

10. **Communicate effectively** and routinely with:
    a. **Victims** of the disaster -- at all locations possible
    b. **State and local leaders** -- to identify and quickly resolve needs and problems (includes leaders in all states that are sheltering persons displaced by Katrina)

c. The **public and the media**
d. The **Congress**

II. Week Two and Beyond -- Key Objectives and Work Structure

Two Key Objectives:

- Plan for **long-term community restoration** in the tri-state area.

- Develop a comprehensive plan for **returning displaced citizens to home and work** as quickly as possible.


MAPQUEST
0
300m
900ft
Zei Aly Nw
New York Ave Nw
H St Nw
I St Nw
Washington City
H St Nw
G Pl Nw
9th St Nw
8th St Nw
G St Nw
MCI Center
5th St Nw
F St Nw
11th St Nw
10th St Nw
Pennsylvania Ave Nw
E St Nw
Washington
D St Nw
1st St Nw
14th St Nw
15th St Nw
16th St Nw
Ellipse Rd Nw
DOJ
9th St Nw
7th St Nw
6th St Nw
C St Nw
2nd St Nw
Constitution Ave N
Archives
Madison Dr Nw
4th St Nw
3rd St Nw
Washington Monument
12th St Nw
The Mall
395
Jefferson Dr Sw
ENTER HERE
15th St Sw
Independence Ave Sw
Maryland Ave Sw
©2004 MapQuest.com, Inc.; ©2004 Navigation Technologies

Discussion Issues for Law Enforcement/Public Safety Working Group

1. **Immediate assistance to State and Local Law Enforcement in affected areas**: Determine policies for certain types of activities to guide future inquiries/requests, ensure coordination of federal resources.

2. **Reconstitution of Federal Justice System**: Houma Court, Detention facilities, USMS transport, and necessary statutory authorities in place.

3. **Review of needed statutory adjustments such as extension of statute of limitations, flexibilities for judicial and legal functions.**

4. **Assess need for increased federal, state or local assistance to areas welcoming evacuees**. Also, identification and use of existing programs or systems to aid evacuees, like National Center for Missing and Exploited Children, to locate and ID missing young and adult evacuees for family members.

5. **Assistance to Crime Victims dislocated into new jurisdictions**: Ability to receive victimization reports, gather evidence, how to handle crimes committed outside current jurisdiction.

6. **Whether and how to gather identification information from evacuees**.

7. **Efficacy of State and Local law enforcement in affected areas**. Whether, how and when to begin rebuilding, what is federal role.

8. **Ensuring that lessons learned are immediately fed into system and appropriate changes are made.**

9. **Potential changes to National Response Plan** with respect to Law Enforcement functions.

10. **Communications needs/capabilities for law enforcement community in affected areas.**

11. **Care of unaccompanied minors and implementation of "Megan's Act" to register evacuated sexual offenders.**

12. **Assisting and coordinating with the custodial penal systems of both state and local law enforcement**.

13. **Coordination of fraud prevention/prosecution preparations to prevent waste of resources and ensure that resources get to the people that need them**

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, September 08, 2005 9:31 AM
To: Gorsuch, Neil M
Subject: RE: Meeting of Law Enforcement/Public Safety Working Group

Will do. I'll print out the attachments for you.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 08, 2005 9:30 AM
To: Shaw, Aloma A
Subject: FW: Meeting of Law Enforcement/Public Safety Working Group
Importance: High

would you please accept on my behalf?

-----Original Message-----
From: McAtamney, James A
Sent: Thursday, September 08, 2005 9:15 AM
To: [redacted] (USMS); [redacted] (LEO); Barnes, Matthew G.; [redacted]@atf.gov'; [redacted]@ic.fbi.gov'; [redacted]@ic.fbi.gov'; [redacted]@ic.fbi.gov'; Burton, Dawn (ODAG); Monheim, Thomas; Taylor, Jeffrey (OAG); Gorsuch, Neil M; Roberts, Crystal; Tzitzon, Nicholas; [redacted]@osd.mil'; [redacted]@osd.mil'; [redacted]@us.army.mil'; 'James Smyser'; [redacted] (DHS); [redacted]@ios.doi.gov'
Cc: [redacted]@ic.fbi.gov'; Avergun, Jodi L.; Bizzarro, Linda; Bradbury, Steve; Domenech, Edgar; Dunlap, James L; [redacted] (DHS); Eisenberg, John; Ferber, Alan L; [redacted]@ic.fbi.gov'; Hart, Rosemary; IIMG, JUSTICE (DHS); JCC; [redacted]; Luzinski, Stephen A.; Mercer, Bill (ODAG); [redacted]DHS); Ullyot, Theodore; Vasaio, Tony; [redacted]; 'Kirstjen_M._Nielsen@who.eop.gov'; [redacted] (DHS); 'aho@who.eop.gov'; Sesker, Sonya J; [redacted] (USMS); Edelman, Ronnie; Frisch, Stuart; Goggin, Wendy H.; Hart, Rosemary; Kenney, Kathleen M.; Madan, Rafael A.; Sabin, Barry; Sampson, Kyle; Schools, Scott (USAEO); [redacted]@atf.gov'; [redacted]@ic.fbi.gov'
Subject: Meeting of Law Enforcement/Public Safety Working Group
Importance: High

Good Morning,

The Law Enforcement/Public Safety Working Group of the White House Hurricane Katrina Task Force will meet at 2:00 p.m. today, September 8, 2005, at the Department of Justice in the Justice Command Center, Room 6100. The purpose of the meeting is to answer the questions posed in the attached memorandum from the Deputy Secretary of Homeland Security

- Outline the major challenges, objectives and milestones for the Working Group
- Identify preliminary recommendations or clusters of policy options or other measures under consideration. Of course, at this stage you may only be able to identify problems, rather than fixed solutions or policy options.

To begin the discussion, we have prepared the attached list of issues that affect the law enforcement community within and responding to the affected areas. We welcome additional suggestions based on the experiences of personnel from your organizations.

Please review the issue paper and be prepared to discuss it and the two taskings at the meeting.

If you believe additional issues should be included, please send them to the above addressees so all will be prepared to discuss them as well.

For clearance in to the Department of Justice, please confirm your attendance with my assistant, Sonya Sesker, e-mail above, or at 514-4834.

For your information, attached is a map to the Department. The visitor entrance is at 950 Constitution Ave. NW. Nearest metro is Archives/Navy Memorial.

Mac

James A. McAtamney
Senior Counsel for National Security Affairs
Office of the Deputy Attorney General
U.S. Department of Justice
RFK Building, Room 4311
(202) 514-6907
Fax: (202) 307-0097
Unclassified e-mail: james.a.mcatamney@usdoj.gov

[redacted]

<< File: 05-09-05 Katrina Task Force Letter.pdf >> << File: LEPS WG Issues.doc >> << File: dojmap.bmp >>

Bester, Matthew

From: Bester, Matthew
Sent: Thursday, September 8, 2005 9:33 AM
To: Gorsuch, Neil M
Subject: Hi Neil

Hi Neil,

How are you?

I am back from vacation and back to work at the Antitrust Division after a great stint at the USAO in Alexandria. I hope you are adjusting well to life at DOJ.

Would you like to have lunch sometime soon?

[redacted]

Matt

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 8, 2005 10:17 AM
To: Gorsuch, Neil M
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Sep 08 08:32:22 2005
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Sep 08 07:51:05 2005
Subject:

Henke, Tracy (SMO)

From:	Henke, Tracy (SMO)
Sent:	Thursday, September 8, 2005 10:31 AM
To:	Gorsuch, Neil M
Subject:	FW: Meeting of Law Enforcement/Public Safety Working Group
Attachments:	05-09-05 Katrina Task Force Letter.pdf; LEPS WG Issues.doc; dojmap.bmp
Importance:	High

Neil:
Are you going to this meeting? If not, I can. Or, I can give you information before you go or attend with you. Let me know.

-----Original Message-----
From: McAtamney, James A
Sent: Thursday, September 08, 2005 9:15 AM
To: Tzitzon, Nicholas; Barnes, Matthew G.; Bouchard, Michael R.; @ic.fbi.gov; @ic.fbi.gov; @ic.fbi.gov; @osd.mil; @osd.mil; @us.army.mil; @osdgc.osd.mil; @ios.doi.gov (DHS); (LEO); (USMS)
Cc: Goggin, Wendy H.; Edelman, Ronnie; Luzinski, Stephen A.; Domenech, Edgar; Bizzarro, Linda; Avergun, Jodi L.; Sabin, Barry; Madan, Rafael A.; @ic.fbi.gov; James L; Eisenberg, John; Ferber, Alan L; @ic.fbi.gov; Hart, Rosemary; JCC; Mercer, Bill (ODAG); Ullyot, Theodore; Vasaio, Tony; Kirstjen_M._Nielsen@who.eop.gov; aho@who.eop.gov; Sesker, Sonya J; Frisch, Stuart; Hart, Rosemary; Sampson, Kyle; Rubenstein, Steve R.; @ic.fbi.gov; Kenney, Kathleen M.; (USMS); (DHS); (DHS); IIMG, JUSTICE (DHS) (DHS); Schools, Scott (USAEO)
Subject: Meeting of Law Enforcement/Public Safety Working Group
Importance: High

Good Morning,

The Law Enforcement/Public Safety Working Group of the White House Hurricane Katrina Task Force will meet at 2:00 p.m. today, September 8, 2005, at the Department of Justice in the Justice Command Center, Room 6100. The purpose of the meeting is to answer the questions posed in the attached memorandum from the Deputy Secretary of Homeland Security

* Outline the major challenges, objectives and milestones for the Working Group
* Identify preliminary recommendations or clusters of policy options or other measures under consideration. Of course, at this stage you may only be able to identify problems, rather than fixed solutions or policy options.

To begin the discussion, we have prepared the attached list of issues that affect the law enforcement community within and responding to the affected areas. We welcome additional suggestions based on the experiences of personnel from your organizations.

Please review the issue paper and be prepared to discuss it and the two taskings at the meeting. If you believe additional issues should be included, please send them to the above addressees so all will be prepared to discuss them as well.

For clearance in to the Department of Justice, please confirm your attendance with my assistant, Sonya Sesker, e-mail above, or at 514-4834.

For your information, attached is a map to the Department. The visitor entrance is at 950 Constitution Ave. NW. Nearest metro is Archives/Navy Memorial.

Mac

James A. McAtamney
Senior Counsel for National Security Affairs
Office of the Deputy Attorney General

U.S. Department of Justice
RFK Building, Room 4311
(202) 514-6907
Fax: (202) 307-0097
Unclassified e-mail: james.a.mcatamney@usdoj.gov

[redacted]

<<05-09-05 Katrina Task Force Letter.pdf>> <<LEPS WG Issues.doc>> <<dojmap.bmp>>

Deputy Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

September 5, 2005

Dear Colleague:

As you know, last Thursday, President Bush formed the Cabinet-level White House Hurricane Katrina Task Force, which is chaired by Secretary Chertoff. This letter outlines details about the Task Force staffing and next steps for our work together.

Secretary Chertoff has appointed [redacted] to head the staff that we have assembled to support the Task Force. [redacted] will report directly to me. For now, [redacted] can be reached through our HSOC ([redacted]) and by email at [redacted]@dhs.gov. We are physically setting up this office today, and will shortly circulate a more complete point-of-contact list, as suggested in today's coordination call.

One of the key components of the Task Force staff will be a "problem buster" unit lead by [redacted]. [redacted] also can be contacted through the HSOC or by email at [redacted]@dhs.gov. The idea for this small group is to help bird-dog high-impact or highly visible issues that are quickly resolvable. This is not a substitute for the FEMA coordination functions or the in-theater decision process; rather, it is an adjunct to the Secretary's staff that will allow us to slice through certain problems faster and, for example, to assure that we are conducting appropriate follow-up to the immediate issues that you ask Secretary Chertoff or me personally to address.

As to next steps, at our deputies meeting last Friday, we initially identified thirteen possible Working Groups to manage mid- and long-term policy development and operational integration issues. After further discussion among deputies -- and with the support of DPC and HSC at the White House -- I have consolidated closely related tasks to yield eight Working Groups. Please see the attached list.

Most of these groups are well underway. With two exceptions, we have identified a lead agency for each, and we are asking the Deputy Secretary of each lead agency to assume the formal lead for Working Groups assigned to your department. We'd ask that agency leads also appoint an alternate.

Participation by a department or agency in Working Groups will be by self-nomination, but I'd ask both Working Group leads and participants to review the attached list and email a name and full contact information for participation in those groups for which your agency has an equity or interest. Participants for these groups should be at the assistant secretary level or higher, and individuals should enjoy direct access to your views and those of your department or agency head. These names should be sent to [redacted] by 11:00am Tuesday.

We will convene a meeting of Working Group chairs on Tuesday, September 6, 2005, from 4:00 p.m. to 5:00 p.m. in the Eisenhower Executive Office Building Room 180 to discuss the way ahead. Please provide clearance information to Elliott Langer of the Homeland Security Council Executive Secretariat at 202-456-1990 or elanger@who.eop.gov. Also on Tuesday, we hope to circulate a listing of all Working Group members to each of you.

We ask that each Working Group meet on Wednesday, September 7 (time and place to be determined by the lead) and to produce a brief initial assessment and status report. At that meeting, each Working Group must accomplish at least two common tasks:

1. Outline the major challenges, objectives and milestones for the Working Group.

2. Identify preliminary recommendations or clusters of policy options or other measures under consideration. Of course, at this stage you may only be able to identify problems, rather than fixed solutions or policy options.

The two tasks are due to the Task Force staff ([redacted]) by close of business on Thursday, September 8, 2005.

Once we have compiled the results of the initial Working Group meetings, we will convene a Deputies Committee meeting to scope the process to ensure that our efforts are properly focused to achieve measurable results. I look forward to working with you and your team to make this effort a success.

Also, I have attached a list of ten tasks that are near-term priorities on the ground. Those priorities are being addressed by FEMA, DOD and other interagency partners in-theater. At DHS, we are using this to capture a list of the major moving parts, and I thought this may be useful information for you.

Thank you for your efforts and on-going support. If you have any questions, please contact me or [redacted].

Sincerely,

\\original signed\\
[redacted]

Attachments: Working Group List
Near-Term Tasks Ahead

WHITE HOUSE TASK FORCE ON HURRICANE KATRINA
MID- AND LONG-TERM OBJECTIVES
SEPTEMBER 5, 2005

Working Group	Lead
1. Managing national and regional economic impacts: business and civic restoration	**Treasury/Commerce**
2. Health care: chronic care and facilities restoration	**HHS**
3. Consolidated services and benefits for displaced individuals	**HHS**
4. Environmental impacts and clean-up	**HHS/EPA**
5. Transportation network restoration	**DOT**
6. Energy supply	**DOE**
7. Law enforcement/public safety	**DOJ**
8. Charitable giving	**WH**

Note: Each Working Group is chaired by the lead department/agency at the Deputy Secretary level. Members are senior officials from the relevant departments, agencies and the White House.

HURRICANE KATRINA
SEPTEMBER 5, 2005

I. Immediate Issues -- Ten Core Operational Functions

1. Implement an **effective command and control structure** linking DOD and state and local assets to DHS. Activate and manage federal interagency incident support through the National Response Plan.

2. Continue **search and rescue** missions in the Mississippi coastal counties, Louisiana's hardest-hit parishes, and particularly the city of New Orleans.

3. Provide essential **life-sustaining necessities** in the tri-state region -- food, water and shelter.

4. **Evacuate** the uninhabitable portions of New Orleans and other parishes and maintain effective **perimeter control** of evacuated areas.

5. Retrieve and **identify the dead, and care for their families**.

6. **Restore the levees and de-water** New Orleans.

7. Assist with:
    a. **Medical needs** -- in the tri-state area and among those evacuated
    b. Ensuring **law and order**, especially in New Orleans
    c. Restoration of **critical infrastructure**, public, and private
    d. **Disease control** and prevention
    e. Debris removal

8. Provide **shelter and support** for those displaced -- in the region and around the country.
    a. **Aggressively monitor and support** needs at short-term relocation shelters
    b. Ensure **safety** at the shelters
    c. Move as many as possible as quickly as possible to **transitional housing**, if not directly to permanent housing

9. Ensure that those eligible for **benefits** get them quickly and efficiently.
    a. **Consolidate benefit delivery** as much as possible. Create turnkey application centers at shelters
    b. Mobilize **a nationwide benefits delivery initiative**, not a purely localized one

10. **Communicate effectively** and routinely with:
    a. **Victims** of the disaster -- at all locations possible
    b. **State and local leaders** -- to identify and quickly resolve needs and problems (includes leaders in all states that are sheltering persons displaced by Katrina)

c. The **public and the media**
d. The **Congress**

II. Week Two and Beyond -- Key Objectives and Work Structure

Two Key Objectives:

- Plan for **long-term community restoration** in the tri-state area.

- Develop a comprehensive plan for **returning displaced citizens to home and work** as quickly as possible.


MAPQUEST
0
300m
900ft
Zei Aly Nw
New York Ave Nw
H St Nw
I St Nw
Washington City
H St Nw
9th St Nw
8th St Nw
G Pl Nw
G St Nw
Mci Center
5th St Nw
F St Nw
11th St Nw
10th St Nw
Pennsylvania Ave Nw
E St Nw
Washington
D St Nw
1st St Nw
14th St Nw
15th St Nw
16th St Nw
Ellipse Rd Nw
DOJ
9th St Nw
7th St Nw
6th St Nw
C St Nw
2nd St Nw
Constitution Ave N
Archives
Madison Dr Nw
4th St Nw
3rd St Nw
Washington Monument
12th St Nw
The Mall
395
Jefferson Dr Sw
ENTER HERE
15th St Sw
Independence Ave Sw
Maryland Ave Sw
©2004 MapQuest.com, Inc.; ©2004 Navigation Technologies

Discussion Issues for Law Enforcement/Public Safety Working Group

1. **Immediate assistance to State and Local Law Enforcement in affected areas**: Determine policies for certain types of activities to guide future inquiries/requests, ensure coordination of federal resources.

2. **Reconstitution of Federal Justice System**: Houma Court, Detention facilities, USMS transport, and necessary statutory authorities in place.

3. **Review of needed statutory adjustments such as extension of statute of limitations, flexibilities for judicial and legal functions.**

4. **Assess need for increased federal, state or local assistance to areas welcoming evacuees**. Also, identification and use of existing programs or systems to aid evacuees, like National Center for Missing and Exploited Children, to locate and ID missing young and adult evacuees for family members.

5. **Assistance to Crime Victims dislocated into new jurisdictions**: Ability to receive victimization reports, gather evidence, how to handle crimes committed outside current jurisdiction.

6. **Whether and how to gather identification information from evacuees**.

7. **Efficacy of State and Local law enforcement in affected areas**. Whether, how and when to begin rebuilding, what is federal role.

8. **Ensuring that lessons learned are immediately fed into system and appropriate changes are made.**

9. **Potential changes to National Response Plan** with respect to Law Enforcement functions.

10. **Communications needs/capabilities for law enforcement community in affected areas.**

11. **Care of unaccompanied minors and implementation of "Megan's Act" to register evacuated sexual offenders.**

12. **Assisting and coordinating with the custodial penal systems of both state and local law enforcement**.

13. **Coordination of fraud prevention/prosecution preparations to prevent waste of resources and ensure that resources get to the people that need them**

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 08, 2005 10:35 AM
To: Henke, Tracy (SMO)
Subject: Re: Meeting of Law Enforcement/Public Safety Working Group

Am planning on attending. You should definitely go too if you're able. Will stop by to coordinate in advance.

-----Original Message-----
From: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Sep 08 10:30:50 2005
Subject: FW: Meeting of Law Enforcement/Public Safety Working Group

Neil:
Are you going to this meeting? If not, I can. Or, I can give you information before you go or attend with you. Let me know.

-----Original Message-----
From: McAtamney, James A
Sent: Thursday, September 08, 2005 9:15 AM
To: Tzitzon, Nicholas; Barnes, Matthew G.; Bouchard, Michael R.; [redacted]@ic.fbi.gov; [redacted]@ic.fbi.gov; [redacted]@ic.fbi.gov; Burton, Dawn (ODAG); Monheim, Thomas; Taylor, Jeffrey (OAG); Gorsuch, Neil M; Roberts, Crystal; [redacted]@osd.mil; [redacted]@osd.mil; [redacted]@us.army.mil; [redacted]@osdgc.osd.mil; [redacted]@ios.doi.gov; [redacted](DHS); [redacted](LEO); [redacted](USMS)
Cc: Goggin, Wendy H.; Edelman, Ronnie; [redacted] Luzinski, Stephen A.; [redacted] Domenech, Edgar; Bizzarro, Linda; Avergun, Jodi L.; Sabin, Barry; Madan, Rafael A.; [redacted]@ic.fbi.gov; Bradbury, Steve; Dunlap, James L; Eisenberg, John; Ferber, Alan L; [redacted]@ic.fbi.gov; Hart, Rosemary; JCC; Mercer, Bill (ODAG); Ullyot, Theodore; Vasaio, Tony; Kirstjen_M._Nielsen@who.eop.gov; aho@who.eop.gov; Sesker, Sonya J; Frisch, Stuart; Hart, Rosemary; Sampson, Kyle; Rubenstein, Steve R.; [redacted]@ic.fbi.gov; Kenney, Kathleen M.; [redacted](USMS); [redacted](DHS); [redacted](DHS); IIMG, JUSTICE (DHS); [redacted](DHS); Schools, Scott (USAEO)
Subject: Meeting of Law Enforcement/Public Safety Working Group
Importance: High

Good Morning,

The Law Enforcement/Public Safety Working Group of the White House Hurricane Katrina Task Force will meet at 2:00 p.m. today, September 8, 2005, at the Department of Justice in the Justice Command Center, Room 6100. The purpose of the meeting is to answer the questions posed in the attached memorandum from the Deputy Secretary of Homeland Security

* Outline the major challenges, objectives and milestones for the Working Group * Identify preliminary recommendations or clusters of policy options or other measures under consideration. Of course, at this stage you may only be able to identify problems, rather than fixed solutions or policy options.

To begin the discussion, we have prepared the attached list of issues that affect the law enforcement community within and responding to the affected areas. We welcome additional suggestions based on the experiences of personnel from your organizations.

Please review the issue paper and be prepared to discuss it and the two taskings at the meeting. If you believe additional issues should be included, please send them to the above addressees so all will be prepared to discuss them as well.

For clearance in to the Department of Justice, please confirm your attendance with my assistant, Sonya Sesker, e-mail above, or at 514-4834.

For your information, attached is a map to the Department. The visitor entrance is at 950 Constitution Ave. NW. Nearest metro is Archives/Navy Memorial.

Mac

James A. McAtamney
Senior Counsel for National Security Affairs Office of the Deputy Attorney General U.S. Department of Justice RFK Building, Room 4311 (202) 514-6907 Fax: (202) 307-0097 Unclassified e-mail: james.a.mcatamney@usdoj.gov Secure e-mail:
[redacted]

<<05-09-05 Katrina Task Force Letter.pdf>> <<LEPS WG Issues.doc>> <<dojmap.bmp>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 08, 2005 11:02 AM
To: Gorsuch, Neil M
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Sep 08 10:17:02 2005
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Sep 08 08:32:22 2005
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Sep 08 07:51:05 2005
Subject:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 08, 2005 11:15 AM
To: Gorsuch, Neil M
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Sep 08 11:02:21 2005
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Sep 08 10:17:02 2005
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Sep 08 08:32:22 2005
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Sep 08 07:51:05 2005
Subject:

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Thursday, September 08, 2005 11:24 AM
To: Gorsuch, Neil M
Cc: Reyes, Luis (SMO)
Subject: RE: A/C memo

I like the changes and roll on. You might also want Richter to get a copy in CRM. Is Alice Fisher here? Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 08, 2005 9:27 AM
To: McCallum, Robert (SMO)
Cc: Reyes, Luis (SMO)
Subject: A/C memo

Robert -

I've attached just a couple minor nits for your consideration. Also, Mary Beth reports that she very much liked the last draft I sent her so I'm willing to bet she'll like this one even more. She did make one suggestion, proposing the elimination of the last sentence of the penultimate paragraph ("Frequently, federal prosecutors have determined that inquiry into 'contemporary advice' is not necessary.") I don't feel strongly about this (and don't think Mary Beth did either), but if pushed, I'd recommend retaining the sentence -- we should recognize that contemporary advice is worthy of particular respect and the prior discussion doesn't fully accomplish that (noting only that the need for contemporary advice should be weighed "independently" from the need for other work product and communications).

Once you review and decide this, I'm happy to run the comment process traps, inviting comments to you or me from, I think, this group in the initial distribution: OAG (Jeff, Ted, Courtney, Kyle), ODAG (Mercer, Margolis), EOUSA (Battle, Buchanan), CRIM (Fisher), OLP (Brand, McIntosh). Let me know if you think I've missed anyone. I suggest we ask for return comments by Monday so we can distribute to the larger group the same day (hopefully).

NMG

<< File: DRAFT PRIV WAIVER MCC cleanrevisionII(9-8-05).doc >>

Reyes, Luis (SMO)

From:	Reyes, Luis (SMO)
Sent:	Thursday, September 08, 2005 12:20 PM
To:	Gorsuch, Neil M
Subject:	Fw: Meeting of Law Enforcement/Public Safety Working Group
Attachments:	05-09-05 Katrina Task Force Letter.pdf; LEPS WG Issues.doc; dojmap.bmp
Importance:	High

Neil, assume you will make this meeting? [redacted] but could I mention something to you something about this before the meeting? I will swing by before meeting or you can call me now or anytime on my cell [redacted] Thanks!

-----Original Message-----
From: McAtamney, James A <James.A.McAtamney@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Thu Sep 08 10:42:30 2005
Subject: FW: Meeting of Law Enforcement/Public Safety Working Group

-----Original Message-----
From: McAtamney, James A
Sent: Thursday, September 08, 2005 9:15 AM
To: [redacted](USMS); [redacted](LEO); Barnes, Matthew G.; [redacted]@atf.gov'; [redacted]@ic.fbi.gov'; [redacted]@ic.fbi.gov' [redacted]@ic.fbi.gov'; Burton, Dawn (ODAG); Monheim, Thomas; Taylor, Jeffrey (OAG); Gorsuch, Neil M; Roberts, Crystal; Tzitzon, Nicholas; [redacted]@osd.mil'; [redacted]@osd.mil '; [redacted]@us.army.mil'; 'James Smyser'; [redacted](DHS); [redacted]@ios.doi.gov'
Cc: [redacted]@ic.fbi.gov'; Avergun, Jodi L.; Bizzarro, Linda; Bradbury, Steve; Domenech, Edgar; Dunlap, James L; [redacted](DHS); Eisenberg, John; Ferber, Alan L; [redacted]@ic.fbi.gov'; Hart, Rosemary; IIMG, JUSTICE (DHS); JCC; [redacted]; Luzinski, Stephen A.; Mercer, Bill (ODAG); [redacted]R (DHS); Ullyot, Theodore; Vasaio, Tony; [redacted] 'Kirstjen_M._Nielsen@who.eop.gov'; [redacted]DHS); 'aho@who.eop.gov'; Sesker, Sonya J; [redacted](USMS); Edelman, Ronnie; Frisch, Stuart; Goggin, Wendy H.; Hart, Rosemary; Kenney, Kathleen M.; Madan, Rafael A.; Sabin, Barry; Sampson, Kyle; Schools, Scott (USAEO); [redacted]@atf.gov'; [redacted]@ic.fbi.gov'
Subject: Meeting of Law Enforcement/Public Safety Working Group
Importance: High

Good Morning,

The Law Enforcement/Public Safety Working Group of the White House Hurricane Katrina Task Force will meet at 2:00 p.m. today, September 8, 2005, at the Department of Justice in the Justice Command Center, Room 6100. The purpose of the meeting is to answer the questions posed in the attached

memorandum from the Deputy Secretary of Homeland Security

* Outline the major challenges, objectives and milestones for the Working Group * Identify preliminary recommendations or clusters of policy options or other measures under consideration. Of course, at this stage you may only be able to identify problems, rather than fixed solutions or policy options.

To begin the discussion, we have prepared the attached list of issues that affect the law enforcement community within and responding to the affected areas. We welcome additional suggestions based on the experiences of personnel from your organizations.

Please review the issue paper and be prepared to discuss it and the two taskings at the meeting. If you believe additional issues should be included, please send them to the above addressees so all will be prepared to discuss them as well.

For clearance in to the Department of Justice, please confirm your attendance with my assistant, Sonya Sesker, e-mail above, or at 514-4834.

For your information, attached is a map to the Department. The visitor entrance is at 950 Constitution Ave. NW. Nearest metro is Archives/Navy Memorial.

Mac

James A. McAtamney
Senior Counsel for National Security Affairs Office of the Deputy Attorney General U.S. Department of Justice RFK Building, Room 4311 (202) 514-6907 Fax: (202) 307-0097 Unclassified e-mail: james.a.mcatamney@usdoj.gov Secure e-mail:
[redacted]

Deputy Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

September 5, 2005

Dear Colleague:

As you know, last Thursday, President Bush formed the Cabinet-level White House Hurricane Katrina Task Force, which is chaired by Secretary Chertoff. This letter outlines details about the Task Force staffing and next steps for our work together.

Secretary Chertoff has appointed [redacted] to head the staff that we have assembled to support the Task Force. [redacted] will report directly to me. For now, [redacted] can be reached through our HSOC ([redacted]) and by email at [redacted]@dhs.gov. We are physically setting up this office today, and will shortly circulate a more complete point-of-contact list, as suggested in today's coordination call.

One of the key components of the Task Force staff will be a "problem buster" unit lead by [redacted]. [redacted] also can be contacted through the HSOC or by email at [redacted]@dhs.gov. The idea for this small group is to help bird-dog high-impact or highly visible issues that are quickly resolvable. This is not a substitute for the FEMA coordination functions or the in-theater decision process; rather, it is an adjunct to the Secretary's staff that will allow us to slice through certain problems faster and, for example, to assure that we are conducting appropriate follow-up to the immediate issues that you ask Secretary Chertoff or me personally to address.

As to next steps, at our deputies meeting last Friday, we initially identified thirteen possible Working Groups to manage mid- and long-term policy development and operational integration issues. After further discussion among deputies -- and with the support of DPC and HSC at the White House -- I have consolidated closely related tasks to yield eight Working Groups. Please see the attached list.

Most of these groups are well underway. With two exceptions, we have identified a lead agency for each, and we are asking the Deputy Secretary of each lead agency to assume the formal lead for Working Groups assigned to your department. We'd ask that agency leads also appoint an alternate.

Participation by a department or agency in Working Groups will be by self-nomination, but I'd ask both Working Group leads and participants to review the attached list and email a name and full contact information for participation in those groups for which your agency has an equity or interest. Participants for these groups should be at the assistant secretary level or higher, and individuals should enjoy direct access to your views and those of your department or agency head. These names should be sent to [redacted] by 11:00am Tuesday.

We will convene a meeting of Working Group chairs on Tuesday, September 6, 2005, from 4:00 p.m. to 5:00 p.m. in the Eisenhower Executive Office Building Room 180 to discuss the way ahead. Please provide clearance information to Elliott Langer of the Homeland Security Council Executive Secretariat at 202-456-1990 or elanger@who.eop.gov. Also on Tuesday, we hope to circulate a listing of all Working Group members to each of you.

We ask that each Working Group meet on Wednesday, September 7 (time and place to be determined by the lead) and to produce a brief initial assessment and status report. At that meeting, each Working Group must accomplish at least two common tasks:

1. Outline the major challenges, objectives and milestones for the Working Group.

2. Identify preliminary recommendations or clusters of policy options or other measures under consideration. Of course, at this stage you may only be able to identify problems, rather than fixed solutions or policy options.

The two tasks are due to the Task Force staff ([redacted]) by close of business on Thursday, September 8, 2005.

Once we have compiled the results of the initial Working Group meetings, we will convene a Deputies Committee meeting to scope the process to ensure that our efforts are properly focused to achieve measurable results. I look forward to working with you and your team to make this effort a success.

Also, I have attached a list of ten tasks that are near-term priorities on the ground. Those priorities are being addressed by FEMA, DOD and other interagency partners in-theater. At DHS, we are using this to capture a list of the major moving parts, and I thought this may be useful information for you.

Thank you for your efforts and on-going support. If you have any questions, please contact me or [redacted].

Sincerely,

\\original signed\\
[redacted]

Attachments: Working Group List
Near-Term Tasks Ahead

WHITE HOUSE TASK FORCE ON HURRICANE KATRINA
MID- AND LONG-TERM OBJECTIVES
SEPTEMBER 5, 2005

Working Group	Lead
1. Managing national and regional economic impacts: business and civic restoration	**Treasury/Commerce**
2. Health care: chronic care and facilities restoration	**HHS**
3. Consolidated services and benefits for displaced individuals	**HHS**
4. Environmental impacts and clean-up	**HHS/EPA**
5. Transportation network restoration	**DOT**
6. Energy supply	**DOE**
7. Law enforcement/public safety	**DOJ**
8. Charitable giving	**WH**

Note: Each Working Group is chaired by the lead department/agency at the Deputy Secretary level. Members are senior officials from the relevant departments, agencies and the White House.

HURRICANE KATRINA
SEPTEMBER 5, 2005

I. Immediate Issues -- Ten Core Operational Functions

1. Implement an **effective command and control structure** linking DOD and state and local assets to DHS. Activate and manage federal interagency incident support through the National Response Plan.

2. Continue **search and rescue** missions in the Mississippi coastal counties, Louisiana's hardest-hit parishes, and particularly the city of New Orleans.

3. Provide essential **life-sustaining necessities** in the tri-state region -- food, water and shelter.

4. **Evacuate** the uninhabitable portions of New Orleans and other parishes and maintain effective **perimeter control** of evacuated areas.

5. Retrieve and **identify the dead, and care for their families**.

6. **Restore the levees and de-water** New Orleans.

7. Assist with:
    a. **Medical needs** -- in the tri-state area and among those evacuated
    b. Ensuring **law and order**, especially in New Orleans
    c. Restoration of **critical infrastructure**, public, and private
    d. **Disease control** and prevention
    e. Debris removal

8. Provide **shelter and support** for those displaced -- in the region and around the country.
    a. **Aggressively monitor and support** needs at short-term relocation shelters
    b. Ensure **safety** at the shelters
    c. Move as many as possible as quickly as possible to **transitional housing**, if not directly to permanent housing

9. Ensure that those eligible for **benefits** get them quickly and efficiently.
    a. **Consolidate benefit delivery** as much as possible. Create turnkey application centers at shelters
    b. Mobilize **a nationwide benefits delivery initiative**, not a purely localized one

10. **Communicate effectively** and routinely with:
    a. **Victims** of the disaster -- at all locations possible
    b. **State and local leaders** -- to identify and quickly resolve needs and problems (includes leaders in all states that are sheltering persons displaced by Katrina)

c. The **public and the media**
d. The **Congress**

II. Week Two and Beyond -- Key Objectives and Work Structure

Two Key Objectives:

- Plan for **long-term community restoration** in the tri-state area.

- Develop a comprehensive plan for **returning displaced citizens to home and work** as quickly as possible.


MAPQUEST
0
300m
900ft
Zei Aly Nw
New York Ave Nw
H St Nw
I St Nw
Washington City
H St Nw
G Pl Nw
G St Nw
F St Nw
Mci Center
Pennsylvania Ave Nw
E St Nw
Washington
D St Nw
C St Nw
DOJ
Constitution Ave N
Archives
Madison Dr Nw
The Mall
Washington Monument
Jefferson Dr Sw
Maryland Ave Sw
Independence Ave Sw
ENTER HERE
9th St Nw
8th St Nw
11th St Nw
10th St Nw
5th St Nw
14th St Nw
15th St Nw
16th St Nw
Ellipse Rd Nw
7th St Nw
6th St Nw
4th St Nw
3rd St Nw
2nd St Nw
1st St Nw
12th St Nw
395
©2004 MapQuest.com, Inc.; ©2004 Navigation Technologies

Discussion Issues for Law Enforcement/Public Safety Working Group

1. **Immediate assistance to State and Local Law Enforcement in affected areas**: Determine policies for certain types of activities to guide future inquiries/requests, ensure coordination of federal resources.

2. **Reconstitution of Federal Justice System**: Houma Court, Detention facilities, USMS transport, and necessary statutory authorities in place.

3. **Review of needed statutory adjustments such as extension of statute of limitations, flexibilities for judicial and legal functions.**

4. **Assess need for increased federal, state or local assistance to areas welcoming evacuees**. Also, identification and use of existing programs or systems to aid evacuees, like National Center for Missing and Exploited Children, to locate and ID missing young and adult evacuees for family members.

5. **Assistance to Crime Victims dislocated into new jurisdictions**: Ability to receive victimization reports, gather evidence, how to handle crimes committed outside current jurisdiction.

6. **Whether and how to gather identification information from evacuees**.

7. **Efficacy of State and Local law enforcement in affected areas**. Whether, how and when to begin rebuilding, what is federal role.

8. **Ensuring that lessons learned are immediately fed into system and appropriate changes are made.**

9. **Potential changes to National Response Plan** with respect to Law Enforcement functions.

10. **Communications needs/capabilities for law enforcement community in affected areas.**

11. **Care of unaccompanied minors and implementation of "Megan's Act" to register evacuated sexual offenders.**

12. **Assisting and coordinating with the custodial penal systems of both state and local law enforcement**.

13. **Coordination of fraud prevention/prosecution preparations to prevent waste of resources and ensure that resources get to the people that need them**

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 08, 2005 1:09 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES OUTLINES ANTI-FRAUD PRIORITIES TO PROTECT THE INTEGRITY OF RELIEF EFFORTS IN HURRICANE KATRINA-STRICKEREGIONN

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 8, 2005
WWW.USDOJ.GOV

AG
(202) 514-2008
TDD (202) 514-1888

ATTORNEY GENERAL ALBERTO R. GONZALES OUTLINES ANTI-FRAUD PRIORITIES TO PROTECT THE INTEGRITY OF RELIEF EFFORTS IN HURRICANE KATRINA-STRICKEN REGION

WASHINGTON, D.C. - Attorney General Alberto R. Gonzales travels to Mississippi and Louisiana today with Vice President Dick Cheney to tour areas devastated by Hurricane Katrina and outline priorities for the newly established Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud and insurance fraud.

In a planned visit to Gulfport, Miss., the Attorney General will meet with Department of Justice personnel who are working out of the Jackson office. In Louisiana, the Attorney General plans to visit a law enforcement detention center in New Orleans and meet with Justice Department staff, including personnel from the U.S. Attorney's Office in the Eastern District of Louisiana (New Orleans), who are presently working out of offices in Baton Rouge.

Recent history, including Hurricane Ivan and the terrorist attacks of Sept. 11, 2001, has shown that some criminals seek to profit from disaster by means of fraud, and recent reports indicate that fraudulent Internet sites designed to lure those seeking to donate to Hurricane Katrina relief efforts have already been posted.

The Hurricane Katrina Fraud Task Force - chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division - includes members from the FBI, the Federal Trade Commission, the Postal Inspector's Office, and the Executive Office of the United States Attorneys, among others. The Task Force will be directed to track referrals of potential cases and complaints, coordinate with law enforcement agencies to initiate investigations, match referrals with the appropriate U.S. Attorney's offices, and ensure timely and effective prosecution of Katrina fraud cases. The Task Force will be national in scope, working with state and local law enforcement and state attorneys general to identify cases, and will report back to the Attorney General on a periodic basis.

"We cannot allow the kindness of Americans to be exploited in this time of disaster and crisis," said Attorney General Gonzales. "This Task Force will help ensure that those offering a helping hand do not

DOJ_NMG_ 0146986

themselves become the victims of fraud, and that the money and support they so graciously and generously offer goes to the intended recipients - the many victims of Hurricane Katrina."

The Task Force will work aggressively with a focus on specific areas of fraud, with the ability to alter its focus if necessary to adapt to whatever fraudulent schemes are created by those who are looking for illegal gain. Examples of those types of fraud include:

- Fraudulent Charities: Cases in which individuals falsely hold themselves out as agents of a legitimate charity, or create a "charity" that is in fact a sham;
- Identity Theft: Cases in which the identities of innocent victims are "stolen" and assumed by criminals who convert the assets of, or otherwise defraud, the victims, and;
- Insurance Fraud: Cases in which false or inflated insurance claims are filed;
- Government Benefit Fraud: Cases in which individuals file false applications seeking benefits to which they are not entitled.

Several existing government websites and resources are available to obtain information about, and report instances of, Katrina-related fraud. The FBI website, www.fbi.gov, <http://www.fbi.gov,> contains updated alerts about particular types of charity-related frauds. Members of the public can also report instances of fraud on the Website for the FBI's Internet Crime Complaint Center, at www.ic3.gov. <http://www.ic.3.gov.> The Fraud Section of the Criminal Division maintains additional information about Internet-related scams at www.internetfraud.usdoj.gov <http://www.internetfraud.usdoj.gov.>. <http://www.internetfraud.usdoj.gov,>The Federal Trade Commission provides additional information at its website, www.ftc.gov <http://www.ftc.gov,><http://www.ftc.gov,>, and a toll-free FTC hotline, 1-877-FTC-HELP (1-877-382-4357, TTY/TDD: 202-326-2502), also allows consumers to report suspected fraud schemes, including Katrina-related fraud.

###

05-462

DOJ_NMG_ 0146987

Image not available for this document, ID: 0.7.10316.68378-000001

Image not available for this document, ID: 0.7.10316.68378-000002

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Thursday, September 8, 2005 3:38 PM
To: Gorsuch, Neil M
Subject: FW: DOJ Reauthorization HR 3402 Views Letter
Attachments: HR 3402.SECOND Draft Letter.8.31.2005.doc; HR 3402 Draft of Reported Bill.pdf

Neil, attached is the DOJ Reauthorization Bill and our comments on it. I thought you might like to see a copy. Most if it concerns OJP matters, which Tracy is looking over. FYI, there is a section on the Chief Privacy Officer, which I provide below. Let me know if you have any comments.
Jeff

Section 305 would require the Attorney General to designate a "senior official" within the Department of Justice (the "Department") "to assume primary responsibility for privacy policy." The Department recognizes the growing importance of information privacy, and supports creation of a Chief Privacy Officer (CPO) position within DOJ, but strongly believes that more time and study are required before the CPO's duties and responsibilities can or should be specifically delineated. The Department is now actively engaged in assessing its privacy-related functions and personnel, and making recommendations to the Attorney General regarding potential structural changes and resource needs. As this project unfolds, among the difficult questions presented are: what is the scope of the CPO's responsibilities? How does creation of a CPO affect the Department's existing privacy functions? What is the appropriate relationship between the CPO and the Chief Information Officer? Is importing the DHS model the optimal solution for DOJ? The answers to these questions are not obvious, and are not susceptible to "one size fits all" legislation. The Department therefore seeks additional flexibility in the language of the bill, and sufficient time to make an informed recommendation to Congress regarding establishment of a CPO. We submit the following language as a substitute:
Privacy Officer

(a) In General. The Attorney General shall designate a senior official in the Department of Justice to assume primary responsibility for privacy policy.

(b) Responsibilities. The responsibilities of such official shall include -

(1) Advising the Attorney General regarding appropriate privacy protections, relating to the use, collection, and disclosure of personally identifiable information, with respect to the use of information technology policy and information systems; and
(2) Advising the Attorney General regarding the privacy implications of legislative and regulatory proposals affecting the Department and involving the collection, use, and disclosure of personally identifiable information.

(3) In consultation with the Department's Chief Information Officer, ensuring the Department's compliance with Section 208 of the E-Government Act of 2002

(Pub. L. 107-347).

(c) Review of Privacy-Related Functions and Resources and Report. Within 120 days of his designation, the privacy official shall prepare a comprehensive report to the Attorney General and to Congress, describing the organization and resources of the Department with respect to privacy and related information management functions, including access, security, and records management, assessing the Department's current and future needs relating to information privacy issues, and making appropriate recommendations regarding the Department's organizational structure and personnel.

-----Original Message-----
From: Roland, Sarah E
Sent: Thursday, September 08, 2005 2:59 PM
To: Senger, Jeffrey M; Rybicki, James E
Cc: Henke, Tracy (SMO); Clifton, Deborah J; Taylor, Velma
Subject: DOJ Reauthorization HR 3402 Views Letter

Jim and Jeff,
We are submitting the attached letter for ODAG and OASG review for transmission to OMB asap. This bill will be on the House floor very soon and are trying to get it to as quickly as possible.

A couple of notes. The first three titles are "doj reauth" and our comments are very similar to last year's views letter on HR 3036 (most are identical), as the Committee incorporated none of our suggestions. Titles IV-X are "Reauth of the Violence Against Women Act" Given the length of this letter, I sent it to Tracy Henke so she could begin reviewing as well. Tracy is also resolving a conflict between components in Section 250.

The attached version of the bill is the one Reported out of the Committee. Please do not hesitate to call me with any questions 5-9134.

Thanks,
Sarah

Sarah Elizabeth Roland
Office of Legislative Affairs
U.S. Department of Justice
202-305-9134

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3402

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Department of Justice Appropriations Authorization Act, Fiscal Years 2006 through 2009''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

Sec. 101. Authorization of appropriations for fiscal year 2006.
Sec. 102. Authorization of appropriations for fiscal year 2007.
Sec. 103. Authorization of appropriations for fiscal year 2008.
Sec. 104. Authorization of appropriations for fiscal year 2009.
Sec. 105. Organized retail theft.

TITLE II—IMPROVING THE DEPARTMENT OF JUSTICE'S GRANT PROGRAMS

Subtitle A—Assisting Law Enforcement and Criminal Justice Agencies

Sec. 201. Merger of Byrne grant program and Local Law Enforcement Block Grant program.
Sec. 202. Clarification of number of recipients who may be selected in a given year to receive Public Safety Officer Medal of Valor.
Sec. 203. Clarification of official to be consulted by Attorney General in considering application for emergency Federal law enforcement assistance.
Sec. 204. Clarification of uses for regional information sharing system grants.
Sec. 205. Integrity and enhancement of national criminal record databases.
Sec. 206. Extension of matching grant program for law enforcement armor vests.

Subtitle B—Building Community Capacity to Prevent, Reduce, and Control Crime

DOJ_NMG_ 0146992

Sec. 211. Office of Weed and Seed Strategies.

Subtitle C—Assisting Victims of Crime

Sec. 221. Grants to local nonprofit organizations to improve outreach services to victims of crime.
Sec. 222. Clarification and enhancement of certain authorities relating to Crime Victims Fund.
Sec. 223. Amounts received under crime victim grants may be used by State for training purposes.
Sec. 224. Clarification of authorities relating to Violence Against Women formula and discretionary grant programs.
Sec. 225. Expansion of grant programs assisting enforcement of domestic violence cases to also assist enforcement of sexual assault cases.
Sec. 226. Change of certain reports from annual to biennial.
Sec. 227. Clarification of recipients and programs eligible for grants under Rural Domestic Violence and Child Abuse Enforcement Assistance program.

Subtitle D—Preventing Crime

Sec. 231. Clarification of definition of violent offender for purposes of juvenile drug courts.
Sec. 232. Changes to distribution and allocation of grants for drug courts.
Sec. 233. Eligibility for grants under drug court grants program extended to courts that supervise non-offenders with substance abuse problems.
Sec. 234. Term of Residential Substance Abuse Treatment program for local facilities.

Subtitle E—Other Matters

Sec. 241. Changes to certain financial authorities.
Sec. 242. Coordination duties of Assistant Attorney General.
Sec. 243. Simplification of compliance deadlines under sex-offender registration laws.
Sec. 244. Repeal of certain programs.
Sec. 245. Elimination of certain notice and hearing requirements.
Sec. 246. Amended definitions for purposes of Omnibus Crime Control and Safe Streets Act of 1968.
Sec. 247. Clarification of authority to pay subsistence payments to prisoners for health care items and services.
Sec. 248. Office of Audit, Assessment, and Management.
Sec. 249. Community Capacity Development Office.
Sec. 250. Office of Applied Law Enforcement Technology.
Sec. 251. Availability of funds for grants.
Sec. 252. Consolidation of financial management systems of Office of Justice Programs.
Sec. 253. Authorization and change of COPS program to single grant program.
Sec. 254. Clarification of persons eligible for benefits under Public Safety Officers' Death Benefits programs.
Sec. 255. Pre-release and post-release programs for juvenile offenders.
Sec. 256. Reauthorization of juvenile accountability block grants.
Sec. 257. Sex offender management.
Sec. 258. Evidence-based approaches.

TITLE III—MISCELLANEOUS PROVISIONS

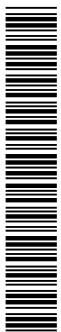
Sec. 301. Technical amendments relating to Public Law 107–56.
Sec. 302. Miscellaneous technical amendments.
Sec. 303. Minor substantive amendment relating to contents of FBI annual report.
Sec. 304. Use of Federal training facilities.
Sec. 305. Privacy officer.
Sec. 306. Bankruptcy crimes.
Sec. 307. Report to Congress on status of United States persons or residents detained on suspicion of terrorism.
Sec. 308. Technical correction relating to definition used in ''terrorism transcending national boundaries'' statute.
Sec. 309. Increased penalties and expanded jurisdiction for sexual abuse offenses in correctional facilities.
Sec. 310. Expanded jurisdiction for contraband offenses in correctional facilities.
Sec. 311. Magistrate judge's authority to continue preliminary hearing.
Sec. 312. Technical corrections relating to steroids.
Sec. 313. Prison Rape Commission extension.
Sec. 314. Longer statute of limitation for human trafficking-related offenses.
Sec. 315. Use of Center for Criminal Justice Technology.
Sec. 316. SEARCH grants.
Sec. 317. Reauthorization of Law Enforcement Tribute Act.
Sec. 318. Amendment regarding bullying and gangs.
Sec. 319. Transfer of provisions relating to the Bureau of Alcohol, Tobacco, Firearms, and Explosives.
Sec. 320. Reauthorize the gang resistance education and training projects program.
Sec. 321. National training center.
Sec. 322. Sense of Congress relating to ''good time'' release.
Sec. 323. Police badges.
Sec. 324. Officially approved postage.

TITLE IV—VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005

Sec. 401. Short title.
Sec. 402. Definitions and requirements for programs relating to violence against women.

TITLE V—ENHANCING JUDICIAL AND LAW ENFORCEMENT TOOLS TO COMBAT VIOLENCE

Sec. 501. STOP grants improvements.
Sec. 502. Grants to encourage arrest and enforce protection orders improvements.
Sec. 503. Legal assistance for victims improvements.
Sec. 504. Court training and improvements.
Sec. 505. Full faith and credit improvements.
Sec. 506. Privacy protections for victims of domestic violence, dating violence, sexual violence, and stalking.
Sec. 507. Stalker database.
Sec. 508. Victim assistants for District of Columbia.
Sec. 509. Preventing cyberstalking.
Sec. 510. Repeat offender provision.
Sec. 511. Prohibiting dating violence.
Sec. 512. GAO study and report.



TITLE VI—IMPROVING SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

Sec. 601. Technical amendment to Violence Against Women Act.
Sec. 602. Sexual assault services program.
Sec. 603. Amendments to the rural domestic violence and child abuse enforcement assistance program.
Sec. 604. Assistance for victims of abuse.
Sec. 605. GAO study of National Domestic Violence Hotline.
Sec. 606. Grants for outreach to underserved populations.

TITLE VII—SERVICES, PROTECTION, AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE

Sec. 701. Services and justice for young victims of violence.
Sec. 702. Grants to combat violent crimes on campuses.
Sec. 703. Safe havens.
Sec. 704. Grants to combat domestic violence, dating violence, sexual assault, and stalking in middle and high schools.

TITLE VIII—STRENGTHENING AMERICA'S FAMILIES BY PREVENTING VIOLENCE IN THE HOME

Sec. 801. Preventing violence in the home.

TITLE IX—PROTECTION FOR IMMIGRANT VICTIMS OF VIOLENCE

Sec. 900. Short title; references to VAWA–2000; regulations.

Subtitle A—Victims of Crime

Sec. 901. Conditions applicable to U and T visas.
Sec. 902. Clarification of basis for relief under hardship waivers for conditional permanent residence.
Sec. 903. Adjustment of status for victims of trafficking.

Subtitle B—VAWA Petitioners

Sec. 911. Definition of VAWA petitioner.
Sec. 912. Self-petitioning for children.
Sec. 913. Self-petitioning parents.
Sec. 914. Promoting consistency in VAWA adjudications.
Sec. 915. Relief for certain victims pending actions on petitions and applications for relief.
Sec. 916. Access to VAWA protection regardless of manner of entry.
Sec. 917. Eliminating abusers' control over applications for adjustments of status.
Sec. 918. Parole for VAWA petitioners and for derivatives of trafficking victims.
Sec. 919. Exemption of victims of domestic violence, sexual assault and trafficking from sanctions for failure to depart voluntarily.
Sec. 920. Clarification of access to naturalization for victims of domestic violence.
Sec. 921. Prohibition of adverse determinations of admissibility or deportability based on protected information.
Sec. 922. Information for K nonimmigrants about legal rights and resources for immigrant victims of domestic violence.
Sec. 923. Authorization of appropriations.

Subtitle C—Miscellaneous Provisions

Sec. 931. Removing 2 year custody and residency requirement for battered adopted children.
Sec. 932. Waiver of certain grounds of inadmissibility for VAWA petitioners.
Sec. 933. Employment authorization for battered spouses of certain non-immigrants.
Sec. 934. Grounds for hardship waiver for conditional permanent residence for intended spouses.
Sec. 935. Cancellation of removal.
Sec. 936. Motions to reopen.
Sec. 937. Removal proceedings.
Sec. 938. Conforming relief in suspension of deportation parallel to the relief available in VAWA–2000 cancellation for bigamy.
Sec. 939. Correction of cross-reference to credible evidence provisions.
Sec. 940. Technical corrections.

TITLE X—SAFETY ON TRIBAL LANDS

Sec. 1001. Purposes.
Sec. 1002. Consultation.
Sec. 1003. Analysis and research on violence on tribal lands.
Sec. 1004. Tracking of violence on tribal lands.
Sec. 1005. Tribal Division of the Office on Violence Against Women.
Sec. 1006. GAO report to Congress on status of prosecution of sexual assault and domestic violence on tribal lands.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2006.

There are authorized to be appropriated for fiscal year 2006, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $161,407,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals:

$216,286,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $72,828,000, which shall include not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $679,661,000, which shall include—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not less than $15,000,000 for the investigation and prosecution of violations of title 17 of the United States Code;

(C) not to exceed $20,000 to meet unforeseen emergencies of a confidential character; and

(D) $5,000,000 for the investigation and prosecution of violations of chapter 77 of title 18 of the United States Code.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $144,451,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,626,146,000.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $5,761,237,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $800,255,000.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $5,065,761,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,716,173,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(11) BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.—For the Bureau of Alcohol, Tobacco, Firearms and Explosives: $923,613,000.

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $181,137,000, which shall include not to exceed $8,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $661,940,000 for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,270,000.

(15) COMMUNITY RELATIONS SERVICE.— For the Community Relations Service: $9,759,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $21,468,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $11,300,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,222,000,000.

(19) JUSTICE INFORMATION SHARING TECHNOLOGY.—For necessary expenses for information sharing technology, including planning, development, and deployment: $181,490,000.

(20) NARROW BAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $128,701,000.

(21) ADMINISTRATIVE EXPENSES FOR CERTAIN ACTIVITIES.—For the administrative expenses of the Office of Justice Programs, the Office on Violence Against Women, and Office of Community Oriented Policing Services:

(A) $121,105,000 for the Office of Justice Programs.

(B) $14,172,000 for the Office on Violence Against Women.

(C) $31,343,000 for the Office of Community Oriented Policing Services.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2007.

There are authorized to be appropriated for fiscal year 2007, to carry out the activities of the Department of Justice (including any bureau, office, board, division,

commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $167,863,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $224,937,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $75,741,000, which shall include not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $706,847,000, which shall include—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not less than $15,600,000 for the investigation and prosecution of violations of title 17 of the United States Code;

DOJ_NMG_ 0147001

(C) not to exceed $20,000 to meet unforeseen emergencies of a confidential character; and

(D) $5,000,000 for the investigation and prosecution of violations of chapter 77 of title 18 of the United States Code.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $150,229,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,691,192,000.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $5,991,686,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $832,265,000.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $5,268,391,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,784,820,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

DOJ_NMG_ 0147002

(11) BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.—For the Bureau of Alcohol, Tobacco, Firearms and Explosives: $960,558,000.

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $188,382,000, which shall include not to exceed $8,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $688,418,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,321,000.

(15) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: $10,149,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $22,000,000 for expenses au-

DOJ_NMG_ 0147003

thorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $11,752,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,405,300,000.

(19) JUSTICE INFORMATION SHARING TECHNOLOGY.—For necessary expenses for information sharing technology, including planning, development, and deployment: $188,750,000.

(20) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $133,849,000.

(21) ADMINISTRATIVE EXPENSES FOR CERTAIN ACTIVITIES.—For the administrative expenses of the Office of Justice Programs, the Office on Violence Against Women, and the Office of Community Oriented Policing Services:

(A) $125,949,000 for the Office of Justice Programs.

DOJ_NMG_ 0147004

(B) $15,600,000 for the Office on Violence Against Women.

(C) $32,597,000 for the Office of Community Oriented Policing Services.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2008.

There are authorized to be appropriated for fiscal year 2008, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $174,578,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $233,934,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $78,771,000, which shall include not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $735,121,000, which shall include—

DOJ_NMG_ 0147005

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not less than $16,224,000 for the investigation and prosecution of violations of title 17 of the United States Code;

(C) not to exceed $20,000 to meet unforeseen emergencies of a confidential character; and

(D) $5,000,000 for the investigation and prosecution of violations of chapter 77 of title 18 of the United States Code.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $156,238,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,758,840,000.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $6,231,354,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $865,556,000.

DOJ_NMG_ 0147006

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $5,479,127,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,856,213,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(11) BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.—For the Bureau of Alcohol, Tobacco, Firearms and Explosives: $998,980,000.

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $195,918,000, which shall include not to exceed $8,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $715,955,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

DOJ_NMG_ 0147007

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,374,000.

(15) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: $10,555,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $22,000,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $12,222,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,616,095,000.

(19) JUSTICE INFORMATION SHARING TECHNOLOGY.—For necessary expenses for information sharing technology, including planning, development, and deployment: $196,300,000.

(20) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $139,203,000.

DOJ_NMG_ 0147008

(21) ADMINISTRATIVE EXPENSES FOR CERTAIN ACTIVITIES.—For the administrative expenses of the Office of Justice Programs, the Office on Violence Against Women, and the Office of Community Oriented Policing Services:

(A) $130,987,000 for the Office of Justice Programs.

(B) $16,224,000 for the Office on Violence Against Women.

(C) $33,901,000 for the Office of Community Oriented Policing Services.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2009.

There are authorized to be appropriated for fiscal year 2009, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $181,561,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $243,291,000 for administration of pardon and clemency petitions and for immigration-related activities.

DOJ_NMG_ 0147009

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $81,922,000, which shall include not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $764,526,000, which shall include—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not less than $16,872,000 for the investigation and prosecution of violations of title 17 of the United States Code; and

(C) not to exceed $20,000 to meet unforeseen emergencies of a confidential character.

(D) $5,000,000 for the investigation and prosecution of violations of chapter 77 of title 18 of the United States Code.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $162,488,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,829,194,000.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation:

$6,480,608,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $900,178,000.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $5,698,292,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,930,462,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(11) BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.—For the Bureau of Alcohol, Tobacco, Firearms and Explosives: $1,038,939,000.

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $203,755,000, which shall include not to exceed $8,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $744,593,000, for expenses not otherwise provided for, for the investigation and prosecu-

DOJ_NMG_ 0147011

tion of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,429,000.

(15) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: $10,977,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $22,000,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $12,711,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,858,509,000.

(19) JUSTICE INFORMATION SHARING TECHNOLOGY.—For necessary expenses for information sharing technology, including planning, development, and deployment: $204,152,000.

DOJ_NMG_ 0147012

(20) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $144,771,000.

(21) ADMINISTRATIVE EXPENSES FOR CERTAIN ACTIVITIES.—For the administrative expenses of the Office of Justice Programs, the Office on Violence Against Women, and the Office of Community Oriented Policing Services:

(A) $132,226,000 for the Office of Justice Programs.

(B) $16,837,000 for the Office on Violence Against Women.

(C) $35,257,000 for the Office of Community Oriented Policing Services.

SEC. 105. ORGANIZED RETAIL THEFT.

(a) NATIONAL DATA.—(1) The Attorney General and the Federal Bureau of Investigation shall establish a task force to combat organized retail theft and provide expertise to the retail community for the establishment of a national database or clearinghouse housed and maintained in the private sector to track and identify where organized retail theft type crimes are being committed in the United Sates. The national database shall allow Federal, State,

DOJ_NMG_ 0147013

and local law enforcement officials as well as authorized retail companies (and authorized associated retail databases) to transmit information into the database electronically and to review information that has been submitted electronically.

(2) The Attorney General shall make available funds to provide for the ongoing administrative and technological costs to federal law enforcement agencies participating in the database project.

(3) The Attorney General through the Bureau of Justice Assistance in the Office of Justice may make grants to help provide for the administrative and technological costs to State and local law enforcement agencies participating in the data base project.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2006 through 2009, $5,000,000 for educating and training federal law enforcement regarding organized retail theft, for investigating, apprehending and prosecuting individuals engaged in organized retail theft, and for working with the private sector to establish and utilize the database described in subsection (a).

(c) DEFINITION OF ORGANIZED RETAIL THEFT.—For purposes of this section, ''organized retail theft'' means—

(1) the violation of a State prohibition on retail merchandise theft or shoplifting, if the violation consists of the theft of quantities of items that would not normally be purchased for personal use or consumption and for the purpose of reselling the items or for reentering the items into commerce;

(2) the receipt, possession, concealment, bartering, sale, transport, or disposal of any property that is know or should be known to have been taken in violation of paragraph (1); or

(3) the coordination, organization, or recruitment of persons to undertake the conduct described in paragraph (1) or (2).

TITLE II—IMPROVING THE DEPARTMENT OF JUSTICE'S GRANT PROGRAMS

Subtitle A—Assisting Law Enforcement and Criminal Justice Agencies

SEC. 201. MERGER OF BYRNE GRANT PROGRAM AND LOCAL LAW ENFORCEMENT BLOCK GRANT PROGRAM.

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended as follows:

DOJ_NMG_ 0147015

(1) Subpart 1 of such part (42 U.S.C. 3751–3759) is repealed.

(2) Such part is further amended—

(A) by inserting before section 500 (42 U.S.C. 3750) the following new heading:

"Subpart 1—Edward Byrne Memorial Justice Assistance Grant Program";

(B) by amending section 500 to read as follows:

"SEC. 500. NAME OF PROGRAM.

''(a) IN GENERAL.—The grant program established under this subpart shall be known as the 'Edward Byrne Memorial Justice Assistance Grant Program'.

''(b) REFERENCES TO FORMER PROGRAMS.—Any reference in a law, regulation, document, paper, or other record of the United States to the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, or to the Local Government Law Enforcement Block Grants program, shall be deemed to be a reference to the grant program referred to in subsection (a).''; and

(C) by inserting after section 500 the following new sections:

"SEC. 501. DESCRIPTION.

''(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—From amounts made available to carry out this subpart, the Attorney General may, in accordance with the formula established under section 505, make grants to States and units of local government, for use by the State or unit of local government to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice, including for any one or more of the following programs:

"(A) Law enforcement programs.

"(B) Prosecution and court programs.

"(C) Prevention and education programs.

"(D) Corrections and community corrections programs.

"(E) Drug treatment and enforcement programs.

"(F) Planning, evaluation, and technology improvement programs.

"(G) Crime victim and witness programs (other than compensation).

"(2) RULE OF CONSTRUCTION.—Paragraph (1) shall be construed to ensure that a grant under that paragraph may be used for any purpose for which a grant was authorized to be used under either or

DOJ_NMG_ 0147017

both of the programs specified in section 500(b), as those programs were in effect immediately before the enactment of this paragraph.

''(b) CONTRACTS AND SUBAWARDS.—A State or unit of local government may, in using a grant under this subpart for purposes authorized by subsection (a), use all or a portion of that grant to contract with or make one or more subawards to one or more—

''(1) neighborhood or community-based organizations that are private and nonprofit;

''(2) units of local government; or

''(3) tribal governments.

''(c) PROGRAM ASSESSMENT COMPONENT; WAIVER.—

''(1) Each program funded under this subpart shall contain a program assessment component, developed pursuant to guidelines established by the Attorney General, in coordination with the National Institute of Justice.

''(2) The Attorney General may waive the requirement of paragraph (1) with respect to a program if, in the opinion of the Attorney General, the program is not of sufficient size to justify a full program assessment.

''(d) PROHIBITED USES.—Notwithstanding any other provision of this Act, no funds provided under this subpart may be used, directly or indirectly, to provide any of the following matters:

''(1) Any security enhancements or any equipment to any nongovernmental entity that is not engaged in criminal justice or public safety.

''(2) Unless the Attorney General certifies that extraordinary and exigent circumstances exist that make the use of such funds to provide such matters essential to the maintenance of public safety and good order—

''(A) vehicles, vessels, or aircraft;

''(B) luxury items;

''(C) real estate;

''(D) construction projects (other than penal or correctional institutions); or

''(E) any similar matters.

''(e) ADMINISTRATIVE COSTS.—Not more than 10 percent of a grant made under this subpart may be used for costs incurred to administer such grant.

''(f) PERIOD.—The period of a grant made under this subpart shall be four years, except that renewals and extensions beyond that period may be granted at the discretion of the Attorney General.

DOJ_NMG_ 0147019

''(g) RULE OF CONSTRUCTION.—Subparagraph (d)(1) shall not be construed to prohibit the use, directly or indirectly, of funds provided under this subpart to provide security at a public event, such as a political convention or major sports event, so long as such security is provided under applicable laws and procedures.

''SEC. 502. APPLICATIONS.

''To request a grant under this subpart, the chief executive officer of a State or unit of local government shall submit an application to the Attorney General within 90 days after the date on which funds to carry out this subpart are appropriated for a fiscal year, in such form as the Attorney General may require. Such application shall include the following:

''(1) A certification that Federal funds made available under this subpart will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.

''(2) An assurance that, not fewer than 30 days before the application (or any amendment to the application) was submitted to the Attorney General, the application (or amendment) was submitted for review to the governing body of the State or unit of

DOJ_NMG_ 0147020

local government (or to an organization designated by that governing body).

''(3) An assurance that, before the application (or any amendment to the application) was submitted to the Attorney General—

''(A) the application (or amendment) was made public; and

''(B) an opportunity to comment on the application (or amendment) was provided to citizens and to neighborhood or community-based organizations, to the extent applicable law or established procedure makes such an opportunity available.

''(4) An assurance that, for each fiscal year covered by an application, the applicant shall maintain and report such data, records, and information (programmatic and financial) as the Attorney General may reasonably require.

''(5) A certification, made in a form acceptable to the Attorney General and executed by the chief executive officer of the applicant (or by another officer of the applicant, if qualified under regulations promulgated by the Attorney General), that—

''(A) the programs to be funded by the grant meet all the requirements of this subpart;

DOJ_NMG_ 0147021

''(B) all the information contained in the application is correct;

''(C) there has been appropriate coordination with affected agencies; and

''(D) the applicant will comply with all provisions of this subpart and all other applicable Federal laws.

''SEC. 503. REVIEW OF APPLICATIONS.

''The Attorney General shall not finally disapprove any application (or any amendment to that application) submitted under this subpart without first affording the applicant reasonable notice of any deficiencies in the application and opportunity for correction and reconsideration.

''SEC. 504. RULES.

''The Attorney General shall issue rules to carry out this subpart. The first such rules shall be issued not later than one year after the date on which amounts are first made available to carry out this subpart.

''SEC. 505. FORMULA.

''(a) ALLOCATION AMONG STATES.—

''(1) IN GENERAL.—Of the total amount appropriated for this subpart, the Attorney General shall, except as provided in paragraph (2), allocate—

''(A) 50 percent of such remaining amount to each State in amounts that bear the same ratio of—

''(i) the total population of a State to—

''(ii) the total population of the United States; and

''(B) 50 percent of such remaining amount to each State in amounts that bear the same ratio of—

''(i) the average annual number of part 1 violent crimes of the Uniform Crime Reports of the Federal Bureau of Investigation reported by such State for the three most recent years reported by such State to—

''(ii) the average annual number of such crimes reported by all States for such years.

''(2) MINIMUM ALLOCATION.—If carrying out paragraph (1) would result in any State receiving an allocation less than 0.25 percent of the total amount (in this paragraph referred to as a ''minimum allocation State''), then paragraph (1), as so carried

DOJ_NMG_ 0147023

out, shall not apply, and the Attorney General shall instead—

''(A) allocate 0.25 percent of the total amount to each State; and

''(B) using the amount remaining after carrying out subparagraph (A), carry out paragraph (1) in a manner that excludes each minimum allocation State, including the population of and the crimes reported by such State.

''(b) ALLOCATION BETWEEN STATES AND UNITS OF LOCAL GOVERNMENT.—Of the amounts allocated under subsection (a)—

''(1) 60 percent shall be for direct grants to States, to be allocated under subsection (c); and

''(2) 40 percent shall be for grants to be allocated under subsection (d).

''(c) ALLOCATION FOR STATE GOVERNMENTS.—

''(1) IN GENERAL.—Of the amounts allocated under subsection (b)(1), each State may retain for the purposes described in section 501 an amount that bears the same ratio of—

''(A) total expenditures on criminal justice by the State government in the most recently completed fiscal year to—

''(B) the total expenditure on criminal justice by the State government and units of local government within the State in such year.

''(2) REMAINING AMOUNTS.—Except as provided in subsection (e)(1), any amounts remaining after the allocation required by paragraph (1) shall be made available to units of local government by the State for the purposes described in section 501.

''(d) ALLOCATIONS TO LOCAL GOVERNMENTS.—

''(1) IN GENERAL.—Of the amounts allocated under subsection (b)(2), grants for the purposes described in section 501 shall be made directly to units of local government within each State in accordance with this subsection, subject to subsection (e).

''(2) ALLOCATION.—

''(A) IN GENERAL.—From the amounts referred to in paragraph (1) with respect to a State (in this subsection referred to as the 'local amount'), the Attorney General shall allocate to each unit of local government an amount which bears the same ratio to such share as the average annual number of part 1 violent crimes reported by such unit to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data is avail-

DOJ_NMG_ 0147025

able bears to the number of part 1 violent crimes reported by all units of local government in the State in which the unit is located to the Federal Bureau of Investigation for such years.

"(B) TRANSITIONAL RULE.—Notwithstanding subparagraph (A), for fiscal years 2006, 2007, and 2008, the Attorney General shall allocate the local amount to units of local government in the same manner that, under the Local Government Law Enforcement Block Grants program in effect immediately before the date of the enactment of this section, the reserved amount was allocated among reporting and nonreporting units of local government.

"(3) ANNEXED UNITS.—If a unit of local government in the State has been annexed since the date of the collection of the data used by the Attorney General in making allocations pursuant to this section, the Attorney General shall pay the amount that would have been allocated to such unit of local government to the unit of local government that annexed it.

"(4) RESOLUTION OF DISPARATE ALLOCATIONS.—(A) Notwithstanding any other provision of this subpart, if—

DOJ_NMG_ 0147026

''(i) the Attorney General certifies that a unit of local government bears more than 50 percent of the costs of prosecution or incarceration that arise with respect to part 1 violent crimes reported by a specified geographically constituent unit of local government; and

''(ii) but for this paragraph, the amount of funds allocated under this section to—

''(I) any one such specified geographically constituent unit of local government exceeds 150 percent of the amount allocated to the unit of local government certified pursuant to clause (i); or

''(II) more than one such specified geographically constituent unit of local government exceeds 400 percent of the amount allocated to the unit of local government certified pursuant to clause (i),

then in order to qualify for payment under this subsection, the unit of local government certified pursuant to clause (i), together with any such specified geographically constituent units of local government described in clause (ii), shall submit to the Attorney General a joint application for the aggregate of funds allocated to such units of local government.

DOJ_NMG_ 0147027

Such application shall specify the amount of such funds that are to be distributed to each of the units of local government and the purposes for which such funds are to be used. The units of local government involved may establish a joint local advisory board for the purposes of carrying out this paragraph.

''(B) In this paragraph, the term 'geographically constituent unit of local government' means a unit of local government that has jurisdiction over areas located within the boundaries of an area over which a unit of local government certified pursuant to clause (i) has jurisdiction.

''(e) LIMITATION ON ALLOCATIONS TO UNITS OF LOCAL GOVERNMENT.—

''(1) MAXIMUM ALLOCATION.—No unit of local government shall receive a total allocation under this section that exceeds such unit's total expenditures on criminal justice services for the most recently completed fiscal year for which data are available. Any amount in excess of such total expenditures shall be allocated proportionally among units of local government whose allocations under this section do not exceed their total expenditures on such services.

''(2) ALLOCATIONS UNDER $10,000.—If the allocation under this section to a unit of local govern-

DOJ_NMG_ 0147028

ment is less than $10,000 for any fiscal year, the direct grant to the State under subsection (c) shall be increased by the amount of such allocation, to be distributed (for the purposes described in section 501) among State police departments that provide criminal justice services to units of local government and units of local government whose allocation under this section is less than $10,000.

''(3) NON-REPORTING UNITS.—No allocation under this section shall be made to a unit of local government that has not reported at least three years of data on part 1 violent crimes of the Uniform Crime Reports to the Federal Bureau of Investigation within the immediately preceding 10 years.

''(f) FUNDS NOT USED BY THE STATE.—If the Attorney General determines, on the basis of information available during any grant period, that any allocation (or portion thereof) under this section to a State for such grant period will not be required, or that a State will be unable to qualify or receive funds under this subpart, or that a State chooses not to participate in the program established under this subpart, then such State's allocation (or portion thereof) shall be awarded by the Attorney General to units of local government, or combinations thereof, within such State, giving priority to those jurisdictions

DOJ_NMG_ 0147029

with the highest annual number of part 1 violent crimes of the Uniform Crime Reports reported by the unit of local government to the Federal Bureau of Investigation for the three most recent calendar years for which such data are available.

''(g) SPECIAL RULES FOR PUERTO RICO.—

''(1) ALL FUNDS SET ASIDE FOR COMMONWEALTH GOVERNMENT.—Notwithstanding any other provision of this subpart, the amounts allocated under subsection (a) to Puerto Rico, 100 percent shall be for direct grants to the Commonwealth government of Puerto Rico.

''(2) NO LOCAL ALLOCATIONS.—Subsections (c) and (d) shall not apply to Puerto Rico.

''(h) UNITS OF LOCAL GOVERNMENT IN LOUISIANA.—In carrying out this section with respect to the State of Louisiana, the term 'unit of local government' means a district attorney or a parish sheriff.

''SEC. 506. RESERVED FUNDS.

''Of the total amount made available to carry out this subpart for a fiscal year, the Attorney General shall reserve not more than—

''(1) $20,000,000, for use by the National Institute of Justice in assisting units of local government to identify, select, develop, modernize, and pur-

DOJ_NMG_ 0147030

chase new technologies for use by law enforcement, of which $1,000,000 shall be for use by the Bureau of Justice Statistics to collect data necessary for carrying out this subpart; and

''(2) $20,000,000, to be granted by the Attorney General to States and units of local government to develop and implement antiterrorism training programs.

''SEC. 507. INTEREST-BEARING TRUST FUNDS.

''(a) TRUST FUND REQUIRED.—A State or unit of local government shall establish a trust fund in which to deposit amounts received under this subpart.

''(b) EXPENDITURES.—

''(1) IN GENERAL.—Each amount received under this subpart (including interest on such amount) shall be expended before the date on which the grant period expires.

''(2) REPAYMENT.—A State or unit of local government that fails to expend an entire amount (including interest on such amount) as required by paragraph (1) shall repay the unexpended portion to the Attorney General not later than 3 months after the date on which the grant period expires.

''(3) REDUCTION OF FUTURE AMOUNTS.—If a State or unit of local government fails to comply

with paragraphs (1) and (2), the Attorney General shall reduce amounts to be provided to that State or unit of local government accordingly.

''(c) REPAID AMOUNTS.—Amounts received as repayments under this section shall be subject to section 108 of this title as if such amounts had not been granted and repaid. Such amounts shall be deposited in the Treasury in a dedicated fund for use by the Attorney General to carry out this subpart. Such funds are hereby made available to carry out this subpart.

''SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this subpart $1,095,000,000 for fiscal year 2006 and such sums as may be necessary for each of fiscal years 2007 through 2009.''.

(b) REPEALS OF CERTAIN AUTHORITIES RELATING TO BYRNE GRANTS.—

(1) DISCRETIONARY GRANTS TO PUBLIC AND PRIVATE ENTITIES.—Chapter A of subpart 2 of Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760–3762) is repealed.

(2) TARGETED GRANTS TO CURB MOTOR VEHICLE THEFT.—Subtitle B of title I of the Anti Car

DOJ_NMG_ 0147032

Theft Act of 1992 (42 U.S.C. 3750a–3750d) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) CRIME IDENTIFICATION TECHNOLOGY ACT.—Subsection (c)(2)(G) of section 102 of the Crime Identification Technology Act of 1998 (42 U.S.C. 14601) is amended by striking ''such as'' and all that follows through ''the M.O.R.E. program'' and inserting ''such as the Edward Byrne Justice Assistance Grant Program and the M.O.R.E. program''.

(2) SAFE STREETS ACT.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) in section 517 (42 U.S.C. 3763), in subsection (a)(1), by striking ''pursuant to section 511 or 515'' and inserting ''pursuant to section 515'';

(B) in section 520 (42 U.S.C. 3766)—

(i) in subsection (a)(1), by striking ''the program evaluations as required by section 501(c) of this part'' and inserting ''program evaluations'';

(ii) in subsection (a)(2), by striking ''evaluations of programs funded under

DOJ_NMG_ 0147033

section 506 (formula grants) and sections 511 and 515 (discretionary grants) of this part'' and inserting ''evaluations of programs funded under section 505 (formula grants) and section 515 (discretionary grants) of this part''; and

(iii) in subsection (b)(2), by striking ''programs funded under section 506 (formula grants) and section 511 (discretionary grants)'' and inserting ''programs funded under section 505 (formula grants)'';

(C) in section 522 (42 U.S.C. 3766b)—

(i) in subsection (a), in the matter preceding paragraph (1), by striking ''section 506'' and inserting ''section 505''; and

(ii) in subsection (a)(1), by striking ''an assessment of the impact of such activities on meeting the needs identified in the State strategy submitted under section 503'' and inserting ''an assessment of the impact of such activities on meeting the purposes of subpart 1'';

(D) in section 801(b) (42 U.S.C. 3782(b)), in the matter following paragraph (5)—

DOJ_NMG_ 0147034

(i) by striking ''the purposes of section 501 of this title'' and inserting ''the purposes of such subpart 1''; and

(ii) by striking ''the application submitted pursuant to section 503 of this title'' and inserting ''the application submitted pursuant to section 502 of this title'';

(E) in section 808 (42 U.S.C. 3789), by striking ''the State office described in section 507 or 1408'' and inserting ''the State office responsible for the trust fund required by section 507, or the State office described in section 1408,'';

(F) in section 901 (42 U.S.C. 3791), in subsection (a)(2), by striking ''for the purposes of section 506(a)'' and inserting ''for the purposes of section 505(a)'';

(G) in section 1502 (42 U.S.C. 3796bb–1)—

(i) in paragraph (1), by striking ''section 506(a)'' and inserting ''section 505(a)'';

(ii) in paragraph (2)—

DOJ_NMG_ 0147035

(I) by striking ''section 503(a)'' and inserting ''section 502''; and

(II) by striking ''section 506'' and inserting ''section 505'';

(H) in section 1602 (42 U.S.C. 3796cc–1), in subsection (b), by striking ''The office designated under section 507 of title I'' and inserting ''The office responsible for the trust fund required by section 507'';

(I) in section 1702 (42 U.S.C. 3796dd–1), in subsection (c)(1), by striking ''and reflects consideration of the statewide strategy under section 503(a)(1)''; and

(J) in section 1902 (42 U.S.C. 3796ff–1), in subsection (e), by striking ''The Office designated under section 507'' and inserting ''The office responsible for the trust fund required by section 507''.

(d) APPLICABILITY.—The amendments made by this section shall apply with respect to the first fiscal year beginning after the date of the enactment of this Act and each fiscal year thereafter.

DOJ_NMG_ 0147036

SEC. 202. CLARIFICATION OF NUMBER OF RECIPIENTS WHO MAY BE SELECTED IN A GIVEN YEAR TO RECEIVE PUBLIC SAFETY OFFICER MEDAL OF VALOR.

Section 3(c) of the Public Safety Officer Medal of Valor Act of 2001 (42 U.S.C. 15202(c)) is amended by striking ''more than 5 recipients'' and inserting ''more than 5 individuals, or groups of individuals, as recipients''.

SEC. 203. CLARIFICATION OF OFFICIAL TO BE CONSULTED BY ATTORNEY GENERAL IN CONSIDERING APPLICATION FOR EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE.

Section 609M(b) of the Justice Assistance Act of 1984 (42 U.S.C. 10501(b)) is amended by striking ''the Director of the Office of Justice Assistance'' and inserting ''the Assistant Attorney General for the Office of Justice Programs''.

SEC. 204. CLARIFICATION OF USES FOR REGIONAL INFORMATION SHARING SYSTEM GRANTS.

Section 1301(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h(b)), as most recently amended by section 701 of the USA PATRIOT Act (Public Law 107–56; 115 Stat. 374), is amended—

(1) in paragraph (1), by inserting ''regional'' before ''information sharing systems'';

(2) by amending paragraph (3) to read as follows:

''(3) establishing and maintaining a secure telecommunications system for regional information sharing between Federal, State, and local law enforcement agencies;''; and

(3) by striking ''(5)'' at the end of paragraph (4).

SEC. 205. INTEGRITY AND ENHANCEMENT OF NATIONAL CRIMINAL RECORD DATABASES.

(a) DUTIES OF DIRECTOR.—Section 302 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732) is amended—

(1) in subsection (b), by inserting after the third sentence the following new sentence: ''The Director shall be responsible for the integrity of data and statistics and shall protect against improper or illegal use or disclosure.'';

(2) by amending paragraph (19) of subsection (c) to read as follows:

''(19) provide for improvements in the accuracy, quality, timeliness, immediate accessibility, and integration of State criminal history and related records, support the development and enhancement of national systems of criminal history and related

DOJ_NMG_ 0147038

records including the National Criminal History Background Check System, the National Incident-Based Reporting System, and the records of the National Crime Information Center, facilitate State participation in national records and information systems, and support statistical research for critical analysis of the improvement and utilization of criminal history records;''; and

(3) in subsection (d)—

(A) by striking ''and'' at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting ''; and''; and

(C) by adding at the end the following:

''(6) confer and cooperate with Federal statistical agencies as needed to carry out the purposes of this part, including by entering into cooperative data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data.''.

(b) USE OF DATA.—Section 304 of such Act (42 U.S.C. 3735) is amended by striking ''particular individual'' and inserting ''private person or public agency''.

(c) CONFIDENTIALITY OF INFORMATION.—Section 812(a) of such Act (42 U.S.C. 3789g(a)) is amended by

DOJ_NMG_ 0147039

striking ''Except as provided by Federal law other than this title, no'' and inserting ''No''.

SEC. 206. EXTENSION OF MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS.

Section 1001(a)(23) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(23)) is amended by striking ''2004'' and inserting ''2009''.

Subtitle B—Building Community Capacity to Prevent, Reduce, and Control Crime

SEC. 211. OFFICE OF WEED AND SEED STRATEGIES.

(a) IN GENERAL.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after section 102 (42 U.S.C. 3712) the following new sections:

''SEC. 103. OFFICE OF WEED AND SEED STRATEGIES.

''(a) ESTABLISHMENT.—There is established within the Office an Office of Weed and Seed Strategies, headed by a Director appointed by the Attorney General.

''(b) ASSISTANCE.—The Director may assist States, units of local government, and neighborhood and community-based organizations in developing Weed and Seed strategies, as provided in section 104.

DOJ_NMG_ 0147040

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $60,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007, 2008, and 2009, to remain available until expended.

"SEC. 104. WEED AND SEED STRATEGIES.

''(a) IN GENERAL.—From amounts made available under section 103(c), the Director of the Office of Weed and Seed Strategies may implement strategies, to be known as Weed and Seed strategies, to prevent, control, and reduce violent crime, criminal drug-related activity, and gang activity in designated Weed-and-Seed communities. Each such strategy shall involve both of the following activities:

''(1) WEEDING.—Activities, to be known as Weeding activities, which shall include promoting and coordinating a broad spectrum of community efforts (especially those of law enforcement agencies and prosecutors) to arrest, and to sanction or incarcerate, persons in that community who participate or engage in violent crime, criminal drug-related activity, and other crimes that threaten the quality of life in that community.

''(2) SEEDING.—Activities, to be known as Seeding activities, which shall include promoting and

DOJ_NMG_ 0147041

coordinating a broad spectrum of community efforts (such as drug abuse education, mentoring, and employment counseling) to provide—

''(A) human services, relating to prevention, intervention, or treatment, for at-risk individuals and families; and

''(B) community revitalization efforts, including enforcement of building codes and development of the economy.

''(b) GUIDELINES.—The Director shall issue guidelines for the development and implementation of Weed and Seed strategies under this section. The guidelines shall ensure that the Weed and Seed strategy for a community referred to in subsection (a) shall—

''(1) be planned and implemented through and under the auspices of a steering committee, properly established in the community, comprised of—

''(A) in a voting capacity, representatives of—

''(i) appropriate law enforcement agencies; and

''(ii) other public and private agencies, and neighborhood and community-based organizations, interested in criminal justice

DOJ_NMG_ 0147042

and community-based development and revitalization in the community; and

''(B) in a voting capacity, both—

''(i) the Drug Enforcement Administration's special agent in charge for the jurisdiction encompassing the community; and

''(ii) the United States Attorney for the District encompassing the community;

''(2) describe how law enforcement agencies, other public and private agencies, neighborhood and community-based organizations, and interested citizens are to cooperate in implementing the strategy; and

''(3) incorporate a community-policing component that shall serve as a bridge between the Weeding activities under subsection (a)(1) and the Seeding activities under subsection (a)(2).

''(c) DESIGNATION.—For a community to be designated as a Weed-and-Seed community for purposes of subsection (a)—

''(1) the United States Attorney for the District encompassing the community must certify to the Director that—

DOJ_NMG_ 0147043

''(A) the community suffers from consistently high levels of crime or otherwise is appropriate for such designation;

''(B) the Weed and Seed strategy proposed, adopted, or implemented by the steering committee has a high probability of improving the criminal justice system within the community and contains all the elements required by the Director; and

''(C) the steering committee is capable of implementing the strategy appropriately; and

''(2) the community must agree to formulate a timely and effective plan to independently sustain the strategy (or, at a minimum, a majority of the best practices of the strategy) when assistance under this section is no longer available.

''(d) APPLICATION.—An application for designation as a Weed-and-Seed community for purposes of subsection (a) shall be submitted to the Director by the steering committee of the community in such form, and containing such information and assurances, as the Director may require. The application shall propose—

''(1) a sustainable Weed and Seed strategy that includes—

DOJ_NMG_ 0147044

''(A) the active involvement of the United States Attorney for the District encompassing the community, the Drug Enforcement Administration's special agent in charge for the jurisdiction encompassing the community, and other Federal law enforcement agencies operating in the vicinity;

''(B) a significant community-oriented policing component; and

''(C) demonstrated coordination with complementary neighborhood and community-based programs and initiatives; and

''(2) a methodology with outcome measures and specific objective indicia of performance to be used to evaluate the effectiveness of the strategy.

''(e) GRANTS.—

''(1) IN GENERAL.—In implementing a strategy for a community under subsection (a), the Director may make grants to that community.

''(2) USES.—For each grant under this subsection, the community receiving that grant—

''(A) shall use not less than 40 percent of the grant amounts for Seeding activities under subsection (a)(2); and

DOJ_NMG_ 0147045

"(B) may not use any of the grant amounts for construction, except that the Assistant Attorney General may authorize use of grant amounts for incidental or minor construction, renovation, or remodeling.

"(3) LIMITATIONS.—A community may not receive grants under this subsection (or fall within such a community)—

"(A) for a period of more than 10 fiscal years;

"(B) for more than 5 separate fiscal years, except that the Assistant Attorney General may, in single increments and only upon a showing of extraordinary circumstances, authorize grants for not more than 3 additional separate fiscal years; or

"(C) in an aggregate amount of more than $1,000,000, except that the Assistant Attorney General may, upon a showing of extraordinary circumstances, authorize grants for not more than an additional $500,000.

"(4) DISTRIBUTION.—In making grants under this subsection, the Director shall ensure that—

"(A) to the extent practicable, the distribution of such grants is geographically equitable

DOJ_NMG_ 0147046

and includes both urban and rural areas of varying population and area; and

''(B) priority is given to communities that clearly and effectively coordinate crime prevention programs with other Federal programs in a manner that addresses the overall needs of such communities.

''(5) FEDERAL SHARE.—(A) Subject to subparagraph (B), the Federal share of a grant under this subsection may not exceed 75 percent of the total costs of the projects described in the application for which the grant was made.

''(B) The requirement of subparagraph (A)—

''(i) may be satisfied in cash or in kind; and

''(ii) may be waived by the Assistant Attorney General upon a determination that the financial circumstances affecting the applicant warrant a finding that such a waiver is equitable.

''(6) SUPPLEMENT, NOT SUPPLANT.—To receive a grant under this subsection, the applicant must provide assurances that the amounts received under the grant shall be used to supplement, not supplant, non-Federal funds that would otherwise be

DOJ_NMG_ 0147047

available for programs or services provided in the community.''.

(b) ABOLISHMENT OF EXECUTIVE OFFICE OF WEED AND SEED; TRANSFERS OF FUNCTIONS.—

(1) ABOLISHMENT.—The Executive Office of Weed and Seed is abolished.

(2) TRANSFER.—There are hereby transferred to the Office of Weed and Seed Strategies all functions and activities performed immediately before the date of the enactment of this Act by the Executive Office of Weed and Seed Strategies.

(c) EFFECTIVE DATE.—This section and the amendments made by this section take effect 90 days after the date of the enactment of this Act.

Subtitle C—Assisting Victims of Crime

SEC. 221. GRANTS TO LOCAL NONPROFIT ORGANIZATIONS TO IMPROVE OUTREACH SERVICES TO VICTIMS OF CRIME.

Section 1404(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)), as most recently amended by section 623 of the USA PATRIOT Act (Public Law 107–56; 115 Stat. 372), is amended—

(1) in paragraph (1)—

DOJ_NMG_ 0147048

(A) in the matter preceding subparagraph (A), by striking the comma after ''Director'';

(B) in subparagraph (A), by striking ''and'' at the end;

(C) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following new subparagraph:

''(C) for nonprofit neighborhood and community-based victim service organizations and coalitions to improve outreach and services to victims of crime.'';

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking ''paragraph (1)(A)'' and inserting ''paragraphs (1)(A) and (1)(C)'';

(ii) by striking ''and'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(C) not more than $10,000 shall be used for any single grant under paragraph (1)(C).''.

DOJ_NMG_ 0147049

SEC. 222. CLARIFICATION AND ENHANCEMENT OF CERTAIN AUTHORITIES RELATING TO CRIME VICTIMS FUND.

Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended as follows:

(1) AUTHORITY TO ACCEPT GIFTS.—Subsection (b)(5) of such section is amended by striking the period at the end and inserting the following: ", which the Director is hereby authorized to accept for deposit into the Fund, except that the Director is not hereby authorized to accept any such gift, bequest, or donation that—

"(A) attaches conditions inconsistent with applicable laws or regulations; or

"(B) is conditioned upon or would require the expenditure of appropriated funds that are not available to the Office for Victims of Crime.".

(2) AUTHORITY TO REPLENISH ANTITERRORISM EMERGENCY RESERVE.—Subsection (d)(5)(A) of such section is amended by striking "expended" and inserting "obligated".

(3) AUTHORITY TO MAKE GRANTS TO INDIAN TRIBES FOR VICTIM ASSISTANCE PROGRAMS.—Subsection (g) of such section is amended—

DOJ_NMG_ 0147050

(A) in paragraph (1), by striking '', acting through the Director,'';

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

''(2) The Attorney General may use 5 percent of the funds available under subsection (d)(2) (prior to distribution) for grants to Indian tribes to establish child victim assistance programs, as appropriate.''.

SEC. 223. AMOUNTS RECEIVED UNDER CRIME VICTIM GRANTS MAY BE USED BY STATE FOR TRAINING PURPOSES.

(a) CRIME VICTIM COMPENSATION.—Section 1403(a)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(3)) is amended by inserting after ''may be used for'' the following: ''training purposes and''.

(b) CRIME VICTIM ASSISTANCE.—Section 1404(b)(3) of such Act (42 U.S.C. 10603(b)(3)) is amended by inserting after ''may be used for'' the following: ''training purposes and''.

DOJ_NMG_ 0147051

SEC. 224. CLARIFICATION OF AUTHORITIES RELATING TO VIOLENCE AGAINST WOMEN FORMULA AND DISCRETIONARY GRANT PROGRAMS.

(a) CLARIFICATION OF SPECIFIC PURPOSES.—Section 2001(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) is amended in the matter preceding paragraph (1) by inserting after ''violent crimes against women'' the following: ''to develop and strengthen victim services in cases involving violent crimes against women''.

(b) CLARIFICATION OF STATE GRANTS.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1) is amended—

(1) in subsection (a), by striking ''to States'' and all that follows through ''tribal governments'';

(2) in subsection (c)(3)(A), by striking ''police'' and inserting ''law enforcement''; and

(3) in subsection (d)—

(A) in the second sentence, by inserting after ''each application'' the following: ''submitted by a State''; and

(B) in the third sentence, by striking ''An application'' and inserting ''In addition, each application submitted by a State or tribal government''.

(c) CHANGE FROM ANNUAL TO BIENNIAL REPORTING.—Section 2009(b) of such Act (42 U.S.C. 3796gg–3) is amended by striking ''Not later than'' and all that follows through ''the Attorney General shall submit'' and inserting the following: ''Not later than one month after the end of each even-numbered fiscal year, the Attorney General shall submit''.

SEC. 226. CHANGE OF CERTAIN REPORTS FROM ANNUAL TO BIENNIAL.

(a) STALKING AND DOMESTIC VIOLENCE.—Section 40610 of the Violence Against Women Act of 1994 (title IV of the Violent Crime Control and Law Enforcement Act of 1994; 42 U.S.C. 14039) is amended by striking ''The Attorney General shall submit to the Congress an annual report, beginning one year after the date of the enactment of this Act, that provides'' and inserting ''Each even-numbered fiscal year, the Attorney General shall submit to the Congress a biennial report that provides''.

(b) SAFE HAVENS FOR CHILDREN.—Section 1301(d)(1) of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 10420(d)(1)) is amended in the matter preceding subparagraph (A) by striking ''Not later than 1 year after the last day of the first fiscal year commencing on or after the date of the enactment of this Act, and not later than 180 days after the last

day of each fiscal year thereafter,'' and inserting ''Not later than one month after the end of each even-numbered fiscal year,''.

SEC. 227. CLARIFICATION OF RECIPIENTS AND PROGRAMS ELIGIBLE FOR GRANTS UNDER RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE PROGRAM.

Section 40295 of the Violence Against Women Act of 1994 (title IV of the Violent Crime Control and Law Enforcement Act of 1994; 42 U.S.C. 13971) is amended as follows:

(1) in subsection (a), in the matter preceding paragraph (1), by striking ''to States, Indian tribal governments, and local governments of rural States, and to other public or private entities of rural States'' and inserting ''to States, Indian tribal governments, local governments, and public or private entities, for programs serving rural areas or rural communities''; and

(2) in subsection (b)—

(A) by inserting ''(1) the term'' before '''Indian tribe' means'';

(B) by striking ''Indians.'' and all that follows through the period at the end and inserting ''Indians; and

''(2) the terms 'rural area' and 'rural community' have the meanings given those terms in section 491(k)(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408(k)(2)).''.

Subtitle D—Preventing Crime

SEC. 231. CLARIFICATION OF DEFINITION OF VIOLENT OFFENDER FOR PURPOSES OF JUVENILE DRUG COURTS.

Section 2953(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797u–2(b)) is amended in the matter preceding paragraph (1) by striking ''an offense that'' and inserting ''a felony-level offense that''.

SEC. 232. CHANGES TO DISTRIBUTION AND ALLOCATION OF GRANTS FOR DRUG COURTS.

(a) MINIMUM ALLOCATION REPEALED.—Section 2957 of such Act (42 U.S.C. 3797u–6) is amended by striking subsection (b).

(b) TECHNICAL ASSISTANCE AND TRAINING.—Such section is further amended by adding at the end the following new subsection:

''(b) TECHNICAL ASSISTANCE AND TRAINING.—Unless one or more applications submitted by any State or unit of local government within such State (other than an Indian tribe) for a grant under this part has been funded

DOJ_NMG_ 0147055

in any fiscal year, such State, together with eligible applicants within such State, shall be provided targeted technical assistance and training by the Community Capacity Development Office to assist such State and such eligible applicants to successfully compete for future funding under this part.''.

SEC. 233. ELIGIBILITY FOR GRANTS UNDER DRUG COURT GRANTS PROGRAM EXTENDED TO COURTS THAT SUPERVISE NON-OFFENDERS WITH SUBSTANCE ABUSE PROBLEMS.

Section 2951(a)(1) of such Act (42 U.S.C. 3797u(a)(1)) is amended by striking ' 'offenders with substance abuse problems'' and inserting ''offenders, and other individuals under the jurisdiction of the court, with substance abuse problems''.

SEC. 234. TERM OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAM FOR LOCAL FACILITIES.

Section 1904 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff–3) is amended by adding at the end the following new subsection:

''(d) DEFINITION.—In this section, the term 'jail-based substance abuse treatment program' means a course of individual and group activities, lasting for a period of not less than 3 months, in an area of a correctional facility

DOJ_NMG_ 0147056

set apart from the general population of the correctional facility, if those activities are—

''(1) directed at the substance abuse problems of the prisoners; and

''(2) intended to develop the cognitive, behavioral, and other skills of prisoners in order to address the substance abuse and related problems of prisoners.''.

Subtitle E—Other Matters

SEC. 241. CHANGES TO CERTAIN FINANCIAL AUTHORITIES.

(a) CERTAIN PROGRAMS THAT ARE EXEMPT FROM PAYING STATES INTEREST ON LATE DISBURSEMENTS ALSO EXEMPTED FROM PAYING CHARGE TO TREASURY FOR UNTIMELY DISBURSEMENTS.—Section 204(f) of such Act (116 Stat. 1776; 31 U.S.C. 6503 note) is amended—

(1) by striking ''section 6503(d)'' and inserting ''sections 3335(b) or 6503(d)''; and

(2) by striking ''section 6503'' and inserting ''sections 3335(b) or 6503''.

(b) SOUTHWEST BORDER PROSECUTOR INITIATIVE INCLUDED AMONG SUCH EXEMPTED PROGRAMS.—Section 204(f) of such Act is further amended by striking ''pursuant to section 501(a)'' and inserting ''pursuant to the Southwest Border Prosecutor Initiative (as carried out

pursuant to paragraph (3) (117 Stat. 64) under the heading relating to Community Oriented Policing Services of the Department of Justice Appropriations Act, 2003 (title I of division B of Public Law 108–7), or as carried out pursuant to any subsequent authority) or section 501(a)''.

(c) FUNDS AVAILABLE FOR ATFE MAY BE USED FOR AIRCRAFT, BOATS, AMMUNITION, FIREARMS, FIREARMS COMPETITIONS, AND ANY AUTHORIZED ACTIVITY.—Section 530C(b) of title 28, United States Code, is amended—

(1) in paragraph (2), in each of subparagraphs (A) and (B), by inserting ''for the Bureau of Alcohol, Tobacco, Firearms, and Explosives,'' before ''for the Drug Enforcement Administration,''; and

(2) by adding at the end the following new paragraph:

''(8) BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.—Funds available to the Attorney General for the Bureau of Alcohol, Tobacco, Firearms, and Explosives may be used for the conduct of all its authorized activities.''.

(d) AUDITS AND REPORTS ON ATFE UNDERCOVER INVESTIGATIVE OPERATIONS.—Section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993 (28 U.S.C. 533 note), as in effect pursuant to

DOJ_NMG_ 0147058

section 815(d) of the Antiterrorism and Effective Death Penalty Act of 1996 (28 U.S.C. 533 note) shall apply with respect to the Bureau of Alcohol, Tobacco, Firearms, and Explosives and the undercover investigative operations of the Bureau on the same basis as such section applies with respect to any other agency and the undercover investigative operations of such agency.

SEC. 242. COORDINATION DUTIES OF ASSISTANT ATTORNEY GENERAL.

(a) COORDINATE AND SUPPORT OFFICE FOR VICTIMS OF CRIME.—Section 102 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended in subsection (a)(5) by inserting after ''the Bureau of Justice Statistics,'' the following: ''the Office for Victims of Crime,''.

(b) SETTING GRANT CONDITIONS AND PRIORITIES.—Such section is further amended in subsection (a)(6) by inserting '', including placing special conditions on all grants, and determining priority purposes for formula grants'' before the period at the end.

SEC. 243. SIMPLIFICATION OF COMPLIANCE DEADLINES UNDER SEX-OFFENDER REGISTRATION LAWS.

(a) COMPLIANCE PERIOD.—A State shall not be treated, for purposes of any provision of law, as having failed to comply with section 170101 (42 U.S.C. 14071)

DOJ_NMG_ 0147059

or 170102 (42 U.S.C. 14072) of the Violent Crime Control and Law Enforcement Act of 1994 until 36 months after the date of the enactment of this Act, except that the Attorney General may grant an additional 24 months to a State that is making good faith efforts to comply with such sections.

(b) TIME FOR REGISTRATION OF CURRENT ADDRESS.—Subsection (a)(1)(B) of such section 170101 is amended by striking ''unless such requirement is terminated under'' and inserting ''for the time period specified in''.

SEC. 244. REPEAL OF CERTAIN PROGRAMS.

(a) SAFE STREETS ACT PROGRAMS.—The following provisions of title I of the Omnibus Crime Control and Safe Streets Act of 1968 are repealed:

(1) CRIMINAL JUSTICE FACILITY CONSTRUCTION PILOT PROGRAM.—Part F (42 U.S.C. 3769–3769d).

(2) MATCHING GRANT PROGRAM FOR SCHOOL SECURITY.—Part AA (42 U.S.C. 3797a–3797e).

(b) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT PROGRAMS.—The following provisions of the Violent Crime Control and Law Enforcement Act of 1994 are repealed:

(1) LOCAL CRIME PREVENTION BLOCK GRANT PROGRAM.—Subtitle B of title III (42 U.S.C. 13751–13758).

(2) ASSISTANCE FOR DELINQUENT AND AT-RISK YOUTH.—Subtitle G of title III (42 U.S.C. 13801–13802).

(3) IMPROVED TRAINING AND TECHNICAL AUTOMATION.—Subtitle E of title XXI (42 U.S.C. 14151).

(4) OTHER STATE AND LOCAL AID.—Subtitle F of title XXI (42 U.S.C. 14161).

SEC. 245. ELIMINATION OF CERTAIN NOTICE AND HEARING REQUIREMENTS.

Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended as follows:

(1) NOTICE AND HEARING ON DENIAL OR TERMINATION OF GRANT.—Section 802 (42 U.S.C. 3783) of such part is amended—

(A) by striking subsections (b) and (c); and

(B) by striking ''(a)'' before ''Whenever,''.

(2) FINALITY OF DETERMINATIONS.—Section 803 (42 U.S.C. 3784) of such part is amended—

(A) by striking '', after reasonable notice and opportunity for a hearing,''; and

(B) by striking ", except as otherwise provided herein".

(3) REPEAL OF APPELLATE COURT REVIEW.—Section 804 (42 U.S.C. 3785) of such part is repealed.

SEC. 246. AMENDED DEFINITIONS FOR PURPOSES OF OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

Section 901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended as follows:

(1) INDIAN TRIBE.—Subsection (a)(3)(C) of such section is amended by striking "(as that term is defined in section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603))".

(2) COMBINATION.—Subsection (a)(5) of such section is amended by striking "program or project" and inserting "program, plan, or project".

(3) NEIGHBORHOOD OR COMMUNITY-BASED ORGANIZATIONS.—Subsection (a)(11) of such section is amended by striking "which" and inserting ", including faith-based, that".

(4) INDIAN TRIBE; PRIVATE PERSON.—Subsection (a) of such section is further amended—

DOJ_NMG_ 0147062

(A) in paragraph (24) by striking ''and'' at the end;

(B) in paragraph (25) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

''(26) the term 'Indian Tribe' has the meaning given the term 'Indian tribe' in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)); and

''(27) the term 'private person' means any individual (including an individual acting in his official capacity) and any private partnership, corporation, association, organization, or entity (or any combination thereof).''.

SEC. 247. CLARIFICATION OF AUTHORITY TO PAY SUBSISTENCE PAYMENTS TO PRISONERS FOR HEALTH CARE ITEMS AND SERVICES.

Section 4006 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting after ''The Attorney General'' the following: ''or the Secretary of Homeland Security, as applicable,''; and

(2) in subsection (b)(1)—

(A) by striking ''the Immigration and Naturalization Service'' and inserting ''the Department of Homeland Security'';

(B) by striking ''shall not exceed the lesser of the amount'' and inserting ''shall be the amount billed, not to exceed the amount'';

(C) by striking ''items and services'' and all that follows through ''the Medicare program'' and inserting ''items and services under the Medicare program''; and

(D) by striking ''; or'' and all that follows through the period at the end and inserting a period.

SEC. 248. OFFICE OF AUDIT, ASSESSMENT, AND MANAGEMENT.

(a) IN GENERAL.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after section 104, as added by section 211 of this Act, the following new section:

''SEC. 105. OFFICE OF AUDIT, ASSESSMENT, AND MANAGEMENT.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established within the Office an Office of Audit, Assessment, and Management, headed by a Director appointed by the At-

DOJ_NMG_ 0147064

torney General. In carrying out the functions of the Office, the Director shall be subject to the authority, direction, and control of the Attorney General. Such authority, direction, and control may be delegated only to the Assistant Attorney General, without redelegation.

''(2) PURPOSE.—The purpose of the Office shall be to carry out and coordinate performance audits of, take actions to ensure compliance with the terms of, and manage information with respect to, grants under programs covered by subsection (b). The Director shall take special conditions of the grant into account and consult with the office that issued those conditions to ensure appropriate compliance.

''(3) EXCLUSIVITY.—The Office shall be the exclusive element of the Department of Justice, other than the Inspector General, performing functions and activities for the purpose specified in paragraph (2). There are hereby transferred to the Office all functions and activities, other than functions and activities of the Inspector General, for such purpose performed immediately before the date of the enactment of this Act by any other element of the Department.

DOJ_NMG_ 0147065

''(b) COVERED PROGRAMS.—The programs referred to in subsection (a) are the following:

''(1) The program under part Q of this title.

''(2) Any grant program carried out by the Office of Justice Programs.

''(3) Any other grant program carried out by the Department of Justice that the Attorney General considers appropriate.

''(c) PERFORMANCE AUDITS REQUIRED.—

''(1) IN GENERAL.—The Director shall select grants awarded under the programs covered by subsection (b) and carry out performance audits on such grants. In selecting such grants, the Director shall ensure that the aggregate amount awarded under the grants so selected represent not less than 10 percent of the aggregate amount of money awarded under all such grant programs.

''(2) RELATIONSHIP TO NIJ EVALUATIONS.—This subsection does not affect the authority or duty of the Director of the National Institute of Justice to carry out overall evaluations of programs covered by subsection (b), except that such Director shall consult with the Director of the Office in carrying out such evaluations.

"(3) TIMING OF PERFORMANCE AUDITS.—The performance audit required by paragraph (1) of a grant selected under paragraph (1) shall be carried out—

"(A) not later than the end of the grant period, if the grant period is not more than 1 year; and

"(B) at the end of each year of the grant period, if the grant period is more than 1 year.

"(d) COMPLIANCE ACTIONS REQUIRED.—The Director shall take such actions to ensure compliance with the terms of a grant as the Director considers appropriate with respect to each grant that the Director determines (in consultation with the head of the element of the Department of Justice concerned), through a performance audit under subsection (a) or other means, is not in compliance with such terms. In the case of a misuse of more than 1 percent of the grant amount concerned, the Director shall, in addition to any other action to ensure compliance that the Director considers appropriate, ensure that the entity responsible for such misuse ceases to receive any funds under any program covered by subsection (b) until such entity repays to the Attorney General an amount equal to the amounts misused. The Director may, in un-

DOJ_NMG_ 0147067

usual circumstances, grant relief from this requirement to ensure that an innocent party is not punished.

''(e) GRANT MANAGEMENT SYSTEM.—The Director shall establish and maintain, in consultation with the chief information officer of the Office, a modern, automated system for managing all information relating to the grants made under the programs covered by subsection (b).

''(f) AVAILABILITY OF FUNDS.—Not to exceed 5 percent of all funding made available for a fiscal year for the programs covered by subsection (b) shall be reserved for the activities of the Office of Audit, Assessment, and Management as authorized by this section.''.

(b) EFFECTIVE DATE.—This section and the amendment made by this section take effect 90 days after the date of the enactment of this Act.

SEC. 249. COMMUNITY CAPACITY DEVELOPMENT OFFICE.

(a) IN GENERAL.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after section 105, as added by section 248 of this Act, the following new section:

''SEC. 106. COMMUNITY CAPACITY DEVELOPMENT OFFICE.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established within the Office a Community Capacity Development Office, headed by a Director appointed by the Attorney

DOJ_NMG_ 0147068

General. In carrying out the functions of the Office, the Director shall be subject to the authority, direction, and control of the Attorney General. Such authority, direction, and control may be delegated only to the Assistant Attorney General, without redelegation.

''(2) PURPOSE.—The purpose of the Office shall be to provide training to actual and prospective participants under programs covered by section 105(b) to assist such participants in understanding the substantive and procedural requirements for participating in such programs.

''(3) EXCLUSIVITY.—The Office shall be the exclusive element of the Department of Justice performing functions and activities for the purpose specified in paragraph (2). There are hereby transferred to the Office all functions and activities for such purpose performed immediately before the date of the enactment of this Act by any other element of the Department. This does not preclude a grant-making office from providing specialized training and technical assistance in its area of expertise.

''(b) MEANS.—The Director shall, in coordination with the heads of the other elements of the Department,

DOJ_NMG_ 0147069

carry out the purpose of the Office through the following means:

''(1) Promoting coordination of public and private efforts and resources within or available to States, units of local government, and neighborhood and community-based organizations.

''(2) Providing information, training, and technical assistance.

''(3) Providing support for inter- and intra-agency task forces and other agreements and for assessment of the effectiveness of programs, projects, approaches, or practices.

''(4) Providing in the assessment of the effectiveness of neighborhood and community-based law enforcement and crime prevention strategies and techniques, in coordination with the National Institute of Justice.

''(5) Any other similar means.

''(c) LOCATIONS.—Training referred to in subsection (a) shall be provided on a regional basis to groups of such participants. In a case in which remedial training is appropriate, as recommended by the Director or the head of any element of the Department, such training may be provided on a local basis to a single such participant.

''(d) BEST PRACTICES.—The Director shall—

DOJ_NMG_ 0147070

''(1) identify grants under which clearly beneficial outcomes were obtained, and the characteristics of those grants that were responsible for obtaining those outcomes; and

''(2) incorporate those characteristics into the training provided under this section.

''(e) AVAILABILITY OF FUNDS.—Not to exceed 5 percent of all funding made available for a fiscal year for the programs covered by section 105(b) shall be reserved for the activities of the Community Capacity Development Office as authorized by this section.''.

(b) EFFECTIVE DATE.—This section and the amendment made by this section take effect 90 days after the date of the enactment of this Act.

SEC. 250. OFFICE OF APPLIED LAW ENFORCEMENT TECHNOLOGY.

(a) IN GENERAL.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after section 106, as added by section 249 of this Act, the following new section:

''SEC. 107. OFFICE OF APPLIED LAW ENFORCEMENT TECHNOLOGY.

''(a) ESTABLISHMENT.—There is established within the Office an Office of Applied Law Enforcement Technology, headed by a Director appointed by the Attorney

DOJ_NMG_ 0147071

General. The purpose of the Office shall be to provide leadership and focus to those grants of the Department of Justice that are made for the purpose of using or improving law enforcement computer systems.

''(b) DUTIES.—In carrying out the purpose of the Office, the Director shall—

''(1) establish clear minimum standards for computer systems that can be purchased using amounts awarded under such grants; and

''(2) ensure that recipients of such grants use such systems to participate in crime reporting programs administered by the Department.''.

(b) EFFECTIVE DATE.—This section and the amendment made by this section take effect 90 days after the date of the enactment of this Act.

SEC. 251. AVAILABILITY OF FUNDS FOR GRANTS.

(a) IN GENERAL.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after section 107, as added by section 250 of this Act, the following new section:

''SEC. 108. AVAILABILITY OF FUNDS.

''(a) PERIOD FOR AWARDING GRANT FUNDS.—

''(1) IN GENERAL.—Unless otherwise specifically provided in an authorization, DOJ grant funds for a fiscal year shall remain available to be awarded

DOJ_NMG_ 0147072

and distributed to a grantee only in that fiscal year and the three succeeding fiscal years, subject to paragraphs (2) and (3). DOJ grant funds not so awarded and distributed shall revert to the Treasury.

''(2) TREATMENT OF REPROGRAMMED FUNDS.—DOJ grant funds for a fiscal year that are reprogrammed in a later fiscal year shall be treated for purposes of paragraph (1) as DOJ grant funds for such later fiscal year.

''(3) TREATMENT OF DEOBLIGATED FUNDS.—If DOJ grant funds were obligated and then deobligated, the period of availability that applies to those grant funds under paragraph (1) shall be extended by a number of days equal to the number of days from the date on which those grant funds were obligated to the date on which those grant funds were deobligated.

''(b) PERIOD FOR EXPENDING GRANT FUNDS.—DOJ grant funds for a fiscal year that have been awarded and distributed to a grantee may be expended by that grantee only in the period permitted under the terms of the grant. DOJ grant funds not so expended shall revert to the Treasury.

''(c) DEFINITION.—In this section, the term 'DOJ grant funds' means, for a fiscal year, amounts appropriated for activities of the Department of Justice in carrying out grant programs for that fiscal year.

''(d) APPLICABILITY.—This section applies to DOJ grant funds for fiscal years beginning with fiscal year 2004.''.

(b) EFFECTIVE DATE.—This section and the amendment made by this section take effect 90 days after the date of the enactment of this Act.

SEC. 252. CONSOLIDATION OF FINANCIAL MANAGEMENT SYSTEMS OF OFFICE OF JUSTICE PROGRAMS.

(a) CONSOLIDATION OF ACCOUNTING ACTIVITIES AND PROCUREMENT ACTIVITIES.—The Assistant Attorney General of the Office of Justice Programs shall ensure that—

(1) all accounting activities for all elements of the Office of Justice Programs are carried out under the direct management of the Office of the Comptroller; and

(2) all procurement activities for all elements of the Office are carried out under the direct management of the Office of Administration.

DOJ_NMG_ 0147074

(b) FURTHER CONSOLIDATION OF PROCUREMENT ACTIVITIES.—The Assistant Attorney General shall ensure that, on and after September 30, 2008—

(1) all procurement activities for all elements of the Office are carried out through a single management office; and

(2) all contracts and purchase orders used in carrying out those activities are processed through a single procurement system.

(c) CONSOLIDATION OF FINANCIAL MANAGEMENT SYSTEMS.—The Assistant Attorney General shall ensure that, on and after September 30, 2010, all financial management activities (including human resources, payroll, and accounting activities, as well as procurement activities) of all elements of the Office are carried out through a single financial management system.

(d) ACHIEVING COMPLIANCE.—

(1) SCHEDULE.—The Assistant Attorney General shall undertake a scheduled consolidation of operations to achieve compliance with the requirements of this section.

(2) SPECIFIC REQUIREMENTS.—With respect to achieving compliance with the requirements of—

(A) subsection (a), the consolidation of operations shall be initiated not later than 90

days after the date of the enactment of this Act; and

(B) subsections (b) and (c), the consolidation of operations shall be initiated not later than September 30, 2005, and shall be carried out by the Office of Administration, in consultation with the Chief Information Officer and the Office of Audit, Assessment, and Management.

SEC. 253. AUTHORIZATION AND CHANGE OF COPS PROGRAM TO SINGLE GRANT PROGRAM.

(a) IN GENERAL.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended—

(1) by amending subsection (a) to read as follows:

''(a) GRANT AUTHORIZATION.—The Attorney General shall carry out a single grant program under which the Attorney General makes grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia for the purposes described in subsection (b).'';

(2) by striking subsections (b) and (c);

(3) by redesignating subsection (d) as subsection (b), and in that subsection—

DOJ_NMG_ 0147076

(A) by striking ''ADDITIONAL GRANT PROJECTS.—Grants made under subsection (a) may include programs, projects, and other activities to—'' and inserting ''USES OF GRANT AMOUNTS.—The purposes for which grants made under subsection (a) may be made are—'';

(B) by redesignating paragraphs (1) through (12) as paragraphs (6) through (17), respectively;

(C) by inserting before paragraph (6) (as so redesignated) the following new paragraphs:

''(1) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community-oriented policing;

''(2) hire and train new, additional career law enforcement officers for deployment in community-oriented policing across the Nation;

''(3) procure equipment, technology, or support systems, or pay overtime, to increase the number of officers deployed in community-oriented policing;

''(4) improve security at schools and on school grounds in the jurisdiction of the grantee through—

DOJ_NMG_ 0147077

''(A) placement and use of metal detectors, locks, lighting, and other deterrent measures;

''(B) security assessments;

''(C) security training of personnel and students;

''(D) coordination with local law enforcement; and

''(E) any other measure that, in the determination of the Attorney General, may provide a significant improvement in security;

''(5) award grants to pay for offices hired to perform intelligence, anti-terror, or homeland security duties;''; and

(D) by amending paragraph (9) (as so redesignated) to read as follows:

''(9) develop new technologies, including interoperable communications technologies, modernized criminal record technology, and forensic technology, to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime and to train law enforcement officers to use such technologies;'';

(4) by redesignating subsections (e) through (k) as subsections (c) through (i), respectively;

DOJ_NMG_ 0147078

(5) in subsection (c) (as so redesignated) by striking ''subsection (i)'' and inserting ''subsection (g)''; and

(6) by adding at the end the following new subsection:

''(j) MATCHING FUNDS FOR SCHOOL SECURITY GRANTS.—Notwithstanding subsection (i), in the case of a grant under subsection (a) for the purposes described in subsection (b)(4)—

''(1) the portion of the costs of a program provided by that grant may not exceed 50 percent;

''(2) any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection; and

''(3) the Attorney General may provide, in the guidelines implementing this section, for the requirement of paragraph (1) to be waived or altered in the case of a recipient with a financial need for such a waiver or alteration.''.

(b) CONFORMING AMENDMENT.—Section 1702 of title I of such Act (42 U.S.C. 3796dd–1) is amended in

DOJ_NMG_ 0147079

subsection (d)(2) by striking ''section 1701(d)'' and inserting ''section 1701(b)''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of such Act (42 U.S.C. 3793(a)(11)) is amended—

(1) in subparagraph (A) by striking clause (i) and all that follows through the period at the end and inserting the following:

''(i) $1,047,119,000 for each of fiscal years 2006 through 2009.''; and

(2) in subparagraph (B)—

(A) by striking ''section 1701(f)'' and inserting ''section 1701(d)''; and

(B) by striking the third sentence.

SEC. 254. CLARIFICATION OF PERSONS ELIGIBLE FOR BENEFITS UNDER PUBLIC SAFETY OFFICERS' DEATH BENEFITS PROGRAMS.

(a) PERSONS ELIGIBLE FOR DEATH BENEFITS.—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b), as most recently amended by section 2(a) of the Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act of 2002 (Public Law 107–196; 116 Stat. 719), is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively;

DOJ_NMG_ 0147080

(2) by inserting after paragraph (6) the following new paragraph:

''(7) 'member of a rescue squad or ambulance crew' means an officially recognized or designated public employee member of a rescue squad or ambulance crew;''; and

(3) in paragraph (4) by striking ''and'' and all that follows through the end and inserting a semicolon.

(b) CLARIFICATION OF LIMITATION ON PAYMENTS IN NON-CIVILIAN CASES.—Section 1202(5) of such Act (42 U.S.C. 3796a(5)) is amended by inserting ''with respect'' before ''to any individual''.

(c) WAIVER OF COLLECTION IN CERTAIN CASES.—Section 1201 of such Act (42 U.S.C. 3796) is amended by adding at the end the following:

''(k) In any case in which the Bureau paid, before the date of the enactment of Public Law 107–196, any benefit under this part to an individual who—

''(1) before the enactment of that law was entitled to receive that benefit; and

''(2) by reason of the retroactive effective date of that law is no longer entitled to receive that benefit,

DOJ_NMG_ 0147081

''the Bureau may suspend or end activities to collect that benefit if the Bureau determines that collecting that benefit is impractical or would cause undue hardship to that individual.''.

(d) DESIGNATION OF BENEFICIARY.—Section 1201(a)(4) of such Act (42 U.S.C. 3796(a)(4)) is amended to read as follows:

''(4) if there is no surviving spouse or surviving child—

''(A) in the case of a claim made on or after the date that is 90 days after the date of the enactment of this subparagraph, to the individual designated by such officer as beneficiary under this section in such officer's most recently executed designation of beneficiary on file at the time of death with such officer's public safety agency, organization, or unit, provided that such individual survived such officer; or

''(B) if there is no individual qualifying under subparagraph (A), to the individual designated by such officer as beneficiary under such officer's most recently executed life insurance policy, provided that such individual survived such officer; or''.

SEC. 255. PRE-RELEASE AND POST-RELEASE PROGRAMS FOR JUVENILE OFFENDERS.

Section 1801(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee(b)) is amended—

(1) in paragraph (15) by striking ''or'' at the end;

(2) in paragraph (16) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(17) establishing, improving, and coordinating pre-release and post-release systems and programs to facilitate the successful reentry of juvenile offenders from State or local custody in the community.''.

SEC. 256. REAUTHORIZATION OF JUVENILE ACCOUNTABILITY BLOCK GRANTS.

Section 1810(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–10(a)) is amended by striking ''2002 through 2005'' and inserting ''2006 through 2009''.

SEC. 257. SEX OFFENDER MANAGEMENT.

Section 40152 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13941) is amended by striking subsection (c) and inserting the following:

DOJ_NMG_ 0147083

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2010.''.

SEC. 258. EVIDENCE-BASED APPROACHES.

Section 1802 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in subsection (a)(1)(B) by inserting '', including the extent to which evidence-based approaches are utilized'' after ''part''; and

(2) in subsection (b)(1)(A)(ii) by inserting '', including the extent to which evidence-based approaches are utilized'' after ''part''.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. TECHNICAL AMENDMENTS RELATING TO PUBLIC LAW 107–56.

(a) STRIKING SURPLUS WORDS.—

(1) Section 2703(c)(1) of title 18, United States Code, is amended by striking ''or'' at the end of subparagraph (C).

(2) Section 1960(b)(1)(C) of title 18, United States Code, is amended by striking ''to be used to be used'' and inserting ''to be used''.

(b) PUNCTUATION AND GRAMMAR CORRECTIONS.—Section 2516(1)(q) of title 18, United States Code, is amended—

(1) by striking the semicolon after the first close parenthesis; and

(2) by striking ''sections'' and inserting ''section''.

(c) CROSS REFERENCE CORRECTION.—Section 322 of Public Law 107–56 is amended, effective on the date of the enactment of that section, by striking ''title 18'' and inserting ''title 28''.

(d) CAPITALIZATION CORRECTION.—Subsections (a) and (b) of section 2703 of title 18, United States Code, are each amended by striking ''CONTENTS OF WIRE OR ELECTRONIC'' and inserting ''CONTENTS OF WIRE OR ELECTRONIC''.

SEC. 302. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a) PUNCTUATION CORRECTIONS.—The heading for section 1591 of title 18, United States Code, is amended by inserting a comma after ''**fraud**''.

(b) DUPLICATE SECTION NUMBERS.—The second section 540C in chapter 33 of title 28, United States Code, is redesignated as section 540D, and the item relating to that section in the table of sections at the beginning of

DOJ_NMG_ 0147085

that chapter is redesignated accordingly and transferred so as to be placed after the item relating to section 540C.

(c) TABLE OF SECTIONS OMISSION.—The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3050 the following new item:

"3051. Powers of Special Agents of Bureau of Alcohol, Tobacco, Firearms, and Explosives.".

(d) REPEAL OF DUPLICATIVE PROGRAM.—Section 316 of Part A of the Runaway and Homeless Youth Act (42 U.S.C. 5712d), as added by section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1922), is repealed.

SEC. 303. MINOR SUBSTANTIVE AMENDMENT RELATING TO CONTENTS OF FBI ANNUAL REPORT.

Section 540D(b)(1)(A) of title 28, United States Code, as redesignated by section 302(b), is further amended by inserting "and the number of such personnel who receive danger pay under section 151 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (5 U.S.C. 5928 note)" after "year".

SEC. 304. USE OF FEDERAL TRAINING FACILITIES.

(a) FEDERAL TRAINING FACILITIES.—Unless specifically authorized in writing by the Attorney General, the Department of Justice (and each entity within it) shall use for any predominately internal training or conference

DOJ_NMG_ 0147086

meeting only a facility that does not require a payment to a private entity for use of the facility.

(b) ANNUAL REPORT.—The Attorney General shall prepare an annual report to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives that details each training and conference meeting that requires specific authorization under subsection (a). The report shall include an explanation of why the facility was chosen, and a breakdown of any expenditures incurred in excess of the cost of conducting the training or meeting at a facility that did not require such authorization.

SEC. 305. PRIVACY OFFICER.

(a) IN GENERAL.—The Attorney General shall designate a senior official in the Department of Justice to assume primary responsibility for privacy policy.

(b) RESPONSIBILITIES.—The responsibilities of such official shall include—

(1) assuring that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personally identifiable information;

(2) assuring that personally identifiable information contained in systems of records is handled in

DOJ_NMG_ 0147087

full compliance with fair information practices as set out in section 552a of title 5, United States Code;

(3) evaluating legislative and regulatory proposals involving collection, use, and disclosure of personally identifiable information by the Federal Government;

(4) conducting a privacy impact assessment of proposed rules of the Department on the privacy of personally identifiable information, including the type of personally identifiable information collected and the number of people affected;

(5) preparing a report to Congress on an annual basis on activities of the Department that affect privacy, including complaints of privacy violations, implementation of section 552a of title 5, United States Code, internal controls, and other relevant matters;

(6) ensuring that the Department protects personally identifiable information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

(A) integrity, which means guarding against improper information modification or

DOJ_NMG_ 0147088

destruction, and includes ensuring information nonrepudiation and authenticity;

(B) confidentially, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information;

(C) availability, which means ensuring timely and reliable access to and use of that information; and

(D) authentication, which means utilizing digital credentials to assure the identity of users and validate their access; and

(7) advising the Attorney General and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems.

(c) REVIEW.—The Department of Justice shall review its policies to assure that the Department treats personally identifiable information in its databases in a manner that complies with applicable Federal law on privacy.

SEC. 306. BANKRUPTCY CRIMES.

The Director of the Executive Office for United States Trustees shall prepare an annual report to the Congress detailing—

DOJ_NMG_ 0147089

(1) the number and types of criminal referrals made by the United States Trustee Program;

(2) the outcomes of each criminal referral;

(3) for any year in which the number of criminal referrals is less than for the prior year, an explanation of the decrease; and

(4) the United States Trustee Program's efforts to prevent bankruptcy fraud and abuse, particularly with respect to the establishment of uniform internal controls to detect common, higher risk frauds, such as a debtor's failure to disclose all assets.

SEC. 307. REPORT TO CONGRESS ON STATUS OF UNITED STATES PERSONS OR RESIDENTS DETAINED ON SUSPICION OF TERRORISM.

Not less often than once every 12 months, the Attorney General shall submit to Congress a report on the status of United States persons or residents detained, as of the date of the report, on suspicion of terrorism. The report shall—

(1) specify the number of persons or residents so detained; and

(2) specify the standards developed by the Department of Justice for recommending or determining that a person should be tried as a criminal

DOJ_NMG_ 0147090

defendant or should be designated as an enemy combatant.

SEC. 308. TECHNICAL CORRECTION RELATING TO DEFINITION USED IN "TERRORISM TRANSCENDING NATIONAL BOUNDARIES" STATUTE.

Section 1958 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''facility in'' and inserting ''facility of''; and

(2) in subsection (b)(2), by inserting ''or foreign'' after ''interstate''.

SEC. 309. INCREASED PENALTIES AND EXPANDED JURISDICTION FOR SEXUAL ABUSE OFFENSES IN CORRECTIONAL FACILITIES.

(a) EXPANDED JURISDICTION.—The following provisions of title 18, United States Code, are each amended by inserting ''or in the custody of the Attorney General or the Bureau of Prisons or any institution or facility in which the person is confined by direction of the Attorney General,'' after ''in a Federal prison,'':

(1) Subsections (a) and (b) of section 2241.

(2) The first sentence of subsection (c) of section 2241.

(3) Section 2242.

(4) Subsections (a) and (b) of section 2243.

DOJ_NMG_ 0147091

(5) Subsections (a) and (b) of section 2244.

(b) INCREASED PENALTIES.—

(1) SEXUAL ABUSE OF A WARD.—Section 2243(b) of such title is amended by striking ''one year'' and inserting ''five years''.

(2) ABUSIVE SEXUAL CONTACT.—Section 2244 of such title is amended by striking ''six months'' and inserting ''two years'' in each of subsections (a)(4) and (b).

SEC. 310. EXPANDED JURISDICTION FOR CONTRABAND OFFENSES IN CORRECTIONAL FACILITIES.

Section 1791(a) of title 18, United States Code, is amended in each of paragraphs (1) and (2) by inserting ''or an individual in the custody of the Attorney General or the Bureau of Prisons or any institution or facility in which the person is confined by direction of the Attorney General'' after ''an inmate of a prison''.

SEC. 311. MAGISTRATE JUDGE'S AUTHORITY TO CONTINUE PRELIMINARY HEARING.

The second sentence of section 3060(c) of title 18, United States Code, is amended to read as follows: ''In the absence of such consent of the accused, the judge or magistrate judge may extend the time limits only on a showing that extraordinary circumstances exist and justice requires the delay.''.

DOJ_NMG_ 0147092

SEC. 312. TECHNICAL CORRECTIONS RELATING TO STEROIDS.

Section 102(41)(A) of the Controlled Substances Act (21 U.S.C. 802(41)(A)), as amended by the Anabolic Steroid Control Act of 2004 (Public law 108–358), is amended by—

(1) striking clause (xvii) and inserting the following:

''(xvii) 13β-ethyl-17β-hydroxygon-4-en-3-one;''; and

(2) striking clause (xliv) and inserting the following:

''(xliv) stanozolol (17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole);''.

SEC. 313. PRISON RAPE COMMISSION EXTENSION.

Section 7 of the Prison Rape Elimination Act of 2003 (42 U.S.C. 15606) is amended in subsection (d)(3)(A) by striking ''2 years'' and inserting ''3 years''.

SEC. 314. LONGER STATUTE OF LIMITATION FOR HUMAN TRAFFICKING-RELATED OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 3298. Trafficking-related offenses

''No person shall be prosecuted, tried, or punished for any non-capital offense or conspiracy to commit a non-

DOJ_NMG_ 0147093

capital offense under section 1581 (Peonage; Obstructing Enforcement), 1583 (Enticement into Slavery), 1584 (Sale into Involuntary Servitude), 1589 (Forced Labor), 1590 (Trafficking with Respect to Peonage, Slavery, Involuntary Servitude, or Forced Labor), or 1592 (Unlawful Conduct with Respect to Documents in furtherance of Trafficking, Peonage, Slavery, Involuntary Servitude, or Forced Labor) of this title or under section 274(a) of the Immigration and Nationality Act unless the indictment is found or the information is instituted not later than 10 years after the commission of the offense.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''3298. Trafficking-related offenses.''.

(c) MODIFICATION OF STATUTE APPLICABLE TO OFFENSE AGAINST CHILDREN.—Section 3283 of title 18, United States Code, is amended by inserting '', or for ten years after the offense, whichever is longer'' after ''of the child''.

SEC. 315. USE OF CENTER FOR CRIMINAL JUSTICE TECHNOLOGY.

(a) IN GENERAL.—The Attorney General may use the services of the Center for Criminal Justice Technology, a nonprofit ''center of excellence'' that provides technology

DOJ_NMG_ 0147094

assistance and expertise to the criminal justice community.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this section the following amounts, to remain available until expended:

(1) $7,500,000 for fiscal year 2006;

(2) $7,500,000 for fiscal year 2007; and

(3) $10,000,000 for fiscal year 2008.

SEC. 316. SEARCH GRANTS.

(a) IN GENERAL.—Pursuant to subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, the Attorney General may make grants to SEARCH, the National Consortium for Justice Information and Statistics, to carry out the operations of the National Technical Assistance and Training Program.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this section $2,000,000 for each of fiscal years 2006 through 2009.

SEC. 317. REAUTHORIZATION OF LAW ENFORCEMENT TRIBUTE ACT.

Section 11001 of Public Law 107–273 (42 U.S.C. 15208) is amended in subsection (i) by striking ''2006'' and inserting ''2009''.

DOJ_NMG_ 0147095

SEC. 318. AMENDMENT REGARDING BULLYING AND GANGS.

Paragraph (13) of section 1801(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee(b)) is amended to read as follows:

''(13) establishing and maintaining accountability-based programs that are designed to enhance school safety, which programs may include reseach-based bullying and gang prevention programs;''.

SEC. 319. TRANSFER OF PROVISIONS RELATING TO THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

(a) ORGANIZATIONAL PROVISION.—Part II of title 28, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 40A—BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES

''Sec.
''599A. Bureau of Alcohol, Tobacco, Firearms, and Explosives.
''599B. Personnel management demonstration project.''.

(b) TRANSFER OF PROVISIONS.—The section heading for, and subsections (a), (b), (c)(1), and (c)(3) of, section 1111, and section 1115, of the Homeland Security Act of 2002 (6 U.S.C. 531(a), (b), (c)(1), and (c)(3), and 533) are hereby transferred to, and added at the end of chapter 40A of such title, as added by subsection (a) of this section.

DOJ_NMG_ 0147096

(c) CONFORMING AMENDMENTS.—

(1) Such section 1111 is amended—

(A) by striking the section heading and inserting the following:

"§ 599A. Bureau of Alcohol, Tobacco, Firearms, and Explosives"

; and

(B) in subsection (b)(2), by inserting ''of section 1111 of the Homeland Security Act of 2002 (as enacted on the date of the enactment of such Act)'' after ''subsection (c)'',

and such section heading and such subsections (as so amended) shall constitute section 599A of such title.

(2) Such section 1115 is amended by striking the section heading and inserting the following:

"§ 599B. Personnel management demonstration project",

and such section (as so amended) shall constitute section 599B of such title.

(d) CLERICAL AMENDMENT.—The chapter analysis for such part is amended by adding at the end the following new item:

"40A. Bureau of Alcohol, Tobacco, Firearms, and Explosives ..... 599A".

SEC. 320. REAUTHORIZE THE GANG RESISTANCE EDUCATION AND TRAINING PROJECTS PROGRAM.

Section 32401(b) of the Violent Crime Control Act of 1994 (42 U.S.C. 13921(b)) is amended by striking paragraphs (1) through (6) and inserting the following:

''(1) $20,000,000 for fiscal year 2006;

''(2) $20,000,000 for fiscal year 2007;

''(3) $20,000,000 for fiscal year 2008;

''(4) $20,000,000 for fiscal year 2009; and

''(5) $20,000,000 for fiscal year 2010.''.

SEC. 321. NATIONAL TRAINING CENTER.

(a) IN GENERAL.—The Attorney General may use the services of the National Training Center in Sioux City, Iowa, to utilize a national approach to bring communities and criminal justice agencies together to receive training to control the growing national problem of methamphetamine, poly drugs and their associated crimes. The National Training Center in Sioux City, Iowa, seeks a comprehensive approach to control and reduce methamphetamine trafficking, production and usage through training.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this section the following amounts, to remain available until expended:

(1) $2,500,000 for fiscal year 2006.

(2) $3,000,000 for fiscal year 2007.

(3) $3,000,000 for fiscal year 2008.

(4) $3,000,000 for fiscal year 2009.

SEC. 322. SENSE OF CONGRESS RELATING TO "GOOD TIME" RELEASE.

It is the sense of Congress that it is important to study the concept of implementing a ''good time'' release program for non-violent criminals in the Federal prison system.

SEC. 323. POLICE BADGES.

Section 716 of title 18, United States Code, is amended—

(1) in subsection (b), by inserting ''is a genuine police badge and'' after ''that the badge''; and

(2) by adding at the end the following:

''(d) It is a defense to a prosecution under this section that the badge is a counterfeit police badge and is used or is intended to be used exclusively—

''(1) for a dramatic presentation, such as a theatrical, film, or television production; or

''(2) for legitimate law enforcement purposes.''.

SEC. 324. OFFICIALLY APPROVED POSTAGE.

Section 475 of title 18, United States Code, is amended by adding at the end the following: ''Nothing in this section applies to evidence of postage payment approved by the United States Postal Service.''.

DOJ_NMG_ 0147099

TITLE IV—VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005

SEC. 401. SHORT TITLE.

Titles IV through X of this Act may be cited as the ''Violence Against Women Reauthorization Act of 2005''.

SEC. 402. DEFINITIONS AND REQUIREMENTS FOR PROGRAMS RELATING TO VIOLENCE AGAINST WOMEN.

Part T of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting before section 2001 (42 U.S.C. 3796gg) the following new sections:

''SEC. 2000A. CLARIFICATION THAT PROGRAMS RELATING TO VIOLENCE AGAINST WOMEN ARE GENDER-NEUTRAL.

''In this part, and in any other Act of Congress, unless the context unequivocally requires otherwise, a provision authorizing or requiring the Department of Justice to make grants, or to carry out other activities, for assistance to victims of domestic violence, dating violence, stalking, sexual assault, or trafficking in persons, shall be construed to cover grants that provide assistance to female victims, male victims, or both.

"SEC. 2000B. DEFINITIONS THAT APPLY TO ANY PROVISION CARRIED OUT BY VIOLENCE AGAINST WOMEN OFFICE.

''(a) IN GENERAL.—In this part, and in any violence against women provision, unless the context unequivocally requires otherwise, the following definitions apply:

''(1) COURTS.—The term 'courts' means any civil or criminal, tribal, and Alaskan Village, Federal, State, local or territorial court having jurisdiction to address domestic violence, dating violence, sexual assault or stalking, including immigration, family, juvenile, and dependency courts, and the judicial officers serving in those courts, including judges, magistrate judges, commissioners, justices of the peace, or any other person with decisionmaking authority.

''(2) CHILD MALTREATMENT.—The term 'child maltreatment' means the physical or psychological abuse or neglect of a child or youth, including sexual assault and abuse.

''(3) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means an organization that—

''(A) focuses primarily on domestic violence, dating violence, sexual assault, or stalking;

DOJ_NMG_ 0147101

''(B) has established a specialized culturally specific program that addresses domestic violence, dating violence, sexual assault, or stalking;

''(C) has a primary focus on underserved populations (and includes representatives of these populations) and domestic violence, dating violence, sexual assault, or stalking; or

''(D) obtains expertise, or shows demonstrated capacity to work effectively, on domestic violence, dating violence, sexual assault, and stalking through collaboration.

''(4) COURT-BASED AND COURT-RELATED PERSONNEL.—The term 'court-based' and 'court-related personnel' mean persons working in the court, whether paid or volunteer, including—

''(A) clerks, special masters, domestic relations officers, administrators, mediators, custody evaluators, guardians ad litem, lawyers, negotiators, probation, parole, interpreters, victim assistants, victim advocates, and judicial, administrative, or any other professionals or personnel similarly involved in the legal process;

''(B) court security personnel;

DOJ_NMG_ 0147102

''(C) personnel working in related, supplementary offices or programs (such as child support enforcement); and

''(D) any other court-based or community-based personnel having responsibilities or authority to address domestic violence, dating violence, sexual assault, or stalking in the court system.

''(5) DOMESTIC VIOLENCE.—The term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult, youth, or minor victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies.

''(6) DATING PARTNER.—The term 'dating partner' refers to a person who is or has been in an ongoing social relationship of a romantic or intimate

DOJ_NMG_ 0147103

nature with the abuser, and existence of such a relationship based on a consideration of—

"(A) the length of the relationship;

"(B) the type of relationship; and

"(C) the frequency of interaction between the persons involved in the relationship.

"(7) DATING VIOLENCE.—The term 'dating violence' means violence committed by a person—

"(A) who is or has been in an ongoing social relationship of a romantic or intimate nature with the victim; and

"(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

"(i) The length of the relationship.

"(ii) The type of relationship.

"(iii) The frequency of interaction between the persons involved in the relationship.

"(8) ELDER ABUSE.—The term 'elder abuse' means any action against a person who is 60 years of age or older that constitutes the willful—

"(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment

DOJ_NMG_ 0147104

with resulting physical harm, pain, or mental anguish; or

"(B) deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.

"(9) INDIAN.—The term 'Indian' means a member of an Indian tribe.

"(10) INDIAN HOUSING.—The term 'Indian housing' means housing assistance described in the Native American Assistance and Self-Determination Act of (25 U.S.C. 4101 et seq., as amended).

"(11) INDIAN TRIBE.—The term 'Indian tribe' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(12) INDIAN LAW ENFORCEMENT.—The term 'Indian law enforcement' means the departments or

individuals under the direction of the Indian tribe that maintain public order.

''(13) LAW ENFORCEMENT.—The term 'law enforcement' means a public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs), including those referred to in section 3 of the Indian Enforcement Reform Act (25 U.S.C. 2802).

''(14) LEGAL ASSISTANCE.—The term 'legal assistance'—

''(A) includes assistance to adult, youth, and minor victims of domestic violence, dating violence, sexual assault, and stalking in—

''(i) family, tribal, territorial, immigration, employment, administrative agency, housing matters, campus administrative or protection or stay away order proceedings, and other similar matters; and

''(ii) criminal justice investigations, prosecutions and post-trial matters (including sentencing, parole, and probation) that impact the victim's safety and privacy, subject to subparagraph (B); and

DOJ_NMG_ 0147106

''(B) does not include representation of a defendant in a criminal or juvenile proceeding.

''(15) LINGUISTICALLY AND CULTURALLY SPECIFIC SERVICES.—The term 'linguistically and culturally specific services' means community-based services that offer full linguistic access and culturally specific services and resources, including outreach, collaboration, and support mechanisms primarily directed toward racial and ethnic populations and other underserved communities.

''(16) PERSONALLY IDENTIFYING INFORMATION OR PERSONAL INFORMATION.—The term 'personally identifying information' or 'personal information' means individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

''(A) a first and last name;

''(B) a home or other physical address;

''(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

''(D) a social security number; and

''(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any of subparagraphs (A) through (D), would serve to identify any individual.

''(17) PROSECUTION.—The term 'prosecution' means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus (such as governmental victim services programs).

''(18) PROTECTION ORDER OR RESTRAINING ORDER.—The term 'protection order' or 'restraining order' includes—

''(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence or contact or communication with or physical proximity to, another person, including any temporary or final orders issued by civil or criminal courts whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition,

or motion filed by or on behalf of a person seeking protection; and

''(B) any support, child custody or visitation provisions, orders, remedies, or relief issued as part of a protection order, restraining order, or stay away injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, dating violence, sexual assault, or stalking.

''(19) RURAL AREA AND RURAL COMMUNITY.—The terms 'rural area' and 'rural community' mean—

''(A) any area or community, respectively, no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget; or

''(B) any area or community, respectively, that is—

''(i) within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area; and

''(ii) located in a rural census tract.

DOJ_NMG_ 0147109

''(20) RURAL STATE.—The term 'rural State' means a State that has a population density of 52 or fewer persons per square mile or a State in which the largest county has fewer than 150,000 people, based on the most recent decennial census.

''(21) SEXUAL ASSAULT.—The term 'sexual assault' means any conduct prescribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim.

''(22) STALKING.—The term 'stalking' means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

''(A) fear for his or her safety or the safety of others; or

''(B) suffer substantial emotional distress.

''(23) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and except as other-

wise provided, Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands.

''(24) STATE DOMESTIC VIOLENCE COALITION.—The term 'State domestic violence coalition' means a program determined by the Administration for Children and Families under the Family Violence Prevention and Services Act (42 U.S.C. 10410(b)).

''(25) STATE SEXUAL ASSAULT COALITION.—The term 'State sexual assault coalition' means a program determined by the Center for Injury Prevention and Control of the Centers for Disease Control and Prevention under the Public Health Service Act (42 U.S.C. 280b et seq.).

''(26) TERRITORIAL DOMESTIC VIOLENCE OR SEXUAL ASSAULT COALITION.—The term 'territorial domestic violence or sexual assault coalition' means a program addressing domestic violence that is—

''(A) an established nonprofit, nongovernmental territorial coalition addressing domestic violence or sexual assault within the territory; or

''(B) a nongovernmental organization with a demonstrated history of addressing domestic violence or sexual assault within the territory

DOJ_NMG_ 0147111

that proposes to incorporate as a nonprofit, nongovernmental territorial coalition.

''(27) TRIBAL COALITION.—The term 'tribal coalition' means—

''(A) an established nonprofit, nongovernmental tribal coalition addressing domestic violence and sexual assault against American Indian and Alaskan Native women; or

''(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against American Indian and Alaskan Native women.

''(28) TRIBAL GOVERNMENT.—The term 'tribal government' means—

''(A) the governing body of an Indian tribe; or

''(B) a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and

DOJ_NMG_ 0147112

services provided by the United States to Indians because of their status as Indians.

''(29) TRIBAL ORGANIZATION.—The term 'tribal organization' means—

''(A) the governing body of any Indian tribe;

''(B) any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body of a tribe or tribes to be served, or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; or

''(C) any tribal nonprofit organization.

''(30) UNDERSERVED POPULATIONS.—The term 'underserved populations' includes populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General.

''(31) VICTIM ADVOCATE.—The term 'victim advocate' means a person, whether paid or serving

DOJ_NMG_ 0147113

as a volunteer, who provides services to victims of domestic violence, sexual assault, stalking, or dating violence under the auspices or supervision of a victim services program.

''(32) VICTIM ASSISTANT.—The term 'victim assistant' means a person, whether paid or serving as a volunteer, who provides services to victims of domestic violence, sexual assault, stalking, or dating violence under the auspices or supervision of a court or a law enforcement or prosecution agency.

''(33) VICTIM SERVICES OR VICTIM SERVICE PROVIDER.—The term 'victim services' or 'victim service provider' means a nonprofit, nongovernmental organization that assists domestic violence, dating violence, sexual assault, or stalking victims, including rape crisis centers, domestic violence shelters, faith-based organizations, and other organizations, with a documented history of effective work, or a demonstrated capacity to work effectively in collaboration with an organization with a documented history of effective work, concerning domestic violence, dating violence, sexual assault, or stalking.

''(34) YOUTH.—The term 'youth' means teen and young adult victims of domestic violence, dating violence, sexual assault, or stalking.

DOJ_NMG_ 0147114

''(b) VIOLENCE AGAINST WOMEN PROVISION.—In this section, the term 'violence against women provision' means any provision required by law to be carried out by or through the Violence Against Women Office.

"SEC. 2000C. REQUIREMENTS THAT APPLY TO ANY GRANT PROGRAM CARRIED OUT BY VIOLENCE AGAINST WOMEN OFFICE.

''(a) IN GENERAL.—In carrying out grants under this part, and in carrying out grants under any other violence against women grant program, the Director of the Violence Against Women Office shall ensure each of the following:

''(1) NONDISCLOSURE OF CONFIDENTIAL OR PRIVATE INFORMATION.—

''(A) IN GENERAL.—In order to ensure the safety of adult, youth, and minor victims of domestic violence, dating violence, sexual assault, or stalking, and their families, each grantee and subgrantee shall reasonably protect the confidentiality and privacy of persons receiving services.

''(B) NONDISCLOSURE.—Subject to subparagraph (C), grantees and subgrantees shall not—

''(i) disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs; or

''(ii) reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of persons with disabilities, the guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program.

''(C) RELEASE.—If release of information described in subparagraph (B) is compelled by statutory or court mandate or is requested by a Member of Congress—

''(i) grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the disclosure of information; and

''(ii) grantees and subgrantees shall take steps necessary to protect the privacy

and safety of the persons affected by the release of the information.

''(D) INFORMATION SHARING.—Grantees and subgrantees may share—

''(i) nonpersonally identifying data in the aggregate regarding services to their clients and nonpersonally identifying demographic information in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements; and

''(ii) court-generated information and law-enforcement generated information contained in secure, governmental registries for investigation, prosecution, and enforcement purposes.

''(2) APPROVED ACTIVITIES.—In carrying out activities under the grant program, grantees and subgrantees may collaborate with and provide information to Federal, State, local, tribal, and territorial public officials and agencies to develop and implement policies to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking.

''(3) NON-SUPPLANTATION.—Any Federal funds received under the grant program shall be

DOJ_NMG_ 0147117

used to supplement, not supplant, non-Federal funds that would otherwise be available for the activities carried out under the grant.

''(4) USE OF FUNDS.—Funds authorized and appropriated under the grant program may be used only for the specific purposes described in the grant program and shall remain available until expended.

''(5) EVALUATION.—Grantees must collect data for use to evaluate the effectiveness of the program (or for use to carry out related research), pursuant to the requirements described in paragraph (1)(D).

''(6) PROHIBITION ON LOBBYING.—Any funds appropriated for the grant program shall be subject to the prohibition in section 1913 of title 18, United States Code, relating to lobbying with appropriated moneys.

''(7) PROHIBITION ON TORT LITIGATION.—Funds appropriated for the grant program may not be used to fund civil representation in a lawsuit based on a tort claim. This paragraph shall not be construed as a prohibition on providing assistance to obtain restitution in a protection order or criminal case.

''(b) VIOLENCE AGAINST WOMEN GRANT PROGRAM.—In this section, the term 'violence against women

DOJ_NMG_ 0147118

grant program' means any grant program required by law to be carried out by or through the Violence Against Women Office.''.

TITLE V—ENHANCING JUDICIAL AND LAW ENFORCEMENT TOOLS TO COMBAT VIOLENCE

SEC. 501. STOP GRANTS IMPROVEMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(18) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(8)) is amended by striking ''$185,000,000 for each of fiscal years 2001 through 2005'' and inserting ''$215,000,000 for each of fiscal years 2006 through 2010''.

(b) PURPOSE AREA ENHANCEMENTS.—Section 2001(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) is amended—

(1) by striking '', and specifically, for the purposes of—'' and inserting '', including collaborating with and informing public officials and agencies in order to develop and implement policies to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking, and specifically only for the purposes of—'';

(2) in paragraph (5), by inserting after ''protection orders are granted,'' the following: ''supporting

nonprofit nongovernmental victim services programs and tribal organizations in working with public officials and agencies to develop and implement policies, rules, and procedures in order to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking,'';

(3) in paragraph (10), by striking ''and'' after the semicolon; and

(4) by adding at the end the following:

''(12) maintaining core victim services and criminal justice initiatives, while supporting complementary new initiatives and emergency services for victims and their families; and

''(13) supporting the placement of special victim assistants (to be known as 'Jessica Gonzales Victim Assistants') in local law enforcement agencies to serve as liaisons between victims of domestic violence, dating violence, sexual assault, and stalking and personnel in local law enforcement agencies in order to improve the enforcement of protection orders. Jessica Gonzales Victim Assistants shall have expertise in domestic violence, dating violence, sexual assault, or stalking and may undertake the following activities—

DOJ_NMG_ 0147120

''(A) developing, in collaboration with prosecutors, courts, and victim service providers, standardized response policies for local law enforcement agencies, including triage protocols to ensure that dangerous or potentially lethal cases are identified and prioritized;

''(B) notifying persons seeking enforcement of protection orders as to what responses will be provided by the relevant law enforcement agency;

''(C) referring persons seeking enforcement of protection orders to supplementary services (such as emergency shelter programs, hotlines, or legal assistance services); and

''(D) taking other appropriate action to assist or secure the safety of the person seeking enforcement of a protection order.''.

(c) CLARIFICATION OF ACTIVITIES REGARDING UNDERSERVED POPULATIONS.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1) is amended—

(1) in subsection (c)(2), by inserting before the semicolon the following: ''and describe how the State will address the needs of racial and ethnic minorities and other underserved populations''; and

DOJ_NMG_ 0147121

(2) in subsection (e)(2), by striking subparagraph (D) and inserting the following:

''(D) recognize and meaningfully respond to the needs of racial and ethnic and other underserved populations and ensure that monies set aside to fund services and activities for racial and ethnic and other underserved populations are distributed equitably among those populations.''.

(d) TRIBAL AND TERRITORIAL SETASIDES.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1), as amended by subsection (c), is further amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''5 percent'' and inserting ''10 percent'';

(B) in paragraph (2), by striking ''1/54'' and inserting ''1/56'';

(C) in paragraph (3), by striking ''and the coalition for the combined Territories of the United States, each receiving an amount equal to 1/54'' and inserting ''Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each receiving an amount equal to 1/56'';

DOJ_NMG_ 0147122

(D) in paragraph (4), by striking ''1/54'' and inserting ''1/56'';

(E) in paragraph (5), by striking ''and'' after the semicolon;

(F) in paragraph (6), by striking the period and inserting ''; and''; and

(G) by adding at the end:

''(7) such funds shall remain available until expended.'';

(2) in subsection (c)(3)(B), by inserting after ''victim services'' the following: '', of which at least 10 percent shall be distributed to culturally specific community-based organizations''; and

(3) in subsection (d)—

(A) in paragraph (2), by striking ''and'' after the semicolon;

(B) in paragraph (3), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(4) a memorandum of understanding showing that tribal, territorial, State, or local prosecution, law enforcement, and court and victim service provider subgrantees have consulted with tribal, territorial, State, or local victim services programs during the course of developing their grant applications

DOJ_NMG_ 0147123

in order to ensure that proposed services, activities and equipment acquisitions are designed to promote the safety, confidentiality, and economic independence of victims of domestic violence, sexual assault, stalking, and dating violence.''.

(e) TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1), as amended by this section, is further amended by adding at the end the following:

''(i) TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—

''(1) IN GENERAL.—Of the total amounts appropriated under this part, not less than 3 percent and up to 8 percent shall be available for providing training, technical assistance, and data collection relating to the purpose areas of this part to improve the capacity of grantees, subgrantees, and other entities to offer services and assistance to victims of domestic violence, sexual assault, stalking, and dating violence.

''(2) INDIAN TRAINING.—The Director of the Violence Against Women Office shall ensure that training, technical assistance, and data collection regarding violence against Indian women will be devel-

DOJ_NMG_ 0147124

oped and provided by entities having expertise in tribal law and culture.

''(j) LIMITS ON INTERNET PUBLICATION OF REGISTRATION INFORMATION.—As a condition of receiving grant amounts under this part, the recipient shall not make available publicly on the Internet any information regarding the registration or filing of a protection order, restraining order, or injunction in either the issuing or enforcing State, tribal, or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court-generated law enforcement generated information contained in secure, governmental registries for protection order enforcement purposes.''.

(f) AVAILABILITY OF FORENSIC MEDICAL EXAMS.—Section 2010 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–4) is amended by adding at the end the following:

''(c) USE OF FUNDS.—A State or Indian tribal government may use Federal grant funds under this part to pay for forensic medical exams performed by trained examiners for victims of sexual assault, except that such funds may not be used to pay for forensic medical exams

DOJ_NMG_ 0147125

by any State or Indian tribal government that requires victims of sexual assault to seek reimbursement for such exams from their insurance carriers.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to permit a State to require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both.''.

(g) POLYGRAPH TESTING PROHIBITION.—Part T of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by adding at the end the following new section:

''SEC. 2012. POLYGRAPH TESTING PROHIBITION.

''In order to be eligible for grants under this part, a State, Indian tribal government, or unit of local government must certify within three years of enactment of the Violence Against Women Reauthorization Act of 2005 that their laws, policies, or practices ensure that no law enforcement officer, prosecuting officer, or other government official shall ask or require an adult, youth, or minor victim of a sex offense as defined under Federal, tribal, State, territorial or local law to submit to a polygraph examination or similar truth-telling device or method as a condition for proceeding with the investigation, charging

DOJ_NMG_ 0147126

or prosecution of such an offense. A victim's refusal to submit to the aforementioned shall not prevent the investigation, charging or prosecution of the pending case.''.

(h) NO MATCHING REQUIREMENT.—Part T of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is further amended by adding at the end the following new section:

''SEC. 2013. NO MATCHING REQUIREMENT FOR CERTAIN GRANTEES.

''No matching funds shall be required for a grant or subgrant made under this part, if made—

''(1) to a law enforcement agency having fewer than 20 officers;

''(2) to a victim service provider having an annual operating budget of less than $5,000,000; or

''(3) to any entity that the Attorney General determines has adequately demonstrated financial need.''.

SEC. 502. GRANTS TO ENCOURAGE ARREST AND ENFORCE PROTECTION ORDERS IMPROVEMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(19) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(19)) is amended by striking ''$65,000,000 for each of fiscal years 2001 through 2005.'' and inserting ''$65,000,000 for each of

DOJ_NMG_ 0147127

fiscal years 2006 through 2010. Funds appropriated under this paragraph shall remain available until expended.''.

(b) GRANTEE REQUIREMENTS.—Section 2101 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended—

(1) in subsection (a), by striking ''to treat domestic violence as a serious violation'' and inserting ''to treat domestic violence, dating violence, sexual assault, and stalking as serious violations'';

(2) in subsection (b)—

(A) in the matter before paragraph (1), by inserting after ''State'' the following: '', tribal, territorial,'';

(B) in paragraph (1), by striking ''mandatory arrest or'';

(C) in paragraph (2), by—

(i) inserting after ''educational programs,'' the following: ''protection order registries,'';

(ii) striking ''domestic violence and dating violence.'' and inserting ''domestic violence, dating violence, sexual assault, and stalking. Such policies, educational programs, registries, and training shall in-

DOJ_NMG_ 0147128

corporate confidentiality and privacy protections for victims of domestic violence, dating violence, sexual assault, and stalking.'';

(D) in paragraph (3), by—

(i) striking ''domestic violence cases'' and inserting ''domestic violence, dating violence, sexual assault, and stalking cases'';

and

(ii) striking ''groups'' and inserting ''teams'';

(E) in paragraph (5), by striking ''domestic violence and dating violence'' and inserting ''domestic violence, dating violence, sexual assault, and stalking'';

(F) in paragraph (6), by—

(i) striking ''other'' and inserting ''civil''; and

(ii) inserting after ''domestic violence'' the following: '', dating violence, sexual assault, and stalking''; and

(G) by adding at the end the following:

''(9) To enhance and support the capacity of victims services programs to collaborate with and inform efforts by State and local jurisdictions and

DOJ_NMG_ 0147129

public officials and agencies to develop best practices and policies regarding arrest of domestic violence, dating violence, sexual assault, and stalking offenders and to strengthen protection order enforcement and to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking.

''(10) To develop State, tribal, territorial, or local policies, procedures, and protocols for preventing dual arrests and prosecutions in cases of domestic violence, dating violence, sexual assault, and stalking and to develop effective methods for identifying the pattern and history of abuse that indicates which party is the actual perpetrator of abuse.

''(11) To plan, develop and establish comprehensive victim service and support centers, such as family justice centers, designed to bring together victim advocates from non-profit, non-governmental victim services organizations, law enforcement officers, prosecutors, probation officers, governmental victim assistants, forensic medical professionals, civil legal attorneys, chaplains, legal advocates, representatives from community-based organizations and other relevant public or private agencies or organizations into one centralized location, in order to im-

DOJ_NMG_ 0147130

prove safety, access to services, and confidentiality for victims and families.

''(12) To develop and implement policies and training for police, prosecutors, and the judiciary in recognizing, investigating, and prosecuting instances of sexual assault, with an emphasis on recognizing the threat to the community for repeat crime perpetration by such individuals.'';

(3) in subsection (c)—

(A) in paragraph (3), by striking ''and'' after the semicolon;

(B) in paragraph (4), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(5) certify within three years of enactment of the Violence Against Women Reauthorization Act of 2005 that their laws, policies, or practices ensure that—

''(A) no law enforcement officer, prosecuting officer or other government official shall ask or require an adult, youth, or minor victim of a sex offense as defined under Federal, tribal, State, territorial, or local law to submit to a polygraph examination or other truth telling device as a condition for proceeding with the in-

DOJ_NMG_ 0147131

vestigation, charging or prosecution of such an offense; and

''(B) the refusal of a victim to submit to an examination described in subparagraph (A) shall not prevent the investigation, charging or prosecution of the offense.''; and

(4) by striking subsections (d) and (e) and inserting the following:

''(d) ALLOTMENT FOR INDIAN TRIBES.—Not less than 10 percent of the total amount made available for grants under this section for each fiscal year shall be available for grants to Indian tribe governments.''.

(c) APPLICATIONS.—Section 2102(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh–1(b)) is amended in each of paragraphs (1) and (2) by inserting after ''involving domestic violence'' the following: '', dating violence, sexual assault, or stalking''.

(d) TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—Part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh et seq.) is amended by adding at the end the following:

''SEC. 2106. TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.

''Of the total amounts appropriated under this part, not less than 5 percent and up to 8 percent shall be avail-

able for providing training, technical assistance, and data collection relating to the purpose areas of this part to improve the capacity of grantees, subgrantees, and other entities to offer services and assistance to victims of domestic violence and dating violence.''.

SEC. 503. LEGAL ASSISTANCE FOR VICTIMS IMPROVEMENTS.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended—

(1) in subsection (a), by—

(A) inserting before ''legal assistance'' the following: ''civil and criminal'';

(B) inserting after ''effective aid to'' the following: ''adult, youth, and minor''; and

(C) striking ''domestic violence, stalking, or sexual assault'' and inserting ''domestic violence, dating violence, sexual assault, or stalking'';

(2) in subsection (c), by striking ''private nonprofit entities, Indian tribal governments,'' and inserting ''nonprofit, nongovernmental organizations, Indian tribal governments and tribal organizations, territorial organizations,'';

(3) in each of paragraphs (1), (2), and (3) of subsection (c), by striking ''victims of domestic vio-

DOJ_NMG_ 0147133

lence, stalking, and sexual assault'' and inserting ''victims of domestic violence, dating violence, sexual assault, and stalking'';

(4) in subsection (d)—

(A) in paragraph (1), by striking ''domestic violence or sexual assault'' and inserting ''domestic violence, dating violence, sexual assault, or stalking'';

(B) by striking paragraphs (2) and (3) and inserting the following:

''(2) any training program conducted in satisfaction of the requirement of paragraph (1) has been or will be developed with input from and in collaboration with a tribal, State, territorial, or local domestic violence, dating violence, sexual assault or stalking organization or coalition, as well as appropriate tribal, State, territorial, and local law enforcement officials;

''(3) any person or organization providing legal assistance through a program funded under subsection (c) has informed and will continue to inform tribal, State, territorial, or local domestic violence, dating violence, sexual assault or stalking organizations and coalitions, as well as appropriate tribal,

DOJ_NMG_ 0147134

State, territorial, and local law enforcement officials of their work; and''; and

(C) in paragraph (4), by inserting ''dating violence,'' after ''domestic violence,'';

(5) in subsection (e), by inserting ''dating violence,'' after ''domestic violence,''; and

(6) in subsection (f)—

(A) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $55,000,000 for each of fiscal years 2006 through 2010. Funds appropriated under this section shall remain available until expended and may be used only for the specific programs and activities described in this section. Funds appropriated under this section may not be used for advocacy.''; and

(B) in paragraph (2)—

(i) in subparagraph (A), by—

(I) striking ''5 percent'' and inserting ''10 percent'';

(II) striking ''programs'' and inserting ''tribal governments or tribal organizations'';

DOJ_NMG_ 0147135

(III) inserting ''adult, youth, and minor'' after ''that assist''; and

(IV) striking ''domestic violence, stalking, and sexual assault'' and inserting ''domestic violence, dating violence, sexual assault, and stalking''; and

(ii) in subparagraph (B), by striking ''technical assistance to support projects focused solely or primarily on providing legal assistance to victims of sexual assault'' and inserting ''technical assistance in civil and crime victim matters to adult, youth, and minor victims of sexual assault''.

SEC. 504. COURT TRAINING AND IMPROVEMENTS.

The Violence Against Women Act of 1994 is amended by adding after subtitle I (42 U.S.C. 14042) the following:

''Subtitle J—Violence Against Women Act Court Training and Improvements

''SEC. 41001. SHORT TITLE.

''This subtitle may be cited as the 'Violence Against Women Act Court Training and Improvements Act of 2005'.

"SEC. 41002. GRANTS FOR COURT TRAINING AND IMPROVEMENTS.

''(a) PURPOSE.—The purpose of this section is to enable the Attorney General, though the Director of the Office on Violence Against Women, to award grants to improve court responses to adult, youth, and minor domestic violence, dating violence, sexual assault, and stalking to be used for the following purposes—

''(1) improved internal civil and criminal court functions, responses, practices, and procedures;

''(2) education for court-based and court-related personnel on issues relating to victims' needs, including safety, security, privacy, confidentiality and economic independence, as well as information about perpetrator behavior and best practices for holding perpetrators accountable;

''(3) collaboration and training with Federal, State, and local public agencies and officials and nonprofit, non-governmental organizations to improve implementation and enforcement of relevant Federal, State, tribal, territorial and local law;

''(4) to enable courts or court-based or court-related programs to develop new or enhance current—

''(A) court infrastructure (such as specialized courts, dockets, intake centers, or interpreter services and linguistically and culturally

DOJ_NMG_ 0147137

specific services, or a court system dedicated to the adjudication of domestic violence cases);

''(B) community-based initiatives within the court system (such as court watch programs, victim advocates, or community-based supplementary services);

''(C) offender management, monitoring, and accountability programs;

''(D) safe and confidential information-storage and -sharing databases within and between court systems;

''(E) education and outreach programs (such as interpreters) to improve community access, including enhanced access for racial and ethnic communities and racial and ethnic and other underserved populations (as defined in section 2000B of the Omnibus Crime Control and Safe Streets Act of 1968); and

''(F) other projects likely to improve court responses to domestic violence, dating violence, sexual assault, and stalking; and

''(5) to provide training, technical assistance, and data collection to tribal, Federal, State, territorial or local courts wishing to improve their practices and procedures or to develop new programs.

DOJ_NMG_ 0147138

''(6) to provide training for specialized service providers, such as interpreters.

''(b) GRANT REQUIREMENTS.—Grants awarded under this section shall be subject to the following conditions:

''(1) ELIGIBLE GRANTEES.—Eligible grantees may include—

''(A) tribal, Federal, State, territorial or local courts or court-based programs, provided that the court's internal organizational policies, procedures, or rules do not require mediation or counseling between offenders and victims physically together in cases where domestic violence, dating violence, sexual assault, or stalking is an issue; and

''(B) national, tribal, State, or local private, nonprofit organizations with demonstrated expertise in developing and providing judicial education about domestic violence, dating violence, sexual assault, or stalking.

''(2) CONDITIONS OF ELIGIBILITY FOR CERTAIN GRANTS.—

''(A) COURT PROGRAMS.—To be eligible for a grant under subsection (a)(4), applicants shall certify in writing that any courts or court-

DOJ_NMG_ 0147139

based personnel working directly with or making decisions about adult, youth, or minor parties experiencing domestic violence, dating violence, sexual assault, and stalking have completed or will complete education about domestic violence, dating violence, sexual assault, and stalking.

''(B) EDUCATION PROGRAMS.—To be eligible for a grant under subsection (a)(2), applicants shall certify in writing that any education program developed under subsection (a)(2) has been or will be developed with significant input from and in collaboration with a national, tribal, State, territorial, or local victim services provider or coalition.

''(c) EVALUATION.—

''(1) IN GENERAL.—The Attorney General, through the Director of the Office on Violence Against Women, may evaluate the grants funded under this section.

''(2) TRIBAL GRANTEES.—Evaluation of tribal grantees under this section shall be conducted by entities with expertise in Federal Indian law and tribal court practice.

''(d) AUTHORIZATION OF APPROPRIATIONS.—

DOJ_NMG_ 0147140

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $4,000,000 for each of fiscal years 2006 to 2010.

''(2) SET ASIDE.—Of the amounts made available under this section in each fiscal year, not less than 10 percent shall be used for grants to tribes.

''SEC. 41003. NATIONAL AND TRIBAL EDUCATIONAL CURRICULA.

''(a) NATIONAL CURRICULA.—

''(1) IN GENERAL.—The Attorney General, through the Director of the Office on Violence Against Women, shall fund efforts to develop a national education curriculum for use by State and national judicial educators to ensure that all courts and court personnel have access to information about relevant Federal, State, territorial, or local law, promising practices, procedures, and policies regarding court responses to adult, youth, and minor domestic violence, dating violence, sexual assault, and stalking.

''(2) ELIGIBLE ENTITIES.—Any curricula developed under this subsection—

''(A) shall be developed by an entity or entities having demonstrated expertise in developing judicial education curricula on issues re-

DOJ_NMG_ 0147141

lating to domestic violence, dating violence, sexual assault, and stalking; or

''(B) if the primary grantee does not have demonstrated expertise such issues, the curricula shall be developed by the primary grantee in partnership with an organization having such expertise.

''(b) TRIBAL CURRICULA.—

''(1) IN GENERAL.—The Attorney General, through the Office on Violence Against Women, shall fund efforts to develop education curricula for tribal court judges to ensure that all tribal courts have relevant information about promising practices, procedures, policies, and law regarding tribal court responses to adult, youth, and minor domestic violence, dating violence, sexual assault, and stalking.

''(2) ELIGIBLE ENTITIES.—Any curricula developed under this subsection—

''(A) shall be developed by a tribal organization having demonstrated expertise in developing judicial education curricula on issues relating to domestic violence, dating violence, sexual assault, and stalking; and

''(B) if the primary grantee does not have such expertise, the curricula shall be developed

DOJ_NMG_ 0147142

by the primary grantee through partnership with organizations having such expertise.

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2006 to 2010.

''(2) AVAILABILITY.—Funds appropriated under this section shall remain available until expended and may only be used for the specific programs and activities described in this section.

''(3) SET ASIDE.—Of the amounts made available under this section in each fiscal year, not less than 10 percent shall be used for grants to tribes.

''SEC. 41004. ACCESS TO JUSTICE FOR TEENS.

''(a) PURPOSE.—It is the purpose of this section to encourage cross training and collaboration between the courts, domestic violence and sexual assault service providers, youth organizations and service providers, violence prevention programs, and law enforcement agencies, so that communities can establish and implement policies, procedures, and practices to protect and more comprehensively and effectively serve youth victims of dating violence, domestic violence, sexual assault, and stalking between the ages of 12 and 24, and to engage, where necessary, other entities addressing the safety, health, mental

DOJ_NMG_ 0147143

health, social service, housing, and economic needs of youth victims of domestic violence, dating violence, sexual assault, and stalking.

''(b) GRANT AUTHORITY.—

''(1) IN GENERAL.—The Attorney General, through the Director of the Office on Violence Against Women (in this section referred to as the 'Director'), shall make grants to eligible entities to enable entities to jointly carry out cross training and other collaborative initiatives that seek to carry out the purposes of this section. Amounts appropriated under this section may only be used for programs and activities described under subsection (c).

''(2) GRANT PERIODS.—Grants shall be awarded under this section for a period of 3 fiscal years.

''(3) ELIGIBLE ENTITIES.—To be eligible for a grant under this section, a grant applicant shall establish a collaboration that shall include—

''(A) a Tribal, State, Territorial or local juvenile, family, civil, criminal or other trial court with jurisdiction over domestic violence, dating violence, sexual assault or stalking cases (hereinafter referred to as ''courts''); and

''(B) a victim service provider that has experience in working on domestic violence, dating

DOJ_NMG_ 0147144

violence, sexual assault, or stalking and the effect that those forms of abuse have on young people.

''(c) USES OF FUNDS.—An entity that receives a grant under this section shall use the funds made available through the grant for cross-training and collaborative efforts to—

''(1) assess and analyze currently available services for youth victims of domestic violence, dating violence, sexual assault, and stalking, determine relevant barriers to such services in a particular locality;

''(2) establish and enhance linkages and collaboration between courts, domestic violence or sexual assault service providers, and, where applicable, law enforcement agencies, and other entities addressing the safety, health, mental health, social service, housing, and economic needs of youth victims of domestic violence, dating violence, sexual assault or stalking, including community-based supports such as schools, local health centers, community action groups, and neighborhood coalitions to identify, assess, and respond appropriately to the varying needs of youth victims of dating violence, domestic violence, sexual assault or stalking;

DOJ_NMG_ 0147145

''(3) educate the staff of courts, domestic violence and sexual assault service providers, and, as applicable, the staff of law enforcement agencies, youth organizations, schools, healthcare providers and other community prevention and intervention programs to responsibly address youth victims and perpetrators of domestic violence, dating violence, sexual assault and stalking, and to understand relevant laws, court procedures and policies; and

''(4) provide appropriate resources in juvenile court matters to respond to dating violence, domestic violence, sexual assault and stalking and assure necessary services dealing with the health and mental health of youth victims are available.

''(d) GRANT APPLICATIONS.—To be eligible for a grant under this section, the entities that are members of the applicant collaboration described in subsection (b)(3) shall jointly submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

''(e) PRIORITY.—In awarding grants under this section, the Director shall give priority to entities that have submitted applications in partnership with law enforcement agencies and religious and community organizations and service providers that work primarily with youth, es-

DOJ_NMG_ 0147146

pecially teens, and who have demonstrated a commitment to coalition building and cooperative problem solving in dealing with problems of dating violence, domestic violence, sexual assault, and stalking in teen populations.

''(f) DISTRIBUTION.—In awarding grants under this section—

''(1) not less than 10 percent of funds appropriated under this section in any year shall be available for grants to collaborations involving tribal courts, tribal coalitions, tribal organizations, or domestic violence or sexual assault service providers the primary purpose of which is to provide culturally relevant services to American Indian or Alaska Native women or youth;

''(2) the Attorney General shall not use more than 2.5 percent of funds appropriated under this section in any year for monitoring and evaluation of grants made available under this section;

''(3) the Attorney General shall not use more than 2.5 percent of funds appropriated under this section in any year for administration of grants made available under this section; and

''(4) up to 8 percent of funds appropriated under this section in any year shall be available to

provide training, technical assistance, and data collection for programs funded under this section.

''(g) REPORTS.—

''(1) REPORTS.—Each of the entities that are members of the applicant collaboration described in subsection (b)(3) and that receive a grant under this section shall jointly prepare and submit a report to the Attorney General every 18 months detailing the activities that the entities have undertaken under the grant and such additional information as the Attorney General may require. Each such report shall contain information on—

''(A) the activities implemented by the recipients of the grants awarded under this section; and

''(B) related initiatives undertaken by the Director to promote attention to dating violence, domestic violence, sexual assault, and stalking and their impact on young victims by—

''(i) the staffs of courts;

''(ii) domestic violence, dating violence, sexual assault, and stalking service providers; and

DOJ_NMG_ 0147148

''(iii) law enforcement agencies and community organizations.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of fiscal years 2006 through 2010.''.

SEC. 505. FULL FAITH AND CREDIT IMPROVEMENTS.

(a) ENFORCEMENT OF PROTECTION ORDERS ISSUED BY TERRITORIES.—Section 2265 of title 18, United States Code, is amended—

(1) by striking ''State or Indian tribe'' each place it appears and inserting ''State, Indian tribe, or territory'';

(2) by striking ''State or tribal'' each place it appears and inserting ''State, tribal, or territorial''; and

(3) in subsection (a) by striking ''State or tribe'' and inserting ''State, Indian tribe, or territory''.

(b) CLARIFICATION OF ENTITIES HAVING ENFORCEMENT AUTHORITY AND RESPONSIBILITIES.—Section 2265(a) of title 18, United States Code, is amended by striking ''and enforced as if it were'' and inserting ''and enforced by the court and law enforcement personnel of the other State, Indian tribal government, or Territory as if it were''.

DOJ_NMG_ 0147149

(c) PROTECTION ORDERS.—Sections 2265 and 2266 of title 18, United States Code, are both amended by striking ''protection order'' each place it appears and inserting ''protection order, restraining order, or injunction''.

(d) DEFINITIONS.—Section 2266 of title 18, United States Code, is amended by striking paragraph (5) and inserting the following:

''(5) PROTECTION ORDER, RESTRAINING ORDER, OR INJUNCTION.—The term 'protection order, restraining order, or injunction' includes—

''(A) any injunction or other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

''(B) any support, child custody or visitation provisions, orders, remedies or relief issued

as part of a protection order, restraining order, or injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking.''.

SEC. 506. PRIVACY PROTECTIONS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL VIOLENCE, AND STALKING.

The Violence Against Women Act of 1994, as amended by this Act, is further amended by adding after subtitle J (as added by section 504) the following:

"Subtitle K—Privacy Protections for Victims of Domestic Violence, Dating Violence, Sexual Violence, and Stalking

"SEC. 41101. TASK FORCE.

''The Attorney General shall establish a task force to review and report on policies, procedures, and technological issues that may affect the privacy and confidentiality of victims of domestic violence, dating violence, stalking and sexual assault. The Attorney General shall include representatives from States, tribes, territories, law enforcement, court personnel, and private nonprofit orga-

DOJ_NMG_ 0147151

nizations whose mission is to help develop a best practices model to prevent personally identifying information of adult, youth, and minor victims of domestic violence, dating violence, stalking and sexual assault from being released to the detriment of such victimized persons. The Attorney General shall designate one staff member to work with the task force. The Attorney General is authorized to make grants to develop a demonstration project to implement the best practices identified by the Task Force.

"SEC. 41102. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle $1,000,000 for each of fiscal years 2006 through 2010.

''(b) AVAILABILITY.—Amounts appropriated under this section shall remain available until expended and may only be used for the specific programs and activities described in this subtitle.''.

SEC. 507. STALKER DATABASE.

Section 40603 of the Violence Against Women Act of 1994 (42 U.S.C. 14032) is amended—

(1) by striking ''2001'' and inserting ''2006''; and

(2) by striking ''2006'' and inserting ''2010''.

DOJ_NMG_ 0147152

SEC. 508. VICTIM ASSISTANTS FOR DISTRICT OF COLUMBIA.

Section 40114 of the Violence Against Women Act of 1994 is amended to read as follows:

"SEC. 40114. AUTHORIZATION FOR FEDERAL VICTIM ASSISTANTS.

''There are authorized to be appropriated to the Attorney General for the purpose of appointing victim assistants for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia), $1,000,000 for each of fiscal years 2006 through 2010.''.

SEC. 509. PREVENTING CYBERSTALKING.

Section 2261A of title 18, United States Code, is amended—

(1) in paragaph (1)—

(A) by inserting after ''intimidate'' the following: '', or places under surveillance with the intent to kill, injure, haras, or intimidate,''; and

(B) by inserting after ''or serious bodily injury to,'' the following: ''or causes substantial emotional harm to,'';

(2) in paragraph (2)(A), by striking ''to kill or injure'' and inserting ''to kill, injure, harass, or intimidate, or places under surveillance with the intent to kill, injure, harass, or intimidate, or to cause substantial emtional harm to,''; and

DOJ_NMG_ 0147153

(3) in paragraph (2), in the matter following clause (iii) of subparagraph (B)—

(A) by inserting after ''uses the mail'' the following: '', any interactive computer service,''; and

(B) by inserting after ''course of conduct that'' the following: ''causes substantial emotional harm to that person or''.

SEC. 510. REPEAT OFFENDER PROVISION.

Chapter 110A of title 18, United States Code, is amended by adding after section 2265 the following:

''§ 2265A. Repeat offender provision

''The maximum term of imprisonment for a violation of this chapter after a prior interstate domestic violence offense (as defined in section 2261) or interstate violation of protection order (as defined in section 2262) or interstate stalking (as defined in sections 2261A(a) and 2261A(b)) shall be twice the term otherwise provided for the violation.''.

SEC. 511. PROHIBITING DATING VIOLENCE.

Section 2261(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking ''or intimate partner'' both places such term appears and inserting '', intimate partner, or dating partner''; and

(2) in paragraph (2), by striking ''or intimate partner'' both places such term appears and inserting '', intimate partner, or dating partner''.

SEC. 512. GAO STUDY AND REPORT.

(a) STUDY REQUIRED.—The Comptroller General shall conduct a study to establish the extent to which men, women, youth, and children are victims of domestic violence, dating violence, sexual assault, and stalking and the availability to all victims of shelter, counseling, legal representation, and other services commonly provided to victims of domestic violence.

(b) ACTIVITIES UNDER STUDY.—In conducting the study, the following shall apply:

(1) CRIME STATISTICS.—The Comptroller General shall not rely only on crime statistics, but may also use existing research available, including public health studies and academic studies.

(2) SURVEY.—The Comptroller General shall survey the Department of Justice, as well as any recipients of Federal funding for any purpose or an appropriate sampling of recipients, to determine—

(A) what services are provided to victims of domestic violence, dating violence, sexual assault, and stalking;

DOJ_NMG_ 0147155

(B) whether those services are made available to youth, child, female, and male victims; and

(C) the number, age, and gender of victims receiving each available service.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the activities carried out under this section.

TITLE VI—IMPROVING SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

SEC. 601. TECHNICAL AMENDMENT TO VIOLENCE AGAINST WOMEN ACT.

Section 2001 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:

''(e) USE OF FUNDS.—Funds appropriated for grants under this part may be used only for the specific programs and activities expressly described in this part.''.

SEC. 602. SEXUAL ASSAULT SERVICES PROGRAM.

Part T of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amend-

DOJ_NMG_ 0147156

ed by adding after section 2013 (as added by section 101 of this Act) the following:

"SEC. 2014. SEXUAL ASSAULT SERVICES PROGRAM.

''(a) PURPOSE.—The purposes of this section are—

''(1) to assist States, Indian tribes, and territories in providing intervention, advocacy, accompaniment, support services, and related assistance for—

''(A) adult, youth, and minor victims of sexual assault;

''(B) family and household members of such victims; and

''(C) those collaterally affected by the victimization except for the perpetrator of such victimization; and

''(2) to provide training and technical assistance to, and to support data collection relating to sexual assault by—

''(A) Federal, State, tribal, territorial, and local governments, law enforcement agencies, and courts;

''(B) professionals working in legal, social service, and health care settings;

''(C) nonprofit organizations;

''(D) faith-based organizations; and

''(E) other individuals and organizations seeking such assistance.

''(b) GRANTS TO STATES, TERRITORIES AND TRIBAL ENTITIES.—

''(1) GRANTS AUTHORIZED.—The Attorney General shall award grants to States, territories and Indian tribes, tribal organizations, and non-profit tribal organizations within Indian country and Alaskan native villages for the establishment, maintenance and expansion of rape crisis centers or other programs and projects to assist those victimized by sexual assault.

''(2) SPECIAL EMPHASIS.—States, territories and tribal entities will give special emphasis to the support of community-based organizations with a demonstrated history of providing intervention and related assistance to victims of sexual assault.

''(c) GRANTS FOR CULTURALLY SPECIFIC PROGRAMS ADDRESSING SEXUAL ASSAULT.—

''(1) GRANTS AUTHORIZED.—The Attorney General shall award grants to culturally specific community-based organization that—

''(A) is a private, nonprofit organization that focuses primarily on racial and ethnic communities;

DOJ_NMG_ 0147158

''(B) must have documented organizational experience in the area of sexual assault intervention or have entered into partnership with an organization having such expertise;

''(C) has expertise in the development of community-based, linguistically and culturally specific outreach and intervention services relevant for the specific racial and ethnic communities to whom assistance would be provided or have the capacity to link to existing services in the community tailored to the needs of racial and ethnic populations; and

''(D) has an advisory board or steering committee and staffing which is reflective of the targeted racial and ethnic community.

''(2) AWARD BASIS.—The Attorney General shall award grants under this subsection on a competitive basis for a period of no less than 3 fiscal years.

''(d) SERVICES AUTHORIZED.—For grants under subsection (b) and (c) the following services and activities may include—

''(1) 24 hour hotline services providing crisis intervention services and referrals;

DOJ_NMG_ 0147159

''(2) accompaniment and advocacy through medical, criminal justice, and social support systems, including medical facilities, police, and court proceedings;

''(3) crisis intervention, short-term individual and group support services, and comprehensive service coordination, and supervision to assist sexual assault victims and family or household members;

''(4) support mechanisms that are culturally relevant to the community;

''(5) information and referral to assist the sexual assault victim and family or household members;

''(6) community-based, linguistically and culturally-specific services including outreach activities for racial and ethnic and other underserved populations and linkages to existing services in these populations;

''(7) Collaborating with and informing public officials and agencies in order to develop and implement policies to reduce or eliminate sexual assault;

''(8) the development and distribution of educational materials on issues related to sexual assault and the services described in clauses (A) through (G).

DOJ_NMG_ 0147160

''(e) GRANTS TO STATE, TERRITORIAL, AND TRIBAL SEXUAL ASSAULT COALITIONS.—

''(1) GRANTS AUTHORIZED.—

''(A) IN GENERAL.—The Attorney General shall award grants to State, territorial and tribal sexual assault coalitions to assist in supporting the establishment, maintenance and expansion of such coalitions as determined by the National Center for Injury Prevention and Control Office in collaboration with the Violence Against Women Office of the Department of Justice.

''(B) FIRST-TIME APPLICANTS.—No entity shall be prohibited from submitting an application under this subsection because such entity has not previously applied or received funding under this subsection.

''(f) COALITION ACTIVITIES AUTHORIZED.—Grant Funds received under subsection (e) may be used to—

''(1) work with local sexual assault programs and other providers of direct services to encourage appropriate responses to sexual assault within the State, territory, or Indian tribe;

DOJ_NMG_ 0147161

''(2) work with judicial and law enforcement agencies to encourage appropriate responses to sexual assault cases;

''(3) work with courts, child protective services agencies, and children's advocates to develop appropriate responses to child custody and visitation issues when sexual assault has been determined to be a factor;

''(4) design and conduct public education campaigns;

''(5) plan and monitor the distribution and use of grants and grant funds to their State, territory, or Indian tribe; and

''(6) collaborate with and inform Federal, State, Tribal, or local public officials and agencies to develop and implement policies to reduce or eliminate sexual assault.

''(g) APPLICATION.—

''(1) Each eligible entity desiring a grant under subsections (c) and (e) shall submit an application to the Attorney General at such time, in such manner and containing such information as the Attorney General determines to be essential to carry out the purposes of this section.

DOJ_NMG_ 0147162

''(2) Each eligible entity desiring a grant under subsection (b) shall include—

''(A) demonstration of meaningful involvement of the State or territorial coalitions, or Tribal coalition, where applicable, in the development of the application and implementation of the plans;

''(B) a plan for an equitable distribution of grants and grant funds within the State, territory or tribal area and between urban and rural areas within such State or territory;

''(C) the State, territorial or Tribal entity that is responsible for the administration of grants; and

''(D) any other information the Attorney General reasonably determines to be necessary to carry out the purposes and provisions of this section.

''(h) REPORTING.—

''(1) Each entity receiving a grant under subsection (b), (c) and (e) shall submit a report to the Attorney General that describes the activities carried out with such grant funds.

''(i) AUTHORIZATION OF APPROPRIATIONS.—

DOJ_NMG_ 0147163

"(1) IN GENERAL.—There is authorized to be appropriated $55,000,000 for each of the fiscal years 2006 through 2010 to carry out this section. Any amounts so appropriated shall remain available until expended.

"(2) ALLOCATIONS.—Of the total amount appropriated for each fiscal year to carry out this section—

"(A) not more than 2.5 percent shall be used by the Attorney General for evaluation, monitoring and administrative costs under this section;

"(B) not more than 2.5 percent shall be used for the provision of technical assistance to grantees and sub- grantees under this section, except that in subsection (c) up to 5 percent of funds appropriated under that subsection may be available for technical assistance to be provided by a national organization or organizations whose primary purpose and expertise is in sexual assault within racial and ethnic communities;

"(C) not less than 75 percent shall be used for making grants to states and territories and tribal entities under subsection (b) of which not

DOJ_NMG_ 0147164

less than 10 percent of this amount shall be allocated for grants to tribal entities. State, territorial and tribal governmental agencies shall use no more than 5% for administrative costs;

"(D) not less than 10 percent shall be used for grants for culturally specific programs addressing sexual assault under subsection (c); and

"(E) not less than 10 percent shall be used for making grants to state, territorial and tribal coalitions under subsection (e) of which not less than 10 percent shall be allocated for grants to tribal coalitions.

The remaining funds shall be available for grants to State and territorial coalitions, and the Attorney General shall allocate an amount equal to 1/56 of the amounts so appropriated to each of the several States, the District of Columbia, and the territories.

"(3) MINIMUM AMOUNT.—Of the amount appropriated under section (i)(2)(C), the Attorney General, not including the set aside for tribal entities, shall allocate not less than 1.50 percent to each State and not less than 0.125 percent to each of the territories. The remaining funds shall be allotted to each State and each territory in an amount that

DOJ_NMG_ 0147165

bears the same ratio to such remaining funds as the population of such State bears to the population of the combined States, or for territories, the population of the combined territories.''.

SEC. 603. AMENDMENTS TO THE RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE PROGRAM.

Section 40295 of the Violence Against Women Act of 1994 (42 U.S.C. 13971) is amended to read as follows:

''SEC. 40295. RURAL DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

''(a) PURPOSES.—The purposes of this section are—

''(1) to identify, assess, and appropriately respond to adult, youth, and minor domestic violence, sexual assault, dating violence, and stalking in rural communities, by encouraging collaboration between—

''(A) domestic violence, dating violence, sexual assault, and stalking victim service providers;

''(B) law enforcement agencies;

''(C) prosecutors;

''(D) courts;

"(E) other criminal justice service providers;

"(F) human and community service providers;

"(G) educational institutions; and

"(H) health care providers;

"(2) to establish and expand nonprofit, nongovernmental, State, tribal, and local government services in rural communities to adult, youth, and minor victims; and

"(3) to increase the safety and well-being of women and children in rural communities, by—

"(A) dealing directly and immediately with domestic violence, sexual assault, dating violence, and stalking occurring in rural communities; and

"(B) creating and implementing strategies to increase awareness and prevent domestic violence, sexual assault, dating violence, and stalking.

"(b) GRANTS AUTHORIZED.—The Attorney General, acting through the Director of the Office on Violence Against Women (referred to in this section as the 'Director'), may award 3-year grants, with a possible extension for an additional 3 years, to States, Indian tribes, local

DOJ_NMG_ 0147167

governments, and nonprofit, public or private entities, including tribal nonprofit organizations, to carry out programs serving rural areas or rural communities that address domestic violence, dating violence, sexual assault, and stalking by—

''(1) implementing, expanding, and establishing cooperative efforts and projects between law enforcement officers, prosecutors, victim advocacy groups, and other related parties to investigate and prosecute incidents of domestic violence, dating violence, sexual assault, and stalking;

''(2) providing treatment, counseling, and other long- and short-term assistance to adult, youth, and minor victims of domestic violence, dating violence, sexual assault, and stalking in rural communities; and

''(3) working in cooperation with the community to develop education and prevention strategies directed toward such issues.

''(c) USE OF FUNDS.—Funds appropriated pursuant to this section shall be used only for specific programs and activities expressly described in subsection (a).

''(d) ALLOTMENTS AND PRIORITIES.—

''(1) ALLOTMENT FOR INDIAN TRIBES.—Not less than 10 percent of the total amount made avail-

DOJ_NMG_ 0147168

able for each fiscal year to carry out this section shall be allocated for grants to Indian tribes or tribal organizations.

''(2) ALLOTMENT FOR SEXUAL ASSAULT SERVICES.—

''(A) IN GENERAL.—Not less than 25 percent of the total amount made available for each fiscal year to carry out this section shall be allocated for grants that meaningfully address sexual assault in rural communities, except as provided in subparagraph (B).

''(B) ESCALATION.—The percentage required by subparagraph (A) shall be—

''(i) 30 percent, for any fiscal year for which $45,000,000 or more is made available to carry out this section;

''(ii) 35 percent, for any fiscal year for which $50,000,000 or more is made available to carry out this section; or

''(iii) 40 percent, for any fiscal year for which $55,000,000 or more is made available to carry out this section.

''(C) SAVINGS CLAUSE.—Nothing in this paragraph shall prohibit an applicant from applying for funding to address domestic violence,

dating violence, sexual assault, or stalking, separately or in combination, in the same application.

''(D) REPORT TO CONGRESS.—The Attorney General shall, on an annual basis, submit to Congress a report on the effectiveness of the set-aside for sexual assault services. The report shall include any recommendations of the Attorney General with respect to the rural grant program.

''(3) ALLOTMENT FOR TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—Of the amounts appropriated for each fiscal year to carry out this section, not more than 8 percent may be used by the Director for training, technical assistance, and data collection costs. Of the amounts so used, not less than 25 percent shall be available to nonprofit, nongovernmental organizations whose focus and expertise is in addressing sexual assault to provide training, technical assistance, and data collection with respect to sexual assault grantees.

''(4) UNDERSERVED POPULATIONS.—In awarding grants under this section, the Director shall give priority to the needs of racial and ethnic and other underserved populations (as defined in section

DOJ_NMG_ 0147170

2000B of the Omnibus Crime Control and Safe Streets Act of 1968).

''(e) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 2006 through 2010 to carry out this section.

''(2) ADDITIONAL FUNDING.—In addition to funds received through a grant under subsection (b), a law enforcement agency may use funds received through a grant under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.) to accomplish the objectives of this section.''.

SEC. 604. ASSISTANCE FOR VICTIMS OF ABUSE.

Part T of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by adding after section 2014 (as added by section 602 of this Act) the following:

''SEC. 2015. ASSISTANCE FOR VICTIMS OF ABUSE.

''(a) GRANTS AUTHORIZED.—The Attorney General may award grants to appropriate entities—

''(1) to provide services for victims of domestic violence, abuse by caregivers, and sexual assault who are 50 years of age or older;

DOJ_NMG_ 0147171

"(2) to improve the physical accessibility of existing buildings in which services are or will be rendered for victims of domestic violence and sexual assault who are 50 years of age or older;

"(3) to provide training, consultation, and information on abuse by caregivers, domestic violence, dating violence, stalking, and sexual assault against individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)), and to enhance direct services to such individuals;

"(4) for training programs to assist law enforcement officers, prosecutors, governmental agencies, victim assistants, and relevant officers of Federal, State, tribal, territorial, and local courts in recognizing, addressing, investigating, and prosecuting instances of adult, youth, or minor domestic violence, dating violence, sexual assault, stalking, elder abuse, and violence against individuals with disabilities, including domestic violence and sexual assault, against older or disabled individuals; and

"(5) for multidisciplinary collaborative community responses to victims.

"(b) USE OF FUNDS.—Grant funds under this section may be used—

DOJ_NMG_ 0147172

''(1) to implement or expand programs or services to respond to the needs of persons 50 years of age or older who are victims of domestic violence, dating violence, sexual assault, stalking, or elder abuse;

''(2) to provide personnel, training, technical assistance, data collection, advocacy, intervention, risk reduction and prevention of domestic violence, dating violence, stalking, and sexual assault against disabled individuals;

''(3) to conduct outreach activities to ensure that disabled individuals who are victims of domestic violence, dating violence, stalking, or sexual assault receive appropriate assistance;

''(4) to conduct cross-training for victim service organizations, governmental agencies, and nonprofit, nongovernmental organizations serving individuals with disabilities; about risk reduction, intervention, prevention and the nature of dynamic of domestic violence, dating violence, stalking, and sexual assault for disabled individuals;

''(5) to provide training, technical assistance, and data collection to assist with modifications to existing policies, protocols, and procedures to ensure equal access to the services, programs, and activities

DOJ_NMG_ 0147173

of victim service organizations for disabled individuals;

"(6) to provide training, technical assistance, and data collection on the requirements of shelters and victim services organizations under Federal antidiscrimination laws, including—

"(A) the Americans with Disabilities Act of 1990; and

"(B) section 504 of the Rehabilitation Act of 1973;

"(7) to purchase equipment, and provide personnel so that shelters and victim service organizations can accommodate the needs of disabled individuals;

"(8) to provide advocacy and intervention services for disabled individuals who are victims of domestic violence, dating violence, stalking, or sexual assault through collaborative partnerships between—

"(A) nonprofit, nongovernmental agencies;

"(B) governmental agencies serving individuals with disabilities; and

"(C) victim service organizations; or

"(9) to develop model programs providing advocacy and intervention services within organizations serving disabled individuals who are victims of do-

DOJ_NMG_ 0147174

mestic violence, dating violence, sexual assault, or stalking.

''(c) ELIGIBLE ENTITIES.—

''(1) IN GENERAL.—An entity shall be eligible to receive a grant under this section if the entity is—

''(A) a State;

''(B) a unit of local government;

''(C) a nonprofit, nongovernmental organization such as a victim services organization, an organization serving individuals with disabilities or a community-based organization; and

''(D) a religious organization.

''(2) LIMITATION.—A grant awarded for the purposes described in subsection (b) (9) shall be awarded only to an eligible agency (as defined in section 410 of the Rehabilitation Act of 1973 (29 U.S.C. 796f—5)).

''(d) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require.

''(e) REPORTING.—Not later than 1 year after the last day of the first fiscal year commencing on or after

DOJ_NMG_ 0147175

the date of enactment of this Act, and not later than 180 days after the last day of each fiscal year thereafter, the Attorney General shall submit to Congress a report evaluating the effectiveness of programs administered and operated pursuant to this section.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,500,000 for each of the fiscal years 2006 through 2010 to carry out this section.''.

SEC. 605. GAO STUDY OF NATIONAL DOMESTIC VIOLENCE HOTLINE.

(a) STUDY REQUIRED.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall conduct a study of the National Domestic Violence Hotline to determine the effectiveness of the Hotline in assisting victims of domestic violence.

(b) ISSUES TO BE STUDIED.—In conducting the study under subsection (a), the Comptroller General shall—

(1) compile statistical and substantive information about calls received by the Hotline since its inception, or a representative sample of such calls, while maintaining the confidentiality of Hotline callers;

DOJ_NMG_ 0147176

(2) interpret the data compiled under paragraph (1)—

(A) to determine the trends, gaps in services, and geographical areas of need; and

(B) to assess the trends and gaps in services to underserved populations and the military community; and

(3) gather other important information about domestic violence.

(c) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

SEC. 606. GRANTS FOR OUTREACH TO UNDERSERVED POPULATIONS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—From amounts made available to carry out this section, the Attorney General, acting through the Director of the Office on Violence Against Women, shall award grants to eligible entities described in subsection (b) to carry out local, regional, or national public information campaigns focused on addressing adult, youth, or minor domestic violence, dating violence, sexual assault, stalking, or trafficking within tribal, racial, and ethnic populations and immigrant communities, including infor-

DOJ_NMG_ 0147177

mation on services available to victims and ways to prevent or reduce domestic violence, dating violence, sexual assault, and stalking.

(2) TERM.—The Attorney General shall award grants under this section for a period of 1 fiscal year.

(b) ELIGIBLE ENTITIES.—Eligible entities under this section are—

(1) nonprofit, nongovernmental organizations or coalitions that represent the targeted tribal, racial, and ethnic populations or immigrant community that—

(A) have a documented history of creating and administering effective public awareness campaigns addressing domestic violence, dating violence, sexual assault, and stalking; or

(B) work in partnership with an organization that has a documented history of creating and administering effective public awareness campaigns addressing domestic violence, dating violence, sexual assault, and stalking; or

(2) a governmental entity that demonstrates a partnership with organizations described in paragraph (1).

(c) ALLOCATION OF FUNDS.—Of the amounts appropriated for grants under this section—

(1) not more than 20 percent shall be used for national model campaign materials targeted to specific tribal, racial, or ethnic populations or immigrant community, including American Indian tribes and Alaskan native villages for the purposes of research, testing, message development, and preparation of materials; and

(2) the balance shall be used for not less than 10 State, regional, territorial, tribal, or local campaigns targeting specific communities with information and materials developed through the national campaign or, if appropriate, new materials to reach an underserved population or a particularly isolated community.

(d) USE OF FUNDS.—Funds appropriated under this section shall be used to conduct a public information campaign and build the capacity and develop leadership of racial, ethnic populations, or immigrant community members to address domestic violence, dating violence, sexual assault, and stalking.

(e) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Director of the Office on Violence Against Women at such time,

DOJ_NMG_ 0147179

in such form, and in such manner as the Director may prescribe.

(f) CRITERIA.—In awarding grants under this section, the Attorney General shall ensure—

(1) reasonable distribution among eligible grantees representing various racial, ethnic, and immigrant communities;

(2) reasonable distribution among State, regional, territorial, tribal, and local campaigns;

(3) that not more than 8 percent of the total amount appropriated under this section for each fiscal year is set aside for training, technical assistance, and data collection.

(g) REPORTS.—Each eligible entity receiving a grant under this section shall submit to the Director of the Office of Violence Against Women, every 18 months, a report that describes the activities carried out with grant funds.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2006 through 2010.

DOJ_NMG_ 0147180

TITLE VII—SERVICES, PROTECTION, AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE

SEC. 701. SERVICES AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE.

The Violence Against Women Act of 1994 is amended by adding after subtitle K (as added by section 506) the following:

"Subtitle L—Services, Education, Protection and Justice for Young Victims of Violence

"SEC. 41201. GRANTS FOR TRAINING AND COLLABORATION ON THE INTERSECTION BETWEEN DOMESTIC VIOLENCE AND CHILD MALTREATMENT.

''(a) PURPOSE.—The purpose of this section is to support efforts by domestic violence or dating violence victim services providers, courts, law enforcement, child welfare agencies, and other related professionals and community organizations to develop collaborative responses and services and provide cross-training to enhance community responses to families where there is both child maltreatment and domestic violence.

''(b) GRANTS AUTHORIZED.—The Attorney General, through the Violence Against Women Office, shall award

DOJ_NMG_ 0147181

grants on a competitive basis to eligible entities for the purposes and in the manner described in this section.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $8,000,000 for each of fiscal years 2006 through 2010. Funds appropriated under this section shall remain available until expended. Of the amounts appropriated to carry out this section for each fiscal year, the Attorney General shall—

''(1) use not more than 3 percent for evaluation, monitoring, site visits, grantee conferences, and other administrative costs associated with conducting activities under this section;

''(2) set aside not more than 10 percent for grants to programs addressing child maltreatment and domestic violence or dating violence that are operated by, or in partnership with, a tribal organization; and

''(3) set aside up to 8 percent for training and technical assistance, to be provided—

''(A) to organizations that are establishing or have established collaborative responses and services; and

''(B) by organizations having demonstrated expertise in developing collaborative community

DOJ_NMG_ 0147182

and system responses to families in which there is both child maltreatment and domestic violence or dating violence, whether or not they are receiving funds under this section.

''(d) UNDERSERVED POPULATIONS.—In awarding grants under this section, the Attorney General shall consider the needs of racial and ethnic and other underserved populations (as defined in section 2000B of the Omnibus Crime Control and Safe Streets Act of 1968).

''(e) GRANT AWARDS.—The Attorney General shall award grants under this section for periods of not more than 3 fiscal years.

''(f) USES OF FUNDS.—Entities receiving grants under this section shall use amounts provided to develop collaborative responses and services and provide cross-training to enhance community responses to families where there is both child maltreatment and domestic violence or dating violence. Amounts distributed under this section may only be used for programs and activities described in subsection (g).

''(g) PROGRAMS AND ACTIVITIES.—The programs and activities developed under this section shall—

''(1) encourage cross training, education, service development, and collaboration among child welfare agencies, domestic violence victim service pro-

viders, and courts, law enforcement agencies, community-based programs, and other entities, in order to ensure that such entities have the capacity to and will identify, assess, and respond appropriately to—

''(A) domestic violence or dating violence in homes where children are present and may be exposed to the violence;

''(B) domestic violence or dating violence in child protection cases; and

''(C) the needs of both the child and non-abusing parent;

''(2) establish and implement policies, procedures, programs, and practices for child welfare agencies, domestic violence victim service providers, courts, law enforcement agencies, and other entities, that are consistent with the principles of protecting and increasing the immediate and long-term safety and well being of children and non-abusing parents and caretakers by—

''(A) increasing the safety, autonomy, capacity, and financial security of non-abusing parents or caretakers, including developing service plans and utilizing community-based services that provide resources and support to non-abusing parents;

DOJ_NMG_ 0147184

''(B) protecting the safety, security, and well-being of children by preventing their unnecessary removal from a non-abusing parent, or, in cases where removal of the child is necessary to protect the child's safety, taking the necessary steps to provide appropriate and community-based services to the child and the non-abusing parent to promote the safe and appropriately prompt reunification of the child with the non-abusing parent;

''(C) recognizing the relationship between child maltreatment and domestic violence or dating violence in a family, as well as the impact of and danger posed by the perpetrators' behavior on adult, youth, and minor victims; and

''(D) holding adult, youth, and minor perpetrators of domestic violence or dating violence, not adult, youth, and minor victims of abuse or neglect, accountable for stopping the perpetrators' abusive behaviors, including the development of separate service plans, court filings, or community-based interventions where appropriate;

DOJ_NMG_ 0147185

"(3) increase cooperation and enhance linkages between child welfare agencies, domestic violence victim service providers, courts (including family, criminal, juvenile courts, or tribal courts), law enforcement agencies, and other entities to provide more comprehensive community-based services (including health, mental health, social service, housing, and neighborhood resources) to protect and to serve adult, youth, and minor victims;

"(4) identify, assess, and respond appropriately to domestic violence or dating violence in child protection cases and to child maltreatment when it co-occurs with domestic violence or dating violence;

"(5) analyze and change policies, procedures, and protocols that contribute to overrepresentation of racial and ethnic minorities in the court and child welfare system; and

"(6) provide appropriate referrals to community-based programs and resources, such as health and mental health services, shelter and housing assistance for adult, youth, and minor victims and their children, legal assistance and advocacy for adult, youth, and minor victims, assistance for parents to help their children cope with the impact of exposure to domestic violence or dating violence and

DOJ_NMG_ 0147186

child maltreatment, appropriate intervention and treatment for adult perpetrators of domestic violence or dating violence whose children are the subjects of child protection cases, programs providing support and assistance to racial and ethnic populations, and other necessary supportive services.

''(h) GRANTEE REQUIREMENTS.—

''(1) APPLICATIONS.—Under this section, an entity shall prepare and submit to the Attorney General an application at such time, in such manner, and containing such information as the Attorney General may require, consistent with the requirements described herein. The application shall—

''(A) ensure that communities impacted by these systems or organizations are adequately represented in the development of the application, the programs and activities to be undertaken, and that they have a significant role in evaluating the success of the project;

''(B) describe how the training and collaboration activities will enhance or ensure the safety and economic security of families where both child maltreatment and domestic violence or dating violence occurs by providing appropriate resources, protection, and support to the

victimized parents of such children and to the children themselves; and

''(C) outline methods and means participating entities will use to ensure that all services are provided in a developmentally, linguistically and culturally competent manner and will utilize community-based supports and resources.

''(2) ELIGIBLE ENTITIES.—To be eligible for a grant under this section, an entity shall be a collaboration that—

''(A) shall include a State or local child welfare agency or Indian Tribe;

''(B) shall include a domestic violence or dating violence victim service provider;

''(C) may include a court;

''(D) may include a law enforcement agency, or Bureau of Indian Affairs providing tribal law enforcement; and

''(E) may include any other such agencies or private nonprofit organizations, including community-based organizations, with the capacity to provide effective help to the adult, youth, and minor victims served by the collaboration.

DOJ_NMG_ 0147188

''(3) REPORTS.—Each entity receiving a grant under this section shall report to the Attorney General every 18 months, detailing how the funds have been used.

"SEC. 41202. SERVICES TO ADVOCATE FOR AND RESPOND TO TEENS.

''(a) GRANTS AUTHORIZED.—The Attorney General shall award grants to eligible entities to conduct programs to serve youth between the ages of 12 and 24 of domestic violence, dating violence, sexual assault, and stalking. Amounts appropriated under this section may only be used for programs and activities described under subsection (c).

''(b) ELIGIBLE GRANTEES.—To be eligible to receive a grant under this section, an entity shall be—

''(1) a nonprofit, nongovernmental entity, the primary purpose of which is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking;

''(2) a religious or community-based organization that specializes in working with youth victims of domestic violence, dating violence, sexual assault, or stalking;

''(3) an Indian Tribe or tribal organization providing services primarily to tribal youth or tribal vic-

tims of domestic violence, dating violence, sexual assault or stalking; or

''(4) a nonprofit, nongovernmental entity providing services for runaway or homeless youth.

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—An entity that receives a grant under this section shall use amounts provided under the grant to design or replicate, and implement, programs and services, using domestic violence, dating violence, sexual assault, and stalking intervention models to respond to the needs of youth who are victims of domestic violence, dating violence, sexual assault or stalking.

''(2) TYPES OF PROGRAMS.—Such a program—

''(A) shall provide direct counseling and advocacy for teens and young adults, who have experienced domestic violence, dating violence, sexual assault or stalking;

''(B) shall include linguistically, culturally, and community relevant services for racial and ethnic and other underserved populations or linkages to existing services in the community tailored to the needs of racial and ethnic and other underserved populations;

''(C) may include mental health services;

DOJ_NMG_ 0147190

''(D) may include legal advocacy efforts on behalf of minors and young adults with respect to domestic violence, dating violence, sexual assault or stalking;

''(E) may work with public officials and agencies to develop and implement policies, rules, and procedures in order to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking against youth and young adults; and

''(F) may use not more than 25 percent of the grant funds to provide additional services and resources for youth, including childcare, transportation, educational support, and respite care.

''(d) AWARDS BASIS.—

''(1) GRANTS TO INDIAN TRIBES.—Not less than 10 percent of funds appropriated under this section in any year shall be available for grants to Indian Tribes or tribal organizations.

''(2) ADMINISTRATION.—The Attorney General shall not use more than 2.5 percent of funds appropriated under this section in any year for administration, monitoring, and evaluation of grants made available under this section.

DOJ_NMG_ 0147191

''(3) TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—Not less than 5 percent of funds appropriated under this section in any year shall be available to provide training, technical assistance, and data collection for programs funded under this section.

''(e) TERM.—The Attorney General shall make the grants under this section for a period of 3 fiscal years.

''(f) REPORTS.—An entity receiving a grant under this section shall submit to the Attorney General every 18 months a report of how grant funds have been used.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2006 through 2010.''.

SEC. 702. GRANTS TO COMBAT VIOLENT CRIMES ON CAMPUSES.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Attorney General is authorized to make grants to institutions of higher education, for use by such institutions or consortia consisting of campus personnel, student organizations, campus administrators, security personnel, and regional crisis centers affiliated with the institution, to develop and strengthen effective security and investigation strategies to combat domestic violence,

DOJ_NMG_ 0147192

dating violence, sexual assault, and stalking on campuses, and to develop and strengthen victim services in cases involving such crimes against women on campuses, which may include partnerships with local criminal justice authorities and community-based victim services agencies.

(2) AWARD BASIS.—The Attorney General shall award grants and contracts under this section on a competitive basis for a period of 3 years. The Attorney General, through the Director of the Office on Violence Against Women, shall award the grants in amounts of not more than $500,000 for individual institutions of higher education and not more than $1,000,000 for consortia of such institutions.

(3) EQUITABLE PARTICIPATION.—The Attorney General shall make every effort to ensure—

(A) the equitable participation of private and public institutions of higher education in the activities assisted under this section;

(B) the equitable geographic distribution of grants under this section among the various regions of the United States; and

(C) the equitable distribution of grants under this section to tribal colleges and univer-

DOJ_NMG_ 0147193

sities and traditionally black colleges and universities.

(b) USE OF GRANT FUNDS.—Grant funds awarded under this section may be used for the following purposes:

(1) To provide personnel, training, technical assistance, data collection, and other equipment with respect to the increased apprehension, investigation, and adjudication of persons committing domestic violence, dating violence, sexual assault, and stalking on campus.

(2) To train campus administrators, campus security personnel, and personnel serving on campus disciplinary or judicial boards to develop and implement campus policies, protocols, and services that more effectively identify and respond to the crimes domestic violence, dating violence, sexual assault, and stalking. Within 90 days after the date of enactment of this Act, the Attorney General shall issue and make available minimum standards of training relating to domestic violence, dating violence, sexual assault, and stalking on campus, for all campus security personnel and personnel serving on campus disciplinary or judicial boards.

DOJ_NMG_ 0147194

(3) To implement and operate education programs for the prevention of domestic violence, dating violence, sexual assault and stalking.

(4) To develop, enlarge, or strengthen victim services programs on the campuses of the institutions involved, including programs providing legal, medical, or psychological counseling, for victims of domestic violence, dating violence, sexual assault, and stalking, and to improve delivery of victim assistance on campus. To the extent practicable, such an institution shall collaborate with any entities carrying out nonprofit and other victim services programs, including domestic violence, dating violence, sexual assault, and stalking victim services programs in the community in which the institution is located. If appropriate victim services programs are not available in the community or are not accessible to students, the institution shall, to the extent practicable, provide a victim services program on campus or create a victim services program in collaboration with a community-based organization. The institution shall use not less than 20 percent of the funds made available through the grant for a victim services program provided in accordance with this paragraph.

DOJ_NMG_ 0147195

(5) To create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action, including assistance to victims in immigration matters.

(6) To develop, install, or expand data collection and communication systems, including computerized systems, linking campus security to the local law enforcement for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions with respect to the crimes of domestic violence, dating violence, sexual assault, and stalking on campus.

(7) To provide capital improvements (including improved lighting and communications facilities but not including the construction of buildings) on campuses to address the crimes of domestic violence, dating violence, sexual assault, and stalking.

(8) To support improved coordination among campus administrators, campus security personnel, and local law enforcement to reduce domestic violence, dating violence, sexual assault, and stalking on campus.

(c) APPLICATIONS.—

DOJ_NMG_ 0147196

(1) IN GENERAL.—In order to be eligible to be awarded a grant under this section for any fiscal year, an institution of higher education shall submit an application to the Attorney General at such time and in such manner as the Attorney General shall prescribe.

(2) CONTENTS.—Each application submitted under paragraph (1) shall—

(A) describe the need for grant funds and the plan for implementation for any of the purposes described in subsection (b);

(B) include proof that the institution of higher education collaborated with any nonprofit, nongovernmental entities carrying out other victim services programs, including domestic violence, dating violence, sexual assault, and stalking victim services programs in the community in which the institution is located;

(C) describe the characteristics of the population being served, including type of campus, demographics of the population, and number of students;

(D) provide measurable goals and expected results from the use of the grant funds;

DOJ_NMG_ 0147197

(E) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds, be made available by the institution for the purposes described in subsection (b); and

(F) include such other information and assurances as the Attorney General reasonably determines to be necessary.

(3) COMPLIANCE WITH CAMPUS CRIME REPORTING REQUIRED.—No institution of higher education shall be eligible for a grant under this section unless such institution is in compliance with the requirements of section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)). Up to $200,000 of the total amount of grant funds appropriated under this section for fiscal years 2006 through 2010 may be used to provide technical assistance in complying with the mandatory reporting requirements of section 485(f) of such Act.

(d) GENERAL TERMS AND CONDITIONS.—

(1) NONMONETARY ASSISTANCE.—In addition to the assistance provided under this section, the Attorney General may request any Federal agency to

DOJ_NMG_ 0147198

use the agency's authorities and the resources granted to the agency under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of campus security, and investigation and victim service efforts.

(2) CONFIDENTIALITY.—

(A) NONDISCLOSURE OF CONFIDENTIAL OR PRIVATE INFORMATION.—In order to ensure the safety of adult and minor victims of domestic violence, dating violence, sexual assault, or stalking and their families, grantees and subgrantees under this section shall reasonably—

(i) protect the confidentiality and privacy of persons receiving services under the grants and subgrants; and

(ii) not disclose and personally identifying information, or individual client information, collected in connection with services requested, utilized, or denied through programs provided by such grantees and subgrantees under this section.

(B) CONSENT.—A grantee or subgrantee under this section shall not reveal personally any identifying information or individual client

DOJ_NMG_ 0147199

information collected as described in subparagraph (A) without the informed, written, and reasonably time-limited consent of the person (or, in the case of an unemancipated minor, the minor and the parent or guardian of the minor) about whom information is sought, whether for the program carried out under this section or any other Federal, State, tribal, or territorial assistance program.

(C) COMPELLED RELEASE AND NOTICE.—If a grantee or subgrantee under this section is compelled by statutory or court mandate to disclose information described in subparagraph (A), the grantee or subgrantee—

(i) shall make reasonable attempts to provide notice to individuals affected by the disclosure of information; and

(ii) shall take steps necessary to protect the privacy and safety of the individual affected by the disclosure.

(D) PERMISSIVE SHARING.—Grantees and subgrantees under this section may share with each other, in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements—

DOJ_NMG_ 0147200

(i) aggregate data, that is not personally identifying information, regarding services provided to their clients; and

(ii) demographic information that is not personally identifying information.

(E) COURT-GENERATED AND LAW ENFORCEMENT-GENERATED INFORMATION.—Grantees and subgrantees under this section may share with each other—

(i) court-generated information contained in secure, governmental registries for protection order enforcement purposes; and

(ii) law enforcement-generated information.

(F) DEFINITION.—As used in this paragraph, the term ''personally identifying information'' means individually identifying information from or about an individual, including—

(i) first and last name;

(ii) home or other physical address, including street name and name of city or town;

(iii) email address or other online contact information, such as an instant- mes-

DOJ_NMG_ 0147201

saging user identifier or a screen name that reveals an individual's email address;

(iv) telephone number;

(v) social security number;

(vi) Internet Protocol (''IP'') address or host name that identifies an individual;

(vii) persistent identifier, such as a customer number held in a ''cookie'' or processor serial number, that is combined with other available data that identities an individual; or

(viii) information that, in combination with the information in any of the clauses (i) through (vii), would serve to identify any individual, including—

(I) grade point average;

(II) date of birth;

(III) academic or occupational interests;

(IV) athletic or extracurricular interests;

(V) racial or ethnic background; or

(VI) religious affiliation.

(3) GRANTEE REPORTING.—

DOJ_NMG_ 0147202

(A) ANNUAL REPORT.—Each institution of higher education receiving a grant under this section shall submit a biennial performance report to the Attorney General. The Attorney General shall suspend funding under this section for an institution of higher education if the institution fails to submit such a report.

(B) FINAL REPORT.—Upon completion of the grant period under this section, the institution shall file a performance report with the Attorney General and the Secretary of Education explaining the activities carried out under this section together with an assessment of the effectiveness of those activities in achieving the purposes described in subsection (b).

(4) REPORT TO CONGRESS.—Not later than 180 days after the end of the fiscal year for which grants are awarded under this section, the Attorney General shall submit to Congress a report that includes—

(A) the number of grants, and the amount of funds, distributed under this section;

(B) a summary of the purposes for which the grants were provided and an evaluation of the progress made under the grant;

DOJ_NMG_ 0147203

(C) a statistical summary of the persons served, detailing the nature of victimization, and providing data on age, sex, race, ethnicity, language, disability, relationship to offender, geographic distribution, and type of campus; and

(D) an evaluation of the effectiveness of programs funded under this part.

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $15,000,000 for each of fiscal years 2006 through 2010.

SEC. 703. SAFE HAVENS.

Section 1301 of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 10420) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 10402. SAFE HAVENS FOR CHILDREN.";

(2) in subsection (a)—

(A) by inserting '', through the Director of the Office on Violence Against Women,'' after ''Attorney General'';

(B) by inserting ''public or nonprofit nongovernmental entities, and to'' after ''may award grants to'';

(C) by inserting ''dating violence,'' after ''domestic violence,'';

(D) by striking ''to provide'' and inserting the following:

''(1) to provide'';

(E) by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

''(2) to protect children from the trauma of witnessing domestic or dating violence or experiencing abduction, injury, or death during parent and child visitation exchanges;

''(3) to protect parents or caretakers who are victims of domestic and dating violence from experiencing further violence, abuse, and threats during child visitation exchanges; and

''(4) to protect children from the trauma of experiencing sexual assault or other forms of physical assault or abuse during parent and child visitation and visitation exchanges.''; and

(3) by striking subsection (e) and inserting the following:

''(e) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, $20,000,000

DOJ_NMG_ 0147205

for each of fiscal years 2006 through 2010. Funds appropriated under this section shall remain available until expended.

''(2) USE OF FUNDS.—Of the amounts appropriated to carry out this section for each fiscal year, the Attorney General shall—

''(A) set aside not less than 5 percent for grants to Indian tribal governments or tribal organizations;

''(B) use not more than 3 percent for evaluation, monitoring, site visits, grantee conferences, and other administrative costs associated with conducting activities under this section; and

''(C) set aside not more than 8 percent for training, technical assistance, and data collection to be provided by organizations having nationally recognized expertise in the design of safe and secure supervised visitation programs and visitation exchange of children in situations involving domestic violence, dating violence, sexual assault, or stalking.''.

DOJ_NMG_ 0147206

SEC. 704. GRANTS TO COMBAT DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING IN MIDDLE AND HIGH SCHOOLS.

(a) SHORT TITLE.—This section may be cited as the ''Supporting Teens through Education and Protection Act of 2005'' or the ''STEP Act''.

(b) GRANTS AUTHORIZED.—The Attorney General, through the Director of the Office on Violence Against Women, is authorized to award grants to middle schools and high schools that work with domestic violence and sexual assault experts to enable the schools—

(1) to provide training to school administrators, faculty, counselors, coaches, healthcare providers, security personnel, and other staff on the needs and concerns of students who experience domestic violence, dating violence, sexual assault, or stalking, and the impact of such violence on students;

(2) to develop and implement policies in middle and high schools regarding appropriate, safe responses to, and identification and referral procedures for, students who are experiencing or perpetrating domestic violence, dating violence, sexual assault, or stalking, including procedures for handling the requirements of court protective orders issued to or against students or school personnel, in a manner

DOJ_NMG_ 0147207

that ensures the safety of the victim and holds the perpetrator accountable;

(3) to provide support services for students and school personnel, such as a resource person who is either on-site or on-call, and who is an expert described in subsections (i)(2) and (i)(3), for the purpose of developing and strengthening effective prevention and intervention strategies for students and school personnel experiencing domestic violence, dating violence, sexual assault or stalking;

(4) to provide developmentally appropriate educational programming to students regarding domestic violence, dating violence, sexual assault, and stalking, and the impact of experiencing domestic violence, dating violence, sexual assault, and stalking on children and youth by adapting existing curricula activities to the relevant student population;

(5) to work with existing mentoring programs and develop strong mentoring programs for students, including student athletes, to help them understand and recognize violence and violent behavior, how to prevent it and how to appropriately address their feelings; and

(6) to conduct evaluations to assess the impact of programs and policies assisted under this section

DOJ_NMG_ 0147208

in order to enhance the development of the programs.

(c) AWARD BASIS.—The Director shall award grants and contracts under this section on a competitive basis.

(d) POLICY DISSEMINATION.—The Director shall disseminate to middle and high schools any existing Department of Justice, Department of Health and Human Services, and Department of Education policy guidance and curricula regarding the prevention of domestic violence, dating violence, sexual assault, and stalking, and the impact of the violence on children and youth.

(e) NONDISCLOSURE OF CONFIDENTIAL OR PRIVATE INFORMATION.—In order to ensure the safety of adult, youth, and minor victims of domestic violence, dating violence, sexual assault, or stalking and their families, grantees and subgrantees shall protect the confidentiality and privacy of persons receiving services. Grantees and subgrantees pursuant to this section shall not disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs. Grantees and subgrantees shall not reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of unemancipated minor, the minor and the parent

or guardian) about whom information is sought, whether for this program or any other Tribal, Federal, State or Territorial grant program. If release of such information is compelled by statutory or court mandate, grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the disclosure of information. If such personally identifying information is or will be revealed, grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information. Grantees may share non-personally identifying data in the aggregate regarding services to their clients and non-personally identifying demographic information in order to comply with Tribal, Federal, State or Territorial reporting, evaluation, or data collection requirements. Grantees and subgrantees may share court-generated information contained in secure, governmental registries for protection order enforcement purposes.

(f) GRANT TERM AND ALLOCATION.—

(1) TERM.—The Director shall make the grants under this section for a period of 3 fiscal years.

(2) ALLOCATION.—Not more than 15 percent of the funds available to a grantee in a given year shall be used for the purposes described in subsection (b)(4)(D), (b),(5), and (b)(6).

DOJ_NMG_ 0147210

(g) DISTRIBUTION.—

(1) IN GENERAL.—Not less than 5 percent of funds appropriated under subsection (l) in any year shall be available for grants to tribal schools, schools on tribal lands or schools whose student population is more than 25 percent native American.

(2) ADMINISTRATION.—The Director shall not use more than 5 percent of funds appropriated under subsection (l) in any year for administration, monitoring and evaluation of grants made available under this section.

(3) TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—Not less than 5 percent of funds appropriated under subsection (l) in any year shall be available to provide training, technical assistance, and data collection for programs funded under this section.

(h) APPLICATION.—To be eligible to be awarded a grant or contract under this section for any fiscal year, a middle or secondary school, in consultation with an expert as described in subsections (i)(2) and (i)(3), shall submit an application to the Director at such time and in such manner as the Director shall prescribe.

(i) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be a partnership that—

(1) shall include a public, charter, tribal, or nationally accredited private middle or high school, a school administered by the Department of Defense under 10 U.S.C. 2164 or 20 U.S.C. 921, a group of schools, or a school district;

(2) shall include a domestic violence victim service provider that has a history of working on domestic violence and the impact that domestic violence and dating violence have on children and youth;

(3) shall include a sexual assault victim service provider, such as a rape crisis center, program serving tribal victims of sexual assault, or coalition or other nonprofit nongovernmental organization carrying out a community-based sexual assault program, that has a history of effective work concerning sexual assault and the impact that sexual assault has on children and youth; and

(4) may include a law enforcement agency, the State, Tribal, Territorial or local court, nonprofit nongovernmental organizations and service providers addressing sexual harassment, bullying or gang-re-

DOJ_NMG_ 0147212

lated violence in schools, and any other such agencies or nonprofit nongovernmental organizations with the capacity to provide effective assistance to the adult, youth, and minor victims served by the partnership.

(j) PRIORITY.—In awarding grants under this section, the Director shall give priority to entities that have submitted applications in partnership with relevant courts or law enforcement agencies.

(k) REPORTING AND DISSEMINATION OF INFORMATION.—

(1) REPORTING.—Each of the entities that are members of the applicant partnership described in subsection (i), that receive a grant under this section shall jointly prepare and submit to the Director every 18 months a report detailing the activities that the entities have undertaken under the grant and such additional information as the Director shall require.

(2) DISSEMINATION OF INFORMATION.—Within 9 months of the completion of the first full grant cycle, the Director shall publicly disseminate, including through electronic means, model policies and procedures developed and implemented in middle and high schools by the grantees, including informa-

DOJ_NMG_ 0147213

tion on the impact the policies have had on their respective schools and communities.

(l) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, $5,000,000 for each of fiscal years 2006 through 2010.

(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.

TITLE VIII—STRENGTHENING AMERICA'S FAMILIES BY PREVENTING VIOLENCE IN THE HOME

SEC. 801. PREVENTING VIOLENCE IN THE HOME.

The Violence Against Women Act of 1994 is amended by adding after subtitle L (as added by section 701) the following:

"Subtitle M—Strengthening America's Families by Preventing Violence in the Home

"SEC. 41301. PURPOSE.

''The purpose of this subtitle is to—

''(1) prevent crimes involving domestic violence, dating violence, sexual assault, and stalking, including when committed against children and youth;

DOJ_NMG_ 0147214

''(2) increase the resources and services available to prevent domestic violence, dating violence, sexual assault, and stalking, including when committed against children and youth;

''(3) reduce the impact of exposure to violence in the lives of children and youth so that the intergenerational cycle of violence is interrupted;

''(4) develop and implement education and services programs to prevent children in vulnerable families from becoming victims or perpetrators of domestic violence, dating violence, sexual assault, or stalking;

''(5) promote programs to ensure that children and youth receive the assistance they need to end the cycle of violence and develop mutually respectful, nonviolent relationships; and

''(6) encourage collaboration among community-based organizations and governmental agencies serving children and youth, providers of health and mental health services and providers of domestic violence, dating violence, sexual assault, and stalking victim services to prevent violence.

''SEC. 41302. GRANTS TO ASSIST CHILDREN AND YOUTH EXPOSED TO VIOLENCE.

''(a) GRANTS AUTHORIZED.—

DOJ_NMG_ 0147215

''(1) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, and in consultation with the Secretary of Health and Human Services, is authorized to award grants on a competitive basis to eligible entities for the purpose of mitigating the effects of domestic violence, dating violence, sexual assault, and stalking on children exposed to such violence, and reducing the risk of future victimization or perpetration of domestic violence, dating violence, sexual assault, and stalking.

''(2) TERM.—The Director shall make grants under this section for a period of 3 fiscal years.

''(3) AWARD BASIS.—The Director shall award grants—

''(A) considering the needs of racial and ethnic and other underserved populations, as defined in section 2000B of the Omnibus Crime Control and Safe Streets Act of 1968;

''(B) awarding not less than 10 percent of such amounts for the funding of tribal projects from the amounts made available under this section for a fiscal year;

''(C) awarding up to 8 percent for the funding of training, technical assistance, and

DOJ_NMG_ 0147216

data collection programs from the amounts made available under this section for a fiscal year; and

''(D) awarding not less than 66 percent to programs described in subsection (c)(1) from the amounts made available under this section for a fiscal year.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2006 through 2010.

''(c) USE OF FUNDS.—The funds appropriated under this section shall be used for—

''(1) programs that provide services for children exposed to domestic violence, dating violence, sexual assault, or stalking, which may include direct counseling, advocacy, or mentoring, and must include support for the nonabusing parent or the child's caretaker;

''(2) training and coordination for programs that serve children and youth (such as Head Start, child care, and after-school programs) on how to safely and confidentially identify children and families experiencing domestic violence and properly refer them to programs that can provide direct services to the family and children, and coordination with other

DOJ_NMG_ 0147217

domestic violence or other programs serving children exposed to domestic violence, dating violence, sexual assault, or stalking that can provide the training and direct services referenced in this subsection; or

''(3) advocacy within the systems that serve children to improve the system's understanding of and response to children who have been exposed to domestic violence and the needs of the nonabusing parent.

''(d) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be—

''(1) a victim service provider, tribal nonprofit organization or community-based organization that has a documented history of effective work concerning children or youth exposed to domestic violence, dating violence, sexual assault, or stalking, including programs that provide culturally specific services, Head Start, child care, after school programs, and health and mental health providers; or

''(2) a State, territorial, or tribal, or local unit of government agency that is partnered with an organization described in paragraph (1).

''(e) GRANTEE REQUIREMENTS.—Under this section, an entity shall—

DOJ_NMG_ 0147218

''(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

''(2) at a minimum, describe in the application the policies and procedures that the entity has or will adopt to—

''(A) enhance or ensure the safety and security of children who have been exposed to violence and their nonabusing parent, enhance or ensure the safety and security of children and their nonabusing parent in homes already experiencing domestic violence, dating violence, sexual assault, or stalking; and

''(B) ensure linguistically, culturally, and community relevant services for racial and ethnic and other underserved populations.

''(f) REPORTS.—An entity receiving a grant under this section shall prepare and submit to the Director every 18 months a report detailing the activities undertaken with grant funds, providing additional information as the Director shall require.

"SEC. 41303. BUILDING ALLIANCES AMONG MEN, WOMEN, AND YOUTH TO PREVENT DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

''(a) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, and in collaboration with the Secretary of Health and Human Services, shall award grants on a competitive basis to eligible entities for the purpose of developing or enhancing programs related to building alliances among men, women, and youth to prevent domestic violence, dating violence, sexual assault, and stalking by helping them to develop mutually respectful, nonviolent relationships.

''(2) TERM.—The Director shall make grants under this section for a period of 3 fiscal years.

''(3) AWARD BASIS.—The Director shall award grants—

''(A) considering the needs of racial and ethnic and other underserved populations (as defined in section 2000B of the Omnibus Crime Control and Safe Streets Act of 1968);

''(B) with respect to gender-specific programs described under subsection (c)(1)(A), en-

suring reasonable distribution of funds to programs for boys and programs for girls;

''(C) awarding not less than 10 percent of such amounts for the funding of tribal projects from the amounts made available under this section for a fiscal year; and

''(D) awarding up to 8 percent for the funding of training, technical assistance, and data collection for grantees and non-grantees working in this area and evaluation programs from the amounts made available under this section for a fiscal year.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2006 through 2010.

''(c) USE OF FUNDS.—

''(1) PROGRAMS.—The funds appropriated under this section shall be used by eligible entities for—

''(A) public education and community based programs, including gender-specific programs in accordance with applicable laws—

''(i) to encourage children and youth to pursue only mutually respectful, nonviolent relationships and empower them to

DOJ_NMG_ 0147221

reduce their risk of becoming victims or perpetrators of domestic violence, dating violence, sexual assault, or stalking; and

''(ii) that include at a minimum—

''(I) information on domestic violence, dating violence, sexual assault, stalking, or child sexual abuse and how they affect children and youth; and

''(II) strategies to help participants be as safe as possible; or

''(B) public education campaigns and community organizing to encourage men and boys to work as allies with women and girls to prevent domestic violence, dating violence, stalking, and sexual assault conducted by entities that have experience in conducting public education campaigns that address domestic violence, dating violence, sexual assault, or stalking.

''(2) MEDIA LIMITS.—No more than 25 percent of funds received by a grantee under this section may be used to create and distribute media materials.

''(d) ELIGIBLE ENTITIES.—

DOJ_NMG_ 0147222

''(1) RELATIONSHIPS.—Eligible entities under subsection (c)(1)(A) are—

''(A) nonprofit, nongovernmental domestic violence, dating violence, sexual assault, or stalking victim service providers or coalitions;

''(B) community-based child or youth services organizations with demonstrated experience and expertise in addressing the needs and concerns of young people;

''(C) a State, territorial, tribal, or unit of local governmental entity that is partnered with an organization described in subparagraph (A) or (B); or

''(D) a program that provides culturally specific services.

''(2) AWARENESS CAMPAIGN.—Eligible entities under subsection (c)(1)(B) are—

''(A) nonprofit, nongovernmental organizations or coalitions that have a documented history of creating and administering effective public education campaigns addressing the prevention of domestic violence, dating violence, sexual assault or stalking; or

DOJ_NMG_ 0147223

''(B) a State, territorial, tribal, or unit of local governmental entity that is partnered with an organization described in subparagraph (A).

''(e) GRANTEE REQUIREMENTS.—Under this section, an entity shall—

''(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

''(2) for a grant under subsection (c)(1)(A), describe in the application the policies and procedures that the entity has or will adopt to—

''(A) enhance or ensure the safety and security of children and youth already experiencing domestic violence, dating violence, sexual assault, or stalking in their lives;

''(B) provide, where appropriate, linguistically, culturally, and community relevant services for racial and ethnic and other underserved populations;

''(C) inform participants about laws, services, and resources in the community, and make referrals as appropriate; and

''(D) ensure that State and local domestic violence, dating violence, sexual assault, and

DOJ_NMG_ 0147224

stalking victim service providers and coalitions are aware of the efforts of organizations receiving grants under this section.

''(f) REPORTS.—An entity receiving a grant under this section shall prepare and submit to the Director every 18 months a report detailing the activities undertaken with grant funds, including an evaluation of funded programs and providing additional information as the Director shall require.

''SEC. 41304. DEVELOPMENT OF CURRICULA AND PILOT PROGRAMS FOR HOME VISITATION PROJECTS.

''(a) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, shall award grants on a competitive basis to home visitation programs, in collaboration with law enforcement, victim service providers, for the purposes of developing and implementing model policies and procedures to train home visitation service providers on addressing domestic violence, dating violence, sexual assault, and stalking in families experiencing violence, or at risk of violence, to reduce the impact of that violence on children, maintain

DOJ_NMG_ 0147225

safety, improve parenting skills, and break intergenerational cycles of violence.

''(2) TERM.—The Director shall make the grants under this section for a period of 2 fiscal years.

''(3) AWARD BASIS.—The Director shall—

''(A) consider the needs of underserved populations;

''(B) award not less than 7 percent of such amounts for the funding of tribal projects from the amounts made available under this section for a fiscal year; and

''(C) award up to 8 percent for the funding of technical assistance programs from the amounts made available under this section for a fiscal year.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2010.

''(c) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be a national, Federal, State, local, territorial, or tribal—

''(1) home visitation program that provides services to pregnant women and to young children and their parent or primary caregiver that are pro-

vided in the permanent or temporary residence or in other familiar surroundings of the individual or family receiving such services; or

''(2) victim services organization or agency in collaboration with an organization or organizations listed in paragraph (1).

''(d) GRANTEE REQUIREMENTS.—Under this section, an entity shall—

''(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

''(2) describe in the application the policies and procedures that the entity has or will adopt to—

''(A) enhance or ensure the safety and security of children and their nonabusing parent in homes already experiencing domestic violence, dating violence, sexual assault, or stalking;

''(B) ensure linguistically, culturally, and community relevant services for racial ethnic and other underserved communities;

''(C) ensure the adequate training by domestic violence, dating violence, sexual assault

DOJ_NMG_ 0147227

or stalking victim service providers of home visitation grantee program staff to—

"(i) safely screen for or recognize (or both) domestic violence, dating violence, sexual assault, and stalking;

"(ii) understand the impact of domestic violence or sexual assault on children and protective actions taken by a non-abusing parent or caretaker in response to violence against anyone in the household; and

"(iii) link new parents with existing community resources in communities where resources exist; and

"(D) ensure that relevant State and local domestic violence, dating violence, sexual assault, and stalking victim service providers and coalitions are aware of the efforts of organizations receiving grants under this section, and are included as training partners, where possible.".

DOJ_NMG_ 0147228

TITLE IX—PROTECTION FOR IMMIGRANT VICTIMS OF VIOLENCE

SECTION 900. SHORT TITLE OF TITLE; REFERENCES TO VAWA–2000; REGULATIONS.

(a) SHORT TITLE OF TITLE.—This title may be cited as ''Immigrant Victims of Violence Protection Act of 2005''.

(b) REFERENCES TO VAWA–2000.—In this title, the term ''VAWA–2000'' means the Violence Against Women Act of 2000 (division B of Public Law 106–386).

(c) REGULATIONS.— Not later than 180 days after the date of the enactment of this Act, the Attorney General, the Secretary of Homeland Security, and Secretary of State shall promulgate regulations to implement the provisions contained in the Battered Immigrant Women Protection Act of 2000 (title V of VAWA–2000) and the amendments made by (and the provisions of) this title. In applying such regulations, in the case of petitions or applications filed on or before the effective date of publication of such regulations for relief covered by such regulations, there shall be no requirement to submit an additional petition or application and any priority or similar date with respect to such a petition or application shall

DOJ_NMG_ 0147229

relate back to the date of the filing of the petition or application.

Subtitle A—Victims of Crime

SEC. 901. CONDITIONS APPLICABLE TO U AND T VISAS.

(a) TREATMENT OF SPOUSE AND CHILDREN OF VICTIMS OF TRAFFICKING.—Clause (ii) of section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)) is amended to read as follows:

"(ii) if accompanying, or following to join, the alien described in clause (i)—

"(I) in the case of an alien so described who is under 21 years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien; or

"(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien;".

(b) DURATION OF U AND T VISAS.—

(1) U VISAS.—Section 214(p) of such Act (8 U.S.C. 1184(p)) is amended by adding at the end the following new paragraph:

DOJ_NMG_ 0147230

"(6) DURATION OF STATUS.—The authorized period of status of an alien as a nonimmigrant under section 101(a)(15)(U) shall be 4 years, but shall be extended—

"(A) on a year-by-year basis upon certification from a Federal, State or local law enforcement official, prosecutor, judge, or other Federal, State or local authority investigating or prosecuting criminal activity described in section 101(a)(15)(U)(iii) that the alien's continued presence in the United States is required to assist in the investigation or prosecution of such criminal activity; and

"(B) if the alien files an application for adjustment of status under section 245(m), until final adjudication of such application.".

(2) T VISAS.—Section 214(o) of such Act (8 U.S.C. 1184(o)), as redesignated by section 8(a)(3) of the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193), is amended by adding at the end the following:

"(7) The authorized period of status of an alien as a nonimmigrant status under section 101(a)(15)(T) shall be 4 years, but shall be extended—

DOJ_NMG_ 0147231

''(A) on a year-by-year basis upon certification from a Federal, State or local law enforcement official, prosecutor, judge, or other Federal, State or local authority investigating or prosecuting criminal activity relating to human trafficking that the alien's continued presence in the United States is required to assist in the investigation or prosecution of such criminal activity; and

''(B) if the alien files an application for adjustment of status under section 245(l), until final adjudication of such application.''.

(c) PERMITTING CHANGE OF NONIMMIGRANT STATUS TO U AND T NONIMMIGRANT STATUS.—

(1) IN GENERAL.—Section 248 of such Act (8 U.S.C. 1258) is amended—

(A) by striking ''The Attorney General'' and inserting ''(a) The Secretary of Homeland Security'';

(B) by inserting ''(subject to subsection (b))'' after ''except''; and

(C) by adding at the end the following new subsection:

''(b) The limitation based on inadmissibility under section 212(a)(9)(B) and the exceptions specified in numbered paragraphs of subsection (a) shall not apply to a

DOJ_NMG_ 0147232

change of nonimmigrant classification to that of a nonimmigrant under subparagraph (T) or (U) of section 101(a)(15), other than from such classification under subparagraph (C) or (D) of such section.''.

(2) CONFORMING AMENDMENT.—Section 214(l)(2)(A) of such Act (8 U.S.C. 1184(l)(2)(A)) is amended by striking ''248(2)'' and inserting ''248(a)(2)''.

(d) CERTIFICATION PROCESS FOR VICTIMS OF TRAFFICKING.—

(1) VICTIM ASSISTANCE IN INVESTIGATION OR PROSECUTION.—Section 107(b)(1)(E) of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7105(b)(1)(E)) is amended—

(A) in clause (i)(I), by striking ''investigation and prosecution'' and inserting ''investigation or prosecution, by the United States or a State or local government''; and

(B) in clause (iii)—

(i) by striking ''INVESTIGATION AND PROSECUTION'' and ''investigation and prosecution'' and inserting ''INVESTIGATION OR PROSECUTION'' and ''investigation or prosecution'', respectively;

DOJ_NMG_ 0147233

(ii) in subclause (II), by striking ''and'' at the end;

(iii) in subclause (III), by striking the period and inserting ''; or''; and

(iv) by adding at the end the following new subclause:

''(IV) responding to and cooperating with requests for evidence and information.''.

(2) CLARIFYING ROLES OF ATTORNEY GENERAL AND SECRETARY OF HOMELAND SECURITY.—

(A) Section 107 of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7105) is amended—

(i) in subsections (b)(1)(E)(i)(II)(bb), (b)(1)(E)(ii), (e)(5), and (g), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(ii) in subsection (c), by inserting '', Secretary of Homeland Security,'' after ''Attorney General''.

(B) Section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)) is amended by striking ''Attor-

DOJ_NMG_ 0147234

ney General'' and inserting ''Secretary of Homeland Security'' each place it appears.

(C) Section 212(d)(13) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(13)) is amended—

(i) in subparagraph (A), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(ii) in subparagraph (B), by striking ''Attorney General'' the first place it appears and inserting ''Secretary of Homeland Security''; and

(iii) in subparagraph (B), by striking ''Attorney General, in the Attorney General's discretion'' and inserting ''Secretary, in the Secretary's discretion''.

(D) Section 101(i) of the Immigration and Nationality Act (8 U.S.C. 1101(i)) is amended—

(i) in paragraph (1), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security, the Attorney General,''; and

DOJ_NMG_ 0147235

(ii) in paragraph (2), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''.

(E) Section 245(l) of the Immigration and Nationality Act (8 U.S.C. 1255(l)) is amended—

(i) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'' the first place it appears in paragraphs (1) and (2) and in paragraph (4);

(ii) by striking ''Attorney General'' and inserting ''Secretary '' the second place it appears in paragraphs (1) and (2); and

(iii) in paragraph (2), by striking ''Attorney General's'' and inserting ''Secretary's''.

(3) REQUEST BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.—Section 107(c)(3) of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7105(c)(3)) is amended by adding at the end the following: ''State or local law enforcement officials may request such Federal law enforcement officials for the continued presence of trafficking victims. If such a request

DOJ_NMG_ 0147236

contains a certification that a trafficking victim is a victim of a severe form of trafficking, such Federal law enforcement officials may permit the continued presence of the trafficking victim in accordance with this paragraph.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b)(1), (c), and (d)(3) shall take effect on the date of the enactment of this Act.

(2) TRANSITION FOR DURATION OF T VISAS.—In the case of an alien who is classified as a nonimmigrant under section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)) before the the date of implementation of the amendment made by subsection (b)(2) and whose period of authorized stay was less than 4 years, the authorized period of status of the alien as such a nonimmigrant shall be extended to be 4 years and shall be further extended on a year-by-year basis as provided in section 214(o)(7) of such Act, as added by such amendment.

(3) CERTIFICATION PROCESS.—(A) The amendments made by subsection (d)(1) shall be effective as if included in the enactment of VAWA–2000.

DOJ_NMG_ 0147237

(B) The amendments made by subsection (d)(2) shall be effective as of the applicable date of transfer of authority from the Attorney General to the Secretary of Homeland Security under the Homeland Security Act of 2002 (Public Law 107–296).

SEC. 902. CLARIFICATION OF BASIS FOR RELIEF UNDER HARDSHIP WAIVERS FOR CONDITIONAL PERMANENT RESIDENCE.

(a) IN GENERAL.—Section 216(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)(4)) is amended by adding at the end the following: ''An application for relief under this paragraph may be based on one or more grounds specified in subparagraphs (A) through (D) and may be amended at any time to change the ground or grounds for such relief without the application being resubmitted.''.

(b) APPEALS.—Such section is further amended by adding at the end the following: ''Such an application may not be considered if there is a final removal order in effect with respect to the alien.''

(c) CONFORMING AMENDMENT.—Section 237(a)(1)(H)(ii) of such Act (8 U.S.C. 1227(a)(1)(H)(ii)) is amended by inserting before the period at the end the following: ''or qualifies for a waiver under section 216(c)(4)''.

DOJ_NMG_ 0147238

(d) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to applications for relief pending or filed on or after April 10, 2003.

(2) The amendment made by subsection (b) shall apply to applications for relief filed on or after the date of the enactment of this Act.

SEC. 903. ADJUSTMENT OF STATUS FOR VICTIMS OF TRAFFICKING.

(a) REDUCTION IN REQUIRED PERIOD OF PRESENCE AUTHORIZED.—

(1) IN GENERAL.—Section 245(l) of the Immigration and Nationality Act (8 U.S.C. 1255(l)) is amended—

(A) in paragraph (1)(A), by inserting ''subject to paragraph (6),'' after ''(A)'';

(B) in paragraph (1)(A), by inserting after ''since'' the following: ''the earlier of (i) the date the alien was granted continued presence under section 107(c)(3) of the Trafficking Victims Protection Act of 2000, or (ii)''; and

(C) by adding at the end the following new paragraph:

''(6) The Secretary of Homeland Security may waive or reduce the period of physical presence required under

DOJ_NMG_ 0147239

paragraph (1)(A) for an alien's adjustment of status under this subsection if a Federal, State, or local law enforcement official investigating or prosecuting trafficking described in section 101(a)(15)(T)(i) in relation to the alien or the alien's spouse, child, parent, or sibling certifies that the official has no objection to such waiver or reduction.''.

(2) CONFORMING AMENDMENT.—Section 107(c) of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7105(c)) is amended by adding at the end the following new paragraph:

''(5) CERTIFICATION OF NO OBJECTION FOR WAIVER OR REDUCTION OF PERIOD OF REQUIRED PHYSICAL PRESENCE FOR ADJUSTMENT OF STATUS.—In order for an alien to have the required period of physical presence under paragraph (1)(A) of section 245(l) of the Immigration and Nationality Act waived or reduced under paragraph (6) of such section, a Federal, State, and local law enforcement official investigating or prosecuting trafficking described in section 101(a)(15)(T)(i) in relation to the alien or the alien's spouse, child, parent, or sibling may provide for a certification of having no objection to such waiver or reduction.''.

DOJ_NMG_ 0147240

(b) TREATMENT OF GOOD MORAL CHARACTER .—Section 245(l) of the Immigration and Nationality Act (8 U.S.C. 1255(l)), as amended by subsection (a)(1), is amended—

(1) in paragraph (1)(B), by inserting ''subject to paragraph (7),'' after ''(B)''; and

(2) by adding at the end the following new paragraph:

''(7) For purposes of paragraph (1)(B), the Secretary of Homeland Security, in the Secretary's sole unreviewable discretion, may waive consideration of a disqualification from good moral character described in section 101(f) with respect to an alien if there is a connection between the disqualification and the trafficking with respect to the alien described in section 101(a)(15)(T)(i).''.

(c) ANNUAL REPORT ON TRAINING OF LAW ENFORCEMENT.—

(1) IN GENERAL.—Section 107(g) of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7105(g)) is amended by adding at the end the following: ''Each such report shall also include statistics regarding the number of law enforcement officials who have been trained in the identification and protection of trafficking victims and certification for assistance as

DOJ_NMG_ 0147241

nonimmigrants under section 101(a)(15)(T) of such Act.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to annual reports beginning with the report for fiscal year 2006.

Subtitle B—VAWA Petitioners

SEC. 911. DEFINITION OF VAWA PETITIONER.

(a) IN GENERAL.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

''(51) The term 'VAWA petitioner' means an alien whose application or petition for classification or relief under any of the following provisions (whether as a principal or as a derivative) has been filed and has not been denied after exhaustion of administrative appeals:

''(A) Clause (iii), (iv), or (vii) of section 204(a)(1)(A).

''(B) Clause (ii) or (iii) of section 204(a)(1)(B).

''(C) Subparagraph (C) or (D) of section 216(c)(4).

''(D) The first section of Public Law 89–732 (commonly known as the Cuban Adjustment Act) as a child or spouse who has been battered or subjected to extreme cruelty.

DOJ_NMG_ 0147242

''(E) Section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (division A of section 101(h) of Public Law 105–277).

''(F) Section 202(d)(1) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105–100).

''(G) Section 309(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1101 note).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 212(a)(6)(A)(ii)(I) of such Act (8 U.S.C. 1182(a)(6)(A)(ii)(I)) is amended by striking ''qualifies for immigrant status under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1)'' and inserting ''is a VAWA petitioner''.

(2) Section 212(a)(9)(C)(ii) of such Act (8 U.S.C. 1182(a)(9)(C)(ii)) is amended by striking ''to whom the Attorney General has granted classification under clause (iii), (iv), or (v) of section 204(a)(1)(A), or classification under clause (ii), (iii), or (iv) of section 204(a)(1)(B)'' and inserting ''is a VAWA petitioner''.

(3) Subsections (h)(1)(C) and (g)(1)(C) of section 212 (8 U.S.C. 1182) is amended by striking

DOJ_NMG_ 0147243

''qualifies for classification under clause (iii) or (iv) of section 204(a)(1)(A) or classification under clause (ii) or (iii) of section 204(a)(1)(B)'' and inserting ''is a VAWA petitioner''.

(4) Section 212(i)(1) of such Act (8 U.S.C. 1182(i)(1)) is amended by striking ''an alien granted classification under clause (iii) or (iv) of section 201(a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B)'' and inserting ''a VAWA petitioner''.

(5) Section 237(a)(1)(H)(ii) of such Act (8 U.S.C. 1227(a)(1)(H)(ii)) is amended by striking ''is an alien who qualifies for classification under clause (iii) or (iv) of section 204(a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B)'' and inserting ''is a VAWA petitioner''.

(6) Section 240A(b)(4)(B) of such Act (8 U.S.C. 1229b(b)(4)(B)) is amended by striking ''they were applications filed under section 204(a)(1)(A)(iii), (A)(iv), (B)(ii), or (B)(iii) of such Act'' and inserting ''the applicants were VAWA petitioners''.

(7) Section 245(a) of such Act (8 U.S.C. 1255(a)) is amended by striking ''under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) or'' and inserting ''as a VAWA petitioner''.

DOJ_NMG_ 0147244

(8) Section 245(c) of such Act (8 U.S.C. 1255(c)) is amended by striking ''under subparagraph (A)(iii), (A)(iv), (A)(v), (A)(vi), (B)(ii), (B)(iii), or (B)(iv) of section 204(a)(1)'' and inserting ''as a VAWA petitioner''.

(9) For additional conforming amendments to sections 212(a)(4)(C)(i) and 240(c)(7)(C)(iv)(I) of the Immigration and Nationality Act, see sections 832(b)(2) and 817(a) of this Act.

SEC. 912. SELF-PETITIONING FOR CHILDREN.

(a) SELF-PETITIONING BY CHILDREN OF PARENT-ABUSERS UPON DEATH OR OTHER TERMINATION OF PARENT-CHILD RELATIONSHIP.—

(1) CITIZEN PARENTS.—Section 204(a)(1)(A)(iv) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(iv)) is amended—

(A) by striking ''or who'' and inserting ''who''; and

(B) by inserting after ''domestic violence,'' the following: ''or who was a child of a United States citizen parent who within the past 2 years (or, if later, two years after the date the child attains 18 years of age) died or otherwise terminated the parent-child relationship (as defined under section 101(b)),''.

DOJ_NMG_ 0147245

(2) LAWFUL PERMANENT RESIDENT PARENTS.—

(A) IN GENERAL.—Section 204(a)(1)(B)(iii) of such Act (8 U.S.C. 1154(a)(1)(B)(iii)) is amended—

(i) by striking ''or who'' and inserting ''who''; and

(ii) by inserting after ''domestic violence,'' the following: ''or who was a child of a lawful permanent resident resident who within the past 2 years (or, if later, two years after the date the child attains 18 years of age) died or otherwise terminated the parent-child relationship (as defined under section 101(b)),''.

(B) CONFORMING TREATMENT OF DECEASED SPOUSES.—Section 204(a)(1)(B)(ii)(II)(aa)(CC) of such Act (8 U.S.C. 1154(a)(1)(B)(ii)(II)(aa)(CC)) is amended—

(i) by redesignating subitems (aaa) and (bbb) as subitems (bbb) and (ccc), respectively; and

(ii) by inserting before subitem (bbb), as so redesignated, the following:

''(aaa) whose spouse died within the past 2 years;''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Subject to subparagraph (B), the amendment made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act.

(B) TRANSITION IN CASE OF CITIZEN PARENTS WHO DIED BEFORE ENACTMENT.—In applying the amendments made by paragraphs (1) and (2)(A) in the case of an alien whose citizen parent or lawful permanent resident parent died or whose parent-child relationship with such parent terminated during the period beginning on October 28, 1998, and ending on the date of the enactment of this Act, the following rules apply:

(i) The reference to ''within the past 2 years'' in section 204(a)(1)(A)(iv) or 204(a)(1)(B)(iii), respectively, of the Immigration and Nationality Act in the matter inserted by such paragraph is deemed to be a reference to such period.

(ii) The petition must be filed under such section within 2 years after the date

DOJ_NMG_ 0147247

of the enactment of this Act (or, if later, 2 years after the alien's 18th birthday).

(iii) The determination of eligibility for benefits as a child under such section (including under section 204(a)(1)(D) of the Immigration and Nationality Act by reason of a petition authorized under such section) shall be determined as of the date of the death of the citizen parent or lawful permanent resident parent or the termination of the parent-child relationship.

(b) PROTECTING VICTIMS OF CHILD ABUSE FROM AGING OUT.—

(1) CLARIFICATION REGARDING CONTINUATION OF IMMEDIATE RELATIVE STATUS FOR CHILDREN OF CITIZENS.—Section 204(a)(1)(D)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)(i)(I)) is amended—

(A) by striking ''clause (iv) of section 204(a)(1)(A)'' and inserting ''subparagraph (A)(iv)''; and

(B) by striking ''a petitioner for preference status under paragraph (1), (2), or (3) of section 203(a), whichever paragraph is applicable'' and inserting ''to continue to be treated as an

DOJ_NMG_ 0147248

immediate relative under section 201(b)(2)(A)(i), or a petitioner for preference status under section 203(a)(3) if subsequently married,''.

(2) CLARIFICATION REGARDING APPLICATION TO CHILDREN OF LAWFUL PERMANENT RESIDENTS.—Section 204(a)(1)(D) of such Act (8 U.S.C. 1154(a)(1)(D)) is amended——

(A) in clause (i)(I)—

(i) by inserting after the first sentence the following new sentence: ''Any child who attains 21 years of age who has filed a petition under subparagraph (B)(iii) that was filed or approved before the date on which the child attained 21 year of age shall be considered (if the child has not been admitted or approved for lawful permanent residence by the date the child attained 21 years of age) a petitioner for preference status under section 203(a)(2)(A), with the same priority date assigned to the self-petition filed under such subparagraph.''; and

(ii) in the last sentence, by inserting ''in either such case'' after ''shall be required to be filed'';

DOJ_NMG_ 0147249

(B) in clause (i)(III), by striking ''paragraph (1), (2), or (3) of section 203(a)'' and inserting ''section 203(a)(2)(A)''; and

(C) in clause (ii), by striking ''(A)(iii), (A)(iv),''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to applications filed before, on, or after the date of the enactment of VAWA–2000.

(c) CLARIFICATION OF NO SEPARATE ADJUSTMENT APPLICATION FOR DERIVATIVE CHILDREN.—

(1) IN GENERAL.—Section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255(a)) is amended by adding at the end the following: ''In the case of a petition under clause (ii), (iii), or (iv) of section 204(a)(1)(A) that includes an individual as a derivative child of a principal alien, no adjustment application other than the adjustment application of the principal alien shall be required for adjustment of status of the individual under this subsection or subsection (c).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date.

DOJ_NMG_ 0147250

(d) LATE PETITION PERMITTED FOR ADULTS ABUSED AS CHILDREN.—

(1) IN GENERAL.—Section 204(a)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)), as amended by subsection (b)(1), is amended by adding at the end the following new clause:

''(v) In the case of an alien who qualified to petition under subparagraph (A)(iv) or (B)(iii) as of the date the individual attained 21 years of age, the alien may file a petition under such respective subparagraph notwithstanding that the alien has attained such age or been married so long as the petition is filed before the date the individual attains 25 years of age. In the case of such a petition, the alien shall remain eligible for adjustment of status as a child notwithstanding that the alien has attained 21 years of age or has married, or both.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to individuals who attain 21 years of age on or after the date of the enactment of VAWA–2000.

DOJ_NMG_ 0147251

SEC. 913. SELF-PETITIONING PARENTS.

(a) IN GENERAL.—Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)) is amended by adding at the end the following new clause:

''(vii) An alien who—

''(I) is the parent of a citizen of the United States or was a parent of a citizen of the United States who within the past 2 years lost or renounced citizenship status related to battering or extreme cruelty by the United States citizen son or daughter or who within the past two years died;

''(II) is a person of good moral character;

''(III) is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i); and

''(IV) resides, or has resided in the past, with the citizen daughter or son;

may file a petition with the Secretary of Homeland Security under this subparagraph for classification of the alien under such section if the alien demonstrates that the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's citizen son or daughter.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

DOJ_NMG_ 0147252

SEC. 914. PROMOTING CONSISTENCY IN VAWA ADJUDICATIONS.

(a) IN GENERAL.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended—

(1) in subparagraph (A)(iii)(II)(aa)(CC)(bbb), by striking ''an incident of domestic violence'' and inserting ''battering or extreme cruelty by the United States citizen spouse'';

(2) in subparagraph (A)(iv), by striking ''an incident of domestic violence'' and inserting ''battering or extreme cruelty by such parent'';

(3) in subparagraph (B)(ii)(II)(aa)(CC)(aaa), by striking ''due to an incident of domestic violence'' and inserting ''related to battering or extreme cruelty by the lawful permanent resident spouse''; and

(4) in subparagraph (B)(iii), by striking ''due to an incident of domestic violence'' and inserting ''related to battering or extreme cruelty by such parent''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of VAWA–2000.

SEC. 915. RELIEF FOR CERTAIN VICTIMS PENDING ACTIONS ON PETITIONS AND APPLICATIONS FOR RELIEF.

(a) RELIEF.—

(1) LIMITATION ON REMOVAL OR DEPORTATION.—Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended by adding at the end the following new subsection:

''(d)(1) In the case of an alien in the United States for whom a petition as a VAWA petitioner has been filed, if the petition sets forth a prima facie case for approval, the Secretary of Homeland Security, in the Secretary's sole unreviewable discretion, may grant the alien deferred action until the petition is approved or the petition is denied after exhaustion of administrative appeals. In the case of the approval of such petition, such deferred action may be extended until a final determination is made on an application for adjustment of status.

''(2) In the case of an alien in the United States for whom an application for nonimmigrant status (whether as a principal or derivative child) under subparagraph (T) or (U) of section 101(a)(15) has been filed, if the application sets forth a prima facie case for approval, the Secretary of Homeland Security, in the Secretary's sole unreviewable discretion, may grant the alien deferred ac-

tion until the application is approved or the application is denied after exhaustion of administrative appeals.

''(3) During a period in which an alien is provided deferred action under this subsection, the alien shall not be removed or deported. ''.

(2) LIMITATION ON DETENTION.—Section 236 of such Act (8 U.S.C. 1226) is amended by adding at the end the following new subsection:

''(f) LIMITATION ON DETENTION OF CERTAIN VICTIMS OF VIOLENCE.—(1) An alien for whom a petition as a VAWA petitioner has been approved or for whom an application for nonimmigrant status (whether as a principal or derivative child) under subparagraph (T) or (U) of section 101(a)(15) has been approved, subject to paragraph (2), the alien shall not be detained if the only basis for detention is a ground for which—

''(A) a waiver is provided under section 212(h), 212(d)(13), 212(d)(14), 237(a)(7), or 237(a)(2)(a)(V); or

''(B) there is an exception under section 204(a)(1)(C).

''(2) Paragraph (1) shall not apply in the case of detention that is required under subsection (c) or section 236A.''.

(3) EMPLOYMENT AUTHORIZATION.—

DOJ_NMG_ 0147255

(A) FOR VAWA PETITIONERS.—Section 204(a)(1) of such Act (8 U.S.C. 1154(a)(1)) is amended by adding at the end the following new subparagraph:

''(K) In the case of an alien for whom a petition as a VAWA petitioner is approved, the alien is eligible for work authorization and shall be provided an 'employment authorized' endorsement or other appropriate work permit.''.

(B) FOR ALIENS WITH APPROVED T VISAS.—Section 214(o) of such Act (8 U.S.C. 1184(o)) is amended by adding at the end the following new paragraph:

''(7) In the case of an alien for whom an application for nonimmigrant status (whether as a principal or derivative) under section 101(a)(15)(T) has been approved, the alien is eligible for work authorization and shall be provided an 'employment authorized' endorsement or other appropriate work permit.''.

(4) PROCESSING OF APPLICATIONS.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended by adding at the end the following new subparagraph:

DOJ_NMG_ 0147256

''(K) A petition as a VAWA petitioner shall be processed without regard to whether a proceeding to remove or deport such alien is brought or pending.''.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall apply to petitions and applications filed before, on, or after such date.

(b) APPLICANTS FOR CANCELLATION OF REMOVAL OR SUSPENSION OF DEPORTATION.—

(1) IN GENERAL.—Section 240A(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(2)) is amended by adding at the end the following new subparagraph:

''(E) RELIEF WHILE APPLICATION PENDING.—In the case of an alien who has applied for relief under this paragraph and whose application sets forth a prima facie case for such relief or who has filed an application for relief under section 244(a)(3) (as in effect on March 31, 1997) that sets forth a prima facie case for such relief—

''(i) the alien shall not be removed or deported until the application has been approved or, in the case it is denied, until all

DOJ_NMG_ 0147257

opportunities for appeal of the denial have been exhausted; and

''(ii) such an application shall be processed without regard to whether a proceeding to remove or deport such alien is brought or pending.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date.

SEC. 916. ACCESS TO VAWA PROTECTION REGARDLESS OF MANNER OF ENTRY.

(a) FIANCEES.—

(1) SELF-PETITIONING.—Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(iii)) is amended—

(A) in subclause (I)(bb), by inserting after ''during the marriage'' the following: ''or relationship intended by the alien to be legally a marriage or to conclude in a valid marriage'';

(B) in subclause (II)(aa)—

(i) by striking ''or'' at the end of subitem (BB);

(ii) by inserting ''or'' at the end of subitem (CC); and

DOJ_NMG_ 0147258

(iii) by adding at the end the following new subitem:

"(DD) who entered the United States as an alien described in section 101(a)(15)(K) with the intent to enter into a valid marriage and the alien (or child of the alien) was battered or subject to extreme cruelty in the United States by the United States citizen who filed the petition to accord status under such section;";

(C) in subclause (II)(cc), by striking "or who" and inserting ", who" and by inserting before the semicolon at the end the following: ", or who is described in subitem (aa)(DD)"; and

(D) in subclause (II)(dd), by inserting "or who is described in subitem (aa)(DD)" before the period at the end.

(2) EXCEPTION FROM REQUIREMENT TO DEPART.—Section 214(d) of such Act (8 U.S.C. 1184(d)) is amended by inserting before the period

DOJ_NMG_ 0147259

at the end the following: ''unless the alien (and the child of the alien) entered the United States as an alien described in section 101(a)(15)(K) with the intent to enter into a valid marriage and the alien or child was battered or subject to extreme cruelty in the United States by the United States citizen who filed the petition to accord status under such section''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall apply to aliens admitted before, on, or after such date.

(b) SPOUSES WHO ARE CONDITIONAL PERMANENT RESIDENTS.—

(1) IN GENERAL.—Section 245(d) of the Immigration and Nationality Act (8 U.S.C. 1255(d)) is amended—

(A) by inserting ''(1)'' after ''(d)''; and

(B) by adding at the end the following new paragraph:

''(2) Paragraph (1) shall not apply to an alien who seeks adjustment of status on the basis of an approved petition for classification as a VAWA petitioner.''.

DOJ_NMG_ 0147260

(2) CONFORMING APPLICATION IN CANCELLATION OF REMOVAL.—Section 240A(b)(2)(A)(i) of such Act (8 U.S.C. 1229b(b)(2)(A)(i)) is amended—

(A) by striking ''or'' at the end of subclause (II);

(B) by adding ''or'' at the end of subclause (III); and

(C) by adding at the end the following new subclause:

''(IV) the alien entered the United States as an alien described in section 101(a)(15)(K) with the intent to enter into a valid marriage and the alien (or the child of the alien who is described in such section) was battered or subject to extreme cruelty in the United States by the United States citizen who filed the petition to accord status under such section;''.

(3) EXCEPTION TO RESTRICTION ON ADJUSTMENT OF STATUS.—The second sentence of section 245(d) of such Act (8 U.S.C. 1255(d)) is amended by inserting ''who is not described in section 204(a)(1)(A)(iii)(II)(aa)(DD)'' after ''alien described in section 101(a)(15)(K)''.

DOJ_NMG_ 0147261

(4) APPLICATION UNDER SUSPENSION OF DEPORTATION.—Section 244(a)(3) of such Act (as in effect on March 31, 1997) shall be applied (as if in effect on such date) as if the phrase ''is described in section 240A(b)(2)(A)(i)(IV) or'' were inserted before ''has been battered'' the first place it appears.

(5) EFFECTIVE DATE.—The amendments made by this subsection, and the provisions of paragraph (4), shall take effect on the date of the enactment of this Act and shall apply to applications for adjustment of status, for cancellation of removal, or for suspension of deportation filed before, on, or after such date.

(c) INFORMATION ON CERTAIN CONVICTIONS AND LIMITATION ON PETITIONS FOR K NONIMMIGRANT PETITIONERS.—Section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)) is amended—

(1) by striking ''(d)'' and inserting ''(d)(1)'';

(2) by inserting after the second sentence the following: ''Such information shall include information on any criminal convictions of the petitioner for domestic violence, sexual assault, or child abuse.''; and

(3) by adding at the end the following:

DOJ_NMG_ 0147262

''(2)(A) Subject to subparagraph (B), a consular officer may not approve a petition under paragraph (1) unless the officer has verified that—

''(i) the petitioner has not, previous to the pending petition, petitioned under paragraph (1) with respect to more than 2 applying aliens; and

''(ii) if the petitioner has had such a petition previously approved, 2 years have elapsed since the filing of such previously approved petition.

''(B) The Attorney General may, in the discretion of the Attorney General, waive the limitation in subparagraph (A), if justification exists for such a waiver.

''(3) For purposes of this subsection—

''(A) the term 'child abuse' means a felony or misdemeanor crime, as defined by Federal or State law, committed by an offender who is a stranger to the victim, or committed by an offender who is known by, or related by blood or marriage to, the victim, against a victim who has not attained the lesser of—

''(i) 18 years of age; or

''(ii) except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides;

DOJ_NMG_ 0147263

''(B) the terms 'domestic violence' and 'sexual assault' have the meaning given such terms in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).''.

(d) SPOUSES AND CHILDREN OF ASYLUM APPLICANTS UNDER ADJUSTMENT PROVISIONS.—

(1) IN GENERAL.—Section 209(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1159(b)(3)) is amended—

(A) by inserting ''(A)'' after ''(3)''; and

(B) by adding at the end the following:

''(B) was the spouse of a refugee within the meaning of section 101(a)(42)(A) at the time the asylum application was granted and who was battered or was the subject of extreme cruelty perpetrated by such refugee or whose child was battered or subjected to extreme cruelty by such refugee (without the active participation of such spouse in the battery or cruelty), or

''(C) was the child of a refugee within the meaning of section 101(a)(42)(A) at the time of the filing of the asylum application and who was battered or was the subject of extreme cruelty perpetrated by such refugee,''.

DOJ_NMG_ 0147264

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act and—

(A) section 209(b)(3)(B) of the Immigration and Nationality Act, as added by paragraph (1)(B), shall apply to spouses of refugees for whom an asylum application is granted before, on, or after such date; and

(B) section 209(b)(3)(C) of such Act, as so added, shall apply with respect to the child of a refugee for whom an asylum application is filed before, on, or after such date.

(e) VISA WAIVER ENTRANTS.—

(1) IN GENERAL.—Section 217(b)(2) of such Act (8 U.S.C. 1187(b)(2)) is amended by inserting after ''asylum,'' the following: ''as a VAWA petitioner, or for relief under subparagraph (T) or (U) of section 101(a)(15), under section 240A(b)(2), or under section 244(a)(3) (as in effect on March 31, 1997),''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to waivers provided under section 217(b)(2) of the Immigration

DOJ_NMG_ 0147265

and Nationality Act before, on, or after such date as if it had been included in such waivers.

(f) EXCEPTION FROM FOREIGN RESIDENCE REQUIREMENT FOR EDUCATIONAL VISITORS.—

(1) IN GENERAL.—Section 212(e) of such Act (8 U.S.C. 1182(e)) is amended, in the matter before the first proviso, by inserting ''unless the alien is a VAWA petitioner or a nonimmigrant under subparagraph (T) or (U) of section 101(a)(15)'' after ''following departure from the United States''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to aliens regardless of whether the foreign residence requirement under section 212(e) of the Immigration and Nationality Act arises out of an admission or acquisition of status under section 101(a)(15)(J) of such Act before, on, or after the date of the enactment of this Act.

SEC. 917. ELIMINATING ABUSERS' CONTROL OVER APPLICATIONS FOR ADJUSTMENTS OF STATUS.

(a) APPLICATION OF MOTIONS TO REOPEN FOR ALL VAWA PETITIONERS.—Section 240(c)(7)(C)(iv) of the Immigration and Nationality Act (8 U.S.C. 1230(c)(7)(C)(iv)), as redesignated by section 101(d)(1)

DOJ_NMG_ 0147266

of the REAL ID Act of 2005 (division B of Public Law 109–13), is amended —

(1) in subclause (I), by striking ''under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B)'' and inserting ''as a VAWA petitioner''; and

(2) in subclause (II), by inserting ''or adjustment of status'' after ''cancellation of removal''.

(b) APPLICATION OF VAWA DEPORTATION PROTECTIONS FOR TRANSITIONAL RELIEF TO ALL VAWA PETITIONERS.—Section 1506(c)(2) of the Violence Against Women Act of 2000 (8 U.S.C. 1229a note) is amended—

(1) in subparagraph (A)—

(A) by amending clause (i) to read as follows:

''(i) if the basis of the motion is to apply for relief as a VAWA petitioner (as defined in section 101(a)(51) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(51)) or under section 244(a)(3) of such Act (8 U.S.C. 1254(a)(3)); and''; and

(B) in clause (ii), by inserting ''or adjustment of status'' after ''suspension of deportation''; and

DOJ_NMG_ 0147267

(2) in subparagraph (B)(ii), by striking ''for relief'' and all that follows through ''1101 note))'' and inserting ''for relief described in subparagraph (A)(i)''.

(c) APPLICATION OF VAWA-RELATED RELIEF UNDER SECTION 202 OF NACARA.—

(1) IN GENERAL.—Section 202(d)(1) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105–100) is amended—

(A) in subparagraph (B)(ii), by inserting '', or was eligible for adjustment,'' after ''whose status is adjusted''; and

(B) in subparagraph (E), by inserting after ''April 1, 2000'' the following: '', or, in the case of an alien who qualifies under subparagraph (B)(ii), applies for such adjustment during the 18-month period beginning on the date of enactment of the Violence Against Women Act of 2005'' .

(2) TECHNICAL AMENDMENT.—Section 202(d)(3) of such Act (8 U.S.C. 1255 note; Public Law 105–100) is amended by striking ''204(a)(1)(H)'' and inserting ''204(a)(1)(J)''.

DOJ_NMG_ 0147268

(3) EFFECTIVE DATE.—The amendment made by paragraph (2) shall take effect as if included in the enactment of VAWA–2000.

(d) PETITIONING RIGHTS OF CERTAIN FORMER SPOUSES UNDER CUBAN ADJUSTMENT.—

(1) IN GENERAL.—The first section of Public Law 89–732 (8 U.S.C. 1255 note) is amended—

(A) in the last sentence, by striking ''204(a)(1)(H)'' and inserting ''204(a)(1)(J)''; and

(B) by adding at the end the following: ''An alien who was the spouse of any Cuban alien described in this section and has resided with such spouse shall continue to be treated as such a spouse for 2 years after the date on which the Cuban alien dies (or, if later, 2 years after the date of enactment of Violence Against Women Act of 2005), or for 2 years after the date of termination of the marriage (or, if later, 2 years after the date of enactment of Violence Against Women Act of 2005) if the alien demonstrates a connection between the termination of the marriage and the battering or extreme cruelty by the Cuban alien.''.

DOJ_NMG_ 0147269

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall take effect as if included in the enactment of VAWA–2000.

(e) SELF-PETITIONING RIGHTS OF HRIFA APPLICANTS.—

(1) IN GENERAL.—Section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (division A of section 101(h) of Public Law 105–277; 112 Stat. 2681–538; 8 U.S.C. 1255 note), as amended by section 1511(a) of VAWA–2000, is amended—

(A) in clause (i), by striking ''whose status is adjusted to that of an alien lawfully admitted for permanent residence'' and inserting ''who is or was eligible for classification'';

(B) in clause (ii), by striking ''whose status is adjusted to that of an alien lawfully admitted for permanent residence'' and inserting ''who is or was eligible for classification''; and

(C) in clause (iii), by striking ''204(a)(1)(H)'' and inserting ''204(a)(1)(J)'' .

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)(C) shall take effect as if included in the enactment of VAWA–2000.

DOJ_NMG_ 0147270

(f) SELF-PETITIONING RIGHTS UNDER SECTION 203 OF NACARA.—Section 309 of the Illegal Immigration and Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1101 note), as amended by section 203(a) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105–100), is amended—

(1) in subsection (c)(5)(C)(i)(VII)(aa), as amended by section 1510(b) of VAWA–2000—

(A) by striking ''or'' at the end of subitem (BB);

(B) by striking ''and'' at the end of subitem (CC) and inserting ''or''; and

(C) by adding at the end the following new subitem:

''(DD) at the time at which the spouse or child files an application for suspension of deportation or cancellation of removal; and''; and

(2) in subsection (g)—

(A) by inserting ''(1)'' before ''Notwithstanding'';

DOJ_NMG_ 0147271

(B) by inserting ''subject to paragraph (2),'' after ''section 101(a) of the Immigration and Nationality Act)),''; and

(C) by adding at the end the following new paragraph:

''(2) There shall be no limitation on a motion to reopen removal or deportation proceedings in the case of an alien who is described in subclause (VI) or (VII) of subsection (c)(5)(C)(i). Motions to reopen removal or deportation proceedings in the case of such an alien shall be handled under the procedures that apply to aliens seeking relief under section 204(a)(1)(A)(iii) of the Immigration and Nationality Act.''.

(g) LIMITATION ON PETITIONING FOR ABUSER.—Section 204(a)(1) of such Act (8 U.S.C. 1154(a)(1)) is amended by adding at the end the following new subparagraph:

''(J) Notwithstanding the previous provisions of this paragraph, an individual who was a VAWA petitioner or who had the status of a nonimmigrant under subparagraph (T) or (U) of section 101(a)(15) may not file a petition for classification under this section or section 214 to classify any person who committed the battery or extreme cruelty or trafficking against the individual (or the individual's child) which established the individual's (or individ-

DOJ_NMG_ 0147272

ual's child's) eligibility as a VAWA petitioner or for such nonimmigrant status.''.

(h) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 918. PAROLE FOR VAWA PETITIONERS AND FOR DERIVATIVES OF TRAFFICKING VICTIMS.

(a) IN GENERAL.—Section 240A(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(4)) is amended—

(1) in the heading, by striking ''CHILDREN OF BATTERED ALIENS'' inserting ''BATTERED ALIENS, CHILDREN OF BATTERED ALIENS, AND DERIVATIVE FAMILY MEMBERS OF TRAFFICKING VICTIMS,'';

(2) in subparagraph (A)—

(A) by striking ''or'' at the end of clause (i);

(B) by striking the period at the end of clause (ii) and inserting a semicolon; and

(C) by adding at the end the following new clauses:

''(iii) VAWA petitioner whose petition was approved based on having been battered or subjected to extreme cruelty by a United States citizen spouse, parent, or

DOJ_NMG_ 0147273

child and who is admissible and eligible for an immigrant visa;

''(iv) VAWA petitioner whose petition was approved based on having been battered or subjected to extreme cruelty by a lawful permanent resident spouse or parent, who is admissible and would be eligible for an immigrant visa but for the fact that an immigrant visa is not immediately available to the alien, and who filed a petition for classification under section 204(a)(1)(B), if at least 3 years has elapsed since the petitioner's priority date; or

''(v) an alien whom the Secretary of State determines would, but for an application or approval, meet the conditions for approval as a nonimmigrant described in section 101(a)(15)(T)(ii).''; and

(3) in subparagraph (B)—

(A) in the first sentence, by striking ''The grant of parole'' and inserting ''(i) The grant of parole under subparagraph (A)(i) or (A)(ii)'';

(B) in the second sentence, by striking ''covered under this paragraph'' and inserting ''covered under such subparagraphs'';

(C) in the last sentence, by inserting ''of subparagraph (A)'' after ''clause (i) or (ii)''; and

(D) by adding at the end the following new clauses:

''(ii) The grant of parole under subparagraph (A)(iii) or (A)(iv) shall extend from the date of approval of the applicable petition to the time the application for adjustment of status filed by aliens covered under such subparagraphs has been finally adjudicated. Applications for adjustment of status filed by aliens covered under such subparagraphs shall be treated as if they were applications filed under section 204(a)(1) (A)(iii), (A)(iv), (B)(ii), or (B)(iii) for purposes of section 245 (a) and (c).

''(iii) The grant of parole under subparagraph (A)(v) shall extend from the date of the determination of the Secretary of State described in such subparagraph to

DOJ_NMG_ 0147275

the time the application for status under section 101(a)(15)(T)(ii) has been finally adjudicated. Failure by such an alien to exercise due diligence in filing a visa petition on the alien's behalf may result in revocation of parole.''.

(b) CONFORMING REFERENCE.—Section 212(d)(5) of such Act (8 U.S.C. 1182(d)(5)) is amended by adding at the end the following new subparagraph:

''(C) Parole is provided for certain battered aliens, children of battered aliens, and parents of battered alien children under section 240A(b)(4).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 919. EXEMPTION OF VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT AND TRAFFICKING FROM SANCTIONS FOR FAILURE TO DEPART VOLUNTARILY.

(a) IN GENERAL.—Section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)) is amended—

(1) by striking ''If'' and inserting ''(1) Subject to paragraph (2), if''; and

DOJ_NMG_ 0147276

(2) by adding at the end the following new paragraph:

''(2) The ineligibility for relief under paragraph (1) shall not apply to an alien who is a VAWA petitioner, who is seeking status as a nonimmigrant under subparagraph (T) or (U) of section 101(a)(15), or who is an applicant for relief under section 240A(b)(2) or under section 244(a)(3) (as in effect on March 31, 1997), if there is a connection between the failure to voluntarily depart and the battery or extreme cruelty, trafficking, or criminal activity, referred to in the respective provision.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as if included in the enactment of the Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208) and shall apply to failures to depart voluntarily occurring before, on, or after the date of the enactment of this Act.

SEC. 920. CLARIFICATION OF ACCESS TO NATURALIZATION FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—Section 319(a) of the Immigration and Nationality Act (8 U.S.C. 1430(a)) is amended by inserting after ''extreme cruelty by a United States citizen spouse or parent'' the following: '', regardless of whether the lawful permanent resident status was obtained on the basis of such battery or cruelty''.

DOJ_NMG_ 0147277

(b) USE OF CREDIBLE EVIDENCE.—Such section is further amended by adding at the end the following: ''The provisions of section 204(a)(1)(J) shall apply in acting on an application under this subsection in the same manner as they apply in acting on petitions referred to in such section.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications for naturalization filed before, on, or after the date of the enactment of this Act.

SEC. 921. PROHIBITION OF ADVERSE DETERMINATIONS OF ADMISSIBILITY OR DEPORTABILITY BASED ON PROTECTED INFORMATION.

(a) APPLICATION OF RESTRICTIONS ON ADDITIONAL DEPARTMENTS.—Section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1367) is amended—

(1) in subsection (a), as amended by section 1513(d) of VAWA–2000—

(A) in the matter before paragraph (1), by striking ''(including any bureau or agency of such Department)'' and inserting '', or the Secretary of Homeland Security, the Secretary of

DOJ_NMG_ 0147278

State, the Secretary of Health and Human Services, or the Secretary of Labor or any other official or employee of the Department of Homeland Security, the Department of State, the Department of Health and Human Services, or the Department of Labor (including any bureau or agency of any such Department)''; and

(B) in paragraph (2), by striking ''of the Department,'' and inserting ''of any such Department,''; and

(2) in subsection (b)—

(A) in paragraphs (1), by striking ''the Attorney General may provide, in the Attorney General's discretion'' and inserting ''the Attorney General, Secretary of Homeland Security, Secretary of State, Secretary of Health and Human Services, and Secretary of Labor may provide, in each's discretion'';

(B) in paragraph (2), by striking ''the Attorney General may provide in the discretion of the Attorney General'' and inserting ''the Attorney General, Secretary of Homeland Security, Secretary of State, Secretary of Health and Human Services, and the Secretary of Labor may provide, in each's discretion''; and

DOJ_NMG_ 0147279

(C) in paragraph (5), by striking ''is authorized to disclose'' and inserting '', Secretary of Homeland Security, Secretary of State, Secretary of Health and Human Services, and Secretary of Labor, or Attorney General may disclose''.

(b) INCREASING SCOPE OF ALIENS AND INFORMATION PROTECTED.—Subsection (a) of such section is amended—

(1) in paragraph (1)—

(A) in the matter before subparagraph (A), by striking ''furnished solely by'' and inserting ''furnished by or derived from information provided solely by'';

(B) by striking ''or'' at the end of subparagraph (D);

(C) by adding ''or'' at the end of subparagraph (E); and

(D) by inserting after subparagraph (E) the following new subparagraph:

''(F) in the case of an alien applying for continued presence as a victim of trafficking under section 107(b)(1)(E)(i)(II)(bb) of the Trafficking Protection Act of 2000 or status under section 101(a)(15)(T) of the Immigration

DOJ_NMG_ 0147280

and Nationality Act, the trafficker or perpetrator,''; and

(2) in paragraph (2)—

(A) by striking ''under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B)'' and inserting ''as a VAWA petitioner (as defined in section 101(a)(51) of the Immigration and Nationality Act), or under''; and

(B) by striking ''or section 240A(a)(3) of such Act as an alien (or the part of a child) who has been battered or subjected to extreme cruelty.'' and inserting the following: '', section 101(a)(15)(T), or section 240A(b)(2) of such Act, or section 244(a)(3) of such Act (as in effect on March 31, 1997), or for continued presence as a victim of trafficking under section 107(b)(1)(E)(i)(II)(bb) of the Trafficking Protection Act of 2000, or any derivative of the alien;''.

(c) PROVIDING FOR CONGRESSIONAL REVIEW.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

''(6) Subsection (a) shall not apply to prevent the Attorney General and the Secretary of Home-

DOJ_NMG_ 0147281

land Security from disclosing to the chairmen and ranking members of the Judiciary Committees of the House of Representatives and of the Senate in the exercise of Congressional oversight authority information on closed cases under this section in a manner that protects the confidentiality of such information and that omits personally identifying information (including locational information about individuals).''.

(d) APPLICATION TO JUVENILE SPECIAL IMMIGRANTS.—Subsection (a) of such section is amended—

(1) by striking ''or'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ''; or''; and

(3) by inserting after paragraph (2) the following new paragraph:

''(3) in the case of an alien described in section 101(a)(27)(J) of the Immigration and Nationality Act who has been abused, neglected, or abandoned, contact the alleged abuser (or family member of the alleged abuser) at any stage of applying for special immigrant juvenile status, including after a request for the consent of the Secretary of Homeland Security under clause (iii)(I) of such section.''.

DOJ_NMG_ 0147282

(e) IMPROVED ENFORCEMENT.—Subsection (c) of such section is amended by adding at the end the following: ''The Office of Professional Responsibility in the Department of Justice shall be responsible for carrying out enforcement under the previous sentence.''.

(f) CERTIFICATION OF COMPLIANCE IN REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Section 239 of the Immigration and Nationality Act (8 U.S.C. 1229) is amended by adding at the end the following new subsection:

''(e) CERTIFICATION OF COMPLIANCE WITH RESTRICTIONS ON DISCLOSURE.—Removal proceedings shall not be initiated against an alien unless there is a certification of either of the following:

''(1) No enforcement action was taken leading to such proceedings against the alien—

''(A) at a domestic violence shelter, a victims services organization or program (as described in section 2003(8) of the Omnibus Crime Control and Safe Streets Act of 1968), a rape crisis center, a family justice center, or a supervised visitation center; or

''(B) at a courthouse (or in connection with the appearance of the alien at a court-

house) if the alien is appearing in connection with a protection order case, child custody case, or other civil or criminal case relating to domestic violence, sexual assault, trafficking, or stalking in which the alien has been battered or subject to extreme cruelty or if the alien is described in subparagraph (T) or (U) of section 101(a)(15).

''(2) Such an enforcement action was taken, but the provisions of section 384(a)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 have been complied with.''.

(2) COMPLIANCE.—Section 384(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1367(c)) is amended by inserting ''or who knowingly makes a false certification under section 239(e) of the Immigration and Nationality Act'' after ''in violation of this section''.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to violations or disclosures made on or after such date.

DOJ_NMG_ 0147284

SEC. 922. INFORMATION FOR K NONIMMIGRANTS ABOUT LEGAL RIGHTS AND RESOURCES FOR IMMIGRANT VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, shall develop consistent and accurate materials, including an information pamphlet described in subsection (b), on legal rights and resources for immigrant victims of domestic violence for dissemination to applicants for K nonimmigrant visas. In preparing such materials, the Secretary shall consult with non-governmental organizations with expertise on the legal rights of immigrant victims of battery, extreme cruelty, sexual assault and other crimes.

(b) INFORMATION PAMPHLET.—The information pamphlet developed under subsection (a) shall include information on the following:

(1) The K nonimmigrant visa application process and the marriage-based immigration process, including conditional residence and adjustment of status.

(2) The illegality of domestic violence, sexual assault, and child abuse in the United States and the dynamics of domestic violence.

(3) Domestic violence and sexual assault services in the United States, including the National Do-

mestic Violence Hotline and the National Sexual Assault Hotline.

(4) The legal rights of immigrant victims of abuse and other crimes in immigration, criminal justice, family law, and other matters.

(5) The obligations of parents to provide child support for children.

(6) Marriage fraud under United States immigration laws and the penalties for committing such fraud.

(7) A warning concerning the potential use of K nonimmigrant visas by individuals who have a history of committing domestic violence, sexual assault, or child abuse.

(c) SUMMARIES.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, shall develop summaries of the pamphlet developed under subsection (a) that shall be used by consular officers when reviewing the pamphlet in interviews under section (e)(2).

(d) TRANSLATION.—

(1) IN GENERAL.—In order to best serve the language groups having the greatest concentration of K nonimmigrant visa applicants, the information pamphlet under subsection (b) shall, subject to para-

DOJ_NMG_ 0147286

graph (2), be translated by the Secretary of State into the following languages: Russian, Spanish, Tagalog, Vietnamese, Chinese, Ukrainian, Thai, Korean, Polish, Japanese, French, Arabic, Portuguese, and Hindi.

(2) REVISION.—Every two years, the Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, shall determine the specific languages into which the information pamphlet is translated based on the languages spoken by the greatest concentrations of K nonimmigrant visa applicants.

(e) AVAILABILITY AND DISTRIBUTION.—The information pamphlet developed under subsection (a) shall be made available and distributed as follows:

(1) MAILINGS TO K NONIMMIGRANT VISA APPLICANTS.—

(A) The pamphlet shall be mailed by the Secretary of State to each applicant for a K nonimmigrant visa at the same time that the instruction packet regarding the visa application process is mailed to such applicant. The pamphlet so mailed shall be in the primary language of the applicant, or in English if no

DOJ_NMG_ 0147287

translation into the applicant's primary language is available.

(B) In addition, in the case of an applicant for a nonimmigrant visa under section 101(a)(15)(K)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)(i)) the Secretary of Homeland Security shall provide to the Secretary of State, for inclusion in the mailing under subparagraph (A), a copy of the petition submitted by the petitioner for such applicant under section 214(d) of such Act (8 U.S.C. 1184(d)).

(C) The Secretary of Homeland Security shall provide to the Secretary of State any criminal background information the Secretary of Homeland Security possesses with respect to a petitioner under such section 214(d). The Secretary of State, in turn, shall share any such criminal background information that is in the public record with the nonimmigrant visa applicant who is the beneficiary of the petition. The visa applicant shall be informed that such criminal background information is based on available records and may not be complete. The Secretary of State also shall provide for the dis-

DOJ_NMG_ 0147288

closure of such criminal background information to the visa applicant at the consular interview in the primary language of the visa applicant. Nothing in this subparagraph shall be construed to authorize the Secretary of Homeland Security to conduct any new or additional criminal background check that is not otherwise conducted in the course of adjudicating such petitions.

(2) CONSULAR INTERVIEWS.— The pamphlet shall be distributed directly to K nonimmigrant visa applicants at all consular interviews for such visas. The consular officer conducting the visa interview shall review the pamphlet and summary with the applicant orally in the applicant's primary language, in addition to distributing the pamphlet to the applicant in English.

(3) CONSULAR ACCESS.—The pamphlet shall be made available to the public at all consular posts. Summaries of the pamphlets under subsection (c) shall be made available to foreign service officers at all consular posts.

(4) POSTING ON STATE DEPARTMENT WEBSITE.—The pamphlet shall be posted on the website of the Department of State as well as on the

DOJ_NMG_ 0147289

websites of all consular posts processing K nonimmigrant visa applications.

(f) K NONIMMIGRANT DEFINED.—For purposes of this section, the term ''K nonimmigrant visa'' means a nonimmigrant visa under clause (i) or (ii) of section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)).

SEC. 923. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to provide for adjudication of petitions of VAWA petitioners (as defined in section 101(a)(51) of the Immigration and Nationality Act, as added by section 911(a)), of aliens seeking status as nonimmigrants under subparagraph (T) or (U) of section 101(a)(15) of such Act, and of aliens seeking relief under section 240A(b)(2) of such Act or under section 244(a)(3) of such Act (as in effect on March 31, 1997).

Subtitle C—Miscellaneous Provisions

SEC. 931. REMOVING 2 YEAR CUSTODY AND RESIDENCY REQUIREMENT FOR BATTERED ADOPTED CHILDREN.

(a) IN GENERAL.—Section 101(b)(1)(E)(i) of the Immigration and Nationality Act (8 U.S.C.

DOJ_NMG_ 0147290

1101(b)(1)(E)(i)) is amended by inserting after ''at least two years'' the following: ''or if the child has been battered or subject to extreme cruelty by the adopting parent or by a family member of the adopting parent residing in the same household''.

(b) CONFORMING NATURALIZATION AMENDMENT.—Section 320(a)(3) of such Act (8 U.S.C. 1431(a)(3)) is amended by inserting before the period at the end the following: ''or the child is residing in the United States pursuant to a lawful admission for permanent residence and has been battered or subject to extreme cruelty by the citizen parent or by a family member of the citizen parent residing in the same household ''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications pending or filed on or after such date.

SEC. 932. WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY FOR VAWA PETITIONERS.

(a) WAIVER OF FALSE CLAIM OF U.S. CITIZENSHIP.—

(1) IN GENERAL.—Section 212(i)(1) of such Act (8 U.S.C. 1182(i)(1)) is amended by inserting ''(and, in the case of a VAWA petitioner who demonstrates a connection between the false claim of

DOJ_NMG_ 0147291

United States citizenship and the petitioner being subjected to battery or extreme cruelty, clause (ii))'' after ''clause (i)''.

(2) CONFORMING REFERENCE.—Section 212(a)(6)(C)(iii) of such Act (8 U.S.C. 1182(a)(6)(C)(iii)) is amended by striking ''clause (i)''and inserting ''clauses (i) and (ii)''.

(b) EXEMPTION FROM PUBLIC CHARGE GROUND.—

(1) IN GENERAL.—Section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)) is amended by adding at the end the following new subparagraph:

''(E) SPECIAL RULE FOR BATTERED ALIENS.—Subparagraphs (A) through (C) shall not apply to an alien who is a VAWA petitioner or is a qualified alien described in section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.''.

(2) CONFORMING AMENDMENT.—Section 212(a)(4)(C)(i) of such Act (8 U.S.C. 1182(a)(4)(C)(i)) is amended to read as follows:

''(i) the alien is described in subparagraph (E); or''.

(c) EFFECTIVE DATE.—Except as provided in this section, the amendments made by this section shall take effect on the date of the enactment of this Act and shall

DOJ_NMG_ 0147292

apply regardless of whether the conviction was entered, crime, or disqualifying event occurred before, on, or after such date.

SEC. 933. EMPLOYMENT AUTHORIZATION FOR BATTERED SPOUSES OF CERTAIN NONIMMIGRANTS.

(a) IN GENERAL.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by sections 403(a) and 404(a) of the REAL ID Act of 2005 (division B of Public Law 109–13), is amended by adding at the end the following new paragraph:

''(15) In the case of an alien spouse admitted under subparagraph (A), (E)(iii), (G), or (H) of section 101(a)(15) who is accompanying or following to join a principal alien admitted under subparagraph (A), (E)(iii), (G), or (H)(i) of such section, respectively, the Secretary of Homeland Security shall authorize the alien spouse to engage in employment in the United States and provide the spouse with an 'employment authorized' endorsement or other appropriate work permit if the alien spouse demonstrates that during the marriage the alien spouse or a child of the alien spouse has been battered or has been the subject to extreme cruelty perpetrated by the spouse of the alien spouse.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enact-

DOJ_NMG_ 0147293

ment of this Act and shall apply to aliens who obtained the status of an alien spouse before, on, or after such date.

SEC. 934. GROUNDS FOR HARDSHIP WAIVER FOR CONDITIONAL PERMANENT RESIDENCE FOR INTENDED SPOUSES.

(a) IN GENERAL.—Section 216(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)(4)) is amended—

(1) by striking ''or'' at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting '', or''; and

(3) by inserting after subparagraph (C) the following new subparagraph:

''(D) the alien meets the requirements under section 204(a)(1)(A)(iii)(II)(aa)(BB) and following the marriage ceremony has been battered by or was subject to extreme cruelty perpetrated by his or her intended spouse and was not at fault in failing to meet the requirements of paragraph (1).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as if included in the enactment of VAWA–2000.

SEC. 935. CANCELLATION OF REMOVAL.

(a) CLARIFYING APPLICATION OF DOMESTIC VIOLENCE WAIVER AUTHORITY IN CANCELLATION OF REMOVAL.—

(1) IN GENERAL.—Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)) is amended—

(A) in paragraph (1)(C)—

(i) by inserting ''subject to paragraph (5),'' after ''(C)''; and

(ii) by striking ''(except in a case described in section 237(a)(7) where the Attorney General exercises discretion to grant a waiver)'';

(B) in paragraph (2)(A), by amending clause (iv) to read as follows:

''(iv) subject to paragraph (5), the alien is not inadmissible under paragraph (2) or (3) of section 212(a), is not removable under paragraph (2), (3)(D), or (4) of section 237(a), and is not removable under section 237(a)(1)(G) (except if there was a connection between the marriage fraud described in such section and the battery or extreme cruelty described in clause (i)); and ''; and

DOJ_NMG_ 0147295

(C) by adding at the end the following new paragraph:

''(5) APPLICATION OF DOMESTIC VIOLENCE WAIVER AUTHORITY.—The provisions of section 237(a)(7) shall apply in the application of paragraphs (1)(C) and (2)(A)(iv) (including waiving grounds of deportability) in the same manner as they apply under section 237(a). In addition, for purposes of such paragraphs and in the case of an alien who has been battered or subjected to extreme cruelty and if there was a connection between the inadmissibility or deportability and such battery or cruelty with respect to the activity involved, the Attorney General may waive, in the sole unreviewable discretion of the Attorney General, any other ground of inadmissibility or deportability for which a waiver is authorized under section 212(h), 212(d)(13), 212(d)(14), or 237(a)(2)(A)(v), and the exception described in section 204(a)(1)(C) shall apply.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply as if included in the enactment of section 1504(a) of VAWA–2000.

(b) CLARIFYING NONAPPLICATION OF CANCELLATION CAP.—

DOJ_NMG_ 0147296

(1) IN GENERAL.—Section 240A(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(e)(3)) is amended by adding at the end the following new subparagraph:

''(C) Aliens with respect to their cancellation of removal under subsection (b)(2).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to cancellations of removal occurring on or after October 1, 2004.

SEC. 936. MOTIONS TO REOPEN.

(a) REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Section 240(c)(7) of the Immigration and Nationality Act (8 U.S.C. 1230(c)(7)), as redesignated by section 101(d)(1) of the REAL ID Act of 2005 (division B of Public Law 109–13), is amended—

(A) in subparagraph (A), by inserting '', except that this limitation shall not apply so as to prevent the filing of one motion to reopen described in clause (iv)'' before the period at the end; and

(B) in subparagraph (C)—

(i) in the heading of clause (iv), by striking ''SPOUSES AND CHILDREN'' and

DOJ_NMG_ 0147297

inserting ''SPOUSES, CHILDREN, AND PARENTS,'';

(ii) in the matter before subclause (I) of clause (iv), by striking ''The deadline specified in subsection (b)(5)(C) for filing a motion to reopen does not apply'' and inserting ''Any limitation under this section on the deadlines for filing such motions shall not apply'';

(iii) in clause (iv)(I), by striking ''or (iv)'' and inserting '', (iv), or (vii)'';

(iv) in clause (iv)(I), by inserting ''or section 244(a)(3) (as in effect on March 31, 1997)'' after ''section 240A(b)(2)'';

(v) by striking ''and'' at the end of clause (iv)(II);

(vi) by striking the period at the end of clause (iv)(III) and inserting ''; and''; and

(vii) by adding at the end the following:

''(IV) if the alien is physically present in the United States at the time of filing the motion.

The filing of a motion to reopen under this clause shall stay the removal of the alien pending final disposition of the motion including exhaustion of all appeals if the motion establishes a prima facie case for the relief applied for.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) DEPORTATION PROCEEDINGS.—

(1) IN GENERAL.—Section 1506(c)(2) of VAWA–2000 is amended—

(A) in the matter before clause (i) of subparagraph (A), by striking ''Notwithstanding any limitation imposed by law on motions'' inserting ''Notwithstanding any limitation on the number of motions, or the deadlines for filing motions (including the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act before the title III–A effective date),'';

(B) in the matter before clause (i) of subparagraph (A), by striking ''there is no time limit on the filing of a motion'' and all that follows through ''does not apply'' and inserting

DOJ_NMG_ 0147299

''such limitations shall not apply to the filing of a single motion under this subparagraph to reopen such proceedings''; and

(C) by adding at the end of subparagraph (A) the following:

''The filing of a motion under this subparagraph shall stay the removal of the alien pending a final disposition of the motion including the exhaustion of all appeals if the motion establishes a prima facie case for the relief applied for. ''; and

(D) in subparagraph (B), by inserting ''who are physically present in the United States and'' after ''filed by aliens''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

SEC. 937. REMOVAL PROCEEDINGS.

(a) TREATMENT OF BATTERY OR EXTREME CRUELTY AS EXCEPTIONAL CIRCUMSTANCES.—Section 240(e)(1) of such Act (8 U.S.C. 1230(e)(1)) is amended by inserting ''battery or extreme cruelty of the alien or any child or parent of the alien or'' after ''exceptional circumstances (such as''.

DOJ_NMG_ 0147300

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to a failure to appear that occurs before, on, or after such date.

SEC. 938. CONFORMING RELIEF IN SUSPENSION OF DEPORTATION PARALLEL TO THE RELIEF AVAILABLE IN VAWA–2000 CANCELLATION FOR BIGAMY.

Section 244(a)(3) of the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) shall be applied as if ''or by a United States citizen or lawful permanent resident whom the alien intended to marry, but whose marriage is not legitimate because of that United States citizen's or permanent resident's bigamy'' were inserted after ''by a spouse or parent who is a United States citizen or lawful permanent resident''.

SEC. 939. CORRECTION OF CROSS-REFERENCE TO CREDIBLE EVIDENCE PROVISIONS.

(a) CUBAN ADJUSTMENT PROVISION.—The last sentence of the first section of Public Law 89–732 (November 2, 1966; 8 U.S.C. 1255 note), as amended by section 1509(a) of VAWA–2000, is amended by striking ''204(a)(1)(H)'' and inserting ''204(a)(1)(J)''.

DOJ_NMG_ 0147301

(b) NACARA.—Section 202(d)(3) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105–100), as amended by section 1510(a)(2) of VAWA–2000, is amended by striking ''204(a)(1)(H)'' and inserting ''204(a)(1)(J)''.

(c) IIARAIRA.—Section 309(c)(5)(C)(iii) of the Illegal Immigration and Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1101 note), as amended by section 1510(b)(2) of VAWA–2000, is amended by striking ''204(a)(1)(H)'' and inserting ''204(a)(1)(J)''.

(d) HRIFA.—Section 902(d)(1)(B)(iii) of the Haitian Refugee Immigration Fairness Act of 1998 (division A of section 101(h) of Public Law 105–277; 112 Stat. 2681–538), as amended by section 1511(a) of VAWA–2000, is amended by striking ''204(a)(1)(H)'' and inserting ''204(a)(1)(J)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of VAWA–2000.

SEC. 940. TECHNICAL CORRECTIONS.

(a) TECHNICAL CORRECTIONS TO REFERENCES IN APPLICATION OF SPECIAL PHYSICAL PRESENCE AND GOOD MORAL CHARACTER RULES.—

DOJ_NMG_ 0147302

(1) PHYSICAL PRESENCE RULES.—Section 240A(b)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(2)(B)) is amended—

(A) in the first sentence, by striking ''(A)(i)(II)'' and inserting ''(A)(ii)''; and

(B) in the fourth sentence, by striking ''section 240A(b)(2)(B)'' and inserting ''this subparagraph, subparagraph (A)(ii),''.

(2) MORAL CHARACTER RULES.—Section 240A(b)(2)(C) of such Act (8 U.S.C. 1229b(b)(2)(C)) is amended by striking ''(A)(i)(III)'' and inserting ''(A)(iii)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective as if included in the enactment of section 1504(a) of VAWA (114 Stat. 1522).

(b) CORRECTION OF CROSS-REFERENCE ERROR IN APPLYING GOOD MORAL CHARACTER.—

(1) IN GENERAL.—Section 101(f)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(f)(3)) is amended by striking ''(9)(A)'' and inserting ''(10)(A)''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as if included in the enactment of the Illegal Immigration Reform

DOJ_NMG_ 0147303

and Immigrant Responsibility Act of 1996 (Public Law 104–208).

(c) PUNCTUATION CORRECTION.—Effective as if included in the enactment of section 5(c)(2) of VAWA–2000, section 237(a)(1)(H)(ii) of such Act (8 U.S.C. 1227(a)(1)(H)(ii)) is amended by striking the period at the end and inserting ''; or''.

(d) CORRECTION OF DESIGNATION AND INDENTATION.—The last sentence of section 212(a)(9)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(C)(ii)), as added by section 1505(a) of VAWA–2000, is amended—

(1) by striking ''section 212(a)(9)(C)(i)'' and inserting ''clause (i)'';

(2) by redesignating paragraphs (1) and (2), and subparagraphs (A) through (D) of paragraph (2), as subclauses (I) and (II), and items (aa) through (dd) of subclause (II), respectively; and

(3) by moving the margins of each of such paragraphs and subparagraphs 6 ems to the right.

(e) ADDITIONAL TECHNICAL CORRECTIONS.—(1) Section 237(a)(7)(A)(i)(I) of such Act (8 U.S.C. 1227(a)(7)(A)(i)(I)) is amended by striking ''is self-defense'' and inserting ''in self-defense''.

DOJ_NMG_ 0147304

(2) Section 245(l)(2)(B) of such Act (8 U.S.C. 1255(l)(2)(B)) is amended by striking ''(10(E))'' and inserting ''(10)(E))''.

TITLE X—SAFETY ON TRIBAL LANDS

SEC. 1001. PURPOSES.

The purposes of this title are—

(1) to decrease the incidence of domestic violence, dating violence, sexual assault, and stalking on Tribal lands;

(2) to strengthen the capacity of Indian tribes to exercise their sovereign authority to respond to domestic violence, dating violence, sexual assault, and stalking on Tribal lands under their jurisdiction; and

(3) to ensure that perpetrators of domestic violence, dating violence, sexual assault, and stalking on Tribal lands are held accountable for their criminal behavior.

SEC. 1002. CONSULTATION.

(a) IN GENERAL.—The Secretary of the Interior and the Attorney General shall each conduct annual consultations with Indian tribal governments concerning the Federal administration of tribal funds and programs established under the Violence Against Women Act of 1994

DOJ_NMG_ 0147305

(title IV of Public Law 103–322) and the Violence Against Women Act of 2000 (division B of Public Law 106–386), including consultation concerning—

(1) the timeliness of the Federal grant application and award processes;

(2) the amounts awarded under each program directly to tribal governments, tribal organizations, and tribal nonprofit organizations;

(3) determinations not to award grant funds;

(4) grant awards made in violation of the eligibility guidelines to a nontribal entity; and

(5) training, technical assistance, and data collection grants for tribal grant programs or programs addressing the safety of Indian women.

(b) RECOMMENDATIONS.—During consultations under subsection (a), the Secretary and the Attorney General shall solicit recommendations from Indian tribes concerning—

(1) administering tribal funds and programs;

(2) enhancing the safety of Indian women from domestic violence, dating violence, sexual assault, and stalking; and

(3) strengthening the Federal response to such violent crimes.

DOJ_NMG_ 0147306

SEC. 1003. ANALYSIS AND RESEARCH ON VIOLENCE ON TRIBAL LANDS.

(a) NATIONAL BASELINE STUDY.—The Attorney General, acting through the Director of the Office on Violence Against Women, shall conduct a national baseline study to examine violence against Indian women.

(b) SCOPE.—

(1) IN GENERAL.—The study shall examine violence committed against Indian women, including—

(A) domestic violence;

(B) dating violence;

(C) sexual assault;

(D) stalking; and

(E) murder.

(2) EVALUATION.—The study shall evaluate the effectiveness of Federal, State, tribal, and local responses to the violations described in paragraph (1) committed against Indian women.

(c) TASK FORCE.—

(1) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, shall establish a task force to assist in the development and implementation of the study under subsection (a).

(2) MEMBERS.—The Director shall appoint to the task force representatives from—

DOJ_NMG_ 0147307

(A) national tribal domestic violence and sexual assault nonprofit organizations;

(B) tribal governments; and

(C) the National Congress of American Indians.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report that describes the findings made in the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2006 and 2007, to remain available until expended.

SEC. 1004. TRACKING OF VIOLENCE ON TRIBAL LANDS.

(a) ACCESS TO FEDERAL CRIMINAL INFORMATION DATABASES.—Section 534 of title 28, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

''(d) INDIAN LAW ENFORCEMENT AGENCIES.—The Attorney General shall permit Indian law enforcement agencies, in cases of domestic violence, dating violence, sexual assault, and stalking, to enter information into

DOJ_NMG_ 0147308

Federal criminal information databases and to obtain information from the databases, including information relating to—

''(1) identification records;

''(2) criminal history records;

''(3) protection orders; and

''(4) wanted person records.''.

(b) TRIBAL REGISTRY.—

(1) ESTABLISHMENT.—The Attorney General shall contract with any interested Indian tribe, tribal organization, or tribal nonprofit organization to develop and maintain—

(A) a national tribal sex offender registry; and

(B) a tribal protection order registry containing civil and criminal orders of protection issued by Indian tribes and participating jurisdictions.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

DOJ_NMG_ 0147309

SEC. 1005. TRIBAL DIVISION OF THE OFFICE ON VIOLENCE AGAINST WOMEN.

Part T of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after section 2015 (as added by section 604 of this Act) the following:

"SEC. 2016. TRIBAL DIVISION.

''(a) IN GENERAL.—The Director of the Office on Violence Against Women shall designate one or more employees, each of whom shall have demonstrated expertise in tribal law and practice regarding domestic violence, dating violence, sexual assault, and stalking against members of Indian tribes, to be responsible for—

''(1) overseeing and managing the administration of grants to and contracts with Indian tribes, tribal courts, tribal organizations, tribal nonprofit organizations and the territories;

''(2) ensuring that, if a grant or a contract pursuant to such a grant is made to an organization to perform services that benefit more than one Indian tribe, the approval of each Indian tribe to be benefited shall be a prerequisite to the making of the grant or letting of the contract;

''(3) assisting in the development of Federal policy, protocols, and guidelines on matters relating to domestic violence, dating violence, sexual assault, and stalking against members of Indian tribes;

DOJ_NMG_ 0147310

"(4) advising the Director of the Office on Violence Against Women concerning policies, legislation, implementation of laws, and other issues relating to domestic violence, dating violence, sexual assault, and stalking against members of Indian tribes;

"(5) representing the Office on Violence Against Women in the annual consultations under section 1002 of the Violence Against Women Reauthorization Act of 2005;

"(6) providing assistance to the Department of Justice to develop policy and to enforce Federal law relating to domestic violence, dating violence, sexual assault, and stalking against members of Indian tribes;

"(7) maintaining a liaison with the judicial branches of Federal, State and tribal governments on matters relating to domestic violence, dating violence, sexual assault, and stalking against members of Indian tribes; and

"(8) ensuring that adequate tribal training, technical assistance, and data collection is made available to Indian tribes, tribal courts, tribal organizations, and tribal nonprofit organizations for all programs relating to domestic violence, dating vio-

DOJ_NMG_ 0147311

lence, sexual assault, and stalking against members of Indian tribes.

''(b) AUTHORITY.—

''(1) IN GENERAL.—The Director shall ensure that a portion of the tribal set-aside funds from any grant awarded under the Violence Against Women Act of 1994 (title IV of Public Law 103–322) or the Violence Against Women Act of 2000 (division B of Public Law 106–386) is used to enhance the capacity of Indian tribes to address the safety of members of Indian tribes.

''(2) ACCOUNTABILITY.—The Director shall ensure that some portion of the tribal set-aside funds from any grant made under this part is used to hold offenders accountable through—

''(A) enhancement to the response of Indian tribes to crimes of domestic violence, dating violence, sexual assault, and stalking against Indian women, including legal services for victims and Indian-specific offender programs;

''(B) development and maintenance of tribal domestic violence shelters or programs for battered members of Indian tribes, including sexual assault services, that are based upon the

unique circumstances of the members of Indian tribes to be served;

''(C) development of tribal educational awareness programs and materials;

''(D) support for customary tribal activities to strengthen the intolerance of an Indian tribe to violence against memberes of Indian tribes; and

''(E) development, implementation, and maintenance of tribal electronic databases for tribal protection order registries.

''SEC. 2017. SAFETY FOR INDIAN WOMEN FORMULA GRANTS PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Of the amounts set aside for Indian tribes and tribal organizations in a program referred to in paragraph (2), the Attorney General, through the Director of the Office of Violence Against Women (referred to in this section as the ''Director''), shall take such setasides and combine them to establish the Safety for Indian Women Formula Grants Program, a single formula grant program to enhance the response of Indian tribal governments to address domestic violence, sexual assault, dating violence, and stalking. Grants made

DOJ_NMG_ 0147313

under this program shall be administered by the Tribal Division of the Office on Violence Against Women.

''(2) PROGRAMS COVERED.—The programs covered by paragraph (1) are the programs carried out under the following provisions:

''(A) Section 2007 (42 U.S.C. 3796gg–1), Grants to Combat Violent Crimes Against Women.

''(B) Section 2101 (42 U.S.C. 3796hh), Grants to Encourage Arrest Policies.

''(C) Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg-6), Legal Assistance for Vicitms.

''(D) Section 1301 of the Violence Against Women Act of 2000 (42 U.S.C. 10420), Safe Havens for Children Pilot Program.

''(E) Section 40295 of the Violence Against Women Act of 1994 (42 U.S.C. 13971), Rural Domestic Violence and Child Abuser Enforcement Assistance.

''(F) Section 41002 of the Violence Against Women Act of 1994, Grants for Court Training and Improvements.

DOJ_NMG_ 0147314

''(G) Section 2014(b) Sexual Assault Services Program, Grants to States, Territories and Indian Tribes.

''(H) Title VII, section 41201, Grants for Training and Collaboration on the Intersection Between Domestic Violence and Child Maltreatment. Section 41202, Services to Advocate For and Respond to Teens.

''(I) Section 704, Grants to Combat Domestic Violence, Dating Violence, Sexual Assault, and Stalking In Middle And High Schools.

''(b) PURPOSE OF PROGRAM AND GRANTS.—

''(1) GENERAL PROGRAM PURPOSE.—The purpose of the program required by this section is to assist Indian tribal governments to develop and enhance effective governmental strategies to curtail violent crimes against and increase the safety of members of Indian tribes consistent with tribal law and custom, specifically the following:

''(A) To increase tribal capacity to respond to domestic violence, dating violence, sexual assault, and stalking crimes against members of Indian tribes.

DOJ_NMG_ 0147315

"(B) To strengthen tribal justice interventions including tribal law enforcement, prosecution, courts, probation, correctional facilities; and enhance services to members of Indian tribes victimized by domestic violence, dating violence, sexual assault, and stalking.

"(2) PURPOSES FOR WHICH GRANTS MAY BE USED.—The Director may make grants to Indian tribes for the purpose of enhancing participating tribes' capacity to address the safety of members of Indian tribes. Each participating tribe shall exercise its right of self-determination and self-governance in allocating and using funds made available under the program. Each participating tribe may use funds under the program to support its specific tribally based response to increasing the safety of members of Indian tribes. Grants under the program shall support the governmental efforts identified by the Indian tribe required according to its distinctive ways of life to increase the safety of members of Indian tribes from crimes of sexual assault, domestic violence, dating violence, stalking, kidnapping, and murder.

DOJ_NMG_ 0147316

''(c) DISBURSEMENT.—Not later than 120 days after the receipt of an application under this section, the Attorney General, through the Director, shall—

''(1) disburse the appropriate sums provided for under this section; or

''(2) inform the Indian tribe why the application does not conform to the terms of the application requirements.

''(d) REQUIRED PROCEDURES.—

''(1) DEADLINE TO PROVIDE NOTICE.—No later than 60 days after receiving an appropriation of funds supporting the program required by this section, Director shall—

''(A) publish in the Federal Register notification of—

''(i) the availability of those funds to Indian tribes;

''(ii) the total amount of funds available; and

''(iii) the process by which tribes may participate in the program; and

''(B) mail each Indian tribe a notification of the matters required by subparagraph (A), together with instructions on the process, copies

DOJ_NMG_ 0147317

of application forms, and a notification of the deadline for submission of an application.

''(2) DEADLINE TO MAKE FUNDS AVAILABLE.—No later than 180 days after receiving an appropriation referred to in paragraph (1), the Director shall distribute and make accessible those funds to Indian tribes opting to participate in the program.

''(3) FORMULA.—The Director shall distribute those funds according to the following formula: —

''(A) 60 percent of the available funds shall be allocated equally to all Indian tribes who exercise the option to access the funds,

''(B) The remaining 40 percent shall be allocated to the same Indian tribes on a per capita basis, according to the population residing in the respective Indian tribe's service area.

''(4) SET-ASIDE.—No later than 120 days after receiving an appropriation referred to in paragraph (1), the Director shall set aside not less than 5 percent and up to 7 percent of the total amount of those funds for the purpose of entering into a cooperative agreement or contract with one or more tribal organizations with demonstrated expertise in providing training and technical assistance to Indian tribes in addressing domestic violence, dating vio-

DOJ_NMG_ 0147318

lence, sexual assault, and stalking against members of Indian tribes, tribal law, and customary pratices. At least one of the cooperative agreements or contracts shall be entered into with a single tribal organization to provide comprehensive technical assistance to participating tribal governments. Such training and technical assistance shall be specifically designed to address the unique legal unique legal status, distinct cultural ways of life, and geographic circumstances of the Indian tribes receiving funds under the program.

''(e) RECIPIENT REQUIREMENTS.—

''(1) IN GENERAL.—Indian tribes may receive funds under the program required by this section as individual tribes or as a consortium of tribes.

''(2) SUBGRANTS AND OTHER ARRANGEMENTS.—Participating tribes may make subgrants or enter into contracts or cooperative agreements with the funds under the program to enhance the safety of, and end domestic violence, dating violence, sexual assault, and stalking against, members of Indian tribes.

''(3) SET ASIDE.—Participating tribes must set aside no less than 50 percent of their total allocation under this section for tribally specific domestic vio-

DOJ_NMG_ 0147319

lence, dating violence, sexual assault, or stalking victim services and advocacy for members of Indian tribes. The services supported with funds under the program must be designed to address the unique circumstances of the individuals to be served, including the customary practices and linguistic needs of the individuals within the tribal community to be served. Tribes shall give preference to tribal organizations or tribal nonprofit organizations providing advocacy services to members of Indian tribes within the community to be served such as a safety center or shelter program for members of Indian tribes. In the case where the above organizations do not exist within the participating tribe, the participation and support from members of Indian tribes in the community to be served is sufficient to meet this requirement.

''(f) ADMINISTRATION REQUIREMENTS.—

''(1) APPLICATION.—To reduce the administrative burden for Indian tribes, the Director shall prepare an expedited application process for Indian tribes participating in the program required by this section. The expedited process shall facilitate participating tribes' submission of information—

''(A) outlining project activities;

DOJ_NMG_ 0147320

"(B) describing how the project activities will enhance the Indian tribe's response to domestic violence, dating violence, sexual assault, and stalking against members of Indian tribes; and

"(C) identifying the tribal partner providing advocacy and related services for members of Indian tribes who are victims of crimes of domestic violence, dating violence, sexual assault, and stalking.

"(2) REPORTING AND EVALUATION.—The Director shall alleviate administrative burdens upon participating Indian tribes by—

"(A) developing a reporting and evaluation process relevant to the distinct governance of Indian tribes;

"(B) requiring only essential data to be collected; and

"(C) limiting reporting to an annual basis.

"(3) GRANT PERIOD.—The Director shall award grants for a two-year period, with a possible extension of another two years to implement projects under the grant.

"(g) PRESUMPTION THAT MATCHING FUNDS NOT REQUIRED.—

DOJ_NMG_ 0147321

"(1) IN GENERAL.—Given the unique political relationship between the United States and Indian tribes differentiates tribes from other entities that deal with or are affected by, the Federal Government, the Director shall not require an Indian tribe to match funds under this section, except as provided in paragraph (2).

"(2) EXCEPTION.—If the Director determines that an Indian tribe has adequate resources to comply with a matching requirement that would otherwise apply but for the operation of paragraph (1), the Director may waive the operation of paragraph (1) for that tribe.

"(h) EVALUATION.—The Director shall award a contract or cooperative agreement to evaluate programs under this section to an entity with the demonstrated expertise in domestic violence, dating violence, sexual assault, and stalking and knowledge and experience in—

"(1) the development and delivery of services to members of Indian tribes who are victimized;

"(2) the development and implementation of tribal governmental responses to such crimes; and

"(3) the traditional and customary practices of Indian tribes to such crimes.".

DOJ_NMG_ 0147322

SEC. 1006. GAO REPORT TO CONGRESS ON STATUS OF PROSECUTION OF SEXUAL ASSAULT AND DOMESTIC VIOLENCE ON TRIBAL LANDS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Comptroller General of the United States shall submit to the Congress a report on the prosecution of sexual assault and domestic violence committed against adult American Indians and Alaska Natives.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall include the following:

(1) An assessment of the effectiveness of prosecution of such cases by the United States district attorneys of such cases.

(2) For each district containing Indian country, a summary of the number of sexual assault and domestic violence related cases within Federal criminal jurisdiction and charged according to the following provisions of title 18, United States Code: Sections 1153, 1152, 113, 2261(a)(1)(2), 2261A(1), 2261A(2), 2261(a)(1)(2), and 922(g)(8).

(3) A summary of the number of—

(A) reports received;

(B) investigations conducted;

(C) declinations and basis for declination;

(D) prosecutions, including original charge and final disposition;

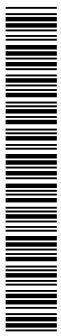
(E) sentences imposed upon conviction; and

(F) male victims, female victims, Indian defendants, and non-Indian defendants.

(3) The priority assigned by the district to the prosecution of such cases and the percentage of such cases prosecuted to total cases prosecuted.

(4) Any recommendations by the Comptroller General for improved Federal prosecution of such cases.

(c) YEARS COVERED.—The report required by this section shall cover the years 2000 through 2005.



Last rev. Sept 8, 2005 2:00 pm

This presents the views of the Department of Justice on H.R. 3402, the "Department of Justice Appropriation Authorization Act, Fiscal Years 2006 through 2009," as reported by the House of Representatives. We support reauthorization of the programs and activities of the Department of Justice and therefore, subject to the concerns noted below, support enactment of H.R. 3402 . We have organized our comments to correspond with the titles of the bill.

TITLE I –AUTHORIZATION OF APPROPRIATIONS:

Section 101 (2), authorizing appropriations for the Office of the Pardon Attorney, uses the phrase "for administration of pardon and clemency petitions" (as do sections 102(2) and 103(2)). "Clemency" is an umbrella term applicable to pardons, commutations (reductions) of sentence, and remissions of a monetary penalty (such as fine or restitution). We recommend editing this phrase throughout Title I to refer either to the "administration of clemency petitions" or to the "administration of pardon and commutation petitions."

TITLE II – IMPROVING THE DEPARTMENT OF JUSTICE'S GRANT PROGRAMS

Subtitle A - Improving the Department of Justice's Grant Programs

Section 201 would create the Edward Byrne Memorial Justice Assistance Grant ("Byrne JAG") Program by merging the current Edward Byrne Memorial State and Local Law Enforcement Assistance ("Byrne Grant") Programs and the current Local Law Enforcement Block Grant ("LLEBG") Program. The Department strongly supports this section as written, with three changes.

First, to ensure the ability to incorporate new information about emerging crime trends into the grant formula, the Department would prefer that this legislation not specify a formula for the allocation of the Byrne grant funds among States and localities. Instead, the inclusion of a provision for the periodic establishment of a formula by regulation would be preferable to the formula included in proposed new 28 U.S.C. § 500.

Second, to ensure that references to the current Byrne Grant Programs and LLEBG Program in laws, regulations, documents, papers, or other records of the United States are understood to apply to the proposed new Byrne JAG program, proposed new 28 U.S .C. § 500(b) contains a savings provision. To ensure that specific references to the Byrne Grant allocation formula in such laws, regulations, documents, papers, and other records are understood to apply to the analogous formula in the Byrne JAG program, new section 500(b) should be amended by inserting:

", and any reference therein to the current section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3765) shall be deemed to be a reference to section 505(a) of that Act (as amended hereby)"

immediately before the period.

Third, at present, grantees are prohibited from using LLEBG funds to buy (among other things) tanks, armored personnel carriers, fixed-wing aircraft, limousines, yachts, and vehicles not primarily used for law enforcement. However, such recipients may use LLEBG funds to purchase police cruisers, police boats, and police helicopters. As currently written, proposed new 42 U.S.C. § 3751 (d)(2)(A) would forbid grantees from using Byrne JAG funds to purchase such cruisers, boats, and helicopters, a result that appears to be inconsistent with proposed new 42 U.S .C. § 375 1 (a)(2). Accordingly, we recommend that proposed section (d)(2)(A) be amended to state: "(A) vehicles (other than police cruisers), vessels (other than police boats), or aircraft (other than police helicopters);"."

Section 205 of the bill amends 42 U.S.C. § 3732 to enhance the National Criminal Record Databases. In section 205 (a)(2), the term "National Criminal History Background Check System" does not refer to an existing database and the language should be modified to reflect the intent of the bill to cover the National Instant Criminal Background Check System or other system such as National Crime Information Center Interstate Identification Index or the Fingerprint Identification Records System.

Additionally, if the intent of section 205(c) is to amend 42 U.S.C. 3789g(a) to create a nondisclosure provision for purposes of Exemption 3, of the Freedom of Information Act ("FOIA"), we recommend the following additional amendment to that statute (noted in bold) should the requirements of S.1181, pass the House become law prior to the enactment of H.R. 3402:

> (c) CONFIDENTIALITY OF INFORMATION.-Section 812(a) of such Act (42 U.S.C. 3789g(a)) is amended by striking ''Except as provided by Federal law other than this title, no'' and inserting ''No'' **and, following "for any purpose", by adding "including disclosure under the Freedom of Information Act, 5 U.S.C. § 552,"**.

Subtitle B - Building Community Capacity to Prevent, Reduce, and Control Crime

Section 211 would establish an Office of Weed and Seed Strategies and authorize the Weed and Seed Program. The Department strongly supports this section, with the exception of embedded section 104(e)(2)(A), which would reserve "for Seeding activities" "not less than 40 percent" of each Weed and Seed grant. As section 211 makes clear, the very purpose of the Weed and Seed Program is to bring resources from communities and government together in coordinated fashion, by fighting crime ("weeding") and by promoting community-building ("seeding"). There are multiple

DOJ_NMG_ 0147326

sources of support for "seeding activities" within the Federal government, including the Departments of Health and Human Services, Education, Commerce, and Transportation. In sharp contrast, little if any "weeding" funding is available from any Federal government source outside the Department of Justice. Accordingly, to mandate a minimum percentage of relevant Justice Department appropriations to "seeding" could impair the "weeding" element of the program. Consequently, embedded section 104(e)(2)(A) should be amended by replacing "not less than 40 percent" with "not more than 40 percent."

Additionally, the Department recommends amending embedded section 104 to include explicitly as a focus of the programs persons returning to the community from prison and to promote reentry and reduce recidivism.

Subtitle C - Assisting Victims of Crime

Section 222 would make certain changes to the Victims of Crime Act of 1984. We support these changes. However, we urge consideration of an additional amendment to the Act. Nearly all appropriations to OJP for assistance typically are made without fiscal year limitation. The primary exception to this general rule has been appropriations from the Crime Victims Fund, which have a one-year character. Practically all appropriations from that Fund are allocated pursuant to mandatory statutory formulae and set-asides and can be obligated before the end of each fiscal year. The only problems occasioned by the one-year character of the funds arise with respect to certain reserved amounts whose expenditure is left by statute to the discretion of the Director of OJP's Office for Victims of Crime. With respect to the antiterrorism reserve, the 21st Century Department of Justice Appropriations Authorization Act (Pub. L. No. 107-273) amended the law to permit funds in that reserve to be carried over from year to year until expended. A similar solution is necessary, however, with respect to the Director's *other* discretionary funds (including funds for services to victims of Federal crimes, and funds for child victim services in Indian Country). Accordingly, the Department proposes language (below) that would put these other, limited, discretionary funds on the same general footing as the antiterrorism reserve funds. The proposed language would allow the Director greater flexibility to encourage diverse grant proposals, and to retain adequate funding to respond - quickly and in targeted fashion - to immediate and unforeseen victim needs (such as those arising from school shootings), as warranted. The Director needs authority to be able to maximize use of his other discretionary funding for immediate emerging victim needs, and the Department's proposed language would provide it, by enabling him to make maximum use of the flexibility afforded by his discretionary funds. To this end, the Department recommends the following change:

Amend § 222, by adding a new paragraph (4) as follows:

"(4) AUTHORITY TO CARRY OVER CERTAIN AMOUNTS FROM YEAR TO YEAR. - Subsection (d)(5)(C) of such section is amended by inserting after 'subparagraph (A)' the following: ', and amounts made available by law for

DOJ_NMG_ 0147327

obligation pursuant to sections 1402(g) and 1404(c) but remaining unobligated at the end of a fiscal year,'."

Section 223 contains an identical confidentiality provision to that contained in Section 205(c), which strengthens the confidentiality of information provision in the Omnibus Crime Control and Safe Streets Act of 1968, which we fully support. Section 223, however, should be amended to conform with Section 205(c). The changes recommend below also contain language in bold, to conform with our comment to 205(c) above. We recommend inserting at the end of the heading: "; CONFIDENTIALITY OF INFORMATION" AFTER "PURPOSES", and by inserting a new subsection:

"(c) CONFIDENTIALITY OF INFORMATION. - Section 1407(d) of such Act (42 U.S.C. 10604(d) is amended by:

(1) striking "Except as otherwise provided by Federal law, no" and inserting "No"**; "** **and, following "for any purpose", by adding "including disclosure under the Freedom of Information Act, 5 U.S.C. § 552,";**

(2) striking "research or statistical"; and

(3) inserting "or for law enforcement purposes" after "was obtained in accordance with this chapter".

Sections 224-227 contain numerous expansions to Violence Against Women Act ("VAWA") grant programs. Titles IV through IX of this bill, however, reauthorize VAWA and VAWA 2000. Provisions in these sections relevant to VAWA would be more appropriately included in Titles IV through IX and should be amended to be consistent with changes proposed in those titles.

Section 224(a) is designed to expand the purpose provisions of the Violence Against Women formula grant program. Section 502(b) of the bill, however, also amends the same section of the STOP purpose provisions. Read together, these two amendments do not produce a coherent whole. If the amendment in subsection 224(a) is retained – rather than the one in subsection 502(b) – the Department recommends replacing "following: "to develop"" with "following: ", to develop"" to avoid potential confusion. If both provisions are kept, the language will need to be significantly re-worked.

Additionally, section 224(b)(1) would amend 42 U.S.C. 3796gg-1(a), which currently specifies eligible recipients of STOP funds. The Department is concerned that, if the current language is removed, there will be ambiguity regarding which entities may receive STOP grants. We therefore recommend replacing subsection 224(b)(1) with the following:

DOJ_NMG_ 0147328

(1) in subsection (a), replace "to States, for use by States, State and local courts (including juvenile courts), units of local government, nonprofit nongovernmental victim services programs, and Indian tribal governments" with "to States, Indian tribal governments, and nonprofit state and tribal domestic violence and sexual assault coalitions";

In addition, this amendment would be better placed in section 501 of the bill (STOP Grants Improvements), which contains other modifications to the STOP statute.

Section 224 contains very welcome language that would coordinate some of OVW's reports to Congress due biennially (rather than annually) and on a consistent schedule. We recommend retaining these provisions but placing them in Title IV of the bill (which contains other general modifications to VAWA) or elsewhere in the Violence Against Women Reauthorization Act of 2005. Additionally, the Department proposes the following language as a consolidated section regarding all of OVW's regular reports to Congress:

SEC. XXX. CHANGE OF CERTAIN REPORTS FROM ANNUAL TO BIENNIAL.

(a) STALKING AND DOMESTIC VIOLENCE. —Section 40610 of the Violence Against Women Act of 1994 (title IV of the Violent Crime Control and Law Enforcement Act of 1994; 42 U.S.C. 14039) is amended by striking "The Attorney General shall submit to the Congress an annual report, beginning one year after the date of the enactment of this Act, that provides" and inserting "Each even- numbered fiscal year, the Attorney General shall submit to the Congress a biennial report that provides".

(b) SAFE HAVENS FOR CHILDREN. —Section 1301(d)(1) of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 10420(d)(1)) is amended in the matter preceding subparagraph (A) by striking "Not later than 1 year after the last day of the first fiscal year commencing on or after the date of enactment of this Act, and not later than 180 days after the last day of each fiscal year thereafter," and inserting "Not later than one month after the end of each even-numbered fiscal year,".

(c) STOP VIOLENCE AGAINST WOMEN FORMULA GRANTS. —Section 2009(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-3), is amended by striking "Not later than" and all that follows through "the Attorney General shall submit" and inserting the following: "Not later than one month after the end of each even-numbered fiscal year, the Attorney General shall submit".

(d) GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN ON CAMPUS. — Section 826(d)(3) of the Higher Education Amendments Act of 1998 (20 U.S.C. 1152 (d)(3)) is amended by replacing the matter from "Not" through and including "under this section" with "Not later than one month after the end of each even-numbered fiscal year".

DOJ_NMG_ 0147329

(e) TRANSITIONAL HOUSING ASSISTANCE GRANTS FOR CHILD VICTIMS OF DOMESTIC VIOLENCE, STALKING, OR SEXUAL ASSAULT. —Section 40299(f) of the Violence Against Women Act of 1994 (42 U.S.C. 13975(f)) is amended by replacing "shall annually prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that contains a compilation of the information contained in the report submitted under subsection (e) of this section." with "shall prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that contains a compilation of the information contained in the report submitted under subsection (e) of this section not later than one month after the end of each even-numbered fiscal year.".

Section 226 contains new language that would coordinate two required OVW regular reports to Congress to have them due biennially (rather than annually) and on a consistent schedule. We support these provisions, but recommend moving those relevant to Title IV or another part of the Violence Against Women Reauthorization Act of 2005. Two reports from the Office, however (one specified in the Higher Education Amendments of 1998 and another specified in the recently-enacted PROTECT Act), were not included, and thus would remain due to Congress annually. The Department respectfully recommends making these reports biennial and putting them on the same schedule as the other reports. We have attached above, in Section 224, proposed language for one section that covers all of OVW's regular reports to Congress.

Similarly, the Department would like to include the report to Congress on the activities of the Office of Correctional Job Training and Placement and proposes the following language be included:

Section 20418(d)(4) of Public Law 103-322, the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. § 13725(d)(4)), is amended by striking "an annual report" and inserting "a report each even-numbered fiscal year".

We also propose eliminating the report to Congress on substance abuse treatment programs, and we submit the following language:

Section 3621(e) of title 18, United States Code, is amended

(1) by striking paragraph (3) and paragraph (4) and inserting the following:

"(3) Authorization of appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2006 through 2009.";

(2) by renumbering paragraph (5) as paragraph (4); and

DOJ_NMG_ 0147330

(3) by renumbering paragraph (6) as paragraph (5).

The Department also proposes eliminating the report to Congress on the privatization requirements in the District of Columbia Revitalization Act, and we submit the following language:

> Section 11201(c) of Public Law 105-33, the Balanced Budget Act of 1997, is amended—
>
> (1) by striking paragraph (2) and inserting the following:
>
> "(2) DUTIES OF THE DEPUTY ATTORNEY GENERAL.– The Deputy Attorney General shall be responsible for overseeing Bureau of Prisons privatization activities.".

Section 227 would amend the Rural program statute so that entities which serve rural areas or rural communities are eligible to receive Rural program funds regardless whether they are located in a rural state. Section 603, proposed section 40295(b) of the bill also accomplishes this same result. The Department therefore recommends deleting section 227.

Subtitle E - Other Matters

Section 241(d), by its operative terms, would provide the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") with the same undercover-operations authorities currently available by statute to the Justice Department's Federal Bureau of Investigation ("FBI") and Drug Enforcement Administration ("DEA"). We strongly support such a provision. Unfortunately, however, the subsection's incorrect heading, and an inaccurate parallel citation contained within the subsection itself, appear to suggest that only the audit and reporting provisions applicable to the FBI and DEA undercover operations (as opposed to the authority to conduct the operations themselves) would be applied to ATF undercover operations. For this reason, we recommend striking "AUDITS AND REPORTS ON" in the subsection's heading, as well as "(28 U.S.C. 533 note)" the first place it appears within the subsection itself.

Section 247 would amend current law to allow the Marshals Service to pay for prisoner medical costs at the Medicare rate and would lift the burdensome requirement that it pay the lesser of the Medicare or Medicaid rate. We strongly support this provision. This change is critical to the continued success of the Marshals' prisoner medical cost containment program.

Using national Medicare rates, the Marshals Service has been able to achieve a medical savings of $89.9 million from fiscal year 2002 to the present. Forced implementation of a 50-State Medicaid structure would result in a substantial loss of medical specialists, a decline in the quality of medical care provided to prisoners, and a substantial increase in medical guard costs.

DOJ_NMG_ 0147331

Section 248 would establish a new "Office of Audit, Assessment, and Management" within OJP. The Office would be "the exclusive element of the Department of Justice, other than the Inspector General," with responsibility for monitoring compliance with any OJP grant program or "[a]ny other grant program carried out by the Department of Justice that the Attorney General considers appropriate." We believe that the COPS office should be exempted from this provision. The COPS Office has devoted significant resources to establish a division that is responsible for responding to OIG audits and a grant monitoring division that conducts on-site and other monitoring strategies, and has developed the expertise to effectively monitor and ensure compliance with COPS grant conditions. Moreover, we object to transferring the automated system for tracking COPS grants to OJP. The COPS Office's automated system (CMS) is a longstanding, highly successful grant management system.

We have four suggestions to improve the language of section 248, as follows:

First, embedded section 105 contains several references to "performance audits." To avoid conflict with the law and regulations relating to the auditing activities of the Inspector General and the Comptroller General (particularly given the exclusivity provision contained at embedded section 105(a)(3)), the Department strongly recommends that all such references be changed to "program assessments," a term that would cover the assessments, both programmatic and financial that appear to be what is actually contemplated by the provision as it is currently drafted.

Second, we also recommend that the name of the Office be changed to the "Office of Assessment and Management."

Third, embedded section 105(f), as currently drafted, provides that "[n]ot to exceed 5 percent of all funding made available for a fiscal year for the programs covered by subsection (b) shall be reserved for the activities of the Office of Audit, Assessment, and Management as authorized by this section." We appreciate the apparent intent of this proposed funding mechanism and believe it would be consistent with a key part of the President's Management Agenda: to ensure that performance is routinely evaluated and considered in government funding and management decisions, and that government programs achieve expected results and work toward continual improvement. We would prefer, however, that the funding be capped at a more reasonable 3 percent (a 40 percent reduction).

Finally, to ensure that the identified funds will be used only for the purposes described in embedded section 105 (which appears to be the intention of subsection (f)), we recommend that the language reserving funds for the activities of the Office, "as authorized by this section," be amended to permit the use of funds "for the activities authorized by this section."

Section 249 would establish a Community Capacity Development Office to provide training and technical assistance to improve and build the capacity of community elements to participate in Justice Department grant programs. The Department strongly

DOJ_NMG_ 0147332

supports this provision but recommends a clarifying amendment to embedded section 106(e), which as currently written, makes certain funds available "for the activities of the Community Capacity Development Office." To ensure that the identified funds be used only for the purposes described in embedded section 106 (which appears to be the intention of subsection (e)), the Department recommends that the quoted text be replaced with "for the activities authorized by this section." In addition, our comments about funding of the new Office that would be established by section 248 apply here, as well, to embedded section 106(e).

This section also provides that exclusive jurisdiction over COPS grant funds appropriated for community policing development would be transferred to OJP. We recommend that the COPS Office should be exempted from this provision because it has developed a strong national network of Regional Community Policing Institutes, as well as the Community Policing Consortium. Moreover, the COPS Office has the recognized expertise to continue providing a wide variety of information, training and technical assistance in the field of community oriented policing and also to make grants, through NIJ, to assess its programs. This has resulted in the timely and effective distribution of funds appropriated for these purposes.

Section 250 would create an Office of Applied Law Enforcement Technology within OJP. The Department strongly supports the concept of having a single unit within the Department responsible for coordinating the acquisition of applied law enforcement technology pursuant to its myriad grant programs. To ensure that this new component benefits from the research and evaluation efforts of the Department's National Institute of Justice, however, the Department strongly recommends that it be established as a division of NIJ's Office of Science and Technology, rather than as a separate office. This change would create a forceful and proactive element working across the Department to set minimum information technology standards for equipment and software - especially for interoperability equipment and other communication tools - purchased under the various broad grant options. The linkage between research and setting standards is vital, particularly as standards set often have a broader application than the immediate need being addressed, and NIJ is in the best position by far to oversee this endeavor. Additionally, the Department recommends inclusion of some illustrative examples of "crime reporting programs administered by the Department," for clarification purposes. Accordingly, the Department recommends the following changes:

At embedded section 107,

(I) in the heading, strike "OFFICE" and insert "NATIONAL INSTITUTE OF JUSTICE, OFFICE OF SCIENCE AND TECHNOLOGY, DIVISION";

(ii) in subsection (a),

(A) strike "the Office an Office" and insert "the Office of Science and Technology of the National Institute of Justice a Division";

DOJ_NMG_ 0147333

(B) strike "Director" and insert "person";

(C) strike "the Office shall" and insert "the Division shall"; and

(iii) in subsection (b),

(A) strike "the Office, the Director" and insert "the Division, its head"; and

(B) insert ", such as the Uniform Crime Reports or the National Incident-Based Reporting System" after "Department".

Additionally, the Department recommends that the COPS Office should be exempted from this provision. The COPS Office has already invested over one billion dollars in State, local and tribal law enforcement equipment and technology through its technology and interoperability programs. The COPS Office has been responsive in meeting the needs of State and local law enforcement for computer systems.

Section 251 would add a new section 108 to part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968. This new section would establish certain general time limits on the availability of Justice Department grant funds. The Department strongly supports the expeditious awarding of grant appropriations, which appears to be the intention of this provision. Unfortunately, this provision would cause great confusion and severely limit the flexibility that is necessary in making awards under grant programs, given the disparity of fiscal years among the plethora of jurisdictions across the country and the need occasioned by many grants for significant ramp-up activities (including activities necessary to meet eligibility requirements) before grant funds may be awarded. This is particularly the case, given that the provision offers no leeway for circumstances where there may be legitimate cause for extensions of time. Under the circumstances, the Department believes that potentially could have a significant detrimental effect on Federal assistance to State, local, and tribal governments, and to non-profit grantees.

Also, the reversion of funds to the Treasury rather than to DOJ - for example, funds recovered from unsigned awards, withdrawals, grant close-out or misused funds as a result of enforcement action - would not have the desired effect of providing incentive to grantees to spend funds faster, but would rather have the opposite result. For these reasons, we recommend that the provision be stricken. Alternatively, we strongly recommend the deletion of the last sentence of proposed new subsection 108(b), which, as currently written, would have the practical effect of rescinding nearly all deobligations and causing them to revert to the Treasury - a result directly at odds with new proposed subparagraph 108(a)(3).

Section 252 ensures that accounting and procurement activities for the Office of Justice Programs are carried out under the Office of the comptroller and the Office of Administration. The Department believes this provision to be unnecessary because the

DOJ_NMG_ 0147334

Assistant Attorney General for Administration (AAG/A) is responsible for, among other things, the Department's financial management, budget, and procurement policies. The AAG/A, in turn, delegates these operations to component heads such as the Assistant Attorney General for the Office of Justice Programs. As such, Section 252 is redundant of current Department management.

Section 253 would reauthorize the use of Community Oriented Policing Services (COPS) grants for hiring law enforcement officers, providing law enforcement equipment, and addressing interoperable communications needs of State and local law enforcement agencies. The Administration's budget proposes to consolidate the current COPS hiring grants, the Byrne program, and the Local Law Enforcement Block Grant program into Byrne Justice Assistance grants, which would give law enforcement greater flexibility to address local priorities, such as equipment, training, or staffing. In addition, the Administration believes that interoperable communications assistance should be administered by the Department of Homeland Security.

This section would combine all allowable uses of COPS grants into a single COPS grant program. Instead of separately funding programs through separate grants for a specific purpose, COPS would make single grants for any purpose listed. We believe that our grantee recipients would consider this an improvement to the way federal funds are distributed through the COPS Office.

Section 254 would make several welcome changes to the Public Safety Officers' Benefits ("PSOB") Program, and, with two changes, we strongly support it.

The ***first*** change relates to a serious administrative problem unintentionally occasioned by one detail of a provision of the Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act of 2002 (Public Law 107- 196) (the Judge Act), to the great detriment of the beneficiaries of fallen public safety officers. Among other things, the Judge Act provides that, in cases where a public safety officer dies without a spouse or eligible children, the PSOB benefit is to be paid to the individuals on the officer's most recently executed life insurance policy, rather than to his parents (who would have been the beneficiaries under prior law). Unfortunately, the Judge Act**,** which the Administration strongly supported and supports, has proven extraordinarily difficult to administer in one respect, because it is all but impossible to determine what a fallen officer's "most recently executed life insurance policy" might be, without knowing what the universe of potential policies is. (For example, the Judge Act does not expressly require that the "most recently executed life insurance policy" actually be in effect at the time of the fallen officer's death.) Given the inherent uncertainty as to whether a fallen public safety officer had "executed one or more "life insurance polic[ies]," and, if so, whether any policy presented to OJP is the "most recently executed" policy, life-insurance beneficiaries have been afforded a one-year period in which to present their claims and then the Department has been left to decide which such beneficiaries (if any) may be entitled to recover from the program. In several cases, where, by all accounts, there were no life insurance policies, we have been forced to withhold payment from the fallen officer's otherwise eligible parents (parents who may have been economically

DOJ_NMG_ 0147335

dependent on the fallen officer) for a full year because of the possibility that someone might appear and claim to be an insurance beneficiary under a current or expired life insurance policy.

Additionally, it is not at all clear that the premise that informs this aspect of the Judge Act - that the beneficiaries under a fallen officer's "most recently executed life insurance policy" are the persons the officer would have desired to receive the PSOB Program death benefit - is accurate. Life insurance can be and is obtained often under widely varying circumstances, such as the purchase of airline tickets, the opening of bank accounts, pursuant to divorce decrees, wholly removed from the concrete contemplation of estate planning or the selection of a PSOB beneficiary. For example, currently pending before the Department is the case of a hired farmhand, the beneficiary of a very small life insurance policy purchased by the generous fallen officer who owned the farm. No evidence has been presented to suggest that the fallen officer intended the farmhand, rather than the officer's family (or some designated beneficiary), to receive the PSOB death benefit, as the Judge Act apparently will require.

Taking all these considerations into account, the House of Representatives included section 254(d) in the bill (passed out last year and continue here). Section 254(d) corrects one aspect of the serious administrative problems associated with the Judge Act, but leaves the rest of those administrative problems untouched. To enhance the operation of the Judge Act by correcting all such administrative problems, and to ensure that the purposes of the Judge Act are not defeated unintentionally, we strongly recommend amending section 254(d) by inserting "*on file at the time of death with such officer's public safety agency, organization,* or *unit*" after "*policy*" in embedded subparagraph (4)(B). Pursuant to this change, any officer who wished to designate a beneficiary to receive the PSOB Program death benefit instead of his parents could do so easily (in fact, more easily than at present), without being required to purchase life insurance as a proxy for making such a designation. This change also would further the purposes of the Judge Act ensuring that the PSOB beneficiary would be the person actually selected by the fallen officer for that purpose, rather than a person who by happenstance was the beneficiary of the most recently executed policy. Finally, this change would enable the Department quickly to determine whether the fallen officer in fact did leave such a designation of beneficiary or policy. If so, the Department would be able to provide that beneficiary with the benefit promptly. If not, the Department would be able to provide the benefit to the fallen officer's parents without further delay.

The ***second*** change relates to the Department of Justice's authority to act in cases where an additional beneficiary presents a valid claim after the full amount of the PSOB Program benefit has been paid. Under current law, the Department is obligated in these cases to collect from the other beneficiaries in order to pay the additional beneficiary the amount he is entitled to under the PSOB statute. This problem arose, for example, with the Judge Act when, as of the date of its enactment (June 24, 2002), the Department already had paid all claims arising from the September 11th attacks in which the officer died without children or spouse. Because the Judge Act retroactively covers claims on deaths occurring on or after September 11, 2001, the Department received several claims

DOJ_NMG_ 0147336

from individuals who were named on life insurance policies of fallen officers. After enactment of the Judge Act, the parents of several fallen officers, who had already received the PSOB Program benefit, no longer were eligible beneficiaries (*i.e.*, the Judge Act made their entitlement to the PSOB Program benefit subordinate to the claims of that Act's insurance claimants). Because the PSOB Act provides for only *one* death benefit per fallen officer (which is divided according to the statute among all the members of the eligible class of beneficiaries), the practical effect of the Judge Act's retroactivity provisions was to strip these parents of their PSOB entitlement and transform the payments honestly made to and received by them into debts subject to collection by the federal government.

This "additional beneficiary after the benefit already has been paid" problem arises in other contexts as well. For example, in a recent case involving a fallen officer of September 11th, the full amount of the benefit was paid to his surviving spouse and four children, but a valid claim now has been filed on behalf of an illegitimate child of the officer's. Under current law, that child (of whom the Department knew nothing until long after the PSOB Program benefit had been paid) is entitled to a statutory share of the benefit, but, under the circumstances, the benefits already paid out are subject to collection to the extent of that child's statutory share. In another case currently before the Department, evidence has been presented -- payment of the full PSOB Program benefit already having been made -- that one of the fallen officer's children (who did not receive a statutory share) was a full-time student at the time of the officer's death and accordingly *is* entitled (despite earlier appearances) to a statutory share of the benefit. Here again, the benefits already paid out are subject to collection to the extent of that child's statutory share.

The House of Representatives was aware of the problems occasioned by the retroactivity provisions of the Judge Act and sought to correct them by including section 254(c) in the bill (passed out last year and continued here), which would create a new section 1201(k). (Because the PSOB Act recently was amended, at very least embedded section 1201(k) should be redesignated.) As currently written, section 254(c) of the bill would correct the double/payment/debt-collection problem associated with those retroactivity provisions, but it would *not* address the identical problems that arise in non-Judge Act cases. For this reason, the Department strongly recommends that bill section 254(c) be amended by replacing embedded section (k) with the following:

"(m) The Bureau may suspend or end collection action on an amount disbursed pursuant to a statute enacted retroactively or otherwise in error under subsections (a) or (c), where such collection would be impractical, or would cause undue hardship to a debtor who acted in good faith.".

TITLE III – MISCELLANEAUS PROVISIONS:

Section 302 makes miscellaneous technical amendments. Section 302(a) provides that a comma should be added after “fraud” in the heading for 18 U.S.C. § 1591.

DOJ_NMG_ 0147337

We note that there is already a comma after "fraud" in the heading of 18 U.S.C. § 1591 in the 2005 Edition on the Federal Criminal Code and Rules.

Section 20301(c) of Pub. L. No. 103-322 added a termination of limitation provision to 8 U.S.C. § 1252(j), which provision was codified as a note to that section. Subsequently, the program to which the provision referred (i.e. the State Criminal Alien Assistance Program - SCAAP) was the subject of several statutory amendments and was recodified to 8 U.S.C. § 1231(i). Despite these changes to the SCAAP program, section 20301(c) remains codified as a note to section 1252. Therefore, OJP recommends adding the following new subsection:

> "(e) REPEAL OF PROVISION RELATING TO UNAUTHORIZED PROGRAM.— Section 20301 of Public Law 103-322 is amended by striking subsection (c).".

Section 304 would require each component of the Department to use only facilities that do not require a payment to a private entity for predominantly internal training or conference meetings "unless specifically authorized in writing by the Attorney General."[1] The Attorney General would be required to report annually to Congress on the details of each training and conference meeting that is authorized to use a private facility, which would be unduly burdensome. The Department's finance staff would need to set up a new code system for tracking related expenses in the accounting system in order to report to the Attorney General on the details of each training and conference meeting required by 304(b).

Section 304 would also have a dampening effect on the Department's ability to periodically conduct training conferences and related meetings. Federal training capacity is limited, and the training facilities available to Department of Justice components have traditionally had serious capacity issues (e.g., at the National Advocacy Center and the Federal Law Enforcement Training Center). Given this limited capacity of federal facilities, the requirements in Section 304 will jeopardize the scheduling of important meetings and conferences if approval from the AG for alternative facilities cannot be obtained in a timely manner. If this requirement remains in the bill, we would recommend that for the timely approval of requests, language should be added to allow the AG to delegate this authority to component heads, with possibly even further delegation to Executive Officers.

Training for intelligence personnel who are working sensitive issues or are operating undercover (Agents, Surveillance personnel) cannot easily be conducted in federal training facilities. Training in science and technology disciplines, IT for instance, is often better conducted in non-governmental facilities specifically built for that purpose. Foreign language training and conferences are often held in non-governmental facilities due to significant roles played by academia and private industry in the training. The FBI training facility at Quantico is already grappling with capacity issues in order to meet

[1] We assume that the Attorney General's responsibility to make a written certification could be delegated.

DOJ_NMG_ 0147338

internal training requirements. Placing restrictions on the use of non-governmental facilities would hinder training efforts.

This change could potentially affect ANY training class held by a United States Attorney's Office (USAO) in an outside facility (unless the space is free). Unless the Attorney General (AG) could delegate this authority downward, everyone would need to get the AG's approval for holding any kind of training in a private facility. This could be hundreds per year. It may also include the United States Attorneys' conference or any meeting of USAs held at an outside hotel/facility (e.g. OCDETF, Asset Forfeiture). Since the Department's Executive Office of United States Attorneys ("EOUSA") does the majority of USAO training at the National Advocacy Center ("NAC"), this doesn't appear to affect that training, but there are a lot other entities within Justice and the USAO community that could be affected.

Moreover, we are not certain that a provision encouraging the Department to conduct all training in Federal facilities would have the desired effect of reducing the costs of training. Existing GSA regulations (41 CFR 301-74) on conference planning (which can include training) already require agencies to "maximize the use of Government-owned of Government provided conference facilities as much as possible." Additionally, in some cases (for example, in the case of the Bureau of Prisons), our components have negotiated excellent room rates and conference facility prices. For all of these reasons, we oppose this provision and suggest its deletion.

Section 305 would require the Attorney General to designate a "senior official" within the Department of Justice (the "Department") "to assume primary responsibility for privacy policy." The Department recognizes the growing importance of information privacy, and supports creation of a Chief Privacy Officer (CPO) position within DOJ, but strongly believes that more time and study are required before the CPO's duties and responsibilities can or should be specifically delineated. The Department is now actively engaged in assessing its privacy-related functions and personnel, and making recommendations to the Attorney General regarding potential structural changes and resource needs. As this project unfolds, among the difficult questions presented are: what is the scope of the CPO's responsibilities? How does creation of a CPO affect the Department's existing privacy functions? What is the appropriate relationship between the CPO and the Chief Information Officer? Is importing the DHS model the optimal solution for DOJ? The answers to these questions are not obvious, and are not susceptible to "one size fits all" legislation. The Department therefore seeks additional flexibility in the language of the bill, and sufficient time to make an informed recommendation to Congress regarding establishment of a CPO. We submit the following language as a substitute:

Privacy Officer

(a) In General. The Attorney General shall designate a senior official in the Department of Justice to assume primary responsibility for privacy policy.

(b) Responsibilities. The responsibilities of such official shall include –

DOJ_NMG_ 0147339

(1) Advising the Attorney General regarding appropriate privacy protections, relating to the use, collection, and disclosure of personally identifiable information, with respect to the use of information technology policy and information systems; and
(2) Advising the Attorney General regarding the privacy implications of legislative and regulatory proposals affecting the Department and involving the collection, use, and disclosure of personally identifiable information.

(3) In consultation with the Department's Chief Information Officer, ensuring the Department's compliance with Section 208 of the E-Government Act of 2002 (Pub. L. 107-347).

(c) Review of Privacy-Related Functions and Resources and Report. Within 120 days of his designation, the privacy official shall prepare a comprehensive report to the Attorney General and to Congress, describing the organization and resources of the Department with respect to privacy and related information management functions, including access, security, and records management, assessing the Department's current and future needs relating to information privacy issues, and making appropriate recommendations regarding the Department's organizational structure and personnel.

Section 306 of the bill includes language requiring the Director of the Executive Office for United States Trustees to report to the Congress annually on:

"(1) the number and types of criminal referrals; (2) the outcomes of each criminal referral; (3) for any year in which the number of criminal referrals is less than for the prior year, an explanation of the decrease; and (4) the United States Trustee Program's [the Program] efforts to prevent bankruptcy fraud and abuse, particularly with respect to the establishment of uniform internal controls to detect common, higher risk frauds, such as a debtor's failure to disclose all assets."

We believe that a statutory reporting requirement is unnecessary, and therefore oppose Section 306.

This past year, the Program redesigned its criminal database. Moreover, the Program voluntarily makes available to the Committee information on its criminal referral efforts, as well as data from other initiatives undertaken to combat abuse of the bankruptcy system. For the past three years, the Program issued its *Annual Report of Significant Accomplishments*. Copies were sent to Members of the Judiciary Committees of the Senate and the House of Representatives, and the report is available on the U.S. Trustee Program' s internet web site. Each report summarizes the Program's efforts during a particular fiscal year to combat fraud and abuse through its civil and criminal enforcement initiatives. In addition, training with Program field offices and law enforcement is ongoing; agency manuals and referral protocols are planned; and working

DOJ_NMG_ 0147340

relationships with the U.S. Attorneys' offices, as well as other law enforcement agencies, have expanded.

Section 307 would require the Attorney General to report to Congress at least once per year on the status of "United States persons or residents detained on suspicion of terrorism." The report is to specify the number of persons detained, as well as "the standards developed by the Department of Justice for recommending or determining that a person should be tried as a criminal defendant or should be designated as an enemy combatant." We strongly oppose this provision. As we have explained in the past, no one is detained "on suspicion of terrorism" Rather, detainees fall into three categories: (1) material witnesses; (2) those suspected of immigration violations; and (3) those suspected of criminal violations. The first category is governed by grand jury secrecy provisions and is inappropriate for a report to Congress. The second category is best addressed by the Department of Homeland Security. Information about the third category is generally publicly available and therefore inappropriate for a report to Congress. As for enemy combatants, these are detained by the Department of Defense, not the Department of Justice. Regarding the standards for that designation, we discussed these at length in other communications with Congress. We do not believe that a further annual report on this topic should be required.

Section 308: Technical Correction relating to Definition Used in "Terrorism Transcending National Boundaries" Statute. This section, amending 18 USC 1958, is not necessary, as it was enacted at part of the Intel Reform bill, PL 108-458, section 6704.

Section 309 of the bill amends various sexual abuse offenses to cover contract facilities and to ensure that all such offenses would be felonies, rather than misdemeanors. Under the current wording of Title 18 U.S.C. §§ 2241-2244, these sexual abuse provisions apply to offenses occurring in "the special maritime and territorial jurisdiction of the United States or in a Federal prison." The amendments proposed by this section are intended to widen the application of these provisions to ensure that offenses occurring in contract facilities would be covered by these statutes. In addition, based on current sentence lengths, several subsections of title 18 U.S.C. §§ 2241-2244 are misdemeanor offenses. The amendments in Section 309 would increase the sentences for these offenses, thereby ensuring that these sexual abuse crimes are all felonies. However, the current proposed change made by Section 309 is deficient in that it does not address sexual abuse offenses committed by employees in contract facilities.

We support the objective of this initiative, and recommend amending the current statute with language proposed by the Office of Inspector General in the report titled "Report on Deterring Staff Sexual Abuse of Inmates," dated April 15, 2005. That proposal recommends inserting the language "or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General" after "in a Federal prison" in the relevant places in §§ 2241-2244 of Title 18 U.S.C. (the places currently listed in Section 309 of the draft bill). The following amendment will accomplish this goal:

DOJ_NMG_ 0147341

Section 309 should be amended as follows:

"by inserting "or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General" after "in a Federal prison":"

The Department agrees with this section's proposed increases to penalties for sexual abuse offenses.

Section 310 amends title 18 U.S.C. § 1791(a), the statute addressing contraband in correctional facilities, to ensure that the prohibition and penalties will cover the possession or introduction of contraband in contract facilities. To be consistent with the needed changes to the sexual abuse offense statutes made by amending section 309, and to accomplish this goal using a different approach, we propose the following replacement to Section 310:

SEC. 310. EXPANDED JURISDICTION FOR CONTRABAND OFFENSES IN CORRECTIONAL FACILITIES.

Section 1791(d)(4) of title 18, United States Code, is amended by inserting "or any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General" after "penal facility".

Section 315 permits the Attorney General to use as a grantee the Center for Criminal Justice Technology. The Department suggests deleting this section, as it is permissive, not mandatory, and is thus unnecessary because Department may already use the Center when appropriate.

Section 322 is a sense of Congress related to "good time release." The Department suggests deleting this section because our current sentencing laws already provide for early "good time" release. Our current truth-in-sentencing law allows an inmate to reduce the time served by up to 15 percent for good behavior in prison. The study called for in this section, therefore, is not necessary.

Section 324 would amend Section 475 of title 18, United States Code, by adding at the end the following: ''Nothing in this section applies to evidence of postage payment approved by the United States Postal Service.'' The section as presently written is a "violation" providing for a fine, but no incarceration. The statute makes it a violation to counterfeit any government "obligation or security", or to attach advertising, business cards, any notice or advertisement of any such obligation or security shall be fined. The amendment would exempt "evidence of postage payment" (presumably the e-postage systems now being used). This statute on its face does not appear to apply to evidence of postage payment. We oppose this amendment as superfluous and unnecessary.

DOJ_NMG_ 0147342

TITLE IV – VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005

Titles IV through X of the bill are the "Violence Against Women Reauthorization Act of 2005." The Department strongly supports the reauthorization of grant programs established by the Violence Against Women Act of 1994 (VAWA 1994) and subsequent legislation. Through these grant programs, the Department has provided federal grants to help communities across America develop innovative strategies to combat violence against women. These grant programs are being used to forge focused and effective partnerships among federal, state, local and tribal governments, and between the criminal justice system and victim advocates, and to provide much-needed services to victims of domestic violence, sexual assault, and stalking. Titles IV through X of H.R. 3402 would renew the Act and make important improvements to Department-administered grant programs that would enable communities and victim service providers to expand their prevention efforts, ensure the safety of more victims, and hold perpetrators accountable for their crimes.

As an overall comment, several sections in Titles IV – X increase the tribal set-aside for VAWA grant programs from 5% to 10%. (Sections: 501(d)(1)(A); 502(b)(4); 503(6)(B)(i)(I); 504 (proposed 41004(f)(1)); 603 (proposed 40295(d)(1)); and 701 (proposed 41202(d)(1))). The Department does not support this increase. As discussed under Title X, below, we have experienced difficulty meeting the current 5% set aside because tribes lack the resources and infrastructure to benefit under the current structure. At present, OVW supports as many qualified tribal proposals as it receives under these programs. Merely raising the tribal set-aside (which has always been viewed as a minimum, not a cap) will not effectively address the problems we've encountered in administering tribal grants. In Title X, below, the Department proposes a tribal grant structure that is tailored to the problems we have encountered in administering these grant programs.

The Department submits the following comments by Title and Section number:

Section 402. Definitions and Requirements for Programs Relating to Violence Against Women.

Section 402, proposed section 2000A, amends Part T of the Omnibus Crime Control and Safe Streets Act of 1968 by clarifying that any provision authorizing the Department to make grants, or to carry out other activities, for the assistance of victims of domestic violence, dating violence, sexual assault, stalking or trafficking shall be construed to cover grants that provide assistance to male as well as female victims. The Department views this provision as unnecessary because the Office already construes any provision regarding assistance to victims of domestic violence, dating violence, sexual assault, and stalking to be gender-neutral. Moreover, regardless whether the relevant statutory language is gender-neutral, OVW grantees and subgrantees can and do serve both female and male victims.

DOJ_NMG_ 0147343

Section 402, proposed sections 2000B and 2000C, amends Part T of the Omnibus Crime Control and Safe Streets Act of 1968 by adding a list of definitions and grant provisions apparently intended to apply to all OVW programs. In amending Part T, which codifies the STOP Violence Against Women Formula Grant program, and applying the definitions and provisions to "any provision required by law to be carried out by or through the Violence Against Women Office" and to "any grant program required by law to be carried out by or through the Violence Against Women Office," however, the bill language, as drafted may not apply to at least one current and perhaps other future grant programs. Currently, the Violence Against Women Office Act makes the Director of the Office responsible for carrying out the functions of the Department under VAWA 1994 and VAWA 2000. See 42 U.S.C. § 3796gg-0b(5). The Grants to Reduce Violent Crimes Against Women on Campus (Campus) program, however, was authorized by the Higher Education Amendments of 1998 and not VAWA 1994 or VAWA 2000. The definitions and provisions therefore would not apply to the Campus Program. In addition, the general provisions would not apply to any new grant programs created by this bill and delegated to the Attorney General with no particular reference to OVW.

For example, section 602 of the bill authorizes the Attorney General to award grants to states and territories to support services for victims of sexual assault with no mention of OVW. The Campus Program appears to fit in both these categories because it is re-authorized in its entirety, rather than amended, in section 702 of the bill. Section 702 does not specify, however, that the program should be codified as part of VAWA 1994. In addition, it does not specify that the program will be administered by OVW. To ensure that the definitions and provisions apply to all OVW programs, we suggest denominating the current text of Section 402 as 402(a) and adding a new subsection 402(b) that would read as follows: "(b) The provisions of sections 2000A, 2000B, and 2000C of Part T of the Omnibus Crime Control and Safe Streets Act of 1968 apply to all programs authorized or reauthorized by this Act.".

Four of the current program statutes, those for the Grants to Combat Violent Crime Against Women, Grants to Encourage Arrest Policies and Enforcement of Protection Orders (Arrest), Campus, and the Legal Assistance for Victims (LAV) programs, contain separate definitions provisions. These definitions should be removed to avoid conflict with the new universal definitions. Specifically, we suggest the following edits to the bill:[2]

> In section 501, insert a new subsection (f) to read as follows and renumber the remaining subsections accordingly:
>
> > (f) DEFINITIONS.—Section 2008 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking the current language and

[2] Because section 702 (page 204, line 20 to page 216, line 18) re-authorizes the Campus Program in full, we do not propose language deleting the current definitions section of the Campus statute. We note, however, that the bill does not expressly delete the current Campus Program from 20 U.S.C. § 1152.

DOJ_NMG_ 0147344

replacing it with the following: "In this part, the definitions provided in section 2000B of this part shall apply.".

In section 502, insert a new subsection (d) to read as follows and renumber the current (d) to (e):

"(d) DEFINITIONS.—Section 2105 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking the current language and replacing it with the following: "In this part, the definitions provided in section 2000B of Part T of this act shall apply.".

In section 503, insert a new subsection (2) to read as follows and renumber the remaining subsections accordingly:

"(2) in subsection (b), by striking the current language and replacing it with the following: "In this section, the definitions provided in section 2000B of Part T of the Omnibus Crime Control and Safe Streets Act of 1968 shall apply.".

Section 402, proposed section 2000B(a)(5), provides a definition of "domestic violence" that would apply to all "violence against women provisions." We recommend modifying this definition by changing the phrase "adult, youth, or minor victim" to "adult or youth victim". Domestic violence is generally considered to be intimate partner violence. With the bill's reference to a "minor victim," however, the definition becomes so broad that (depending on state law) it could include all forms of child abuse, regardless whether the abuse occurred in the context of domestic violence. Although we support federal funding to help child abuse victims, our proposed change would make clear that the limited federal funds available through VAWA to address violence against women should not be used for programs that bear no relation to domestic violence. Assistance for victims of child abuse may be funded through other federal sources, including the Victims of Crime Act and the Child Abuse Prevention and Treatment Act. We recommend similar changes be made to Section 402, proposed section 2000B(a)(14), which provides a definition of "legal assistance;" to Section 503(1)(B); to Section 504, proposed sections 41002(a), 41002(b)(2)(A), 41003(a)(1), 41003(b)(1); to Section 602, proposed section 2014(a)(1)(A); and to Section 606(a)(1).

Section 402, proposed section 2000C(a)(1), would create a new provision for all grantees requiring "Nondisclosure of Confidential or Private Information." The Department recommends several amendments to this provision. First, proposed subparagraph (1)(B) should begin "Subject to subparagraphs (C) and (D)," rather than just "Subject to subparagraph (C)," because both subparagraphs contain exceptions to the nondisclosure rule. Second, subparagraph (1)(B)(ii) (page 125, lines 9-18) provides that a parent or guardian of an unemancipated minor or the guardian of a person with disabilities may consent to release of individual client information. We recommend inserting the following before the period on page 125, line 18 to further specify that

DOJ_NMG_ 0147345

consent for release may not be given by the abuser of the minor or person with disabilities or the abuser of the other parent of the minor:

> ", except that consent for release may not be given by the abuser of the minor or person with disabilities, or the abuser of the other parent of the minor".

Finally, subparagraph (1)(D) provides for certain information sharing by grantees but does not provide for sharing for law enforcement or prosecution purposes *unless* the shared information is contained in "secure, governmental registries." If victim consent must be obtained for a grantee police department to forward information like a police report to a prosecutor's office, this likely would prevent evidence-based prosecutions accomplished without victim participation. We recommend striking "and" on line 15, striking the period and inserting "; and" on line 20 and inserting an additional subparagraph (D)(iii), to read as follows: "law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes."

TITLE V - ENHANCING JUDICIAL AND LAW ENFORCEMENT TOOLS TO COMBAT VIOLENCE.

The name of Title V does not reflect the full range of programs authorized and reauthorized under the title. The Department therefore recommends that "judicial and law enforcement" be removed from the title of Title V or that "prosecutorial" and "advocacy" be added, to better reflect the content of the title.

Section 501. STOP Grants Improvements.

Section 501(c)(1) amends 42 U.S.C. § 3796gg-1(c)(2) to require states to use racial classifications as a condition for the receipt of certain federal funds. The Department is concerned that many provisions of this bill contain racial classifications of doubtful constitutionality because they direct the award of grants to groups on the basis of race. Such racial classifications are subject to strict scrutiny under the equal protection requirements of the Due Process Clause of the Fifth Amendment. *See Adarand Constructors, Inc. v. Pena*, 515 U.S. 200, 227 (1995). Under these standards, the use of racial classifications must be narrowly tailored to serve a compelling governmental interest. *Id.; MD/DC/DE Broadcasters Ass'n v. FCC*, 236 F.3d 13 (D.C. Cir. 2001); *Grutter v. Bollinger*, 123 S. Ct. 2325, 2337-38 (2003). Programs subject to strict scrutiny are highly vulnerable to constitutional challenge, and absent evidence that the standard can be satisfied, we recommend that each of these provisions be re-drafted in a race-neutral manner. For these reasons, the Department recommends omitting the phrase "racial and ethnic minorities and other" from this section.

Section 501(d)(1)(B) changes the allocation for each state domestic violence coalition from 1/54 to 1/56. The statute, however, still describes 53 entities to receive these allocations (that is, the 50 states, Puerto Rico and the District of Columbia receiving full shares and the U.S. territories receiving fractional shares) because the bill does not

DOJ_NMG_ 0147346

specify that the territories are each to receive a full share. Accordingly, we suggest replacing the current text of this subsection with the following:

> (B) in paragraph (2), by striking "and the coalition for the combined Territories of the United States, each receiving an amount equal to 1⁄54'' and inserting "coalitions for Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each receiving an amount equal to 1/56";

This proposed language parallels the language in section 501(d)(1)(C) regarding state and territorial sexual assault coalitions.

Section 501(d)(3)(C) would add a requirement that states submit a memorandum of understanding in their applications for funding under the STOP Violence Against Women Formula Grant Program (STOP formula grant program), showing that their potential subgrantees **have consulted** with victim service programs with respect to certain issues. The Department recommends striking this provision in its entirety and inserting a portion of it into an already existing provision in the STOP statute and additionally amending sections of 42 U.S.C. § 3796gg-1(c)(2) and (d). First, the proposed provision appears to be largely duplicative of a requirement already present in 42 U.S.C. § 3796gg-1(c)(2). Second, if this draft provision were added to the current statutory scheme, it would further complicate an already complicated statutory scheme that is difficult to implement. Specifically, during the course of administering this grant program under the current statutory framework, states have informed the Department and its Office on Violence Against Women, that it is often impracticable for them to identify their subgrantees in advance of applying for STOP grants. States also have difficulty meeting the requirement that they **complete** their consultations with non-profit, nongovernmental victim services programs in advance of applying for any given fiscal year funding. The current statutory framework is ambiguous because 42 U.S.C. § 3796gg-1(c)(2) appears to require that grantees (States) certify that they, and their and subgrantees, **will** consult with and coordinate with nonprofit, nongovernmental victim services programs. Section 3796gg-1(d), in its introductory paragraph, however, seems to make the requirement of (c)(2) contemporaneous with the filing of the state application for funding.

For the above stated reasons, the Department recommends deleting the proposed provision, inserting portions of it into the already existing provision in 42 U.S.C. § 3796gg-1(c)(2), and amending the current statutory framework in order to clarify what is expected of states at the time they file an application. We recommend striking the current section 501(d)(3) of the bill in its entirety and adding new section 501(d)(3) and section 501(d)(4) as follows:

> (3) in subsection (c)(2) by inserting at the end "in order to ensure that, among other things, the proposed services, activities and equipment acquisitions are designed to promote the safety, confidentiality, and economic independence of victims of domestic violence, sexual assault, stalking, and dating violence"; and

DOJ_NMG_ 0147347

(4) in subsection (d) —

(A) in the introductory paragraph by striking "participation" and inserting "commitment to participate"; and

(B) in paragraph (1) by inserting, before the current words "to be assisted", the words "currently receiving assistance, or those", and by inserting "or from state-wide organizations able to comment on their behalf," before the word, "demonstrating".

Section 501(e), proposed subsection 2007(i)(1), authorizes the use of STOP program funding for training, technical assistance, and data collection. As OVW currently needs to seek re-programming on an annual basis to fund STOP technical assistance (TA) projects, we fully supports this amendment with the following suggestions: A period should be added after "entities" and the following language be removed: "to offer services and assistance to victims of domestic violence, sexual assault, stalking and dating violence." This language limits TA funding to improving victim services, without recognizing the law enforcement, prosecution, and courts purpose areas of the STOP program. The proposed change would permit TA projects that support any STOP purpose area.

Section 501(f), proposed new subsections (c) and (d) to 42 U.S.C. § 3796gg-4, would enable states to use STOP formula grant funds to pay for forensic exams performed by trained examiners with the conditions that victims (1) are not required to seek reimbursement from their private insurance carriers and (2) states may not require victim cooperation with law enforcement as a condition of exam payment. The Department strongly support these new subsections. The statute (42 U.S.C. § 3796gg-4) currently requires that, for a state to be eligible for STOP formula grant funds, it must certify that it or another governmental entity "incurs the full out-of-pocket costs of forensic medical exams …." Many states meet this requirement through victims' private insurance companies, even though the exam is for criminal justice and not medical purposes. For incest victims and spousal rape victims, the primary policy holder may be the abuser and using insurance billing would notify the abuser that the person received the exam. The new subsection (c) would encourage states not to require victims to seek reimbursement from private insurers by permitting states to use STOP funds to pay for forensic exams performed by specially trained examiners. In addition, many states will not pay for the exam unless the victim cooperates with the investigation and reports the crime to law enforcement. If victims are undecided about reporting, they should be encouraged to provide a medical forensic history, undergo the forensic exam, and have evidence collected and stored for a possible future prosecution. Proposed subsection (d) therefore may facilitate higher reporting and prosecution rates. We recommend, however, that one correction be made to subsection (d): insert "or Indian tribal government" after "State," both for consistency with subsection (c) and to ensure that Indian tribes, as well as states, may not require victim cooperation as a condition of forensic exam payment.

DOJ_NMG_ 0147348

Section 501(g) creates another new certification requirement, regarding polygraph testing of victims, that states must comply with to receive STOP formula grant funds. We recommend designating the entire current subsection as subsection (g)(1) and inserting a new subsection (g)(2) (after page 135, line 5) to read as follows:

> (2) Compliance. —Section 2007(d) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-1(d)) is amended in subsection (2) by striking "and", in subsection (3) by striking the period and replacing it with "; and" and by adding a new subsection (4) to read "proof of compliance with the requirements regarding polygraph testing provided in section 2012.".

This new provision would be consistent with section 2007(d)'s treatment of the STOP program's other certification requirements.

The Department also is concerned that this subsection on the polygraph testing prohibition requires grantees to certify compliance "within three years of the date of enactment of the Violence Against Women Reauthorization Act of 2005." This could result in a situation where the Department awards a grant but must suspend or terminate it if the grantee does not submit the certification by the end of the required time period. To correct this problem, we suggest changing the language to read as follows:

> ". . . must certify that, within 3 years of enactment of the Violence Against Women Reauthorization Act of 2005, their laws, policies, or practices will ensure. . ."

With this change, the statute would mandate that states certify that they will comply with the new prohibition before they are eligible to receive STOP funds.

Section 501(h) would remove the current matching funds requirement for grants or subgrants awarded to small law enforcement agencies, victim services providers, and any entity that the Attorney General determines has adequately demonstrated financial need. This provision would impose a substantial expense on states receiving funds under the STOP formula grant program, because the state would still have to provide a full 25% match under 42 U.S.C. § 3796gg-1(f). Without the ability to pass the match along to subgrantees, some states may choose not to participate in the STOP formula grant program at all. Also, all OVW grantees who are currently required to provide match are permitted to use in-kind services for match. Thus, victim service providers can use donated goods and services to meet the match requirement. The match requirement is a way to ensure community support for programs funded through this program. In addition, the current language will not relieve state and tribal coalitions of their current statutory obligation to provide match because they do not meet the definition for "victim services" found at proposed section 2000B(a)(33). We therefore suggest removing section 501(h) and instead amending 42 U.S.C. 3796gg-1(f) by striking the current language and replacing it with the following:

DOJ_NMG_ 0147349

(f) FEDERAL SHARE.—The Federal share of a state grant made under this subtitle may not exceed 75 percent of the total costs of the projects described in the application submitted. The Federal share of a state or tribal coalition grant may not exceed 90 percent of the total costs of the projects described in the application submitted.

This language should be inserted to the bill as a new section 501(e) and the following sections should be renumbered accordingly.

Section 502. Grants to Encourage Arrest and Enforce Protection Orders Improvements.

Several of the specific amendments to "Grants to Encourage Arrest Policies and Enforcement of Protection Orders" (Arrest program) authorize the use of Arrest funds to address sexual assault and stalking. Currently, grantees of the Arrest program can only address sexual assault and stalking in the context of domestic violence and as it specifically relates to violence against women with disabilities and elders. Many sexual assault and stalking victims could benefit from the criminal justice and victim services enhancements funded under this program. Moreover, funding for sexual assault and stalking services nationwide lags behind that available for domestic violence. Therefore, the Department strongly supports this expansion of the Arrest program with the following comments.

Section 502(b)(2)(C)(i) inserts "protection order registries" into the second Arrest program purpose area, which would permit the Department to fund protection order registries in police departments. We agree with Congress that Arrest program grantees should be authorized to use grant funds for protection order registries but believe that the location of protection order registries should be left to the discretion of the state. This amendment, however, would only permit the Department to fund registries that are located in police departments. To allow grant-funded jurisdictions greater flexibility, we suggest the creation of a new purpose area regarding registries, section 42 U.S.C. 3796hh(b)(13), which would read as follows: "To develop, enhance, and maintain protection order registries." This also would allow grantees that currently have domestic violence protection order registries to expand the registries to include sexual assault cases. This should be inserted in the bill at the end of section 102(b)(2)(G).

Section 502(b)(2)(G), proposed new subsection (11), creates a new Arrest program purpose area for family justice centers. Although the Department supports including this important program area, we are concerned that, as drafted, applicants might be misled into thinking that they could support all co-located services, even if those services might not be otherwise eligible for funding under the Arrest program (e.g., civil legal attorneys, forensic medical professionals). To clarify this subsection, we suggest inserting the following language at the end of the proposed purpose area:

DOJ_NMG_ 0147350

Although funds may be used to support the co-location of project partners, funds may not support construction or major renovation expenses or activities that fall outside of the scope of the other statutory purpose areas.

Section 502(b)(2)(G), proposed new subsection (12) creates a new Arrest program purpose area for training police, prosecutors, and judges in responding to sexual assault. We recommend inserting "probation and parole officers," after "prosecutors," because they too are involved in the prevention of repeat crime perpetration by sexual assault offenders.

Section 502(b)(3)(C) imposes a requirement that, to be eligible for Arrest program funds, applicants must certify that their laws, policies and practices ensure that polygraph testing is not required of victims of sex offenses. As noted above with regard to the new polygraph prohibition for the STOP formula grant program, the language in this section would permit certification to occur after grant funds have been awarded. To address this concern, we recommend adding "that" after "certify", deleting "that" before "their laws", and adding "will" before "ensure".

Section 502(d) authorizes use of Arrest program funds for training and technical assistance. To clarify that Arrest program technical assistance projects may support any Arrest program purpose area (rather than just supporting victim services), we suggest that a period be added after "entities" and that "to offer services and assistance to victims of domestic violence and dating violence" be removed .

Section 503. Legal Assistance for Victims Improvements.

Section 503(6)(B)(i) (I) increases the tribal set-aside for the LAV program from 5% to 10%, which the Department does not support. As discussed under Title X, below, we have experienced difficulty meeting the current 5% set aside. At present, the LAV program supports as many competitive tribal proposals as it receives. The number of applicants proposing to serve Native American victims has remained fairly constant from year to year, and increasing the set-aside does not appear to encourage more or better applications. In addition, the Department has never viewed the tribal set-aside percentage as a cap but rather as a minimum. Therefore, there does not have to be an increase in the tribal set-aside to accomplish the goal of providing more legal assistance to Native American victims. One way to respond to the needs of Native American victims is to work to increase the number of successful tribal applications. To this end, the LAV program currently is engaged in special outreach efforts targeted at Indian tribal governments, particularly those that have applied to the LAV program in the past but not been awarded funding.

Moreover, section 503(6)(B)(i)(II) limits the award of LAV tribal set-aside funds to "tribal governments or tribal organizations" rather than any programs that serve victims in Indian country. This has the effect of narrowing eligibility dramatically – and is particularly problematic given the difficulty that the Department has experienced in

DOJ_NMG_ 0147351

identifying qualified applicants for LAV tribal set-aside funds. We recommend maintaining the current language in the LAV tribal set-aside provision, which specifically includes "programs that assist victims of domestic violence, dating violence, stalking, and sexual assault on lands within the jurisdiction of an Indian tribe."

The Department also urges consideration of a new section that would permit Legal Services Corporation-funded entities to provide certain legal assistance to aliens who are battered or the parents of battered children, to alien victims of sexual assault, and to aliens who qualify for U visas. Many of our LAV grantees also receive funding from the Legal Services Corporation and have been subject to limits on representing immigrant victims, who face a host of complex legal issues. This provision will enable these grantees to increase their effectiveness in serving immigrant victims of domestic violence, sexual assault, stalking, and dating violence. We would look forward to working with Congress to develop legislative language.

Section 504. Court Training and Improvements.

Section 504, **proposed section 41002(a)(4)(E)**, adopts special provisions regarding "court access to programs to racial and ethnic minorities and underserved populations." For the reasons cited above in section 501(c)(1), we recommend omitting the phrase "racial and ethnic minorities and."

Section 504, proposed sections 41002(d)(2) and 41003(c), set aside 10 percent of funds for grants to "tribes." Tribes, however, are not included as eligible grantees under the new court training and improvements program or the national and tribal education curricula program. (See proposed sections 41002(b)(1) and 41003(b)(2)). We therefore recommend amending the set-asides by striking "to tribes" in section 41002(d)(2) and replacing it with "for tribal courts, tribal court-based programs, and tribal nonprofits" and in section 41003(c) changing "tribes" to "a tribal organization" to match up the eligible applicants with the entities covered by the set-aside. In addition, please see the discussion regarding Title X, below, for the Department's recommendation with regard to this and other tribal set-asides.

Section 504, proposed section 41004, is entitled "Access to Justice for Teens" (page 151, line 19), although the stated purpose of the new program addresses cross-training to enhance the provision of services to "youth victims of dating violence, domestic violence, sexual assault, and stalking between the ages of 12 and 24." We recommend adding the term "young adults" to the section title to parallel the age range of victims that the program will address.

Section 504, proposed section 41004(f)(1), provides that not less than 10% of funds shall be available for grants to tribal grantees. Please see the discussion regarding Title X, below, for the Department's recommendation with regard to this and other tribal set-asides.

DOJ_NMG_ 0147352

Section 504, proposed section 41004(g)(1), provides that grantees should report on grant activities every 18 months. We recommend striking "every 18 months" as this provision may restrict OVW's ability to require that grantees report more frequently than every 18 months, which would hamper OVW in performing its functions. First, in all but our STOP Violence Against Women Formula Grant Program, we use semi-annual reports to monitor grant performance. If OVW does not receive a report until the end of 18 months, it would not allow us sufficient time to work with grantees on problems that they may be experiencing. Second, an 18-month reporting period is inconsistent with Department of Justice regulations, which follow the Federal common rule for grant administration and provide for more frequent grantee reporting. *See* 28 CFR 66.40(b)(1) and 70.52(b). Finally, to the extent that OVW is required to report to Congress on its programs, this would not allow time enough to receive and analyze information for those reports. For the same reasons, "every 18 months" should be stricken from Section 701, proposed sections 41201(h)(3) and 41202(f); and Section 801, proposed sections 41302(f) and 41303(f). Additionally, in Section 602, proposed section 2014(b)(4), we recommend striking "submit an annual" (lines 17-18) and changing "that describes" (line 18) to "on".

In addition, subsection 41004(g)(1)(B) requires grantees to report on certain "initiatives undertaken by the Director" (page 156, lines 20-21). There appears to be an error in drafting here, because grantees cannot be expected to report on initiatives undertaken by OVW. We recommend deleting the entirety of subsection 41004(g)(1)(B) and requiring only, as subsection (g)(1)(A) does, that grantees report on their own grant activities.

Section 506: Privacy Protections for Victims of Domestic Violence, Dating Violence, Sexual Violence, and Stalking.

Section 506, **proposed section 41101**, requires that the Attorney General establish a task force on issues that may affect the privacy and confidentiality of victims of domestic violence, dating violence, stalking, and sexual assault. A task force on this specific issue is too limited and not a good use of resources. The National Advisory Committee on Violence Against Women currently addresses a much broader range of issues, including privacy and confidentiality for victims.

Section 511. Prohibiting Dating Violence.

Section 511 amends section 2261 to expand the definition of victim to include a "dating partner." The term "dating partner," however is undefined. Absent a definition, this proposal is seriously flawed and the Department objects to this amendment. The Department suggests the following language to define "dating partner."

> "The term "dating partner" refers to a person who is or has been in an ongoing relationship of a romantic or intimate nature with the abuser. Factors to consider in determining whether the relationship is or was ongoing include, but are not

DOJ_NMG_ 0147353

limited to, the length of the relationship and the frequency of interaction between the persons involved in the relationship."

TITLE VI - IMPROVING SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

Section 602. Sexual Assault Services Program.

Section 602 creates a new program for sexual assault services, similar to that created by the Family Violence Prevention and Services Act (FVPSA) for domestic violence and administered by HHS. We note that the Department should be given greater discretion to develop and implement the program than the bill currently provides. In the early years of managing a new grant program, it is often crucial that we have had the flexibility to modify our solicitations, grant requirements, and funding allocations as experience dictates.

We also note that this program does not contain any link to the criminal justice system and recommend the following amendments to the program, so that it can support the coordinated community responses that were the cornerstone of the Violence Against Women Act (VAWA). Although services for victims are important, the work in the ten years since the passage of VAWA has shown that coordinating traditional victim services with the civil and criminal justice system and other service providers, such as employers, schools, or churches, can enhance the effectiveness of the services.

In section 602, proposed section 2014(a):

Strike the word "and" at the end of subsection (1), change the period at the end of subsection (2) to "; and" and insert a new subsection (3) to read as follows:

"(3) to enhance coordinated community responses to sexual assault."

In proposed section 2014(b)(1):

Insert "and support coordinated community responses to sexual assault" before the period.

In proposed section 2014(d):

Insert new subsections (8) and (9) to read as follows and renumber (8) to (10):

"(8) sexual assault forensic examinations performed by specially trained examiners, including coordination of examiners with other responders and testimony by examiners;"

DOJ_NMG_ 0147354

"(9) Developing and enhancing coordinated community responses to sexual assault, including the development and enhancement of sexual assault response teams;".

Section 602, proposed section 2014(e)(1(A), provides that: "The Attorney General shall award grants to State, territorial, and tribal sexual coalitions to assist in supporting the establishment, maintenance, and expansion of such coalitions as determined by the National Center for Injury Prevention and Control Office in collaboration with the Violence Against Women Office of the Department of Justice." The National Center for Injury Prevention and Control of the Centers for Disease Control and Prevention (CDC), however, does not typically identify tribal coalitions. *Compare* 42 U.S.C. § 3796gg(c)(2)(B) (CDC determines state sexual assault coalitions that receive OVW funding) *and* 42 U.S.C. § 3796gg(d)(2) (Attorney General identifies tribal and potential tribal coalitions). To recognize the differences between established state coalitions and tribal coalitions, which may need assistance even to incorporate, we recommend replacing the current language with the following:

> "(A) (i) GRANTS TO STATE AND TERRITORIAL COALITIONS.— The Attorney General shall award grants to State and territorial sexual coalitions, as determined by the Center for Injury Prevention and Control of the Centers for Disease Control and Prevention under the Public Health Service Act, to assist in supporting the establishment, maintenance, and expansion of such coalitions.
>
> (ii) GRANTS TO TRIBAL COALITIONS.— The Attorney General shall award grants to established nonprofit, nongovernmental tribal coalitions addressing sexual assault against American Indian and Alaska Native women, and individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address sexual assault against American Indian and Alaska Native women to assist in supporting the establishment, maintenance, and expansion of such coalitions.

Section 602, proposed section 2014(i)(2), in the matter following (i)(2)(E) provides a formula for allocating funds remaining after the allocations in subparagraphs (A) through (E) have been made. Because the allocations in subparagraphs (A) through (E) total 100 percent, we recommend removing this matter in its entirety.

Section 602, proposed section 2014(i)(3), creates a funding formula that allocates a minimum amount of funds to each state and territory to fund sexual assault services. This formula, however, will be extremely difficult to administer. Given that the only eligible applicants for the new program are states and territories (excepting tribes, which are addressed with a separate set-aside), it would make more sense to use a formula similar to the STOP Formula Grant Program, *see* 42 U.S.C. § 3796gg-1(b)(5) and (6), under which each state and territory receives a set base amount plus an additional amount based on population. Moreover, the formula used for the STOP program provides more equitable treatment for Puerto Rico and the District of Columbia, both of which have populations comparable in size to smaller states.

DOJ_NMG_ 0147355

Section 603. Amendments to the Rural Domestic Violence and Child Abuse Enforcement Assistance Program.

Several of the amendments to the Rural program in section 603 authorize the use of Rural funds to address sexual assault and stalking. Currently, grantees of the Rural program can only address sexual assault and stalking in the context of domestic violence. As noted above regarding the Arrest program in section 502 above, the Department supports this expansion of the Rural program.

Section 603, proposed section 40295(b), expands eligibility for the Rural program so that entities serving rural communities in non-rural states may apply directly for funding. The Department supports this expansion. The current eligibility standard for the Rural program is state-based: within "rural states" a wide array of entities may apply, including non-profit and faith-based entities; within non-rural states, only the state or a tribal government may apply. This creates a situation where many rural areas within "non-rural" states do not get funds because they cannot persuade their states to apply for them; in contrast, urban areas within "rural" states are eligible themselves to apply for funding under the Rural program. The bill's focus on region rather than state will enhance OVW's ability to provide funds directly to all rural areas, which are the intended beneficiaries of the Rural program.

In section 603, **proposed section 40295(b)**, we recommend inserting after "rural communities" ", including rural areas or rural communities in United States Territories," to clarify that rural parts of territories can benefit from this funding.

Section 603, proposed section 40295(d)(2), allocates 25% of Rural program funding for grants that "meaningfully address sexual assault in rural communities." In addition, the provision includes an escalation clause that provides that, as appropriations increase, the allotment for sexual assault grants will increase as well. The Department is concerned that these sexual assault set-asides may be too high. As the bill would include sexual assault in the Rural program for the first time, OVW cannot predict how many fundable applications to address sexual assault the Office will receive. At this juncture, we therefore suggest a 15% minimum sexual assault set-aside, which could be exceeded if warranted.

Section 603 provides that section 40295(d)(4) of the Safe Homes for Women Act will require the director to "give priority to the needs of racial and ethnic and other underserved populations." For the reasons stated above, the Department recommends deleting the phrase "racial and ethnic and other."

Section 604. Assistance for Victims of Abuse.

Section 604, proposed section 2015, appears to combine the purposes of two current OVW programs: Training Grants to Stop Abuse and Sexual Assault Against Older Individuals or Individuals with Disabilities Program (codified at 42 U.S.C. § 3796gg-7) and Education and Technical Assistance Grants to End Violence Against

DOJ_NMG_ 0147356

Women with Disabilities (codified at 42 U.S.C. § 14041a). Although we support some of the expanded purposes of the new program, such as providing services for victims, we do not support creating this new program instead of reauthorizing the existing programs. The proposed structure is confusing and does not ensure sufficient attention to the specific issues of elder abuse and violence against women with disabilities. The Department therefore recommends striking the current section 604 and replacing it with the following sections 604 and 605 and renumbering the remaining sections accordingly:

SEC. 604. TRAINING AND SERVICES TO END VIOLENCE AGAINST WOMEN WITH DISABILITIES.

(a) IN GENERAL- Section 1402 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg-7) is amended to read as follows:

SEC. 1402. EDUCATION, TRAINING, AND ENHANCED SERVICES TO END VIOLENCE AGAINST AND ABUSE OF WOMEN WITH DISABILITIES.

(a) IN GENERAL- The Attorney General, in consultation with the Secretary of Health and Human Services, may award grants to eligible entities--

(1) to provide training, consultation, and information on domestic violence, dating violence, abuse by caregivers, stalking, and sexual assault against women who are individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)); and

(2) to enhance direct services to such individuals.

(b) USE OF FUNDS- Grants awarded under this section shall be used--

(1) to provide personnel, training, technical assistance, advocacy, intervention, risk reduction and prevention of domestic violence, dating violence, abuse by caregivers, stalking, and sexual assault against disabled women;

(2) to conduct outreach activities to ensure that disabled women who are victims of domestic violence, dating violence, abuse by caregivers, stalking, or sexual assault receive appropriate assistance;

(3) to conduct cross-training for victim service organizations, governmental agencies, courts, law enforcement, and nonprofit, nongovernmental organizations serving individuals with disabilities about risk reduction, intervention, prevention and the nature of domestic violence, dating violence, abuse by caregivers, stalking, and sexual assault for disabled women;

(4) to provide technical assistance to assist with modifications to existing policies, protocols, and procedures to ensure equal access to the services, programs, and activities of victim service organizations for disabled women;

DOJ_NMG_ 0147357

(5) to provide training and technical assistance on the requirements of shelters and victim services organizations under Federal antidiscrimination laws, including--

(A) the Americans with Disabilities Act of 1990; and

(B) section 504 of the Rehabilitation Act of 1973;

(6) to purchase equipment and provide personnel so that shelters and victim service organizations can accommodate the needs of disabled women;

(7) to provide advocacy and intervention services for disabled women who are victims of domestic violence, dating violence, abuse by caregivers, stalking, or sexual assault; or

(8) to develop model programs providing advocacy and intervention services within organizations serving disabled women who are victims of domestic violence, dating violence, abuse by caregivers, sexual assault, or stalking.

(c) ELIGIBLE ENTITIES-

(1) IN GENERAL- An entity shall be eligible to receive a grant under this section if the entity is--

(A) a State;

(B) a unit of local government;

(C) an Indian tribal government or tribal organization; or

(D) a nonprofit and nongovernmental victim services organization, such as a State domestic violence or sexual assault coalition or a nonprofit, nongovernmental organization serving disabled women.

(2) LIMITATION- A grant awarded for the purpose described in subsection (b)(8) shall only be awarded to an eligible agency (as defined in section 410 of the Rehabilitation Act of 1973 (29 U.S.C. 796f-5).

(d) UNDERSERVED POPULATIONS- In awarding gr ants under this section, the Director shall ensure that the needs of underserved populations are being addressed.

(e) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated $10,000,000 for each of the fiscal years 2006 through 2010 to carry out this section.

SEC. 605. TRAINING AND SERVICES TO END VIOLENCE AGAINST WOMEN IN LATER LIFE.

(a) TRAINING PROGRAMS- Section 40802 of the Violence Against Women Act of 1994 (42 U.S.C. 14041a) is amended to read as follows:

SEC. 40802. ENHANCED TRAINING AND SERVICES TO END VIOLENCE AGAINST AND ABUSE OF WOMEN LATER IN LIFE.

DOJ_NMG_ 0147358

(a) GRANTS AUTHORIZED- The Attorney General, through the Director of the Office on Violence Against Women, may award grants, which may be used for--

(1) training programs to assist law enforcement, prosecutors, governmental agencies, victim assistants, and relevant officers of Federal, State, tribal, territorial, and local courts in recognizing, addressing, investigating, and prosecuting instances of elder abuse, neglect and exploitation, including domestic violence or sexual assault, against victims who are 60 years of age or older;

(2) providing or enhancing services for victims of elder abuse, neglect, and exploitation, including domestic and sexual violence, who are 60 years of age or older;

(3) creating or supporting multidisciplinary collaborative community responses to victims of elder abuse, neglect, and exploitation, including domestic and sexual violence, who are 60 years of age or older;

(4) conducting cross-training for victim service organizations, governmental agencies, courts, law enforcement, and nonprofit, nongovernmental organizations serving victims of elder abuse, neglect, and exploitation, including domestic and sexual abuse, who are 60 years of age or older; and

(5) creating or supporting services designed to address the needs of victims of elder abuse, neglect, and exploitation, including domestic violence or sexual assault who are ages 50-59.

(b) ELIGIBLE ENTITIES- An entity shall be eligible to receive a grant under this section if the entity is--

(1) a State;

(2) a unit of local government;

(3) an Indian tribal government or tribal organization; or

(4) a nonprofit and nongovernmental victim services organization with demonstrated experience in assisting the elderly or demonstrated experience in addressing domestic violence or sexual assault.

(b) AUTHORIZATION OF APPROPRIATIONS- Section 40803 of the Violence Against Women Act of 1994 (42 U.S.C. 14041b) is amended by striking "$5,000,000 for each of fiscal years 2001 through 2005" and inserting "$5,000,000 for each of fiscal years 2006 through 2010".

Should the current structure of section 604 be retained, we recommend amending proposed section 2015(e) (page 188, lines 8-14) to make the required report to Congress biennial. This will allow sufficient time for grantees to submit progress reports and for OVW to analyze the data and prepare a complete and informative report. This change could be effected by replacing "Not later than 1 year after the last day of the first fiscal year commencing on or after the date of enactment of this Act, and not later than 180 days after the last day of each fiscal year thereafter," (page 188, lines 8-11) with "Not later than one month after the end of each even-numbered fiscal year,". (This schedule would match the schedule for the biennial report required by VAWA 2000 on the

DOJ_NMG_ 0147359

effectiveness of grant-funded activities, 42 U.S.C. § 3789p, and would match the proposed schedule for existing reports in the Department's proposed language in comments to Section 224.)

Section 606. Grants for Outreach to Underserved Populations

Section 606 creates a new grant program for public information campaigns focusing on domestic violence, dating violence, stalking, sexual assault, and trafficking within tribal, racial and ethnic populations and immigrant communities. Although the Department supports the objectives of this program, we are concerned that, in these times of budgetary constraint, the limited funds available to respond to violence against women should be focused on programs that already have established records of effectiveness. Also, because this program focuses primarily on providing information on victim services and prevention and lacks a criminal justice component, we question whether the Department is best charged with its administration.

Section 606 (f)(1) requires the Attorney General to ensure "reasonable distribution among eligible grantees representing various racial, ethnic, and immigrant communities." For the reasons state above, the Department recommends omitting the phrase "racial, ethnic, and immigrant communities" and replacing it with "underserved populations."

TITLE VII - SERVICES, PROTECTION, AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE.

Section 701. Services and Justice for Young Victims of Violence.

In section 701, proposed section 41201(h)(2)(C), we recommend changing "may" to "shall" because courts are a critical component of the collaborations addressed by this grant program.

Section 701, proposed section 41202, creates a new DOJ grant program to serve youth victims of domestic violence, dating violence, stalking, and sexual assault. Although we support the objectives of this program, we are concerned that, in these times of budgetary constraint, the limited funds available to respond to violence against women should be focused on programs that already have established records of effectiveness. Also, because this program focuses primarily on victim services and lacks a criminal justice component, we question whether the Department is best charged with its administration.

Section 702. Grants to Combat Violent Crimes on Campuses.

Section 702(b)(2) amends one of the existing Campus Program purpose areas, which currently focuses on training campus administrators, security personnel, and personnel on disciplinary boards to identify and respond to violence against women on campus. The modification would limit that training so that it would only address development and implementation of policies, protocols and services. The Department

DOJ_NMG_ 0147360

does not support this change because these personnel need the more comprehensive training on a wider range of violence against women issue that the current statute permits. We therefore recommend retaining the current language of this purpose area at 20 U.S.C. § 1152(b)(2). We also do not support section 702(b), insofar as it would strike paragraph (6) from the Campus statute (20 U.S.C. § 1152(b)(6)). This sixth Campus Program purpose area currently permits use of Campus funds to develop and implement more effective campus policies, protocols, orders and services specifically devoted to prevent, identify and, respond to violent crimes against women on campus. These activities are important parts of the Campus Program. We therefore recommend retaining purpose area (6) from the Campus statute.

In **section 702(b)(4)**, we recommend deleting the sentence that provides: "The institution shall use not less than 20 percent of the funds made available through the grant for a victim services program provided in accordance with this paragraph." Although the Department agrees that campus and community victim services are vital parts of this program, many Campus grantees already have sufficient victim services and are using their Campus Program funding for other purposes. These grantees should not be constrained to use grant funding for victims services that they are willing to fund from other sources.

Section 702(c)(3) provides that grant funds may be used for technical assistance in complying with section 485(f). Under the current statutory language, the Department will not fund a grantee unless they certify that they are in compliance with section 485(f) (which, as amended, is the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act). Section702(c)(3), however, would appear to authorize a grantee to use grant funds to come into compliance with the Clery Act - or, at least, to use a substantial amount of grant funds for "technical assistance in complying" with the Clery Act reporting requirements. The Department questions whether a grantee could be in compliance and need $200,000 for "technical assistance in complying." The Campus Program is designed to fund strategies to combat violent crime against women on campus and services to victims; it is not supposed to be a grant program to fund compliance with the Clery Act. Institutions of higher education already should be complying with the Clery Act in order to retain their DOE funding. The Department therefore recommends striking this section.

Section 702(d)(2) adds a new confidentiality provision to the Campus Program. If our suggestion above regarding section 402 and how to apply the general grant provisions of that section to the Campus Program is incorporated, then this provision will be unnecessary because the general provision will apply to the Campus Program. If section 402 (proposed section 2000C) is not amended, the Department recommends some edits to make this provision effective. We suggest the following: 1) change "grantees and subgrantees" to "grantees" because no subgrants are awarded under the Campus Program; 2) strike "and subgrants"; 3) strike "and subgrantees"; 4) strike "or subgrantee"; 5) insert "Subject to Subparagraphs (C) and (D), a" before "A grantee" and delete "A"; 6) before the period, insert "except that consent for release may not be given by the abuser of the minor or person with disabilities, or the abuser of the other parent of the minor"; 7)

DOJ_NMG_ 0147361

delete "or subgrantee"; 8) delete "and subgrantees"; and 9) delete "with each other" because that language appears to be an error would undermine the ability of grantees to report aggregate data.

Section 702(d)(2)(F)(iv) refers to "personally identifying information" and defines it as including a "telephone number." This definition should be reviewed for consistency with the Office of Management and Budget's 1987 "call detail" guidance concerning phone numbers and identifiability. See 52 Fed. Reg. 12,990-93 (Apr. 20, 1987).

Section 702(d)(3)(A) requires that grantees submit reports every two years. For the reasons stated in the above comment on section 504, proposed section 41004(g)(1), we recommend striking "submit a biennial performance" on line 9 and add "on activities conducted with grant funds" on line 10 after "to the Attorney General". In addition, we suggest changing the title of this subsection from "ANNUAL REPORT" to "PERFORMANCE REPORT".

Section 702(d)(4) continues the current statutory requirement that the Attorney General report annually to Congress on the Campus Program. As requested above in connection to subsection 226(b), the Department requests that the Campus report, like other OVW reports to Congress, be placed on a biennial schedule. If this section is to replace the Campus Program as it appears in the Higher Education Amendments, this change could be made by replacing "Not later than 180 days after the end of the fiscal year for which grants are awarded under this section," with "Not later than one month after the end of each even-numbered fiscal year,".

Section 703. Safe Havens.

The Department supports the reauthorization of this program, which was originally authorized only as a two-year pilot program, but requests a correction to the current statute, which requires an annual report to Congress (42 U.S.C. 10420(d)). This report includes both information about grantees and information regarding individuals served by supervised visitation programs nationwide. To collect this national information, OVW must fund a national survey of supervised visitation programs. Annual - or even biennial - collection of this information is not necessary and requires expenditure of program funds that otherwise could fund more direct services for victims and their children. We therefore request adding to Section 304 an amendment that would clarify that the report needs to contain information only about Supervised Visitation program grantees. This could be accomplished by deleting the "and" after the semi-colon, replacing the period with "; and" and adding the following:

(4) in subsection (d)(1), by striking "(A) the number of— (i) individuals served" and inserting "(A) under this section, (i) the number of victims served".

DOJ_NMG_ 0147362

Section 704. Grants to Combat Domestic Violence, Dating Violence, Sexual Assault, and Stalking in Middle and High Schools.

Section 704 creates a new OVW grant program with grants to middle schools and high schools to address domestic violence, dating violence, sexual assault, and stalking. This program does not contain any link to the criminal justice system. Accordingly, we question whether OVW should be charged with its administration.

Section 704(e) provides that grantees of the new middle and high school program must protect the confidentiality and privacy of persons receiving services. We recommend inserting ", except that consent for release may not be given by the abuser of the minor or of the other parent of the minor" after "or guardian", to clarify that the abuser can not give consent to release of the victim's information. Further, we recommend inserting "Grantees may also share law-enforcement generated information for criminal justice purposes.", so that criminal justice system personnel will not need victim consent to investigate and prosecute a case.

Section 704(g)(1) provides that "Not less than 5 percent of funds appropriated under section (1) in any year shall be available for grants to tribal schools, schools on tribal lands or schools whose student population is more than 25 percent native American." Programs providing benefits to members of federally recognized Indian tribes would likely be upheld under *Morton v. Mancari*, 417 U.S. 535 (1974), but this provision's reference to "student population" could be viewed as authorizing the award of government benefits on the basis of racial or ethnic criteria, rather than tribal affiliation. We therefore recommend that the phrase "Native American" be replaced with "members of federally recognized Indian tribes."

TITLE VIII - STRENGTHENING AMERICA'S FAMILIES BY PREVENTING VIOLENCE IN THE HOME.

Section 801. Preventing Violence in the Home.

Section 801, proposed section 41302, creates a new OVW grant program that focuses on services for children and youth exposed to domestic violence, dating violence, sexual assault, and stalking. Although we support the objectives of this program, we are concerned that the limited funds available to respond to violence against women should be focused on programs that already have established records of effectiveness. Also, because this program focuses primarily services for children and youth and lacks a criminal justice component, we question whether the Department should be charged with its administration.

Similarly, **section 801**, proposed section 41303 also authorizes a new grant program that focuses on engaging men and youth in preventing domestic violence, dating violence, sexual assault and stalking. This program does not contain any link to the criminal justice system. Proposed section 41304 authorizes a new grant program relating to home visitation projects. These programs do not contain any links to the criminal

DOJ_NMG_ 0147363

justice system. Accordingly, the Department is concerned whether it would best be charged with administering the programs.

TITLE IX B PROTECTION FOR IMMIGRANT VICTIMS OF VIOLENCE

Title IX amends the Immigration and Nationality Act. The Department, would support a fair and reasonable bill that would be place immigrant victims of domestic violence in the same situation that they would have been in but-for the abuse -- no better, no worse. This bill, by contrast, goes too far in a number of provisions and should be stricken or substantially modified. The most egregious example is the bill's proposal to grant numerous immigration benefits to aliens who merely file an application for relief under VAWA regardless of the underlying merit of the application. This approach which is essentially one that grants relief unless and until relief is actually denied (and all appeals are exhausted) will undoubtedly encourage false and fraudulent applications because the benefits for merely applying are so substantial. The result could easily be that immigration adjudicators will be overwhelmed by the volume of applications and unable to efficiently adjudicate the meritorious cases in a timely fashion. Moreover, other important adjudications, such as asylum cases (where generous benefits do **not** accrue for merely filing an application), will also suffer because adjudicatory resources will have to be devoted to VAWA cases that lack merit. The more sensible approach, therefore, is for the Secretary of Homeland Security, in the exercise of discretion, to grant any applicant deferred action. That way the status quo for meritorious applicants will be preserved and the incentive for meritless applications will be removed. Section 915 is an example of this approach. However, as described in further detail below, section 915 is arguably unnecessary because the Secretary already possesses this authority. Explicitly affording the Secretary deferred action in this context (when it does not explicitly exist in any other context) might lead some to conclude that the authority to grant deferred action only exists when statutorily authorized. Accordingly, the Department does not support Title IX without modification to the following sections:

Section 901: Conditions Applicable to U and T Visas

Section 901(b) extends the duration of T and U visas to 4 years and allows them to be extended on a year-by-year basis upon certification from a "federal, state or local law enforcement official, prosecutor or judge or other federal, state, or local authority investigating or prosecuting criminal activity." DOJ believes that four years with the possibility of yearly extensions is more time than is necessary for nonimmigrant status. If an alien is a bone fide victim, the investigation and prosecution will not last so long that a 4-year visa, plus extensions, will be necessary. Rather, such a long period would open the door to fraud. Further, DOJ strongly opposes the inclusion of a judge in the authorities able to certify that an alien's presence is necessary for an investigator or prosecution. A judge is not an investigator or prosecutor. If an alien is a bone fide victim then law enforcement officers or a prosecutor will certify that her presence is needed. Allowing a potential victim to ask a judge for certification creates a disincentive for cooperation in the investigation and prosecution. Furthermore, authorizing a judge to

DOJ_NMG_ 0147364

certify a victim could allow the defendant to raise constitutional concerns about the impartiality of the judge conducting the trial (particularly if the certified victim testifies against the defendant) and thus thwart the effort to prosecute offenders.

Section 901(d)(1) changes the requirement for victims to assist in investigation *and* prosecution to a requirement to assist in investigation *or* prosecution, but adds that they must respond to and cooperate with requests for evidence and information. This formulation does not satisfy DOJ's concern that there be no weakening of the requirement that victims fully assist with investigation *and* prosecution of trafficking crimes. Any change in that requirement will decrease the ability and effectiveness of prosecutions—which are the only means to combat trafficking. Rescuing victims is not enough. We must also convict traffickers. This provision—by weakening the requirement for victims to cooperate with law enforcement—will make that job much harder and harm the U.S. government's anti-trafficking efforts. The requirement that victims assist in investigation and prosecution must remain in the law unchanged.

Section 901(e) allows T visa holders at the time of enactment of the bill to benefit from the extension of the T visa duration to 4 years plus extension. As DOJ does not support the 4-year T visa, it does not support this section either.

Section 902: Clarification of Basis for Relief Under Harship Waivers for Conditional Permanent Residence

Section 902 amends the hardship waiver in INA section 216 by allowing new grounds for the waiver without the need for an application to be resubmitted. Under INA section 216 the Attorney General may lift the conditional basis of the alien's adjustment of status if the alien demonstrates, inter alia, that removal would result in extreme hardship to the alien. The Department opposes the amendment because there is no necessary connection between domestic violence and the hardship of removal; indeed, removal actually may separate and protect the victim from her abuser. The Department also is concerned with eliminating the requirement of filing an application for section 216 relief, as such applications provide the best (and often only) opportunity to ascertain the identity of the alien and the bona fides and merit of her claim.

Section 903: Adjustment of Status for Victims of Trafficking

Sections 903(a)(1) and (a)(2) allow a certifying official to confer a benefit without any statutory guidance to assist the official in exercising the discretion being conferred by the provision. The Department recommends in both proposals that if Congress retains them the provisions be amended to provide that the certifying official may confer the benefit "only if he makes a finding that it would assist the investigation or prosecution." Furthermore, the determination to certify should be discretionary and not reviewable.

Section 903(b) allows the Secretary of Homeland Security to waive disqualification for admittance as a result of bad moral character if there is a connection between the bad character and trafficking. In principle this is a good idea, but the

DOJ_NMG_ 0147365

Department is concerned that it could be abused by voluntary prostitutes seeking admittance to the United States, who would claim to be victims of trafficking in order to benefit from the leniency provided. [I think we should reconsider an outright opposition b/c the Secretary has "sole and unreviewable discretion" in this context – so presumably he would not grant it to a voluntary prostitute. If we still want to object the best approach may be to add a requirement that there be "no other derogatory factors" so that we could easily prohibit a voluntary prostitute from benefiting under the provision.

Section 903(c) adds a requirement starting in FY06 that the annual Attorney General's report to Congress on U.S. government efforts to combat trafficking include statistics regarding the number of law enforcement officials trained to combat trafficking. As written, this requirement is too vague. It should specify that the Attorney General report an *estimate* of the numbers of law enforcement officers trained *by the Federal government*. First, exact figures of participants in the numerous training seminars conducted by federal agencies are difficult to ascertain. Second, the Attorney General cannot reasonably report on the training conducted by the 18,000 state and local law enforcement agencies themselves, and should therefore only be responsible for reporting on federal training programs.

Section 911: Definition of VAWA Petitioner.

is the most problematic provision in title IX because it (in conjunction with later provisions) conveys substantial immigration benefits to aliens for merely filing of a petition under VAWA (specifically section 204 and 216 of the INA , the Cuban Adjustment Act, the Haitian Refugee Immigration Fairness Act, the Nicaraguan Adjustment and Central American Relief Act, and section 309(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996). The effect of this provision will be profound. Aliens will be encouraged to file petitions regardless of the merit of their case in order to be afforded immigration benefits. Moreover, the alien retains this preferred immigration status until a final decision has been made upon the petition. Affording aliens immigration benefits for merely filing an application is bad immigration policy because it invites and encourages fraudulent, frivolous, and meritless applications. Furthermore, because there are limited immigration adjudication resources, a substantial number of VAWA petitions could easily undermine the adjudication of other immigration benefit cases such as asylum, cancellation of removal, and adjustment of status – none of which grant such generous immigration benefits **before** a final adjudication. This approach is particularly misguided because it conflicts with section 915 wherein the Secretary is authorized, in his unreviewable discretion, to grant deferred action to any petitioner who sets forth a prima facie case for approval. This is a sensible approach (with the caveat mentioned below) to such cases because it authorizes the Secretary, in effect, to preserve the status quo in any case that appears to be meritorious until the matter is finally resolved. Such petitioners will not be removed until a final decision has been made. This approach will discourage frivolous and fraudulent applications because the mere filing of the application does not convey a benefit and such cases will be denied. Knowing that this is the likely scenario fraudulent and frivolous applications will not be pursued and scarce immigration adjudication resources will be

DOJ_NMG_ 0147366

preserved. At the same time, aliens who have legitimate cases will be protected. Accordingly, the opportunity for deferred action strikes the proper balance and section 911 should be deleted.

Section 915: Relief for Certain Victims Pending Actions on petitions and Applications for Relief.

Section 915, as noted above, provides the preferred procedural mechanism from an immigration policy perspective to treat alien abuse victims fairly. Indeed, it is also worth noting that section 915 as drafted does not require providing work authorization until the VAWA petition is approved. Nevertheless, as discussed above, there is a downside to authorizing explicitly the use of deferred action in this context where the Secretary already has such authority. The concern is that the absence of explicit statutory authority in other contexts could lead to the conclusion that the Secretary may only grant defer action in VAWA cases. There are undoubtedly other contexts where the Secretary needs to grant defer action that are not covered by the VAWA cases. On balance, therefore, the best approach is to afford the Secretary the maximum authority to defer action and delete section 915 altogether. Alternatively, section 915 should be modified to say that nothing in this provision is meant to prohibit the Secretary from granting deferred action in any other context.

Notwithstanding those general observations, section 915 itself should be modified. First, the limitation on detention that would be added as section 236(f) of the INA, should be discretionary and not mandatory. Second, and most importantly, section (b) is inconsistent with section (a)'s sensible approach because it grants an alien an automatic stay of removal until the application is denied and all appeals exhausted. This "benefit" is unnecessary when the Secretary can grant deferred action (and thus prevent removal) in appropriate cases The Department opposes the amendment because automatic stays of removal (which here, as proposed, could last several years throughout appellate and judicial review) invite fraud and, in light of the various remedies available from DHS and the immigration courts, are wholly unnecessary. Stays should be determined on the facts and merits of the individual case; moreover, it is bad policy to immunize any group of aliens, however sympathetic their circumstances, from the normal operation of the law. Particularly troubling is the complete lack of any connection between the problem of domestic violence and the proposed response of staying the victim's removal from the United States. The Department also is concerned that the express incorporation of "old" law such as the referenced derelict suspension criteria will cause confusion and lack of consistency in adjudication.

Section 916: Access to VAWA protection regardless of Manner of Entry.

Section 916(a) expands the definition of who can file a VAWA petition to include "relationship intended by the alien to be legally a marriage **or to conclude in a valid marriage"**. The highlighted portion of that phrase is too vague and is likely to invite interpretative difficulty. Section 916(e) would amend the visa waiver program statute (8 U.S.C. 1187) so that a VAWA petitioner would not waive the right to contest a removal order. This is too broad and unnecessary in light of the fact that the Secretary

DOJ_NMG_ 0147367

can grant deferred action status to any alien who has a meritorious VAWA petition. Undoubtedly it will encourage frivolous applications from aliens who entered the United States pursuant to the visa waiver program and who can only contest removal by filing a VAWA petition and whereby the mere act of filing the petition will serve to prohibit removal under the visa waiver statute. Similarly, subsection (f) creates an exception to the foreign residency requirement for VAWA petitioners. There is simply no need to grant this immigration benefit, unless and until the VAWA petition is actually approved. Indeed, the mere filing of the petition – even if later denied – may be sufficient for the waiver to be effective. Accordingly, subsections (e) and (f) should be deleted.

Section 917: Eliminating Abusers' Control Over Applications for Adjustments of Status.

Section 917 would confer numerous immigration benefits on aliens who merely file applications and thus become VAWA petitioners. As explained above, granting substantive immigration benefits to aliens for merely filing an application is bad immigration policy. Accordingly, subsections (a), (b), and (c) should be deleted.

Section 919: Exemption of Victims of Domestic Violence, Sexual Assault and Trafficking from Sanctions for Failure to Depart Voluntarily.

Section 919 creates an exception to the penalties for failing to voluntarily depart. These penalties are necessary to enforce voluntary departure orders. Under the bill, an alien can refuse to depart, and he won't be penalized, as long as he files a VAWA petition (and the battery/cruelty occurred before the overstay). [I don't think the foregoing is correct; perhaps it was changed in reaction to this comment]. As noted above, affording immigration benefits (in this instance relief from the strictures of voluntary departure) for merely filing a VAWA petition is bad immigration policy. This benefit should only be available if the petition is approved. Furthermore, an alien should only be excused for failing to depart if the battery or extreme cruelty was the cause. As drafted, the failure to voluntarily depart could be excused if there is a "connection". Phrasing the statute this way is ambiguous and so it would be better to say expressly that an alien's failure to voluntarily depart will only be excused if he failed to depart **because** of the battery or extreme cruelty.

Section 921: Prohibition of Adverse Determinations of Admissibility or Deportability Based on Protected Information.

Section 921 would amend 8 U.S.C. § 1367, which contains a provision -- at subsection (a)(2) -- that prohibits disclosure of certain information. Section 921 would extend this nondisclosure requirement to the Departments of Homeland Security, State, Health and Human Services, and Labor (presently a 8 U.S.C. § 1367 applies only to the Department of Justice). We recommend consideration of this amendment in relation to S.1181 (109th Congress), which has passed the Senate and could be enacted prior to H.R. 3402. If enacted in its current form, S.1181 would constrain the FOIA Exemption 3 status of 8 U.S.C. § 1367(a)(2), as amended.

DOJ_NMG_ 0147368

Section 921(f) adds INA section 239(e) and restricts removal proceedings as follows: "Removal proceedings shall not be initiated against an alien unless there is a certification [of compliance with the limitations on enforcement actions in shelters or courthouses and the use of information in VAWA petitions]." At the outset, it is important to note that there is no demonstrated need for such a provision. In the event that an alien who is a victim is discovered at such a location, the Secretary's authority to grant deferred action in appropriate cases will resolve this issue. This provision, as drafted, would also insulate abusers and perpetrators who happen to be found at such places. It makes no sense to inoculate such persons from removal proceedings. Finally, it may be difficult (or impossible) for DHS to submit this certification in many cases because no single DHS employee would have sufficient information to make this certification. Finally, this provision is likely to lead to significant litigation regarding the bases for the immigration charges and require DHS to prove that it did not rely upon such information. Accordingly, the provision should be deleted.

Section 936: Motions to Reopen.

Section 936 affords an automatic stay of removal for aliens who file motions to reopen based on domestic violence. The Department strongly opposes any provision that would displace the normal procedures applicable to motions to reopen. As explained regarding Section 915, automatic stays invite fraud and are wholly unnecessary. Here, too, the provisions also are objectionable as having no connection to the problem of domestic violence.

Section 937: Removal Proceedings.

Section 937 provides that any battery or extreme cruelty of an alien by anyone at anytime anywhere in the world constitutes "exceptional circumstances" justifying a failure to appear at an immigration hearing. The Department strongly opposes this provision because it is neither appropriate nor necessary. If the alien missed her hearing because of domestic violence, the immigration judge can provide relief under current law. If the domestic violence had nothing to do with the alien's default, the unrelated fact that the alien is a victim of violence should not relieve her of the obligation to obey the court's orders.

TITLE X B SAFETY ON TRIBAL LANDS.

Section 1002. Consultation.

Section 1002 requires annual consultations with Indian tribal governments on such issues as the timeliness of the grant award process and determinations not to award funds. The Department respects the importance of consulting with tribes on issues that affect them. Annual consultations with tribes, however, would not be an effective use of limited resources. While we value the input of tribes, we communicate through other methods than formal consultations, which are difficult and costly to organize. In

DOJ_NMG_ 0147369

addition, the topics covered in the section are not appropriate for such consultations. Finally, the Department opposes the requirement that directs the Secretary of the Interior to consult with Indian tribal governments regarding federal programs established under VAWA and VAWA 2000, none of which are administered by that Department. We recommend that this section be stricken in its entirety. The Attorney General can determine when input from tribes is needed and what form it should take. Should Congress keep this section, it should be revised to make the required consultations occur every three years and leaving the specific areas for recommendation to the discretion of the Attorney General and the Secretary of the Interior.

Section 1003. Analysis and Research on Violence on Tribal Lands.

Section 1003(a) requires the Attorney General, through the Director of OVW, to conduct a baseline study to examine violence against Indian women. This would be more appropriately handled by the National Institute of Justice ("NIJ"), in consultation with OVW, because they have the expertise on appropriate research methodology. Therefore, we recommend striking "Office on Violence Against Women", and inserting "National Institute of Justice in consultation with the Office on Violence Against Women".

Section 1004. Tracking of Violence on Tribal Lands.

Section 1004 permits Indian law enforcement agencies to enter relevant information into criminal databases regarding domestic violence, stalking and sexual assault offenders. This amendment appears to be helpful but the Department is unaware of restrictions on the entry of this information into Federal databases. If this proposed amendment is consistent with the entry of information from other law enforcement agencies, the Department supports the amendment.

Section 1005. Tribal Division of the Office on Violence Against Women.

Section 1005 creates a new Tribal Division within OVW as section 2016 of the Omnibus Crime Control and Safe Streets Act of 1968. We recommend striking proposed section 2016. OVW, and other Department components, are already implementing many of these new provisions. In OVW, the Department currently has a Tribal Unit, managed by an Assistant Director, so that we can provide tribes with better access to our grant funds and to better monitor our tribal grantees. Furthermore, tribal grants currently comprise fewer than one-sixth of all the grants managed by OVW. The Tribal Division is duplicative and unnecessary.

Section 1005, **proposed section 2016(a)(2)**, mandates the approval of each Indian tribe to be benefited by a grant, which is not appropriate for all grant programs. For example, a Legal Assistance for Victims grantee may serve multiple tribes. This provision would create an extreme hardship on the applicants, which are often nonprofit organizations, if they had to seek approval from every tribe that would benefit from their services. Under the Department's current VAWA programs, any applicant representing a consortium of tribal governments and/or organizations must submit a resolution from the

DOJ_NMG_ 0147370

constituent tribal governments and/or organizations supporting the application. We believe that this is a more appropriate and practical means of ensuring tribal approval.

Section 1005 would also add a new section 2017, Safety for Indian Women Formula Grants Program, to Part T of the Omnibus Crime Control and Safe Streets Act of 1968, funded by tribal set-asides from five existing and one new OVW grant programs. OVW agrees that the current structure creates a hardship for tribes that seek funding because they have to submit up to five separate applications. If a tribe receives more than one award (which is often the case), they have to submit multiple financial reports and progress reports. Moreover, they often are subject to statutory program requirements that are not well-suited for tribes. For example, our current STOP Violence Against Indian Women Discretionary Grant Program (STOP VAIW Program) is funded from a five-percent set-aside for tribes within the statute that creates the STOP Violence Against Women Formula Grant Program. Grantees of the STOP VAIW program therefore must meet most of the requirements of the formula grant program – which are designed for states receiving formula grant funds and impose immense financial and administrative burdens on tribal grantees. We therefore strongly support the concept of creating a consolidated program tailored to the needs of the tribes. We respectfully request certain modifications, however, to the program outlined in the bill.

First, the Department recommends that the tribal set-asides that fund the new program should not be raised above 7%. It is vitally important to provide tribes and those entities that serve tribes with adequate criminal justice and victim services resources to respond to crime against Indian women. Based on our experience in administering grant programs, however, we do not believe that raising the amount of certain tribal set-asides under our grant programs is the best means of addressing the violence against Indian women. At present, OVW administers five statutory tribal set-asides of 5%. With the exception of the Rural Program, OVW has had difficulty meeting the current set-aside requirements. One of the reasons is simply that there either are not enough tribes that apply for these programs or there are not enough tribes that score at a funding level. Additionally, the Rural program has fewer restrictions and is a more general grant program that includes prevention efforts, as opposed to OVW's more prescribed grant programs. Furthermore, many of the tribes that receive our funding have experienced difficulty appropriately using grant funds. Moreover, the bill raises appropriation levels so that more funds will be available. We therefore oppose raising tribal set-asides to 10%. In the future, if we succeed in helping tribes expand their capacity to implement grant projects, it might be appropriate to reconsider and raise the set-aside level.

Second, we do not recommend including the tribal set-aside from the LAV program because the set-aside within LAV is structured differently than the others. All the other set-asides are for tribal governments, whereas the LAV set-aside is for "programs that assist victims . . . on lands within the jurisdiction of an Indian tribe." Many of the grantees receiving funds under this set-aside are nonprofit organizations rather than tribes. This broader eligibility widens the pool of candidates for LAV set-aside funding, which enabled OVW to meet the 5% tribal set-aside for this program this

DOJ_NMG_ 0147371

year. Therefore, the Department recommends deleting proposed section 2017(a)((2)(C) from the bill.

Third, we recommend including statutory language that makes clear that the statutory requirements of the programs from which the set-asides are drawn do not apply to grants awarded under the new Safety for Indian Women Formula Grants Program created by proposed section 2017. As noted above regarding the STOP VAIW Program, these requirements often are not tailored to the situation of tribes. We submit language below that could be added to each tribal set-aside to make clear that set-aside funds will not be subject to these restrictions.

Fourth, the very broad "purposes for which grants may be used" set forth in proposed section 2017(b)(2) do not provide enough guidance for either grantees using the funds or the Department in administering the program. Although we recognize the importance of respecting tribal sovereignty and providing flexibility, it is particularly important that a formula grant program – where so much responsibility is vested in the grantee – clearly identify the purposes for which funds may be used. Therefore, we recommend replacing section 2017(b)(2) with more specific purpose areas, which are based broadly on the ones found in the STOP, Arrest, Rural, and Supervised Visitation programs' statutes, as well as those for the new Grants for Court Training and Improvement. Recommended language for a proposed new section 2017(b)(2) is set forth below. In addition, the general program purpose in proposed section 2017(b)(1) states that the purpose of the program is to "assist Indian tribal governments to develop and enhance effective **governmental** strategies to curtail violent crime. . ." (emphasis added). Because such strategies need not be governmental – services, for example, often are provided by nongovernmental organizations – we recommend removing the word "governmental" from this section and from section 2017(b)(2), if our recommendation to entirely replace this subsection with the suggested language below is not taken.

Fifth, proposed section 2017(a)(1) limits the new tribal program to enhancing "the response of Indian tribal governments to address the safety of members of Indian tribes." This language limiting the program to addressing the safety of member of Indian tribes appears throughout the program. Tribes may have within their service areas, however, victims who are not enrolled members of a tribe. We recommend against restricting the ability of grantees to respond to the needs of those victims.

Sixth, proposed section 2017((d)(1)(B) requires OVW to mail each Indian tribe a notification of the availability of funds as well as copies of application forms. To avoid burdensome mailings, OVW usually provides an Internet link to our applications rather than a paper copy. To permit this practice to continue, we suggest replacing the language "copies of application forms", with "a means to access copies of application forms".

Seventh, proposed section 2017(d)(4) requires that, among technical assistance projects funded under the new tribal program, OVW must fund "a single tribal organization to provide comprehensive technical assistance to participating tribal governments." Although OVW frequently does fund such comprehensive technical

DOJ_NMG_ 0147372

assistance providers for its programs, we request that this requirement not be included in the statute. In this way, OVW would retain the discretion to fund the best technical assistance applications that it receives, rather than being constrained always to fund a comprehensive one. We therefore recommend removing the sentence: "At least one of the cooperative agreements or contracts shall be entered into with a single tribal organization to provide comprehensive technical assistance to participating tribal governments."

Eighth, proposed section 2017(e)(3) requires that tribes set aside "no less than 50 percent of their total allocation under this section for tribally specific domestic violence, dating violence, sexual assault, or stalking victim services and advocacy for members of Indian tribes." We recommend against imposing this set-aside. If enough applications are received, grants under this formula program may be quite small and a 50% restriction on funds will greatly limit a grantee's ability to develop projects that do not involve victim services.

Ninth, proposed section 2017(e)(3) requires that tribes "give preference to tribal organizations or tribal nonprofit organizations providing advocacy services to members of Indian tribes[.]" Again, we recommend removing this requirement and giving tribal grantees the discretion to identify service providers who will best meet the needs of victims in their communities.

Tenth, proposed section 2017(f)(2) would mandate that OVW develop a special reporting process for tribes, require only essential data be collected, and limit the reporting to an annual basis. The Department recommends that this entire section be removed. As noted above, grantee reporting is governed by Department of Justice regulations, which follow the Federal common rule for grant administration. *See* 28 CFR Part 66. Moreover, we have found that semi-annual progress reporting is often an important tool for grant monitoring, and we object to a provision that would prevent us from using it.

For these reasons, the Department recommends the following language to replace parts of proposed Section 2017 in Section 1015 of the bill:

Proposed new 2017(a)(3):

(3) AUTHORIZATION OF FUNDS FOR PROGRAM. —

(A) AUTHORIZATION OF FUNDS FROM GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN. —Section 2007(b)(1) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-1(b)(1) is revised to read as follows:

"(1) 5 percent shall be available for grants under the program authorized at section 2017. The requirements of this Part shall not apply to funds allocated for such program.".

DOJ_NMG_ 0147373

(B) AUTHORIZATION OF FUNDS FROM GRANTS TO ENCOURAGE ARREST POLICIES AND ENFORCEMENT OF PROTECTION ORDERS PROGRAM. — Section 2101 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended in subsection (e) by striking the current text and replacing it with the following:

"(e) Not less than 5 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized at section 2017. The requirements of this Part shall not apply to funds allocated for such program.".

(C) AUTHORIZATION OF FUNDS FROM RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE GRANTS. —Section 40295(c)(3) of the Violence Against Women Act of 1994 (title IV of the Violent Crime Control and Law Enforcement Act of 1994; 42 U.S.C. 13971(c)(3)) is amended by striking the current text and replacing it with the following:

"(3) Not less than 5 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized at section 2017 of the Omnibus Crime Control and Safe Streets Act of 1968. The requirements of this Section shall not apply to funds allocated for such program.".

(D) AUTHORIZATION OF FUNDS FROM THE SAFE HAVENS FOR CHILDREN PROGRAM. —Section 1301 of the Violence Against Women Act of 2000 (Division B of the Victims of Trafficking and Violence Protection Act of 2000; 42 U.S.C. 10420) is amended in subsection (f) by striking the current text and replacing it with the following:

"(f) Not less than 5 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized at section 2017 of the Omnibus Crime Control and Safe Streets Act of 1968. The requirements of this Section shall not apply to funds allocated for such program.".

(E) AUTHORIZATION OF FUNDS FROM GRANTS FOR COURT TRAINING AND IMPROVEMENTS. —Section 41002 of the Violence Against Women Act of 1994 is amended in subsection (d)(2) by striking the current text and replacing it with the following:

"(d)(2) SET ASIDE. —Not less than 5 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized at section 2017 of the Omnibus Crime Control and Safe Streets Act of 1968. The requirements of this Section shall not apply to funds allocated for such program.".

DOJ_NMG_ 0147374

Proposed new section 2017(b)(2):

(2) PURPOSES FOR WHICH GRANTS MAY BE USED. —The Director may make grants to Indian tribal governments-

(1) to implement, expand, and establish cooperative efforts, training, and projects between law enforcement officers, prosecutors, victim advocacy groups, and other related parties to investigate and prosecute incidents of domestic violence, dating violence, sexual assault, or stalking, including collaboration between tribal entities and Federal or State entities;

(2) to develop, enlarge, or strengthen victim services programs, including sexual assault, domestic violence, dating violence, and stalking programs and to address the needs of children exposed to domestic violence;

(3) to work in cooperation with the community to develop education and prevention strategies directed toward issues of domestic violence, dating violence, sexual assault, and stalking of native women;

(4) to enhance the response to violence against American Indian and Alaska Native women at the tribal, Federal, and state levels;

(5) to develop, install, or expand data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including the crimes of domestic violence, dating violence, sexual assault, and stalking;

(6) to provide programs for supervised visitation and safe visitation exchange of children in situations involving domestic violence, sexual assault, or stalking committed by one parent against the other with appropriate security measures, policies, and procedures to protect the safety of victims and their children; and

(7) to improve tribal court responses to domestic violence, dating violence, sexual assault, and stalking.

In addition, we believe that any comprehensive Domestic Violence legislation should include the creation of a felony offense for habitual offenders, and the ability of the Bureau of Indian Affairs Officers to make arrests for misdemeanor domestic violence, if the officer has reasonable cause to believe the offense has occurred.

SUGGESTED NEW PROVISIONS:

DOJ_NMG_ 0147375

In addition to the Department's suggested changes to the bill as reported, the Department requests the following additional improvements:

1. Contraband Cell Phones

Under existing law, if the Bureau of Prisons (BOP) is able to convince a court that a contraband cell phone in a Federal prison is an object designed or intended to be used as a weapon to facilitate an escape, then the potential penalty could be up to 5 years imprisonment. The potential penalty could be as low as a maximum of 6 months if the cell phone is determined merely to be an object that threatens the order, discipline, or security of the prison, or the life, health, or safety of an individual. In order to provide certainty and an appropriate level of severity to punishment for possession or introduction of a cell phone, the Department proposes amending 18 U.S.C. § 1791(d)(1)(B) to read as follows:

> (d)(1)(B) marijuana or a controlled substance in Schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection, ammunition, a weapon (other than a firearm or destructive device), or an object that is designed or intended to be used as a weapon or to facilitate escape from a prison, or an electronic communications device;

And to add new subsection (d)(5) to this section:

> the term "electronic communications device" includes wireless telephones, pagers, computers, and any other device that allows transmission of voice or data communications into or out of a prison without express authorization.

2. Federal Prisoner Health Care Copayment Act Amendment

The Federal Prisoner Health Care Copayment Act requires that funds from inmates with orders of restitution to specific victims be forwarded directly to those victims. The nominal health care copayment fee that an inmate pays might be divided to help satisfy restitution for a number of victims. Victims might be offended at receiving multiple, nominal payments toward a large restitution. This requirement would also result in a burdensome accounting system for the Bureau of Prisons. For inmates without restitution orders, 75 percent of the fees are deposited in the Crime Victims Fund, and the remaining 25 percent are retained by the Bureau for administrative costs of the program. It is anticipated that the administrative costs of maintaining separate funds will exceed any benefit to the Bureau of Prisons in collecting these monies. It would be less costly and more efficient to deposit all collected fees into the Crime Victims Fund. Victim restitution orders would still be fulfilled through the Bureau*s Inmate Financial Responsibility Program.

DOJ_NMG_ 0147376

In order that all of the fees collected from inmates for health care services are deposited in the Crime Victims Fund, the Department proposes amending title 18 U.S.C. § 4048(g) to read as follows:

> (g) Use of amounts. Amounts collected by the Director under this section shall be deposited in the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. § 10610).

3. Delegation of Authority

The current language of 18 U.S.C. § 4002 provides authority only for the incarceration of prisoners in State or local facilities. We believe this statute should be changed to provide explicitly for the incarceration of prisoners by the Department of Justice in State, local, and private facilities and provide authority for the Bureau or the United States Marshals Service to delegate to a private correctional entity the authority necessary to incarcerate prisoners.

The Department proposes amending 18 U.S.C. § 4002 to read as follows:

> **§ 4002. Federal prisoners in State and private institutions**
> For the purpose of providing suitable quarters for the safekeeping, care, and subsistence of all persons held under authority of any enactment of Congress, the Attorney General, the Director of the Bureau of Prisons, or the Director of the United States Marshals Service may contract with the proper authorities of any State, Territory, or political subdivision thereof, or with a private entity, for the imprisonment, subsistence, care, and proper employment of such persons. The Attorney General, the Director of the Bureau of Prisons, or the Director of the United States Marshals Service may, in such a contract, authorize a private entity to exercise any of the authorities, conferred by law upon the Attorney General, the Bureau of Prisons, or the United States Marshals Service, necessary to the orderly operation of such quarters, including, but not limited to, the authorities described in sections 3050 and 4042 of title 18, United States Code.
>
> Such Federal prisoners imprisoned by any State, Territory, or political subdivision thereof, shall be employed only in the manufacture of articles for, the production of supplies for, the construction of public works for, and the maintenance and care of the institutions of, the State, Territory, or political subdivision in which they are imprisoned.
>
> The rates to be paid for the care and custody of said persons imprisoned by any State, Territory, or political subdivision thereof, shall take into consideration the character of the quarters furnished, sanitary conditions, and quality of subsistence and may be such as will permit and encourage the proper authorities to provide reasonably decent, sanitary, and healthful quarters and subsistence for such persons.

DOJ_NMG_ 0147377

4. Bullet Proof Vest Testing Program

In recent months, concerns have been raised from the law-enforcement community regarding the effectiveness of body armor in use. These concerns followed the failure of a relatively new Zylon®-based body armor vest worn by a Forest Hills, Pennsylvania, police officer. Law-enforcement agencies have spent over $100 million on Zylon® armor since its introduction. New materials like Zylon® may provide improved ballistic protection for officers, while reducing the weight and stiffness of vests, but they also carry risks from unanticipated failures in real-world use. Further to several statutes, *e.g.*, 42 U.S.C. § 3796*ll*-2(1), law-enforcement agencies rely on the Department, through compliance testing program of the Office of Justice Program, National Institute of Justice, to determine whether armor vests will protect their officers reliably.

The Department requires a sustainable funding base in order to establish an ongoing research program on the safety and effectiveness of body armor and maintain expertise to support an expanded standards program. Among other activities, these funds would support materials research, test method development, enhancements to the current compliance testing program, and reviews of body armor materials and construction methods. Funding in the amount of $5 million is needed to ensure the cost-effective use of the overall taxpayer investment in body armor and prevent future expenditures of millions of dollars on body armor that would have to be replaced in an effort to ensure the safety of law-enforcement officers in the field.

In addition to its compliance testing program, the Department's Bulletproof Vest Program, authorized at 42 U.S.C. §§ 3796*ll* to 3796*ll*-3 and operated through the Bureau of Justice Assistance of the Office of Justice Programs, also contributes significantly to officer safety by providing critical matching funds for the acquisition of body armor by law-enforcement agencies. To make this program even more effective, the Attorney General should be given statutory authority to prescind (in emergencies or under exigent situations) from certain ordinary program requirements, and thus to enable the Department to respond quickly and flexibly to emergent critical needs (such as the current one, in connection with the replacement of Zylon®-based armor) as may develop suddenly from time to time. For these reasons, the Department recommends inserting the following new section:

> "Sec. 256. Bullet Proof Vest Testing Program.
>
> Section 2501(g) of Public Law 90-351 is amended by inserting the following after "part" in the first sentence: "shall be available as follows: First, $5,000,000 shall be for the testing program referred to in section 2503(1); and second, except as the Attorney General otherwise may determine in emergent or exigent circumstances, the remainder"."

5. Changing the Civil Debt Collection amount in Public Law 107-273

DOJ_NMG_ 0147378

The Department currently retains three percent of the amounts collected pursuant to its civil debt collection litigation activities. These funds are credited to the Department of Justice Working Capital Fund and are used to pay the costs of processing and tracking civil and criminal debt-collection litigation, financial systems, and debt-collection-related personnel, administrative, and litigation expenses. The Department proposes to increase the civil debt collection amount that the Department can retain from 3 percent to 6 percent. The Department recommends the following language to make this change:

> Sec. XXX. Section 11013(a) of Public Law 107-273 is amended by replacing "up to 3" with "up to 6".

6. Combating Child Prostitution: Supporting FBI, State, and Local Law Enforcement Efforts to Reduce or Eliminate Child Prostitution.

Funding in the amount of $1,250,000 is requested to support the task forces through case coordination meetings, payment of state and local overtime and the purchase of equipment in support of child prostitution investigations. In response to the problem of juvenile prostitution, the Violent Crimes Section, Crimes Against Children Unit, in conjunction with both the Department of Justice/Child Exploitation and Obscenity Section and the National Center for Missing and Exploited Children (NCMEC), implemented a National Initiative in June of 2003 entitled "Innocence Lost". Together, a multi-faceted strategy was developed to train personnel, establish task forces, share intelligence concerning pimps, juveniles used in prostitution and criminal enterprises, and support long-term investigations with requisite personnel and financial resources.

An intensive curriculum was developed for a week long training class entitled "Protecting Victims of Child Prostitution" which was held at and sponsored by the NCMEC. This program brings state and federal law enforcement agencies, prosecutors, and social service providers from one city to the National Center where the group is trained together. This concept is designed to cultivate cooperation, partnership and an effective integration between the critical enforcement agencies in each city. To date, a total of 263 individuals have received this training. Dedicated funding in the amount of $150,000 is requested to train an additional 100 individuals in FY 2006.

The Criminal Investigative Division reviews and analyzes all intelligence received by the NCMEC through their Intake Reports and CyberTip reports. This information is in turn disseminated to the appropriate field offices. All NCMEC Intake and CyberTip reports are maintained in the FBI's Automated Case System database to provide electronic access to field offices. In addition, the Criminal Investigative Division provides extensive on-site analytical support to pending large-scale child prostitution investigations, including Intelligence Assessments, link charts and cross-case analyses to FBIHQs and the field offices. Based on an initial review of the available intelligence on child prostitution collected from ongoing investigations, human source information, information provided by numerous local and state law enforcement agencies, and the NCMEC, 14 FBI field offices were identified as having the highest incidence of children

DOJ_NMG_ 0147379

used in prostitution. The 14 field offices identified were: Atlanta, Chicago, Dallas, Detroit, Las Vegas, Los Angeles, Miami, Minneapolis, New York, San Diego, San Francisco, St. Louis, Tampa and Washington D. C.

Task Forces or working groups were subsequently established in Chicago, Dallas, Denver, Detroit, Honolulu, Houston, Indianapolis, Miami, Newark, New York, Oklahoma City, Philadelphia, Portland, San Francisco and Washington D. C. Efforts are ongoing to establish task forces and/or working groups in all field offices in which our intelligence supports a significant investigative increase into the exploitation of children whom are engaged in prostitution. These offices were directed to focus their efforts on the identification, investigation and prosecution of criminal enterprises, including gangs, involved in child prostitution. Sex traffickers or pimps debriefed by the FBI indicate approximately 20-40 percent of the victims forced/recruited into prostitution are juveniles. As of June 7, 2005, 25 field offices are investigating child prostitution matters in support of the Innocence Lost National Initiative.

During FY 2004, the Criminal Investigative Division initiated 67 Innocence Lost investigations which led to 118 arrests, 26 indictments and the conviction of 22 pimps and madams. To date in FY 2005, 31 additional cases were opened and there have been 163 arrests, 8 complaints, 13 indictments and 10 convictions. Since the inception of Innocence Lost, 80 children have been recovered as a result of this national initiative.

7. Law Enforcement Training and Forensic Expenses for Violent Acts Against Women in Indian Country.

It is requested that $500,000 be provided to train local and tribal police, BIA Agents and FBI Agents, on the prevention and investigation of violent crimes on women and to aid with forensic expenses incurred while investigating these crimes.

During the last three fiscal years, October 2001 through September 2004, 488 cases have been opened by the Federal Bureau of Investigation (FBI) involving sexual assault/rape in Indian Country. In addition, 1,299 cases have been opened involving assault (of which approximately 40% the victims were women) and 16 cases have been opened concerning domestic violence in Indian Country. The majority of the domestic violence and assault cases is investigated by the local police and tribal police and is not reflected in these numbers due to the fact that only the most extreme/violent cases are investigated by the FBI. The case load has strained the financial resources of the FBI, state and local forensic laboratories to analyze evidence from violent crime cased in Indian Country. The FBI currently has a joint training initiative with Bureau of Indian Affairs (BIA) which trains local and tribal police, BIA Agents and FBI Agents. The FBI would like to add regional training concerning sexual assault/rape and domestic violence to the extensive training already provided to law enforcement in Indian Country through this training initiative.

8. Technical changes to the Real ID Act.

DOJ_NMG_ 0147380

The Department suggests that the following technical amendments to the Real ID Act, Pub. L. 109-13 Div.B Title I, 101, May 11, 2005, 119 Stat. 311. The technical amendments would clarify an alien's burden of proof with respect to withholding of removal, the credibility of witnesses, and refer to the "trier of fact" rather than just the immigration judge.

WITHHOLDING OF REMOVAL.

(a) IN GENERAL. Section 241(b)(3) of the Immigration and Nationality Act (8 USC 1231(b)(3)) is amended -

(1) by inserting at the end of subparagraph (A) the following:
"The burden of proof is on the alien to establish that the alien's life or freedom would be threatened in that country, and that race, religion, nationality, membership in a particular social group, or political opinion would be at least one central reason for such threat."
; and,

(2) by striking from subparagraph (C) "In determining whether an alien has demonstrated that the alien's life or freedom would be threatened for a reason described in subparagraph (A)" and inserting in lieu thereof "For purposes of this paragraph (3)".

(b) EFFECTIVE DATE. The amendment made by subsection (a) shall take effect as if enacted on May 11, 2005 and shall apply to applications for withholding of removal made on or after such date.

ASYLUM.

(a) IN GENERAL. Section 208(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(1)) is amended—

(1) by striking "may" in Section 208(b)(3)(B)(ii) and replacing it with "shall"

(b) EFFECTIVE DATE. The amendment made by subsection (a) shall take effect as if enacted on May 11, 2005 and shall apply to applications for withholding of removal made on or after such date.

REMOVAL PROCEEDINGS.

(a) IN GENERAL. Section 240(c) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(4)) is amended—

(1) by striking the term "immigration judge" every place it appears in Section 240(c)(4)(B) and replacing it with "trier of fact"; and

(2) by striking "and any inaccuracies or falsehoods in such statements" in Section 240(c)(4)(C) and replacing it with "or any inaccuracies or falsehoods in such statements"

DOJ_NMG_ 0147381

(b) EFFECTIVE DATE. The amendment made by subsection (a) shall take effect as if enacted on May 11, 2005 and shall apply to applications for withholding of removal made on or after such date.

DOJ_NMG_ 0147382

REAL ID ACT

(a) Section 101(d) of the REAL ID Act is amended by striking "8 U.S.C. 1230(c)" and replacing it with "8 U.S.C. 1229a(c)".

(b) (EFFECTIVE DATE. The amendment made by subsection (a) shall take effect as if enacted on May 11, 2005 and shall apply to applications for withholding of removal made on or after such date.

DOJ_NMG_ 0147383

Appendix A

TECHNICAL COMMENTS:

Section 241(d))—The provision on churning in this section as drafted is worded slightly different than ATF's churning authority in current law (i.e., FY 2005 Consolidated Appropriations Act, Public Law 108-447, Section 116 (effective 12/8/04). The differences are minor and non-substantive. In any event, this provision is unnecessary because ATF's current authority exists notwithstanding any other provision of law and without fiscal year limitation.

Section 301(d): "Capitalization Correction," is unnecessary. It would capitalize the words "wire" and "electronic" at the beginnings of subsections (a) and (b). Those words are not capitalized elsewhere in the statute, and are properly left in lower case.

Section 304 "Use of Federal Training Facilities": In subsection (a), line 13, replace "predominately" with "predominantly".

Section 402

Proposed section 2000B(a)(6) (page 113, lines 3-11) defines "dating partner." On page 113, lines 6-7, we suggest inserting "where the" before "existence of" and "shall be determined" after "such a relationship" to add what appears to have been erroneously omitted language. This is consistent with the definition of "dating violence" currently found in 42 U.S.C. § 3796gg-2.

Proposed section 2000B(a)(26) (page 120, line 17 to page 121, line 5) defines "territorial domestic violence or sexual assault coalition." To correct an error on page 120, line 20, we suggest either adding the phrase "or sexual assault" after "a program addressing domestic violence" and before "that is" or deleting "addressing domestic violence" from the line.

Proposed section 2000B(a)(27) (page 121, lines 6-16) defines "tribal coalition." To clarify that such coalitions need not serve both American Indian and Alaska Native women, we suggest changing the "and" to "or" on page 121, lines 11 and 16.

Section 501

In section 501(a), change "3793(a)(8)" to "3793(a)(18)" to correct a typographical error.

In section 501(d)(1)(C), insert "and the coalitions for" before "Guam" for clarity.

Section 501(d)(3)(C) uses both the term "victim service provider" and "victim services programs". For consistency, we suggest using only one term.

In section 501(e) we recommend changing "Violence Against Women Office" to "Office on Violence Against Women" to use the correct name for the Office.

DOJ_NMG_ 0147384

Section 502

Section 502(b)(2)(C)(ii), we suggest inserting "protection order" before "registries" for clarity.

In section 502(b)(2)(F)(i), we do not recommend striking "other" because juvenile courts are not necessarily civil courts. Instead, we would suggest rewriting this subsection to read "inserting ', civil,' after 'criminal'".

Section 503

Section 503(1)(C) is unnecessary because it was accomplished in the Justice for All Act. Similarly, subsections 503 (3), (4) (A) and (C), and (6)(B)(i)(IV) are also unnecessary.

Section 504

Proposed section 41002(a)(3) and (b)(1)(B), we suggest inserting "tribal, territorial," after "State," for consistency.

Proposed section 41003(b) (2), would make more sense if there were an "or" (instead of an "and") between (b)(2)(A) and (b)(2)(B) (eligible entities for Tribal Curricula development). (The formulation with "or" is used to describe eligible entities for National Education Curricula development in proposed section 41003(a) (2).

Section 504, proposed section 41004(b)(2), provides that grants shall be for a period of 3 fiscal years. We suggest striking "3" and replacing it with "not less than 2" because if all awards are for three years, it will restrict the number of awards that can be made under the program in a given year. Although this results in larger grant awards for a few entities, it may severely limit our ability to reach a broad range of communities with these grant funds. For the same reasons, we recommend making this change to Section 602, proposed section 2014(c)(6), Section 603, proposed section 40295(b); Section 701, proposed section 41201(e); to section 701, proposed section 41202(e); to Section 702(a)(2); and to Section 704(f)(1); to Section 801, proposed section 41302(a)(2); to Section 801, proposed section 41303(a)(2). Similarly, in **Section 602, proposed section 2014(c)(2)**, we recommend striking "for a period of no less than 3 fiscal years" and replacing it with "for periods of not less than 2 years".

Proposed section 41004(c)(4) (page 154, line 17), change "assure" to "ensure" to correct a typographical error.

Proposed section 41004(g)(2)(B)(ii) (page 157, line 2), insert "victim" after "stalking" for clarity.

Section 510

This section calls for increased penalties for repeat offenders under Sections 2261 and 2262. These statutes are not prosecuted often because of the rigorous burdens of proof, so a repeat offender statute seems unnecessary as rarely will we have such recidivism.

DOJ_NMG_ 0147385

Section 602:
Proposed section 2014(c)(1) appears to contain a typographical error. The proposed section directs the Attorney General to award "grants to culturally specific community-based organization that—". Because the bill appears to contemplate more than one grant award, we recommend replacing this language with "grants to culturally specific community-based organizations that—". In addition, to make the remainder of the section grammatical, we recommend replacing "is a private, nonprofit organization that focuses" with "are private, nonprofit organization that focus"; "has expertise" with "have expertise"; "has an advisory board or steering committee and staffing which is" with "have advisory boards or steering committees and staffing which are".

In proposed section 2014(d) replace "subsection (b) and (c) the following services" with "subsection (b) and (c), grant-funded services" to make clear that the activities enumerated in proposed section 2014(d) are those that may be funded.

In proposed section 2014(d)(7) replace "Collaborating" with "collaborating" to correct a typographical error.

In proposed section 2014(d)(8) replace "in clauses (A) through (G)" with "paragraphs (1) through (7)" to correct a drafting error.

In proposed section 2014(f) replace "Funds" with "funds" to correct a typographical error.

Section 603:
Proposed section 40295(b)(2) (page 180, line 24), we recommend inserting ", including assistance in immigration matters" before "; and" to conform to the current statute, which permits Rural program funding of assistance to victims in these matters.

In proposed section 40295(a)(1) (page 179, lines 1-2), we recommend changing "between" to "among" for clarity.

In proposed section 40295(a)(2) (page 179, lines 16-17), we recommend inserting "victim" after "local government" for clarity.

In proposed section 40295(b)(1) (page 180, line 16), we recommend changing "between" to "among" for clarity.

Section 606
In section 606(a)(1) (page 190, lines 7-8), it is unclear whether "within tribal, racial, and ethnic populations and immigrant communities" is intended to modify only "trafficking" or the entire list of crimes.

In section 606(a)(2) (page 190, line 13), we recommend inserting "not less than" before "1 fiscal year." This will give the Attorney General the discretion to award grants of

DOJ_NMG_ 0147386

longer duration should it become apparent that longer award periods are needed to meet the section's purposes.

In section 606(c)(1) (page 191, line 15), change "Alaskan native" to "Alaska Native" to correct a typographical error.

Section 701:
In section 701, proposed section 41201(b) (page 194, line 5), change "Violence Against Women Office" to "Office on Violence Against Women" to use the correct name for the Office.

In section 701, proposed section 41201(c)(1) (page 194, line 16), we recommend striking "grantee conferences" because this would be included as part of the "technical assistance" that is addressed by subsection (c)(3) (page 194, lines 24 to page 195, line 9).

In section 701, proposed section 41202 is entitled "Services to Advocate for and Respond to Teens" (page 201, lines 10-11) although the stated purpose of the new program is to fund programs that serve youth between the ages of 12 and 24. (Page 201, line 24). OVW recommends adding the term "young adults" to the section title (page 201, lines 10-11) to parallel the age range of victims that the program will address.

In section 701, proposed section 41201(h)(2)(d) (page 200, line 24), there appears to be a word missing on line 24.

In section 701, proposed section 41202(a) (page 201, line 14), add the word "victims" after "youth" and before "between" to correct a typographical error.

Section 702:
Section 702 duplicates and amends 20 U.S.C. § 1152, which currently authorizes the Campus Program. As discussed above with regard to the applicability of the general definition and grant provisions of section 402, section 702 fails to indicate whether the current Campus statute is being deleted and replaced and also fails to identify where this new provision will be codified. We recommend that language be added to clarify these issues.

In section 702(c)(2)(B) (page 209, line 16), change "any" to "a".

Section 703(3), proposed subsection (e)(2), we recommend deleting the phrase "grantee conferences." Attendance at grantee conferences is usually considered a form of "technical assistance," which is included on line 23.

Section 1004:
In section 1004(b)(1) (page 321, line 7), we recommend changing "any" to "an" for clarity.

DOJ_NMG_ 0147387

Section 1005

In proposed section 2016(b)(2)(D) (page 325, line 1), change "memberes" to "members" to correct a typographical error.

DOJ_NMG_ 0147388

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 08, 2005 4:18 PM
To: Senger, Jeffrey M
Cc: Reyes, Luis (SMO)
Subject: RE: DOJ Reauthorization HR 3402 Views Letter

Thanks. Am adding Lu in case he wants to add anything.

-----Original Message-----
From: Senger, Jeffrey M
Sent: Thursday, September 08, 2005 3:38 PM
To: Gorsuch, Neil M
Subject: FW: DOJ Reauthorization HR 3402 Views Letter

Neil, attached is the DOJ Reauthorization Bill and our comments on it. I thought you might like to see a copy. Most if it concerns OJP matters, which Tracy is looking over. FYI, there is a section on the Chief Privacy Officer, which I provide below. Let me know if you have any comments.
Jeff

Section 305 would require the Attorney General to designate a "senior official" within the Department of Justice (the "Department") "to assume primary responsibility for privacy policy." The Department recognizes the growing importance of information privacy, and supports creation of a Chief Privacy Officer (CPO) position within DOJ, but strongly believes that more time and study are required before the CPO's duties and responsibilities can or should be specifically delineated. The Department is now actively engaged in assessing its privacy-related functions and personnel, and making recommendations to the Attorney General regarding potential structural changes and resource needs. As this project unfolds, among the difficult questions presented are: what is the scope of the CPO's responsibilities? How does creation of a CPO affect the Department's existing privacy functions? What is the appropriate relationship between the CPO and the Chief Information Officer? Is importing the DHS model the optimal solution for DOJ? The answers to these questions are not obvious, and are not susceptible to "one size fits all" legislation. The Department therefore seeks additional flexibility in the language of the bill, and sufficient time to make an informed recommendation to Congress regarding establishment of a CPO. We submit the following language as a substitute:
Privacy Officer

(a) In General. The Attorney General shall designate a senior official in the Department of Justice to assume primary responsibility for privacy policy.

(b) Responsibilities. The responsibilities of such official shall include -

(1) Advising the Attorney General regarding appropriate privacy protections, relating to the use, collection, and disclosure of personally identifiable information, with respect to the use of information technology policy and information systems; and

(2) Advising the Attorney General regarding the privacy implications of legislative and regulatory proposals affecting the Department and involving the collection, use, and disclosure of personally identifiable information.

(3) In consultation with the Department's Chief Information Officer, ensuring the Department's compliance with Section 208 of the E-Government Act of 2002 (Pub. L. 107-347).

(c) Review of Privacy-Related Functions and Resources and Report. Within 120 days of his designation, the privacy official shall prepare a comprehensive report to the Attorney General and to Congress, describing the organization and resources of the Department with respect to privacy and related information management functions, including access, security, and records management, assessing the Department's current and future needs relating to information privacy issues, and making appropriate recommendations regarding the Department's organizational structure and personnel.

-----Original Message-----
From: Roland, Sarah E
Sent: Thursday, September 08, 2005 2:59 PM
To: Senger, Jeffrey M; Rybicki, James E
Cc: Henke, Tracy (SMO); Clifton, Deborah J; Taylor, Velma
Subject: DOJ Reauthorization HR 3402 Views Letter

Jim and Jeff,
We are submitting the attached letter for ODAG and OASG review for transmission to OMB asap. This bill will be on the House floor very soon and are trying to get it to as quickly as possible.

A couple of notes. The first three titles are "doj reauth" and our comments are very similar to last year's views letter on HR 3036 (most are identical), as the Committee incorporated none of our suggestions. Titles IV-X are "Reauth of the Violence Against Women Act" Given the length of this letter, I sent it to Tracy Henke so she could begin reviewing as well. Tracy is also resolving a conflict between components in Section 250.

The attached version of the bill is the one Reported out of the Committee. Please do not hesitate to call me with any questions 5-9134.

Thanks,
Sarah

<< File: HR 3402.SECOND Draft Letter.8.31.2005.doc >> << File: HR 3402 Draft of Reported Bill.pdf >>

Sarah Elizabeth Roland
Office of Legislative Affairs
U.S. Department of Justice
202-305-9134

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 08, 2005 4:23 PM
To: Shaw, Aloma A
Subject: RE: Neil Gorsuch

Is there any way we can speed this up? I find it hard to believe they have so many leads to complete given how long it has been since my initial interview, and I know I already signed a copy of the financial release form months ago.

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, September 08, 2005 9:30 AM
To: Byrnes, Kathleen T
Cc: Gorsuch, Neil M
Subject: RE: Neil Gorsuch

Thanks so much Kathleen for your attention to this matter. As soon as I get the form and Neil has signed it, I'll send it over to you today by special messenger.

Aloma

-----Original Message-----
From: Byrnes, Kathleen T
Sent: Thursday, September 08, 2005 8:59 AM
To: Shaw, Aloma A
Subject: RE: Neil Gorsuch

Aloma,

Heard from the FBI and they still have quite a few leads before they complete their investigation. In order to possibly speed things up I'm going to fax you a financial form that Neil needs to sign. This way, the FBI doesn't have to send an investigator to see him. This form is needed to verify state tax records. Please ask him to only sign, date, and put his address. The FBI fills out the rest. I will need you to mail this to me via Intraoffice mail as an original signature is needed. Please let me know when you mail it so I can be on the lookout for it and send it to the FBI. We are at 20 Massachusetts Ave, Room 6221 and put to my attention.

Please let me know your fax# so I can fax the form to you.

Thks,

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, September 07, 2005 3:23 PM
To: Byrnes, Kathleen T
Cc: Gorsuch, Neil M
Subject: RE: Neil Gorsuch

Great. Thank you for your update.

-----Original Message-----
From: Byrnes, Kathleen T
Sent: Wednesday, September 07, 2005 3:01 PM
To: Shaw, Aloma A

Subject: RE: Neil Gorsuch

Aloma,

I've called the FBI supervisor twice today and am still waiting for her to advise us of the status of his background. Will let you know as soon as I hear from them. We cannot upgrade his clearance to final until they finish the background.

-----Original Message-----
From: Rice, Dorianna C
Sent: Wednesday, September 07, 2005 9:26 AM
To: Kathleen Byrnes
Subject: FW: Neil Gorsuch

Hi Kathy - would you please research and get back to Aloma. Thanks

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, September 07, 2005 9:20 AM
To: Rice, Dorianna C
Subject: Neil Gorsuch

Dorianna:

Neil Gorsuch, Principal Deputy Associate Attorney General, was employed by the Associate AG's office June 13, 2005. Presently he has an interim top secret security clearance. He'd like to know when his clearance will be final?

Thank you,
Aloma Shaw
Staff Assistant
Office of the Associate Attorney General

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, September 08, 2005 4:44 PM
To: Gorsuch, Neil M
Subject: FW: Neil Gorsuch

fyi

-----Original Message-----
From: Byrnes, Kathleen T
Sent: Thursday, September 08, 2005 4:33 PM
To: Shaw, Aloma A
Subject: RE: Neil Gorsuch

We're at the mercy of the FBI. I did ask them to expedite it and they said it should be done in a few weeks. They tell me this is a release for the state of Virginia that needs to be filled out. It takes the FBI approx 4-5 months on average to complete an initial background.

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, September 08, 2005 9:30 AM
To: Byrnes, Kathleen T
Cc: Gorsuch, Neil M
Subject: RE: Neil Gorsuch

Thanks so much Kathleen for your attention to this matter. As soon as I get the form and Neil has signed it, I'll send it over to you today by special messenger.

Aloma

-----Original Message-----
From: Byrnes, Kathleen T
Sent: Thursday, September 08, 2005 8:59 AM
To: Shaw, Aloma A
Subject: RE: Neil Gorsuch

Aloma,

Heard from the FBI and they still have quite a few leads before they complete their investigation. In order to possibly speed things up I'm going to fax you a financial form that Neil needs to sign. This way, the FBI doesn't have to send an investigator to see him. This form is needed to verify state tax records. Please ask him to only sign, date, and put his address. The FBI fills out the rest. I will need you to mail this to me via Intraoffice mail as an original signature is needed. Please let me know when you mail it so I can be on the lookout for it and send it to the FBI. We are at 20 Massachusetts Ave, Room 6221 and put to my attention.

Please let me know your fax# so I can fax the form to you.

Thks,

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, September 07, 2005 3:23 PM
To: Byrnes, Kathleen T
Cc: Gorsuch, Neil M

Subject: RE: Neil Gorsuch

Great. Thank you for your update.

-----Original Message-----
From: Byrnes, Kathleen T
Sent: Wednesday, September 07, 2005 3:01 PM
To: Shaw, Aloma A
Subject: RE: Neil Gorsuch

Aloma,

I've called the FBI supervisor twice today and am still waiting for her to advise us of the status of his background. Will let you know as soon as I hear from them. We cannot upgrade his clearance to final until they finish the background.

-----Original Message-----
From: Rice, Dorianna C
Sent: Wednesday, September 07, 2005 9:26 AM
To: Kathleen Byrnes
Subject: FW: Neil Gorsuch

Hi Kathy - would you please research and get back to Aloma. Thanks

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, September 07, 2005 9:20 AM
To: Rice, Dorianna C
Subject: Neil Gorsuch

Dorianna:
Neil Gorsuch, Principal Deputy Associate Attorney General, was employed by the Associate AG's office June 13, 2005. Presently he has an interim top secret security clearance. He'd like to know when his clearance will be final?

Thank you,
Aloma Shaw
Staff Assistant
Office of the Associate Attorney General

Gunn, Currie (SMO)

Subject:	Canceled: OASG Staff Meeting
Location:	Conference Room 5710
Start:	Thursday, September 08, 2005 5:00 PM
End:	Thursday, September 08, 2005 6:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every Tuesday and Thursday from 5:00 PM to 6:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Kessler, Elizabeth A; Senger, Jeffrey M; Reyes, Luis (SMO); Henke, Tracy (SMO); Wiggins, Mike; Gunn, Currie (SMO); Swenson, Lily F; Wiggins, Mike; Gorsuch, Neil M
Optional Attendees:	Shaw, Aloma A
Importance:	High

When: Thursday, September 08, 2005 5:00 PM-6:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Conference Room 5710

~~*~*~*~*~*~*~*~*~*

Today's mtg canceled.

Attendees: ASG Robert McCallum, Elizabeth Kessler-OASG, Tracy Henke-OASG, Mike Wiggins-OASG, Jeff Senger-OASG, Luis Reyes-OASG, Lily Fu Swenson-OASG

POC: Currie Gunn x4-9500

Otus2005, Ag

Subject:	Accepted: Updated: PREP: Policy Time w/ President Bush
Start:	Friday, September 09, 2005 9:45 AM
End:	Friday, September 09, 2005 10:15 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Clement, Paul D

From: Clement, Paul D
Sent: Thursday, September 08, 2005 5:40 PM
To: Gorsuch, Neil M
Subject: Read: Change in Plans: Dinner with Mike Wiggins

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Thursday, September 8, 2005 5:47 PM
To: Roland, Sarah E; Senger, Jeffrey M; Rybicki, James E; Dhillon, Uttam; Hitch, Vance (OCIO); Seidel, Rebecca
Cc: Bernhardt, Gena; Buchanan, David; Lofthus, Lee J; Gorsuch, Neil M
Subject: RE: DOJ Reauthorization HR 3402 Views Letter

Couple of quick items as I continue to review.
1. The Department's OCIO needs to review section 248 and comments pertaining to "Moreover, we object to - transferring the automated system for tracking COPS grants to OJP. The COPS Office's automated system (CMS) is a longstanding, highly successful grant management system." I want us to be careful how we phrase this language since there have been discussions about consolidating the grant management systems into one system. If JMD is fine (also from audit perspective), then I am okay.

2. Section 250--if the Department's position is that we are going to be in the business of setting "minimum information technology standards for equipment and software - especially for interoperability equipment and other communication tools - purchased under the various broad grant options," then COPS must be part of that. I appreciate that COPS has a track record for their past grants, but if the Department is going to set minimum standards (guidance or whatever) then the future COPS grants will need to follow them as well.

However, the Department leadership needs to determine whether we will be in the business of setting minimum standards and if not, then we should oppose the creation of the new office (whether as part of OJP's NIJ or separate) altogether and cite that NIJ's OST division already works on this issue and provides some guidance (not required) to the field.

Will let you know if I have additional comments.

-----Original Message-----
From: Roland, Sarah E
Sent: Thursday, September 08, 2005 2:59 PM
To: Senger, Jeffrey M; Rybicki, James E
Cc: Henke, Tracy (SMO); Clifton, Deborah J; Taylor, Velma
Subject: DOJ Reauthorization HR 3402 Views Letter

Jim and Jeff,
We are submitting the attached letter for ODAG and OASG review for transmission to OMB asap. This bill will be on the House floor very soon and are trying to get it to as quickly as possible.

A couple of notes. The first three titles are "doj reauth" and our comments are very similar to last year's views letter on HR 3036 (most are identical), as the Committee incorporated none of our suggestions. Titles IV-X are "Reauth of the Violence Against Women Act" Given the length of this letter, I sent it to Tracy Henke so she could begin reviewing as well. Tracy is also resolving a conflict between components in Section 250.

The attached version of the bill is the one Reported out of the Committee. Please do not hesitate to call

me with any questions 5-9134.

Thanks,
Sarah

<< File: HR 3402.SECOND Draft Letter.8.31.2005.doc >> << File: HR 3402 Draft of Reported Bill.pdf >>

Sarah Elizabeth Roland
Office of Legislative Affairs
U.S. Department of Justice
202-305-9134

Nichols, Grant W

Subject:	Updated: PREP: Policy Time w/ President Bush
Start:	Friday, September 09, 2005 9:55 AM
End:	Friday, September 09, 2005 10:25 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Nichols, Grant W
Required Attendees:	Taylor, Jeffrey (OAG); Keisler, Peter D. (CIV); Bucholtz, Jeffrey (CIV); Monheim, Thomas; Gorsuch, Neil M; Hart, Rosemary

When: Friday, September 09, 2005 9:55 AM-10:25 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ/AO: Jeff Taylor, Peter Keisler, Jeff Bucholtz, Tom Monheim, Neil Gorsuch, Rosemary Hart

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 9, 2005 7:22 AM
To: Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 09, 2005 9:06 AM
To: Sampson, Kyle
Subject: Attorney-Client Waiver Guidance Memo
Attachments: DRAFT PRIV WAIVER MCC cleanrevisionII(9-8-05).doc

Kyle, Attached is the latest revision of the attorney-client guidance memo, reflecting comments received internally and from the US Atty community. I circulated this within Main last night and we're hoping to share this with US Attorneys and others on Monday. Best, NMG

DRAFT DRAFT DRAFT DRAFT DRAFT

MEMORANDUM

To: ALL UNITED STATES ATTORNEYS AND DEPARTMENT COMPONENT HEADS

From: Robert D. McCallum, Jr.
Acting Deputy Attorney General

Subject: Guidance for Federal Prosecutors Regarding Requests for Corporate Waiver of the Attorney-Client Privilege and Work Product Protection

In recent years, the Department has placed significant emphasis on the prosecution of corporate crimes. In connection with the Department's initiative in this area, former Deputy Attorney General Larry D. Thompson issued a Memorandum on January 20, 2003, to all United States Attorneys' Offices regarding Principles of Federal Prosecution of Business Organizations. This memorandum, commonly known as the Thompson Memorandum, found at USAM 9-162, remains the Department's policy on charging business organizations and includes factors to be considered in making charging decisions.

One of the nine factors the Thompson Memorandum sets forth in determining whether to charge a corporation or other business organization is "the corporation's timely and voluntary disclosure of wrongdoing and its willingness to cooperate in the investigation of its agents, including, if necessary, the waiver of corporate attorney-client and work product protection." Thompson Memorandum, Section II.B.4. The Thompson Memorandum elaborates on this factor by providing that a federal prosecutor may ensure the complete and truthful cooperation of a corporation by requesting, "in appropriate circumstances[,]" that the corporation waive the attorney-client privilege and attorney work product protection, which the Memorandum recognizes also may be "critical in enabling the government to evaluate the completeness of a corporation's voluntary disclosure and cooperation." Id., Section VI.B.

The Thompson Memorandum recognizes that the attorney-client privilege and work product protection serve important, long-recognized public policies encouraging candid communications between counsel and client and promoting sound corporate governance. Accordingly, the Thompson memorandum acknowledges that, while cooperation is an important factor in the Department's charging decisions, a business organization's full cooperation may not always require a waiver, expressly stating that the Department "does not . . . consider waiver of a corporation's attorney-client and work product protection an absolute requirement, and prosecutors should consider the willingness of a corporation to waive such protection *when necessary to provide timely and complete information* as one factor in evaluating the corporation's cooperation." Id. (emphasis added). In applying the factors set forth in the Thompson Memorandum, federal prosecutors have always considered and continue to consider carefully whether and the extent to which a request to a business entity for a waiver of attorney-client privilege or attorney work product protection is necessary to establish corporate cooperation in an investigation.

Since the Thompson Memorandum was issued, the Department has periodically reviewed its use and application. These reviews confirm that federal prosecutors have taken an appropriate and measured approach in seeking waivers of the attorney-client privilege and work product protection and do not "routinely" request such waivers. For example, the Department recently conducted a study of corporate charging decisions at 28 United States Attorneys' Offices and the Criminal Division's Fraud Section and Asset Forfeiture and Money Laundering Section. The study revealed that, out of 52 cases involving corporate entities reported, in 25 cases prosecutors decided not to charge the entities while in 14 cases dispositions were negotiated with the entities. The negotiated dispositions include seven cases that resulted in deferred prosecution agreements, four that resulted in cooperation/non-prosecution agreements, and three that resulted in guilty pleas. Of the 14 negotiated dispositions, in only nine cases was a privilege waiver reported to play a significant role.

The Department's surveys reflect that, at a most basic level, federal prosecutors have consistently explored as a threshold issue in determining "cooperation" whether a business organization has provided or will provide complete access to its employees, business records, organizational charts, compliance program, and any third-party witnesses over which it may have influence, such as customers, vendors, accountants, and former employees. In many cases, such action has been sufficient for the government to obtain timely and complete information concerning a suspected crime. In other instances involving complex business organizations or large volumes of evidence, obtaining timely and complete information has required the corporation to take additional steps, such as identifying for investigators specific witnesses and documents central to the suspected criminal conduct. Business organizations have, without providing counsel's notes or reports, identified promptly and made available to investigators all of the witnesses and documents involved in their own internal investigations by corporate counsel and provided assurances that witnesses will make full disclosure. When such actions have been adequate for federal investigators to determine timely the complete underlying facts, prosecutors have, consistent with the Thompson Memorandum, determined a waiver to be unnecessary and have not required one in order to establish cooperation.

The Department's periodic examinations of the actual application of the Thompson Memorandum by federal prosecutors have also revealed one important "best" or "preferred" practice with respect to waiver requests. A majority of United States Attorneys has required either an informal or a formal review by a senior, uninvolved colleague with supervisory experience before their federal prosecutors may request that the attorney-client privilege or work product protection be waived, and the Department has determined that, consistent with this practice, a formal, written review process for such requests should be instituted by each United States Attorney for his/her district. Such a review process, which may vary from district to district, should be designed to ensure that the "appropriate circumstances" referenced in the Thompson Memorandum are present when federal prosecutors request a waiver. Such a formal review process serves to protect the considerable societal benefits associated with long-recognized legal privileges in relation to the equally significant societal benefits of vigorous enforcement of the federal criminal law. Each United States Attorney is directed to provide the

DOJ_NMG_ 0147404

Executive Office of the United States Attorneys with a copy of the review process adopted in that district within sixty days.

In the formulation of the review process and in the review process itself, the United States Attorneys should continue to apply the factors discussed in the Thompson Memorandum. Specifically, the Thompson Memorandum instructs that the "waiver should ordinarily be limited to the factual internal investigation and any contemporaneous advice given to the corporation concerning the conduct at issue." Id., Section VI.B, n.3. It further provides that, "[e]xcept in unusual circumstances, prosecutors should not seek a waiver with respect to communications and work product related to advice concerning the government's criminal investigation." Id. The Thompson Memorandum, therefore, draws an important distinction between underlying factual information and factual work product, on the one hand, and opinion work product or attorney-client communications, on the other hand. It also draws a significant distinction between legal advice rendered "contemporaneous[ly]" with "the conduct at issue" and "advice concerning the government's criminal investigation." Id. Consistent with the Thompson Memorandum, such waivers, when determined to be necessary, have been and should be limited in most cases to factual information gleaned by the corporation's own investigation, including, where warranted by the circumstances, corporate counsel's interview notes and other factual work product, as opposed to privileged attorney-client communications or counsel's opinion work product.

As the Thompson Memorandum outlines, a waiver request seeking privileged communications or opinion work product created contemporaneously with the underlying conduct under investigation may also be sometimes appropriate. Id. (discussing "contemporaneous advice"). However, the need for such information has generally been evaluated independently from the need for interview notes and other fact work product. Frequently, federal prosecutors have determined that inquiry into "contemporaneous advice" is not necessary.

Finally, the Thompson Memorandum indicates that a waiver request for opinion work product or attorney-client communications concerning the government's criminal investigation itself may be warranted. The Memorandum instructs, however, that "prosecutors should not seek a waiver with respect" to such information except in "unusual circumstances." Id. Prosecutors have exercised care when evaluating the need for a waiver for opinion work product or attorney-client communications that were created after the events under investigation and involve self-evaluation activities, and should continue that practice so that companies are not discouraged from engaging in candid self-evaluation and assessing ways to improve corporate governance and compliance. Of course, there will be cases in which even information falling into these categories may be necessary. One example would be a case in which there is strong reason to believe that counsel's advice about the government's current investigation constitutes an obstruction of justice, though undoubtedly there will be others as well. Under the Thompson Memorandum, federal prosecutors retain the discretion in such circumstances to obtain relevant evidence by requesting waivers after the appropriate formal review process instituted by this additional guidance.

Yanes, Raul

Subject:	Accepted: Weekly Litigation Coordination Meeting
Location:	AG Small Conf Room 5228
Start:	Monday, September 12, 2005 4:00 PM
End:	Monday, September 12, 2005 5:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Yanes, Raul

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 09, 2005 12:14 PM
To: [redacted] (E-mail)
Cc: Bucholtz, Jeffrey (CIV)
Subject: Katrina Civil Liability Issues

[redacted],

Marc Kessleman at OMB reports that State has made some legislative suggestions to protect foreign volunteers helping with Katrina disaster relief from potential civil liability. I wanted to let you know that Jeff Bucholtz and I have been working on some suggestions of our own and, in fact, DOJ has formulated legislative language for WH that would amend the Volunteer Act and provide substantial additional protections for both domestic and foreign volunteers.

Marc suggested, and I agree, that we should try to coordinate our efforts and also see whether, perhaps, additional volunteer-related legislation beyond what we've already contemplated might be required. Could you put me in touch with the right person(s) in your shop?

Hope you are well and many thanks,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: ([redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

[redacted]@state.gov

From: [redacted]@state.gov
Sent: Friday, September 9, 2005 12:14 PM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: Katrina Civil Liability Issues

I will be out of the office until Monday September 12. I will check for e-mails periodically. If you need assistance, please call Marianne Hata at [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 09, 2005 12:16 PM
To: Bucholtz, Jeffrey (CIV)
Subject: FW: Katrina Civil Liability Issues

Jeff,

Marc also stated that he'd like you and me to consider thinking even more aggressively than we already have w/r/t Volunteer Act amendments. Do you have time this afternoon to talk over some ideas? Say 3pm?

NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 09, 2005 12:14 PM
To: [redacted] (E-mail)
Cc: Bucholtz, Jeffrey (CIV)
Subject: Katrina Civil Liability Issues

[redacted],

Marc Kessleman at OMB reports that State has made some legislative suggestions to protect foreign volunteers helping with Katrina disaster relief from potential civil liability. I wanted to let you know that Jeff Bucholtz and I have been working on some suggestions of our own and, in fact, DOJ has formulated legislative language for WH that would amend the Volunteer Act and provide substantial additional protections for both domestic and foreign volunteers.

Marc suggested, and I agree, that we should try to coordinate our efforts and also see whether, perhaps, additional volunteer-related legislation beyond what we've already contemplated might be required. Could you put me in touch with the right person(s) in your shop?

Hope you are well and many thanks,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Brett_C._Gerry@who.eop.gov

From: Brett_C._Gerry@who.eop.gov
Sent: Friday, September 9, 2005 12:43 PM
To: Gorsuch, Neil M
Subject: Please call me
Attachments: tmp.htm

. . . when you get this message. Thanks. [redacted]

. . . when you get this message. Thanks. [redacted]

[redacted]@state.gov

From: [redacted]@state.gov
Sent: Friday, September 09, 2005 1:26 PM
To: Gorsuch, Neil M
Cc: [redacted]@state.gov
Subject: Re: Katrina Civil Liability Issues

Thanks Neil. [redacted] will ask Deputy Legal Adviser Jim Thessin to let you know what we are doing [redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted] Legal) - [redacted]@state.gov>
CC: Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>
Sent: Fri Sep 09 12:14:14 2005
Subject: Katrina Civil Liability Issues

[redacted]

Marc Kessleman at OMB reports that State has made some legislative suggestions to protect foreign volunteers helping with Katrina disaster relief from potential civil liability. I wanted to let you know that Jeff Bucholtz and I have been working on some suggestions of our own and, in fact, DOJ has formulated legislative language for WH that would amend the Volunteer Act and provide substantial additional protections for both domestic and foreign volunteers.

Marc suggested, and I agree, that we should try to coordinate our efforts and also see whether, perhaps, additional volunteer-related legislation beyond what we've already contemplated might be required. Could you put me in touch with the right person(s) in your shop?

Hope you are well and many thanks,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Long, Linda E

Subject:	Updated: Prep Session for Sept 13 Deputies Meeting
Location:	Room 4111
Start:	Monday, September 12, 2005 5:00 PM
End:	Monday, September 12, 2005 5:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Long, Linda E
Required Attendees:	Mercer, Bill (ODAG); McAtamney, James A; Elwood, Courtney; Gorsuch, Neil M; Nichols, Carl (CIV); Rowan, Patrick; Marshall, C. Kevin; Monheim, Thomas; Cohn, Jonathan (CIV)

When: Monday, September 12, 2005 5:00 PM-5:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 4111

~~*~*~*~*~*~*~*~*~*

Attendees: Bill Mercer, James McAtamney, Courtney Elwood, Neil Gorsuch, Carl Nichols, Pat Rowan, Kevin Marshall, Tom Monheim, Jonathan Cohn
Topic: NSC DC Detainees - Uighurs Options Slides
POC: Linda Long x4-1904

[redacted]@state.gov

From: [redacted]@state.gov
Sent: Friday, September 09, 2005 2:00 PM
To: Gorsuch, Neil M
Cc: [redacted]@state.gov; [redacted]@state.gov
Subject: RE: Katrina Civil Liability Issues

[redacted] can give you the details of our proposal, which is set forth below. The proposal has three important elements: 1) the USG may substitute itself as party in any lawsuit against a donor; 2) the litigation would be under the FTCA; and 3) the AG could determine that the provision of such goods (but not services) was a discretionary function under the FTCA.

We are particularly interested in ensuring that any legislative relief from potential civil liability include coverage of commodities. This would protect foreign governments, for example, in a case where someone suffers harm from the use of their donations that may not in all cases conform to all USG safety standards.

[redacted]

SEC. XXX. GIFTS OF GOODS AND SERVICES.

(a) Acceptance and Provision of Goods and Services. Notwithstanding any other provision of law, the President may authorize any department or agency of the Government to accept gifts of goods or services from any individual, business, government or other organization and then provide such goods and services to support the response to and recovery from Hurricane Katrina.

(b) Liability.

(1) Upon certification by the Attorney General that gifts of goods or services were provided to the Government by an individual, business, government or other organization to support the response to and recovery from Hurricane Katrina, the United States may substitute itself as party defendant with respect to any third-party claim arising from the provision of such goods or services.

(2) Any third-party claim with respect to which the United States has substituted itself as a party defendant under paragraph (1) shall be subject to and considered under the provisions of Chapter 171 of Title 28, United States Code.

(3) Upon a determination by the Attorney General, the provision of goods shall be considered a discretionary function for the purposes of Section 2680(a) of Title 28, United States Code. Such determination shall be conclusive and not subject to judicial review.

(4) This subsection shall apply to any third-party claim arising from the provision of gifts of goods or services that were accepted by the Government on or after August 25, 2005 from an individual, business, government or other organization to support the response to and recovery from Hurricane Katrina.

(c) Definition. The term "goods" shall include but not be limited to commodities, equipment, supplies, and other material.

SECTIONAL ANALYSIS

In response to the devastation caused by Hurricane Katrina there has been an outpouring of generosity by individuals, businesses, governments, and other organizations. Gifts of goods and services from such groups represent a tremendous resource for the Government to use in responding to the aftermath of Katrina. Given the urgency of the situation, the President should have the discretion to authorize departments and agencies to not only accept such gifts but to apply them to response and recovery efforts in a timely manner. Further, the generosity of donors should not be deterred or penalized by subjecting them to potential litigation and claims. This section would allow the Government to take the place of such donors in any litigation arising from the provision of goods or services that the Government has accepted. Claims in which the Government opts to substitute itself for donors would be subject to the provisions of the Federal Tort Claims Act.

-----Original Message-----
From: [redacted] Legal)([redacted])
Sent: Friday, September 09, 2005 1:27 PM
To: Neil.Gorsuch@usdoj.gov
Cc: [redacted]
Subject: Re: Katrina Civil Liability Issues

Thanks Neil. [redacted] will ask [redacted] to let you know what we are doing [redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted] (Legal) <[redacted]@state.gov>
CC: Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>
Sent: Fri Sep 09 12:14:14 2005
Subject: Katrina Civil Liability Issues

[redacted]

Marc Kessleman at OMB reports that State has made some legislative suggestions to protect foreign volunteers helping with Katrina disaster relief from potential civil liability. I wanted to let you know that Jeff Bucholtz and I have been working on some suggestions of our own and, in fact, DOJ has formulated legislative language for WH that would amend the Volunteer Act and provide substantial additional protections for both domestic and foreign volunteers.

Marc suggested, and I agree, that we should try to coordinate our efforts and also see whether, perhaps, additional volunteer-related legislation beyond what we've already contemplated might be required. Could you put me in touch with the right person(s) in your shop?

Hope you are well and many thanks,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 9, 2005 2:24 PM
To: [redacted] (E-mail)
Subject: FW: healthcare volunteer liability
Attachments: Katrina latest healthcare emergency volunteer bill.wpd

[redacted] - Here's our current draft. HSC approved a version of this last year, but our new proposal reaches a bit further in (a) protecting healthcare emergency volunteers from liability for gross negligence, and (b) providing that foreign volunteers could be protected under certain circumstances, subject to regulatory control. HSC didn't consider either of these two issues last year, and they now support our approach in both respects. NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Sec. 1 – Short title.

This legislation may be cited as the "Healthcare Emergency Volunteer Protection Act of 2005."

Sec. 2 – Relief to Healthcare Emergency Volunteers

In title __, United States Code, add the following section:

"____. Healthcare Emergency Volunteers

(a) Liability of healthcare emergency volunteers

A healthcare emergency volunteer, as defined in this section, shall not be liable for harm caused by an act or omission of such volunteer within the scope of such volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency if --

(1) the harm was not caused by willful or criminal misconduct, reckless misconduct, or conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(2) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires the operator or the owner of the vehicle, craft, or vessel to --

(A) possess an operator's license; or

(B) maintain insurance.

(b) Limitation on punitive damages based on actions of healthcare emergency volunteers

(1) General rule

Punitive damages may not be awarded against a healthcare emergency volunteer in an action brought for harm based on an act or omission of such volunteer within the scope of such volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency, unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an act of such volunteer that constitutes willful or criminal misconduct or conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Nothing in this section creates or enlarges any cause of action for punitive damages or preempts or supersedes any federal or state law to the extent that such law would further

prohibit or limit an award of punitive damages.

(c) Liability of employer or partner of healthcare emergency volunteer

An employer or business partner of a healthcare emergency volunteer shall not be liable for any act or omission of such volunteer within the scope of the volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency.

(d) Liability of host or enabling person, entity, or organization

A person, entity, or organization, including a governmental entity or a healthcare facility, that works with, accepts services from, or opens its facilities to a healthcare emergency volunteer to enable such volunteer to render health or medical services in connection with a Declared Healthcare Emergency shall not be liable for any act or omission of such volunteer within the scope of the volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency.

(e) Liability of healthcare emergency volunteer for non-economic loss

(1) General rule

In any civil action against a healthcare emergency volunteer based on an act or omission of such volunteer within the scope of the volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency, the liability of such volunteer for non-economic loss shall be determined in accordance with this subsection.

(2) Amount of liability

(A) Each defendant who is a healthcare emergency volunteer shall be liable only for the amount of non-economic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with subparagraph (B)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(B) For purposes of determining the amount of non-economic loss allocated to a defendant who is a healthcare emergency volunteer under this section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant's harm.

(f) Construction

Nothing in this section shall be construed to abrogate or limit any protection that a volunteer, as defined in the Volunteer Protection Act, Pub. L. 105-19, 42 U.S.C. 14501-14505, may be entitled to under that Act.

(g) Supplemental Declaration

In the event of a Declared Healthcare Emergency as defined herein, the President, the Secretary of Health and Human Services, or the Secretary of Homeland Security may issue a Supplemental Declaration under this section.

(1) Temporal effect

Such Supplemental Declaration may provide that, for purposes of this section, such Declared Healthcare Emergency shall have such temporal effect as the President or the Secretary may deem necessary or appropriate to further the public interest, including providing that such Declared Healthcare Emergency shall have an effective date earlier than the date of the declaration or determination of such Declared Healthcare Emergency.
(2) Geographic and other conditions

Such Supplemental Declaration may provide that, for purposes of this section, such Declared Healthcare Emergency shall have such geographic or other conditions as the President or the Secretary may deem necessary or appropriate to further the public interest, including providing that "health care emergency volunteer" as defined herein shall include individuals who are properly licensed, certified, or authorized to provide health or medical services by the appropriate authorities of a foreign country, under such conditions as the Supplemental Declaration may prescribe.

(h) Definitions

For purposes of this section –

(1) "Declared Healthcare Emergency" means a public health emergency declared by the Secretary of Health and Human Services under 42 U.S.C. 247d; a determination by the Secretary of Homeland Security in accordance with 42 U.S.C. 300hh-11; or an emergency or disaster declaration under 42 U.S.C. 5191 or 42 U.S.C. 5170.

(2) "Healthcare emergency volunteer" means an individual who provides health or medical services or assistance in a location other than his or her usual place of business or practice, without expectation or receipt of compensation for his or her services, in connection with a Declared Healthcare Emergency, provided that such individual is properly licensed, certified, or authorized to provide health or medical services by the appropriate authorities of a State (as defined herein) or (if and to the extent specified in a Supplemental Declaration under this section) a foreign country.

(3) "Healthcare facility" means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile services platform or vehicle used for the provision of health or medical services.

(4) "Non-economic loss" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic

service), hedonic damages, injury to reputation, and all other non-pecuniary losses of any kind or nature.

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) "Compensation" means monetary or other compensation of any kind provided in exchange for an individual's services, but does not include reasonable reimbursement or allowance for expenses actually incurred by such individual.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 09, 2005 2:26 PM
To: Bucholtz, Jeffrey (CIV)
Subject: FW: Katrina Civil Liability Issues

If you get a chance, please take a look at this before 3. Also, State says Paul Figley (sp?) has been helpful and perhaps we should wrap him in too.

-----Original Message-----
From: [redacted]@state.gov [mailto[redacted]@state.gov]
Sent: Friday, September 09, 2005 2:00 PM
To: Gorsuch, Neil M
Cc: [redacted]@state.gov; [redacted]@state.gov
Subject: RE: Katrina Civil Liability Issues

[redacted] can give you the details of our proposal, which is set forth below. The proposal has three important elements: 1) the USG may substitute itself as party in any lawsuit against a donor; 2) the litigation would be under the FTCA; and 3) the AG could determine that the provision of such goods (but not services) was a discretionary function under the FTCA.

We are particularly interested in ensuring that any legislative relief from potential civil liability include coverage of commodities. This would protect foreign governments, for example, in a case where someone suffers harm from the use of their donations that may not in all cases conform to all USG safety standards.

[redacted]

SEC. XXX. GIFTS OF GOODS AND SERVICES.

(a) Acceptance and Provision of Goods and Services. Notwithstanding any other provision of law, the President may authorize any department or agency of the Government to accept gifts of goods or services from any individual, business, government or other organization and then provide such goods and services to support the response to and recovery from Hurricane Katrina.

(b) Liability.

(1) Upon certification by the Attorney General that gifts of goods or services were provided to the Government by an individual, business, government or other organization to support the response to and recovery from Hurricane Katrina, the United States may substitute itself as party defendant with respect to any third-party claim arising from the provision of such goods or services.

(2) Any third-party claim with respect to which the United States has substituted itself as a party defendant under paragraph (1) shall be subject to and considered under the provisions of Chapter 171 of Title 28, United States Code.

of Title 28, United States Code.

(3) Upon a determination by the Attorney General, the provision of goods shall be considered a discretionary function for the purposes of Section 2680(a) of Title 28, United States Code. Such determination shall be conclusive and not subject to judicial review.

(4) This subsection shall apply to any third-party claim arising from the provision of gifts of goods or services that were accepted by the Government on or after August 25, 2005 from an individual, business, government or other organization to support the response to and recovery from Hurricane Katrina.

(c) Definition. The term "goods" shall include but not be limited to commodities, equipment, supplies, and other material.

SECTIONAL ANALYSIS

In response to the devastation caused by Hurricane Katrina there has been an outpouring of generosity by individuals, businesses, governments, and other organizations. Gifts of goods and services from such groups represent a tremendous resource for the Government to use in responding to the aftermath of Katrina. Given the urgency of the situation, the President should have the discretion to authorize departments and agencies to not only accept such gifts but to apply them to response and recovery efforts in a timely manner. Further, the generosity of donors should not be deterred or penalized by subjecting them to potential litigation and claims. This section would allow the Government to take the place of such donors in any litigation arising from the provision of goods or services that the Government has accepted. Claims in which the Government opts to substitute itself for donors would be subject to the provisions of the Federal Tort Claims Act.

-----Original Message-----
From: [redacted] (Legal)([redacted])
Sent: Friday, September 09, 2005 1:27 PM
To: Neil.Gorsuch@usdoj.gov
Cc: [redacted]
Subject: Re: Katrina Civil Liability Issues

Thanks Neil. [redacted] will ask [redacted] to let you know what we are doing. [redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted] (Legal) <[redacted]@state.gov>
CC: Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>
Sent: Fri Sep 09 12:14:14 2005
Subject: Katrina Civil Liability Issues

[redacted]

Marc Kessleman at OMB reports that State has made some legislative suggestions to protect foreign volunteers helping with Katrina disaster relief from potential civil liability. I wanted to let you know that Jeff Bucholtz and I have been working on some suggestions of our own and, in fact, DOJ has formulated legislative language for WH that would amend the Volunteer Act and provide substantial

additional protections for both domestic and foreign volunteers.

Marc suggested, and I agree, that we should try to coordinate our efforts and also see whether, perhaps, additional volunteer-related legislation beyond what we've already contemplated might be required. Could you put me in touch with the right person(s) in your shop?

Hope you are well and many thanks,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

From: USDOJ- Office of Public Affairs
Sent: Friday, September 09, 2005 2:56 PM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE PADILLA DECISION:

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 9, 2005
WWW.USDOJ.GOV

AG
(202) 514-2007
TDD (202) 514-1888

STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE PADILLA DECISION:

"The Department of Justice is pleased that the Fourth Circuit Court of Appeals has reaffirmed the President's critical authority to detain enemy combatants who take up arms on behalf of al Qaeda and travel to the United States to kill innocent Americans. As the court noted today, the authority to detain enemy combatants like Jose Padilla plays an important role in protecting American citizens from the very kind of savage attack that took place almost four years ago to the day."

Additional background information:

Padilla Was Closely Associated with Al Qaeda and Trained and Worked Under Their Direction:

- After his release from prison in the United States in the early 1990's, Padilla traveled to Pakistan, Egypt, Saudi Arabia, and Afghanistan, taking the name Abdullah Al Muhajir.
- Padilla met with senior al Qaeda leaders, including Osama bin Laden lieutenant Abu Zubaydah, on several occasions while in Afghanistan and Pakistan in 2001 and 2002.
- At the direction of al Qaeda, Padilla received training from al Qaeda operatives, including how to wire explosive devices. Padilla also conducted research on construction of a uranium-enhanced explosive device at al Qaeda's safehouse in Lahore, Pakistan.
- Padilla discussed with senior al Qaeda operatives his involvement and participation in terrorist operations targeting the United States, including a plan to detonate a "radiological dispersal device" (or "dirty bomb") within the United States as well as other operations involving the detonation of explosive devices in hotel rooms and gas stations.
- Padilla was directed by al Qaeda members to return to the United States to explore and advance the conduct of further attacks against the United States on al Qaeda's behalf.

Multiple Intelligence Sources Separately Confirmed Padilla's Involvement in Planning Future Terrorist Attacks Against the United States with Al Qaeda Leaders. As the Supreme Court said in the unanimous *Quirin* decision, sustaining the constitutionality of military detention without regard to the combatants' citizenship: "[c]itizens who associate themselves with the military arm of the enemy government, and with its

DOJ_NMG_ 0147425

aid, guidance and direction enter this country bent on hostile acts are enemy belligerents within the meaning of the Hague Convention and the law of war."

The Detainment of Padilla by Authorities May Have Prevented the Escalation of His Plan for Further Terrorist Attacks. Padilla, a.k.a. Abdullah al Muhajir, was arrested on May 8, 2002 when he flew from Pakistan to Chicago O'Hare International Airport. That arrest disrupted the exploration of potential terrorist attacks on U.S. soil.

The President Determined that Padilla Poses a Threat to Americans. On Sunday, June 9, 2002, President Bush, acting as Commander in Chief, determined that Padilla is an enemy combatant who poses a serious and continuing threat to the American people and our national security. He was subsequently transferred from the custody of the Justice Department to the control of the Defense Department.

The Court of Appeals Today Held That:

- The President possesses the authority to "detain militarily a citizen of this country who is closely associated with al Qaeda, an entity with which the United States is at war, who took up arms on behalf of the enemy and against our country in a foreign combat zone of that war, and who thereafter traveled to the United States for the avowed purpose of further prosecuting that war on American soil, against American citizens and targets."

- "Padilla unquestionably qualifies as an 'enemy combatant' as that term was defined for purposes of the [Supreme Court's] controlling opinion in Hamdi."

- "Because, like Hamdi, Padilla is an enemy combatant, and because his detention is no less necessary than was Hamdi's in order to prevent his return to the battlefield, the President is authorized by the AUMF [Authorization for Use of Military Force Joint Resolution] to detain Padilla as a fundamental incident to the conduct of war."

- "Because the United States remains engaged in the conflict with al Qaeda in Afghanistan, Padilla's detention has not exceeded in duration that authorized by the AUMF."

- The Supreme Court's reasoning in Hamdi "simply does not admit of a distinction between an enemy combatant captured abroad and detained in the United States, such as Hamdi, and an enemy combatant who escaped capture abroad but was ultimately captured domestically and detained in the United States, such as Padilla."

- "We are convinced, in any event, that the availability of criminal process cannot be determinative of the power to detain, if for no other reason than that criminal prosecution may well not achieve the very purpose for which detention is authorized in the first place-the prevention of return to the field of battle."

###

05-467

DOJ_NMG_ 0147426

Image not available for this document, ID: 0.7.10316.67960-000001

Image not available for this document, ID: 0.7.10316.67960-000002

Garvey, Vincent (CIV)

From: Garvey, Vincent (CIV)
Sent: Friday, September 9, 2005 3:09 PM
To: Gorsuch, Neil M
Subject: Read: BRAC

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, September 9, 2005 3:15 PM
To: Gorsuch, Neil M
Subject: Call [redacted]

From: USDOJ- Office of Public Affairs
Sent: Friday, September 09, 2005 3:20 PM
To: USDOJ- Office of Public Affairs
Subject: DUTCH CITIZEN INDICTED IN TERRORISM CONSPIRACY AGAINST AMERICANS IN IRAQ

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 9, 2005
WWW.USDOJ.GOV

CRM
(202) 514-2007
TDD (202) 514-1888

DUTCH CITIZEN INDICTED IN TERRORISM CONSPIRACY AGAINST AMERICANS IN IRAQ

WASHINGTON, D.C. - An Iraqi-born Dutch citizen has been indicted by a grand jury in Washington, D.C. for allegedly participating in a conspiracy to attack Americans based in Iraq, Assistant Attorney Alice S. Fisher of the Criminal Division and U.S. Attorney Kenneth L. Wainstein of the District of Columbia announced today. These are the first U.S. criminal charges connected to terrorist activities in Iraq.

The indictment charges Wesam Al Delaema, a/k/a Wesam Khalaf Chayed Delaeme, with six counts: conspiracy to kill U.S. citizens abroad; conspiracy to use a weapon of mass destruction (explosives); conspiracy to maliciously damage or destroy U.S. government property by means of an explosive; possession of a destructive device (explosives) during a crime of violence; conspiracy to possess a destructive device (explosives) during a crime of violence; and teaching or demonstrating the making or use of an explosive with the intent to further a crime of violence. A criminal complaint had previously been filed against Delaema on July 27, 2005, charging four of these offenses.

Delaema, 32, was born in Fallujah, Iraq. He was arrested by Dutch law enforcement authorities on May 2, 2005 and was facing similar charges in that country. Since his arrest, Dutch law enforcement and prosecution authorities have worked cooperatively with the FBI in its investigation of Delaema's alleged terrorist activities. Following the filing of the U.S. criminal complaint against Delaema in July, the United States informed the Dutch authorities of its intention to request Delaema's extradition to face the charges filed here. Shortly thereafter, Dutch authorities announced that Delaema had been transferred into extradition custody in response to the request from the United States. The indictment returned today will now serve as the charges for which the United States will seek Delaema's extradition from the Netherlands.

The indictment alleges that Delaema traveled from the Netherlands to Iraq in October 2003 and met up with a group of co-conspirators calling themselves the "Mujahideen from Fallujah," who declared their intentions to kill Americans in Iraq using explosives. The indictment further alleges that Delaema and his co-conspirators hid explosives in a road in the area of Fallujah, Iraq.

DOJ_NMG_ 0147431

The investigation into this matter was conducted by the FBI's Washington Field Office, with assistance from the Dutch National Police Agency, the National Office of the Public Prosecutor in the Netherlands and the Office of International Affairs in the Criminal Division at the U.S. Department of Justice. The prosecutors handling the case are Justice Department Trial Attorney Gregg N. Sofer of the Counterterrorism Section and Assistant U.S. Attorney Gregg A. Maisel of the U.S. Attorney's Office for the District of Columbia.

If convicted on the charges filed in the criminal indictment filed today, Delaema faces a maximum sentence of life in prison.

An indictment is merely a formal charge that a defendant violated a criminal law. All defendants are presumed innocent until and unless proven guilty.

###

05-468

DOJ_NMG_ 0147432

Image not available for this document, ID: 0.7.10316.67953-000001

Image not available for this document, ID: 0.7.10316.67953-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 9, 2005 4:37 PM
To: Reyes, Luis (SMO)
Subject: RE: DOJ Symposium on EEO and Diversity

Good luck!!

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 09, 2005 4:36 PM
To: Gorsuch, Neil M
Subject: Fw: DOJ Symposium on EEO and Diversity

Fyi. Let's you and I discuss this one Monday.

Sitting in WW lobby waiting.

-----Original Message-----
From: Corts, Paul R <Paul.R.Corts@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Sep 09 16:31:50 2005
Subject: Re: DOJ Symposium on EEO and Diversity

I suggest I be the back up, and we continue to hope that Robert will be able to make it. Let's leave his name on the program, and if he just can't make it, I'll fill in and offer explanation and apologies. I think that if Robert can't make it at the appointed time but could get there a little late, we can have some flexibility to accommodate his schedule - even if I start filling in for him and he arrives, his presence and a few comments would still be terrific.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Corts, Paul R <Paul.R.Corts@SMOJMD.USDOJ.gov>
Sent: Fri Sep 09 11:01:11 2005
Subject: RE: DOJ Symposium on EEO and Diversity

Definitely know where you are coming from. It may be that Robert has to meet with the President of an Equatorial Guinea at that time. That is our current potential conflict. Query, would a few words from the Counsel to the DAG on these issues, Wendell Taylor, be adequate representation of Leadership. Wendell has traveled on behalf of DOJ in our recruitment efforts. I certainly would not put him above

Wendell has traveled on behalf of DOJ in our recruitment efforts. I certainly would not put him above you on the depth chart, but am curious to get your thoughts since Wendell is in the DAG's office.

-----Original Message-----
From: Corts, Paul R
Sent: Friday, September 09, 2005 10:11 AM
To: Reyes, Luis (SMO)
Subject: Re: DOJ Symposium on EEO and Diversity

Yes - I'll be there and could do that for him. Hope it works out for Robert to be able to do this for us. I really want a show of leadership support to this group - very important statement.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Corts, Paul R <Paul.R.Corts@SMOJMD.USDOJ.gov>
Sent: Thu Sep 08 15:33:15 2005
Subject: FW: DOJ Symposium on EEO and Diversity

Paul,

If Robert is not able to deliver remarks at the lunch, would you be able to on the AG's behalf? It is not for certain that Robert will not be available (and I would let you know posthaste), but I wanted to check with you. Please just let me know. Thanks.

-----Original Message-----
From: McBurrows, Ted
Sent: Thursday, September 08, 2005 2:04 PM
To: Reyes, Luis (SMO); Rosario, Anna M; Williams, Marcus (EEO)
Cc: Gunn, Currie (SMO)
Subject: RE: DOJ Symposium on EEO and Diversity

Luis, with all due respect to Lou, we need to have someone at a higher level who represents Departmental leadership as the speaker. As you can see from the draft agenda attached, this luncheon will follow an executive panel discussion involving the heads of our major operating bureaus, most of whom have confirmed their participation. I think the appropriate persons to follow this type of discussion and talk about the Department's perspective would be the Attorney General (who was invited, but not available) or the Associate or Deputy Attorney General. Additionally, as an aside, the vast majority of attendees are from field offices around the country and are not attorneys. We can discuss at your convenience.

Ted McBurrows
Director EEO Staff
US Department of Justice
[redacted]

-----Original Message-----
From: Reyes, Luis (SMO)

Sent: Thursday, September 08, 2005 10:15 AM
To: McBurrows, Ted; Rosario, Anna M; Williams, Marcus (EEO)
Cc: Gunn, Currie (SMO)
Subject: DOJ Symposium on EEO and Diversity

Ted, Anna, Marcus: I am working on determining the Associate's availability for the luncheon. Do we have a draft agenda for the day? Also, do you have a backup speaker (may be Lou Defalaise?) in case we determine that the Associate/Acting Deputy is not available? (I will let you know one way or the other imminently) Thanks.

Moschella, William

From:	Moschella, William
Sent:	Friday, September 9, 2005 4:48 PM
To:	Hertling, Richard; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Cc:	Clinger, James H
Subject:	FW: Volunteer Protection
Attachments:	SENSEN_068_XML.PDF

This may be introduced next week by Chairman Sensenbrenner.

[DISCUSSION DRAFT]

109TH CONGRESS
1ST SESSION

H. R. _____

To protect volunteers assisting the victims of Hurricane Katrina.

IN THE HOUSE OF REPRESENTATIVES

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on _____

A BILL

To protect volunteers assisting the victims of Hurricane Katrina.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Katrina Volunteer Protection Act of 2005''.

SEC. 2. PROTECTION OF VOLUNTEERS.

(a) QUALIFIED IMMUNITY FROM SUIT.—Any person or entity that, in response to harm caused by Hurricane Katrina of 2005, voluntarily, in good faith, and without

a preexisting duty or expectation of compensation, renders aid, medical treatment, or rescue assistance to any person, shall not be liable for injuries alleged to have been sustained by such person or entity unless the alleged injuries were caused by willful, wanton, or reckless conduct on the part of the volunteer.

(b) PREEMPTION.—This Act preempts the laws of a State to the the extent such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability relating to volunteers.

[redacted]@wso.whs.mil

From: [redacted]@wso.whs.mil
Sent: Friday, September 09, 2005 4:55 PM
To: Gorsuch, Neil M; brett_c._gerry@who.eop.gov
Cc: [redacted]@wso.whs.mil; [redacted]@wso.whs.mil
Subject: Errata
Attachments: tmp.htm; Changes2.pdf; Changes.pdf

Brett, Neil -

Per conversation, here is today's errata sheet:

<<Changes2.pdf>>
Also on the Commission website at
http://www.brac.gov/docs/final/Changes2.pdf
<http://www.brac.gov/docs/final/Changes2.pdf> .

Here is yesterday's errata sheet:

<<Changes.pdf>>
Also on the web at http://www.brac.gov/docs/final/Changes.pdf <http://www.brac.gov/docs/final/Changes.pdf> .

I've cc'd [redacted]

V/R

[redacted]
Deputy General Counsel and Designated Federal Officer 2005 Defense Base Closure and Realignment Commission 2521 South Clark Street
[redacted]
Arlington Virginia 22202-3920
[redacted]
Fax 703 699-2735
[redacted]@wso.whs.mil
www.brac.gov <www.brac.gov>

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION
2521 South Clark Street, Suite 600
Arlington, VA 22202
Telephone: 703-699-2950

September 8, 2005

The following administrative changes were made to the 2005 Base Closure and Realignment Report following the printing of the hard bound and CD-ROM versions of the report. The electronic versions of the report on the www.brac.gov web site and three ring binder versions of the Report reflect the changes detailed below.

Page 335, chart, 2nd row, 2nd column. Changed from "Army, 12 major closures, $170,180,00;" to, "Army, 12 major closures, $170,180,000;"

Page Q-92, line 32. Added the motion number "186." to precede the wording, "CREATE AN INTEGRATED WEAPONS & ARMAMENTS SPECIALTY SITE FOR GUNS AND AMMUNITION (TECH 19)"

Page R-13, paragraph (3). Changed from, "After June 30, 2011, the Commission shall promptly provide, upon request, to any Member of Congress information used by the Commission in making its recommendations." to "After June 30, 2015, the Commission shall promptly provide, upon request, to any Member of Congress information used by the Commission in making its recommendations."

Chairman: [redacted]
Commissioners: [redacted]
Executive Director: [redacted]

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION
2521 South Clark Street, Suite 600
Arlington, VA 22202
Telephone: 703-699-2950

September 9, 2005

The following are corrections to the 2005 Base Closure and Realignment Report. The electronic versions of the report posted here at www.brac.gov will be corrected to reflect these changes.

Page 12, line 15, replace "substantially deviated from final selection criteria 1, 2 and 5" with "substantially deviated from final selection criteria 1, 2, 3, 4, 5 and 7"

Page 129, line 24; page Q-38, Recommendation 90, paragraph a, and; page Q-39, footnote 113, replace "Establish 18 PAA F-16 aircraft at the 183d Fighter Wing, Fort Wayne International Airport Air Guard Station, IN" with "Establish 18 PAA F-16 aircraft at the 122d Fighter Wing, Fort Wayne International Airport Air Guard Station, IN."

Chairman: [redacted]
Commissioners: [redacted]
Executive Director: [redacted]

Brett, Neil -

Per conversation, here is today's errata sheet:

<<Changes2.pdf>>
Also on the Commission website at http://www.brac.gov/docs/final/Changes2.pdf.

Here is yesterday's errata sheet:

<<Changes.pdf>>
Also on the web at http://www.brac.gov/docs/final/Changes.pdf.

I've cc'd [redacted]

V/R

[redacted]
2005 Defense Base Closure and Realignment Commission
2521 South Clark Street
[redacted]
[redacted]@wso.whs.mil
www.brac.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 09, 2005 5:30 PM
To: Brett Gerry (E-mail)
Subject: BRAC transmittal language
Attachments: BRAC.Insert.wpd; HTB.Insert.wpd

Here is some language we developed today for transmitting the report--

Obviously, we prepared this before the "errata" sheets. I will confer internally and see whether and what changes we might propose.

And, for your amusement only, here is what might have been ... (do not circulate)

I am also in receipt of a letter from Chairman Principi, dated September 8, 2005, regarding a district court injunction then in effect relating to the Bradley International Airport Air Guard Station in Windsor Locks, Connecticut. Chairman Principi's letter *indicates*~~states~~ that *the Commission did not meet or take any action to modify its report in response to the injunction, but that, during and by virtue of the effectiveness of the injunction*, ~~as a result of that injunction,~~ "you should consider the portion of Recommendation 85 * * * that recommends realignment of the Connecticut 103rd Fighter Wing withdrawn from the Commission's report." The chairman's letter further states that "[i]f the court's injunction is later vacated, reversed, stayed, or otherwise withdrawn, it is the intent of the Commission that the entirety of the recommendation be a part of the Commission's report * * * ." On September 9, 2005, the United States Court of Appeals for the Second Circuit granted a stay of the district court's injunction. Accordingly, Recommendation 85 in its entirety is part of the Commission's report, and I approve the Commission's recommendations, including Recommendation 85, in their entirety.

I am also in receipt of a letter from Chairman Principi, dated September 8, 2005, regarding a district court injunction then in effect relating to the Bradley International Airport Air Guard Station in Windsor Locks, Connecticut. Chairman Principi 's letter states that, as a result of that injunction, "you should consider the portion of Recommendation 85 * * * that recommends realignment of the Connecticut 103rd Fighter Wing withdrawn from the Commission's report." The chairman's letter further states that "[i]f the court's injunction is later vacated, reversed, stayed, or otherwise withdrawn, it is the intent of the Commission that the entirety of the recommendation be a part of the Commission 's report * * * ." On September 9, 2005, the United States Court of Appeals for the Second Circuit granted a stay of the district court's injunction. Accordingly, Recommendation 85 in its entirety is part of the Commission 's report, and I approve the Commission's recommendations, including Recommendation 85, in their entirety.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 9, 2005 5:45 PM
To: Brett Gerry (E-mail)
Subject: CT Won't Seek Relief Today
Importance: High

And indicates that it will make a final decision Monday.

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Friday, September 09, 2005 5:47 PM
To: Gorsuch, Neil M
Subject: Read: BRAC

Moschella, William

From: Moschella, William
Sent: Friday, September 09, 2005 6:46 PM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Subject: RE: Volunteer Protection

I would like some guidance from the WH. They are keeping us on tight reins with regard to Katrina related legislation.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 09, 2005 5:47 PM
To: Moschella, William; Bucholtz, Jeffrey (CIV)
Subject: RE: Volunteer Protection

Shouldn't we also let them know that we're working on a more comprehensive piece of legislation?

-----Original Message-----
From: Moschella, William
Sent: Friday, September 09, 2005 5:45 PM
To: Bucholtz, Jeffrey (CIV)
Cc: Gorsuch, Neil M
Subject: RE: Volunteer Protection

just put the concerns on their radar. We can talk next week.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Friday, September 09, 2005 5:09 PM
To: Moschella, William
Cc: Gorsuch, Neil M
Subject: RE: Volunteer Protection

Sure, but with what goal in mind? It would be easy enough for me to give what would amount to drafting advice to fix this bill -- change "qualified immunity" to something else, e.g., "liability protection," and delete the words "good faith" -- but while we're working on competing bills that haven't been transmitted to the Hill yet but that, I assume, we'll want to push rather than this one, what would I be trying to accomplish?

-----Original Message-----
From: Moschella, William
Sent: Friday, September 09, 2005 5:05 PM
To: Bucholtz, Jeffrey (CIV)
Subject: RE: Volunteer Protection

Subject: RE: Volunteer Protection

would you have some time to explain this to house staff today on the phone?

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Friday, September 09, 2005 4:59 PM
To: Gorsuch, Neil M; Moschella, William; Hertling, Richard
Cc: Clinger, James H; McCallum, Robert (SMO); Keisler, Peter D. (CIV);
Brand, Rachel; Ansell, Frederick
Subject: RE: Volunteer Protection

All: Like Neil, I don't quarrel with the idea behind this bill. But apart from its breadth, it's a bad idea to use the term qualified immunity and a worse idea to make the immunity turn on the person's "good faith." QI is a term of art that has a different meaning than what seems intended here, and it would be confusing and serve no purpose to use it as the label for the liability protection this bill provides. "Good faith" is a subjective mental state and thus almost never susceptible to determination at the pleading stage. QI, in the constitutional tort context, used to turn on good faith. It worked badly, because plaintiffs simply alleged bad faith and got past a motion to dismiss and into discovery. Now, thankfully, QI law has been repaired by the SCt and is objective rather than subjective. To reintroduce subjective good/bad faith as the touchstone for immunity is a terrible idea.

The bill we worked up a bill the other day provides liability protection to healthcare emergency volunteers. The revised, or alternative, bill we're now working on would be very similar but would apply to any volunteer providing services in a national emergency, not only to volunteers providing health and medical services.

Jeff

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 09, 2005 4:57 PM
To: Moschella, William; Hertling, Richard; Bucholtz, Jeffrey (CIV)
Cc: Clinger, James H; McCallum, Robert (SMO)
Subject: RE: Volunteer Protection

Thanks for the heads up. It is definitely in the spirit of our proposal though sweepingly broad. You should know that WH/OMB has informed us that State and others have submitted volunteer-related legislative proposals, but OMB/WH seems to like ours and has asked us to lead and coordinate efforts. To that end, Jeff and I had a conf call with State today and will be working up a revised bill early next week. - NMG

-----Original Message-----
From: Moschella, William
Sent: Friday, September 09, 2005 4:48 PM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M

Cc: Clinger, James H
Subject: FW: Volunteer Protection

This may be introduced next week by Chairman Sensenbrenner.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 9, 2005 6:47 PM
To: Moschella, William; Bucholtz, Jeffrey (CIV)
Subject: RE: Volunteer Protection

Do you want to call or shall I? Don't know the Leg Affairs folks, but Allyson Ho at DPC seems to be coordinating efforts, along with Marc Kesselman at OMB.

-----Original Message-----
From: Moschella, William
Sent: Friday, September 09, 2005 6:46 PM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Subject: RE: Volunteer Protection

I would like some guidance from the WH. They are keeping us on tight reins with regard to Katrina related legislation.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 09, 2005 5:47 PM
To: Moschella, William; Bucholtz, Jeffrey (CIV)
Subject: RE: Volunteer Protection

Shouldn't we also let them know that we're working on a more comprehensive piece of legislation?

-----Original Message-----
From: Moschella, William
Sent: Friday, September 09, 2005 5:45 PM
To: Bucholtz, Jeffrey (CIV)
Cc: Gorsuch, Neil M
Subject: RE: Volunteer Protection

just put the concerns on their radar. We can talk next week.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Friday, September 09, 2005 5:09 PM
To: Moschella, William
Cc: Gorsuch, Neil M
Subject: RE: Volunteer Protection

Sure, but with what goal in mind? It would be easy enough for me to give what would amount to

sure, but with what goal in mind? It would be easy enough for me to give what would amount to drafting advice to fix this bill -- change "qualified immunity" to something else, e.g., "liability protection," and delete the words "good faith" -- but while we're working on competing bills that haven't been transmitted to the Hill yet but that, I assume, we'll want to push rather than this one, what would I be trying to accomplish?

-----Original Message-----
From: Moschella, William
Sent: Friday, September 09, 2005 5:05 PM
To: Bucholtz, Jeffrey (CIV)
Subject: RE: Volunteer Protection

would you have some time to explain this to house staff today on the phone?

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Friday, September 09, 2005 4:59 PM
To: Gorsuch, Neil M; Moschella, William; Hertling, Richard
Cc: Clinger, James H; McCallum, Robert (SMO); Keisler, Peter D. (CIV); Brand, Rachel; Ansell, Frederick
Subject: RE: Volunteer Protection

All: Like Neil, I don't quarrel with the idea behind this bill. But apart from its breadth, it's a bad idea to use the term qualified immunity and a worse idea to make the immunity turn on the person's "good faith." QI is a term of art that has a different meaning than what seems intended here, and it would be confusing and serve no purpose to use it as the label for the liability protection this bill provides. "Good faith" is a subjective mental state and thus almost never susceptible to determination at the pleading stage. QI, in the constitutional tort context, used to turn on good faith. It worked badly, because plaintiffs simply alleged bad faith and got past a motion to dismiss and into discovery. Now, thankfully, QI law has been repaired by the SCt and is objective rather than subjective. To reintroduce subjective good/bad faith as the touchstone for immunity is a terrible idea.

The bill we worked up a bill the other day provides liability protection to healthcare emergency volunteers. The revised, or alternative, bill we're now working on would be very similar but would apply to any volunteer providing services in a national emergency, not only to volunteers providing health and medical services.

Jeff

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 09, 2005 4:57 PM
To: Moschella, William; Hertling, Richard; Bucholtz, Jeffrey (CIV)
Cc: Clinger, James H; McCallum, Robert (SMO)
Subject: RE: Volunteer Protection

Thanks for the heads up. It is definitely in the spirit of our proposal though sweepingly broad. You should know that WH/OMB has informed us that State and others have submitted volunteer-related legislative proposals, but OMB/WH seems to like ours and has asked us to lead and coordinate efforts. To that end, Jeff and I had a conf call with State today and will be working up a revised bill early next week. - NMG

-----Original Message-----
From: Moschella, William
Sent: Friday, September 09, 2005 4:48 PM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Cc: Clinger, James H
Subject: FW: Volunteer Protection

This may be introduced next week by Chairman Sensenbrenner.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 09, 2005 8:30 PM
To: Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Saturday, September 10, 2005 9:39 AM
To: Gorsuch, Neil M
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Sep 09 20:29:53 2005
Subject:

Rajeev_V._Venkayya@who.eop.gov

From: Rajeev_V._Venkayya@who.eop.gov
Sent: Saturday, September 10, 2005 10:49 AM
To: Gorsuch, Neil M
Subject: Fw: healthcare worker liability

Neil- Meant to copy you on this. Let me know if you have additional information. Thanks. -Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
To: 'William.Moschella@usdoj.gov' <William.Moschella@usdoj.gov>
Sent: Sat Sep 10 10:42:32 2005
Subject: Re: healthcare worker liability

I'd like to follow up with OMB to ensure that this moves forward. Did it go to them on Wed? If so, can you tell me who your POC is there?

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>
To: Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>; Robert.McCallum@usdoj.gov <Robert.McCallum@usdoj.gov>; Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>; Rachel.Brand@usdoj.gov <Rachel.Brand@usdoj.gov>; Peter.D.Keisler@usdoj.gov <Peter.D.Keisler@usdoj.gov>; Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>; DL-HSC-CHEM-BIO <DL-HSC-CHEM-BIO@eopds.eop.gov>; Leggitt, Lance B. <Lance_B._Leggitt@who.eop.gov>; Mitnick, John M.

op.gov>; Leggitt, Lance B. <Lance_B._Leggitt@who.eop.gov>; Mitnick, John M.
<John_M._Mitnick@who.eop.gov>
Sent: Wed Sep 07 09:06:45 2005
Subject: RE: healthcare worker liability

For timing purposes, DOJ is putting this provision into final legislative form with a section-by-section analysis. We hope to submit it to OMB by COB today after a very short internal circulation.

We have already provided to OMB (last night) a package of Katrina related proposals on other subjects.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Wednesday, September 07, 2005 12:07 AM
To: Christopher_W._Frech@who.eop.gov
Cc: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); Moschella, William; McCallum, Robert (SMO); Hertling, Richard; Brand, Rachel; Keisler, Peter D. (CIV); Gorsuch, Neil M; DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov; John_M._Mitnick@who.eop.gov
Subject: FW: healthcare worker liability

Chris,

As the events of the past week unfolded, it once again became clear that we need to address the issue of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the Hill. I ran a working group on the subject last year, and we took an option of amendment of the Volunteer Protection Act all the way to Deputies and received approval. There was a desire to fold it into the MedMal legislation, and not much happened after that.

DOJ was extremely helpful in the original assessment of this issue, and provided legislative language to address the problem at that time. I contacted them today and asked them to update documents that they had prepared in Nov 2004, and they provided the attached revision.

DOJ just informed me that they plan to formally submit this to OLA tomorrow to be considered as part of a broader legislative package. I will leave it to them to officially transmit that language, but I wanted you to know that this approach has already been vetted by the HSC Deputies Committee, and we fully support it. Please let me know if I can provide you with any additional background information. Thanks.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, September 06, 2005 3:24 PM
To: Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; DL-HSC-CHEM-BIO; Leggitt, Lance B.
Subject: RE: healthcare worker liability

Rajeev,

I think the "Emergency Health Freestanding Section" document is a sound approach and would resolve many of the problems we have had this week. In the attached version I have added two passages, neither of which is essential but might prove helpful later on.

The first change is to add the bolded language in paragraph (a):

the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction (including foreign countries) to provide such healthcare.

This is consistent with the discussions we had last year that a Canadian doctor who helped out at 9/11 should receive the same protection as a Massachusetts doctor. Explicitly mentioning foreign countries may make it easier to recruit foreign health care volunteers.

The second change is to add the bolded language in the next sentence:

Subsection (b) of section 3 and subsections (c) and (d) of section 4 of such chapter (42 U.S.C. § § 14502(b) and 14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

This change addresses the opt-out language of the VPA. 42 U.S.C. § 14502(b) provides that the VPA's protections do not apply if a state has specifically elected to make the VPA inapplicable. This change would remove the opt-out option for declared national emergencies. We have researched Louisiana or Mississippi law on the issue, and it does not appear that either has enacted such legislation. It would probably expedite relief efforts in future catatrosphes if the opt-out question were taken off the table. I don't know whether the issue is worth including in emergency legislation.

One other small matter. The "Emergency Health Freestanding Section" document contains the language, "for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), ... and subsections (c) and (d) of section 4 of such chapter ...." I have not found the reference that section 4 is Section 14503; but, relying on it I have referred to the previous section (14502) as "section 3."

Please call if I can be of further assistance.

Paul

-----Original Message-----

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Saturday, September 10, 2005 11:35 AM
To: Gorsuch, Neil M; Keisler, Peter D. (CIV)
Subject: pandemic vaccine bill

Peter, Neil: Rajeev is asking us to draft a bill on pandemic vaccine liability, including a compensation program. I've left a message for Rajeev to try to get guidance on what the WH wants such a bill to do (should there be a carve-out to the liability protection, if so who should be able to sue within the carve-out, if it's the US where does the money go, etc.). What I'd like to do is ask Paul Figley to draft something, and then we and OLP and others can review it. Unlike the healthcare emergency volunteer bill, this one will not be simple to draft, since there's no ready model for the liability protection side of it. I think it would be realistic to shoot for getting something to the WH by the end of the week.

Peter, maybe we can talk at or right before or after our 9am meeting on Mon. about the unresolved issues for this bill.

Neil, maybe we can then talk about this at the end of our 230pm meeting re: Katrina legislation.

If you want to reach me to talk about this, I'll be in the office most of the day today.

Thanks,
Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Saturday, September 10, 2005 10:47 AM
To: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV);
Lawrence_D._Kerr@who.eop.gov
Cc: Sharon_I._Wells@who.eop.gov
Subject: Re: Redraft of Appendix D

Jeff and Paul,

OMB has suggested that we move quickly to draft legislation on the pandemic vaccine issue. Would you be able to put together a package, with a compensation option, in the near future? I'd like to take something to OLA in the near future. Let me know your thoughts. Thanks.

Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council

White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>
To: Kerr, Larry <Lawrence_D._Kerr@who.eop.gov>; Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Wells, Sharon I. <Sharon_I._Wells@who.eop.gov>
Sent: Tue Aug 30 16:24:50 2005
Subject: RE: Redraft of Appendix D

Yes, I can attend. 830am in room 208?

-----Original Message-----
From: Lawrence_D._Kerr@who.eop.gov [mailto:Lawrence_D._Kerr@who.eop.gov]
Sent: Tuesday, August 30, 2005 4:03 PM
To: Figley, Paul (CIV); Rajeev_V._Venkayya@who.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Sharon_I._Wells@who.eop.gov
Subject: RE: Redraft of Appendix D
Importance: High

Thank you very much Paul - we'll incorporate it into the DC read-ahead package.

Will it be possible for either you or Jeff to accompany Mr. McAtamney to the HSC Deputies Committee meeting on Thursday to aid in presenting the liability paper? We are certain that they will keep that to principal plus one.

Many thanks,

Larry

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, August 30, 2005 3:43 PM
To: Kerr, Larry; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov
Subject: Redraft of Appendix D

Rajeev & Larry,

Here is a version of Appendix D which Jeff Bucholtz and I have shortened.

Paul

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Saturday, September 10, 2005 3:25 PM
To: Rajeev_V._Venkayya@who.eop.gov
Cc: Lance_B._Leggitt@who.eop.gov; Lawrence_D._Kerr@who.eop.gov; Sharon_I._Wells@who.eop.gov; Norris_W._Cochran@omb.eop.gov; [redacted]@hhs.gov; Gorsuch, Neil M
Subject: RE: Vaccine liability package

Thanks, Rajeev. That makes sense. We won't wait for that call to begin our work on a bill, but I'll look forward to the call and then being able to turn to the drafting in earnest once we have a clearer idea of what to draft.

I'm not sure of the answer to your question about volunteer healthcare liability protection. I know various folks within DOJ were working on various things as part of a Katrina-related package, but I'm not sure of the status of it. I'll check on it and let you know.

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Saturday, September 10, 2005 2:42 PM
To: Bucholtz, Jeffrey (CIV)
Cc: Lance_B._Leggitt@who.eop.gov; Lawrence_D._Kerr@who.eop.gov;
Sharon_I._Wells@who.eop.gov; Norris_W._Cochran@omb.eop.gov;
[redacted]@hhs.gov
Subject: Vaccine liability package

Jeff,

Thanks for the note. Some of this will be predicated on what the manufacturers view as a sufficient shield. We'll set up a call with our liability working group early in the week to discuss that, as well as the strategy around compensation.

On the volunteer healthcare worker liability issue, do you know whether a package went to OMB on Wed?

Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council

vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>
To: Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
Sent: Sat Sep 10 12:44:49 2005
Subject: RE: Redraft of Appendix D

Rajeev: I left you a voicemail a little while ago, but in case you get this e-mail first, yes, of course DOJ would be happy to put something together. I'd like to talk to you to get some more guidance, though, because as far as I know there still are some unresolved issues (e.g., whether to carve out claims for willful misconduct and the like from the liability protection, if so whether injured persons could sue within that carve-out or only the US, if only the US where the money goes) and I want to make sure that we prepare a bill that does what the WH wants. Thanks,

Jeff

PS I hope you're not around today, but if you are, feel free to call me at the office at 514-3045 up til 6pm or so.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Saturday, September 10, 2005 10:47 AM
To: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV);
Lawrence_D._Kerr@who.eop.gov
Cc: Sharon_I._Wells@who.eop.gov
Subject: Re: Redraft of Appendix D

Jeff and Paul,

OMB has suggested that we move quickly to draft legislation on the pandemic vaccine issue. Would you be able to put together a package, with a compensation option, in the near future? I'd like to take something to OLA in the near future. Let me know your thoughts. Thanks.

Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>
To: Kerr, Larry <Lawrence_D._Kerr@who.eop.gov>; Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Wells, Sharon I. <Sharon_I._Wells@who.eop.gov>
Sent: Tue Aug 30 16:24:50 2005
Subject: RE: Redraft of Appendix D

Yes, I can attend. 830am in room 208?

-----Original Message-----
From: Lawrence_D._Kerr@who.eop.gov [mailto:Lawrence_D._Kerr@who.eop.gov]
Sent: Tuesday, August 30, 2005 4:03 PM
To: Figley, Paul (CIV); Rajeev_V._Venkayya@who.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Sharon_I._Wells@who.eop.gov
Subject: RE: Redraft of Appendix D
Importance: High

Thank you very much Paul - we'll incorporate it into the DC read-ahead package.

Will it be possible for either you or Jeff to accompany Mr. McAtamney to the HSC Deputies Committee meeting on Thursday to aid in presenting the liability paper? We are certain that they will keep that to principal plus one.

Many thanks,

Larry

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, August 30, 2005 3:43 PM
To: Kerr, Larry; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov
Subject: Redraft of Appendix D

Rajeev & Larry,

Here is a version of Appendix D which Jeff Bucholtz and I have shortened.

Paul

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Saturday, September 10, 2005 6:08 PM
To: Gorsuch, Neil M; Figley, Paul (CIV)
Subject: State Dept proposal - FSIA issues

Neil and Paul: I spoke to Sharon Swingle in Civ Appellate and Rupa Bhattacharyya in Fed Programs, two of our FSIA experts. Both thought that the commercial activity exception probably would not apply to the donation of goods, though both thought that that answer wasn't guaranteed. But both thought that the tortious activity exception probably would apply. So the bottom line is that State is justified in its concern that foreign govts might be subject to suit here if they donate goods. Both thought it would be simple enough to draft an amendment to the FSIA to avoid that result, but understood why State was unwilling to suggest opening up the FSIA on the Hill.

As for providing VPA-like protection in a non-FSIA bill, they pointed out that unless we amend the jurisdictional provisions of the FSIA, the foreign govts will be subject to suit here, even if our liability protection bill means that they're likely to win at the end of the day. Because foreign govts don't like having to defend suits here, Sharon and Rupa questioned whether barring liability under most circumstances but not limiting jurisdiction over them would satisfy them. Fair point, but limiting liability is a lot better than nothing, and I would think that if we proposed a bill relating to jurisdiction over foreign govts, it would take about a nanosecond for everyone to figure out we were effectively trying to amend the FSIA. And we can't very well hide the foreign-govt issue by proposing a bill that strips jurisdiction over suits against all govts, including domestic local ones, because that would be crazy. So I think we're stuck where we left this discussion yesterday -- a section relating to liability of govts for donated goods in our national emergency volunteer bill. I'll circulate same on Mon.

Jeff

Fisher, Alice

From: Fisher, Alice
Sent: Saturday, September 10, 2005 6:34 PM
To: Gorsuch, Neil M

I have to cancel lunch on monday. Let me know if you have another day free ----------
Sent from my BlackBerry Wireless Handheld

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Saturday, September 10, 2005 6:39 PM
To: Gorsuch, Neil M
Subject: revised healthcare emergency volunteer bill language

Neil: Does this do the trick?

Jeff

(2) "Healthcare emergency volunteer" means an individual who provides health or medical services or assistance in connection with a Declared Healthcare Emergency, in a location other than his or her usual place of business or practice and without expectation or receipt of compensation for such services or assistance, provided that such individual is properly licensed, certified, or authorized to provide health or medical services by the appropriate authorities of a State (as defined herein) or (if and to the extent specified in a Supplemental Declaration under this section) a foreign country.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, September 11, 2005 11:59 AM
To: Gorsuch, Neil M
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 10 09:38:33 2005
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Sep 09 20:29:53 2005
Subject:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, September 11, 2005 12:05 PM
To: Bucholtz, Jeffrey (CIV); Figley, Paul (CIV)
Subject: Re: State Dept proposal - FSIA issues

I agree with Jeff's analysis. The perfect shouldn't be the enemy of the good here: liability protection should be enough to satisfy State. Note that State's initial proposal talked of holding USG liable for foreign govt donations under the ftca, not limiting jurisdiction over such claims.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Figley, Paul (CIV) <PFigley@CIV.USDOJ.GOV>
Sent: Sat Sep 10 18:07:54 2005
Subject: State Dept proposal - FSIA issues

Neil and Paul: I spoke to Sharon Swingle in Civ Appellate and Rupa Bhattacharyya in Fed Programs, two of our FSIA experts. Both thought that the commercial activity exception probably would not apply to the donation of goods, though both thought that that answer wasn't guaranteed. But both thought that the tortious activity exception probably would apply. So the bottom line is that State is justified in its concern that foreign govts might be subject to suit here if they donate goods. Both thought it would be simple enough to draft an amendment to the FSIA to avoid that result, but understood why State was unwilling to suggest opening up the FSIA on the Hill.

As for providing VPA-like protection in a non-FSIA bill, they pointed out that unless we amend the jurisdictional provisions of the FSIA, the foreign govts will be subject to suit here, even if our liability protection bill means that they're likely to win at the end of the day. Because foreign govts don't like having to defend suits here, Sharon and Rupa questioned whether barring liability under most circumstances but not limiting jurisdiction over them would satisfy them. Fair point, but limiting liability is a lot better than nothing, and I would think that if we proposed a bill relating to jurisdiction over foreign govts, it would take about a nanosecond for everyone to figure out we were effectively trying to amend the FSIA. And we can't very well hide the foreign-govt issue by proposing a bill that strips jurisdiction over suits against all govts, including domestic local ones, because that would be crazy. So I think we're stuck where we left this discussion yesterday -- a section relating to liability of govts for donated goods in our national emergency volunteer bill. I'll circulate same on Mon.

Jeff

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, September 11, 2005 12:12 PM
To: 'Rajeev_V._Venkayya@who.eop.gov'; Moschella, William
Subject: Re: healthcare worker liability

Rajeev - we did send a bill to omb last week. Marc Kesselman PDGC there liked it but said State and others were working on similar bills and asked me to coordinate efforts. Jeff and I met with State Friday and will do so again Monday. We hope to have a revised bill representing our joint recommendation by Tuesday.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov <Rajeev_V._Venkayya@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 10 10:48:51 2005
Subject: Fw: healthcare worker liability

Neil- Meant to copy you on this. Let me know if you have additional information. Thanks. -Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
To: 'William.Moschella@usdoj.gov' <William.Moschella@usdoj.gov>
Sent: Sat Sep 10 10:42:32 2005
Subject: Re: healthcare worker liability

I'd like to follow up with OMB to ensure that this moves forward. Did it go to them on Wed? If so, can you tell me who your POC is there?

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]

cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>
To: Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>; Robert.McCallum@usdoj.gov <Robert.McCallum@usdoj.gov>; Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>; Rachel.Brand@usdoj.gov <Rachel.Brand@usdoj.gov>; Peter.D.Keisler@usdoj.gov <Peter.D.Keisler@usdoj.gov>; Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>; DL-HSC-CHEM-BIO <DL-HSC-CHEM-BIO@eopds.eop.gov>; Leggitt, Lance B. <Lance_B._Leggitt@who.eop.gov>; Mitnick, John M. <John_M._Mitnick@who.eop.gov>
Sent: Wed Sep 07 09:06:45 2005
Subject: RE: healthcare worker liability

For timing purposes, DOJ is putting this provision into final legislative form with a section-by-section analysis. We hope to submit it to OMB by COB today after a very short internal circulation.

We have already provided to OMB (last night) a package of Katrina related proposals on other subjects.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Wednesday, September 07, 2005 12:07 AM
To: Christopher_W._Frech@who.eop.gov
Cc: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); Moschella, William; McCallum, Robert (SMO); Hertling, Richard; Brand, Rachel; Keisler, Peter D. (CIV); Gorsuch, Neil M; DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov; John_M._Mitnick@who.eop.gov
Subject: FW: healthcare worker liability

Chris,

As the events of the past week unfolded, it once again became clear that we need to address the issue of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the Hill. I ran a working group on the subject last year, and we took an option of amendment of the Volunteer Protection Act all the way to Deputies and received approval. There was a desire to fold it into the MedMal legislation, and not much happened after that.

DOJ was extremely helpful in the original assessment of this issue, and provided legislative language to address the problem at that time. I contacted them today and asked them to update documents that they had prepared in Nov 2004, and they provided the attached revision.

DOJ just informed me that they plan to formally submit this to OLA tomorrow to be considered as part of a broader legislative package. I will leave it to them to officially transmit that language, but I wanted you to know that this approach has already been vetted by the HSC Deputies Committee, and we fully support it. Please let me know if I can provide you with any additional background information.

Thanks.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, September 06, 2005 3:24 PM
To: Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; DL-HSC-CHEM-BIO; Leggitt, Lance B.
Subject: RE: healthcare worker liability

Rajeev,

I think the "Emergency Health Freestanding Section" document is a sound approach and would resolve many of the problems we have had this week. In the attached version I have added two passages, neither of which is essential but might prove helpful later on.

The first change is to add the bolded language in paragraph (a):

the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction (including foreign countries) to provide such healthcare.

This is consistent with the discussions we had last year that a Canadian doctor who helped out at 9/11 should receive the same protection as a Massachusetts doctor. Explicitly mentioning foreign countries may make it easier to recruit foreign health care volunteers.

The second change is to add the bolded language in the next sentence:

Subsection (b) of section 3 and subsections (c) and (d) of section 4 of such chapter (42 U.S.C. § § 14502(b) and 14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

This change addresses the opt-out language of the VPA. 42 U.S.C. § 14502(b) provides that the VPA's protections do not apply if a state has specifically elected to make the VPA inapplicable. This change would remove the opt-out option for declared national emergencies. We have researched Louisiana or Mississippi law on the issue, and it does not appear that either has enacted such legislation. It would probably expedite relief efforts in future catatrosphes if the opt-out question were taken off the table. I don't know whether the issue is worth including in emergency legislation.

One other small matter. The "Emergency Health Freestanding Section" document contains the language, "for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), ... and subsections (c) and (d) of section 4 of such chapter ...." I have not found the reference that section 4 is Section 14503; but, relying on it I have referred to the previous section (14502) as "section 3."

Please call if I can be of further assistance.

Paul

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, September 11, 2005 12:16 PM
To: Bucholtz, Jeffrey (CIV)
Subject: Re: pandemic vaccine bill

Sounds good

-----Original Message-----
From: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>
Sent: Sat Sep 10 11:35:13 2005
Subject: pandemic vaccine bill

Peter, Neil: Rajeev is asking us to draft a bill on pandemic vaccine liability, including a compensation program. I've left a message for Rajeev to try to get guidance on what the WH wants such a bill to do (should there be a carve-out to the liability protection, if so who should be able to sue within the carve-out, if it's the US where does the money go, etc.). What I'd like to do is ask Paul Figley to draft something, and then we and OLP and others can review it. Unlike the healthcare emergency volunteer bill, this one will not be simple to draft, since there's no ready model for the liability protection side of it. I think it would be realistic to shoot for getting something to the WH by the end of the week.

Peter, maybe we can talk at or right before or after our 9am meeting on Mon. about the unresolved issues for this bill.

Neil, maybe we can then talk about this at the end of our 230pm meeting re: Katrina legislation.

If you want to reach me to talk about this, I'll be in the office most of the day today.

Thanks,
Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Saturday, September 10, 2005 10:47 AM
To: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); Lawrence_D._Kerr@who.eop.gov
Cc: Sharon_I._Wells@who.eop.gov
Subject: Re: Redraft of Appendix D

Jeff and Paul

Jeff and Paul,

OMB has suggested that we move quickly to draft legislation on the pandemic vaccine issue. Would you be able to put together a package, with a compensation option, in the near future? I'd like to take something to OLA in the near future. Let me know your thoughts. Thanks.

Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>
To: Kerr, Larry <Lawrence_D._Kerr@who.eop.gov>; Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Wells, Sharon I. <Sharon_I._Wells@who.eop.gov>
Sent: Tue Aug 30 16:24:50 2005
Subject: RE: Redraft of Appendix D

Yes, I can attend. 830am in room 208?

-----Original Message-----
From: Lawrence_D._Kerr@who.eop.gov [mailto:Lawrence_D._Kerr@who.eop.gov]
Sent: Tuesday, August 30, 2005 4:03 PM
To: Figley, Paul (CIV); Rajeev_V._Venkayya@who.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Sharon_I._Wells@who.eop.gov
Subject: RE: Redraft of Appendix D
Importance: High

Thank you very much Paul - we'll incorporate it into the DC read-ahead package.

Will it be possible for either you or Jeff to accompany Mr. McAtamney to the HSC Deputies Committee meeting on Thursday to aid in presenting the liability paper? We are certain that they will keep that to principal plus one.

Many thanks,

Larry

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, August 30, 2005 3:43 PM
To: Kerr, Larry; Venkayya, Rajeev V.

Cc: Jeffrey.Bucholtz@usdoj.gov
Subject: Redraft of Appendix D

Rajeev & Larry,

Here is a version of Appendix D which Jeff Bucholtz and I have shortened.

Paul

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, September 11, 2005 12:18 PM
To: Bucholtz, Jeffrey (CIV)
Subject: Re: revised healthcare emergency volunteer bill language

I think so, within the context of healthcare.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 10 18:38:31 2005
Subject: revised healthcare emergency volunteer bill language

Neil: Does this do the trick?

Jeff

(2) "Healthcare emergency volunteer" means an individual who provides health or medical services or assistance in connection with a Declared Healthcare Emergency, in a location other than his or her usual place of business or practice and without expectation or receipt of compensation for such services or assistance, provided that such individual is properly licensed, certified, or authorized to provide health or medical services by the appropriate authorities of a State (as defined herein) or (if and to the extent specified in a Supplemental Declaration under this section) a foreign country.

Rajeev_V._Venkayya@who.eop.gov

From: Rajeev_V._Venkayya@who.eop.gov
Sent: Sunday, September 11, 2005 12:37 PM
To: Moschella, William; Gorsuch, Neil M
Subject: Re: healthcare worker liability

Thanks for the follow up. I'll touch base with Marc tomorrow morning. Please let me if anything arises that might stand in the way of consensus between the departments and/or a rapid turnaround of the document. This is a high priority for us.

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
Sent: Sun Sep 11 12:11:41 2005
Subject: Re: healthcare worker liability

Rajeev - we did send a bill to omb last week. Marc Kesselman PDGC there liked it but said State and others were working on similar bills and asked me to coordinate efforts. Jeff and I met with State Friday and will do so again Monday. We hope to have a revised bill representing our joint recommendation by Tuesday.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov <Rajeev_V._Venkayya@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 10 10:48:51 2005
Subject: Fw: healthcare worker liability

Neil- Meant to copy you on this. Let me know if you have additional information. Thanks. -Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019

vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
To: 'William.Moschella@usdoj.gov' <William.Moschella@usdoj.gov>
Sent: Sat Sep 10 10:42:32 2005
Subject: Re: healthcare worker liability

I'd like to follow up with OMB to ensure that this moves forward. Did it go to them on Wed? If so, can you tell me who your POC is there?

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>
To: Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>; Robert.McCallum@usdoj.gov <Robert.McCallum@usdoj.gov>; Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>; Rachel.Brand@usdoj.gov <Rachel.Brand@usdoj.gov>; Peter.D.Keisler@usdoj.gov <Peter.D.Keisler@usdoj.gov>; Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>; DL-HSC-CHEM-BIO <DL-HSC-CHEM-BIO@eopds.eop.gov>; Leggitt, Lance B. <Lance_B._Leggitt@who.eop.gov>; Mitnick, John M. <John_M._Mitnick@who.eop.gov>
Sent: Wed Sep 07 09:06:45 2005
Subject: RE: healthcare worker liability

For timing purposes, DOJ is putting this provision into final legislative form with a section-by-section analysis. We hope to submit it to OMB by COB today after a very short internal circulation.

We have already provided to OMB (last night) a package of Katrina related proposals on other subjects.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Wednesday, September 07, 2005 12:07 AM
To: Christopher_W._Frech@who.eop.gov
Cc: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); Moschella, William; McCallum, Robert (SMO); Hertling, Richard; Brand, Rachel; Keisler, Peter

D. (CIV); Gorsuch, Neil M; DL-HSC-CHEM-BIO@eopds.eop.gov;
Lance_B._Leggitt@who.eop.gov; John_M._Mitnick@who.eop.gov
Subject: FW: healthcare worker liability

Chris,

As the events of the past week unfolded, it once again became clear that we need to address the issue of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the Hill. I ran a working group on the subject last year, and we took an option of amendment of the Volunteer Protection Act all the way to Deputies and received approval. There was a desire to fold it into the MedMal legislation, and not much happened after that.

DOJ was extremely helpful in the original assessment of this issue, and provided legislative language to address the problem at that time. I contacted them today and asked them to update documents that they had prepared in Nov 2004, and they provided the attached revision.

DOJ just informed me that they plan to formally submit this to OLA tomorrow to be considered as part of a broader legislative package. I will leave it to them to officially transmit that language, but I wanted you to know that this approach has already been vetted by the HSC Deputies Committee, and we fully support it. Please let me know if I can provide you with any additional background information. Thanks.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, September 06, 2005 3:24 PM
To: Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; DL-HSC-CHEM-BIO; Leggitt, Lance B.
Subject: RE: healthcare worker liability

Rajeev,

I think the "Emergency Health Freestanding Section" document is a sound approach and would resolve many of the problems we have had this week. In the attached version I have added two passages, neither of which is essential but might prove helpful later on.

The first change is to add the bolded language in paragraph (a):

The first change is to add the bolded language in paragraph (a):

the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction (including foreign countries) to provide such healthcare.

This is consistent with the discussions we had last year that a Canadian doctor who helped out at 9/11 should receive the same protection as a Massachusetts doctor. Explicitly mentioning foreign countries may make it easier to recruit foreign health care volunteers.

The second change is to add the bolded language in the next sentence:

Subsection (b) of section 3 and subsections (c) and (d) of section 4 of such chapter (42 U.S.C. § § 14502(b) and 14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

This change addresses the opt-out language of the VPA. 42 U.S.C. § 14502(b) provides that the VPA's protections do not apply if a state has specifically elected to make the VPA inapplicable. This change would remove the opt-out option for declared national emergencies. We have researched Louisiana or Mississippi law on the issue, and it does not appear that either has enacted such legislation. It would probably expedite relief efforts in future catatrosphes if the opt-out question were taken off the table. I don't know whether the issue is worth including in emergency legislation.

One other small matter. The "Emergency Health Freestanding Section" document contains the language, "for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), ... and subsections (c) and (d) of section 4 of such chapter ...." I have not found the reference that section 4 is Section 14503; but, relying on it I have referred to the previous section (14502) as "section 3."

Please call if I can be of further assistance.

Paul

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

[redacted]@wso.whs.mil

From: [redacted]@wso.whs.mil

Sent: Monday, September 12, 2005 7:12 AM

To: Orr, David M; Gorsuch, Neil M; [redacted]@mail.va.gov; [redacted] (DHS); [redacted]@ios.doi.gov; gblank@cea.eop.gov; [redacted]@gsa.gov; [redacted]@hhs.gov; [redacted]@epamail.epa.gov; [redacted]@osd.mil; [redacted]@hq.doe.gov; [redacted]@ed.gov; [redacted]@opm.gov; [redacted]@hud.gov; [redacted]@sba.gov; Ruben_S._Barrales@who.eop.gov; [redacted]@state.gov; [redacted]@usda.gov; [redacted]@eda.doc.gov; [redacted]@cdfi.treas.gov; [redacted]@dol.gov; [redacted]@dot.gov; [redacted]@osd.mil; [redacted]@gsa.gov; [redacted]@osd.mil; [redacted]@usps.gov; [redacted]@dol.gov; [redacted]@faa.gov; [redacted]@dol.gov; [redacted]@ios.doi.gov; [redacted] (DHS); [redacted]@wdc.usda.gov; [redacted]@opm.gov; [redacted]@sba.gov; Kathryn_E._Rust@who.eop.gov; [redacted]@eda.doc.gov; [redacted]@cea.eop.gov; [redacted]@dol.gov; [redacted]@dol.gov; [redacted]@usda.gov; [redacted]@va.gov; [redacted]@ed.gov; [redacted]@hud.gov; [redacted]@achp.gov; [redacted]@mail.va.gov; [redacted]@ios.doi.gov; [redacted]@faa.gov; [redacted]@marad.dot.gov; [redacted]@ed.gov; [redacted]@hq.doe.gov; [redacted]@osd.mil; [redacted]@usda.gov; [redacted]@wso.whs.mil; [redacted]@eda.doc.gov; dfalaschetti@cea.eop.gov; John_G._Burke@who.eop.gov; [redacted]@sba.gov; [redacted]@va.gov; [redacted] (DHS); [redacted]@achp.gov; [redacted]@opm.gov; [redacted]@hud.gov; [redacted]@mail.va.gov; [redacted]@hhs.gov; [redacted]@epa.gov; [redacted]@dol.gov; [redacted]@faa.gov; [redacted]@faa.gov; [redacted]@wso.whs.mil; [redacted]@ed.gov; [redacted]@gsa.gov; [redacted]@fta.dot.gov; [redacted]@fhwa.dot.gov; [redacted]@dot.gov; [redacted]@usps.gov; Terrence_Blackburne@omb.eop.gov; [redacted]@state.gov; [redacted]@state.gov; [redacted]@ed.gov; [redacted]@gsa.gov [redacted]@wso.whs.mil; [redacted]@wso.whs.mil; [redacted]@wso.whs.mil;

ECONOMIC ADJUSTMENT COMMITTEE

Agenda and Reminder

Monday, October 17, 2005

1:00 - 3:00 p.m.

Horizon Room of the Ronald Reagan Building

1300 Pennsylvania Avenue, Washington, D.C.

(Federal Triangle Metro Station)

Questions concerning the EAC meeting may be addressed to [redacted] at [redacted] or at <mailto[redacted]@wso.whs.mil> [redacted]@wso.whs.mil; or to [redacted] or at [redacted]@wso.whs.mil <mailto[redacted]@wso.whs.mil> .

Thank you for your support of the President's Defense Economic Adjustment Program. We look forward to seeing you on Monday, October 17, 2005.

[redacted]

Website: www.oea.gov <http://www.oea.gov/>

This e-mail message may contain confidential and/or privileged information.
If you are not an addressee or otherwise authorized to receive this message, you should not use, copy, disclose or take any action based on this e-mail or any information contained in the message. If you have received this material in error, please advise the sender immediately by reply e-mail and delete this message.

The White House
President George W. Bush

Click to Print this document

For Immediate Release
Office of the Press Secretary
May 12, 2005

Executive Order Amendments to Executive Order 12788 Relating to the Defense Economic Adjustment Program

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 10 U.S.C. 2391 and the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990, enacted as Division D, section 4001 et seq., of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, and in order to update the Defense Economic Adjustment Program, it is hereby ordered that Executive Order 12788 of January 15, 1992, as amended, is further amended as follows:

Section 1. The text of section 2 of Executive Order 12788 is revised to read as follows: "The Defense Economic Adjustment Program shall (1) assist substantially and seriously affected communities, businesses, and workers from the effects of major Defense base closures, realignments, and Defense contract-related adjustments, and (2) assist State and local governments in preventing the encroachment of civilian communities from impairing the operational utility of military installations."

Sec. 2. (a) The text of section 3(c) is amended by deleting "and communities" and inserting in lieu thereof "communities, and businesses";

(b) The text of section 3(l) is amended by deleting "and" after the semicolon;

(c) The text of section 3(m) is amended by adding "and" after "diminish;" and

(d) A new section 3(n) is added to read: "(n) Encourage resolution of regulatory issues that impede encroachment prevention and local economic adjustment efforts."

Sec. 3. (a) Section 4(a) is amended by: (i) deleting "(19) Director of the United States Arms Control and Disarmament Agency;" (ii) deleting "(21) Director of the Federal Emergency Management Agency;" and (iii) renumbering the remaining subsections listing the officials on the Economic Adjustment Committee (the "Committee") accordingly;

(b) The text of section 4(b) is revised to read as follows: "The Secretary of Defense, or the Secretary's designee, shall chair the Committee."; and

(c) The text of section 4(c) is revised to read as follows: "The Secretaries of Labor and Commerce shall serve as Vice Chairmen of the Committee. The Vice Chairmen shall co-chair the Committee in the absence of both the Chairman and the Chairman's designee and may also preside over meetings of designated representatives of the concerned executive agencies."

Sec. 4. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable by any party at law or in equity against the United States, its departments, agencies, entities, officers, employees, agents, or any other person.

GEORGE W. BUSH

THE WHITE HOUSE,

May 12, 2005.

DOJ_NMG_ 0147488

THE PRESIDENT

EXECUTIVE ORDER 12788 **As AMENDED**

Defense Economic Adjustment Program

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 10 U.S.C. 2391 and the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990, enacted as Division D, section 4001 *et seq.*, of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, and to provide coordinated Federal economic adjustment assistance necessitated by changes in Department of Defense activities, it is hereby ordered as follows:

Section 1. *Function of the Secretary of Defense.* The Secretary of Defense shall, through the Economic Adjustment Committee, design and establish a Defense Economic Adjustment Program.

Sec. 2. The Defense Economic Adjustment Program shall (1) assist substantially and seriously affected communities, businesses, and workers from the effects of major Defense base closures, realignments, and Defense contract-related adjustments, and (2) assist State and local governments in preventing the encroachment of civilian communities from impairing the operational utility of military installations.

Sec. 3 *Functions of the Defense Economic Adjustment Program.* The Defense Adjustment Program shall:

(a) Identify problems of States, regions, metropolitan areas, or communities that result from major Defense base closures, realignments, and Defense contract-related adjustments, and the encroachment of the civilian community on the mission of military installations and that require Federal assistance;

(b) Use and maintain a uniform socioeconomic impact analysis to justify the use of Federal economic adjustment resources prior to particular realignments;

(c) Apply consistent policies, practices, and procedures in the administration of Federal programs that are used to assist Defense-affected States, regions, metropolitan areas, communities, and businesses;

(d) Identify and strengthen existing agency mechanisms to coordinate employment opportunities for displaced agency personnel;

(e) Identify and strengthen existing agency mechanisms to improve reemployment opportunities for dislocated Defense industry personnel;

(f) Assure timely consultation and cooperation with Federal, State, regional, metropolitan, and community officials concerning Defense-related impacts on Defense-affected communities' problems;

(g) Assure coordinated interagency and intergovernmental adjustment assistance concerning Defense impact problems;

(h) Prepare, facilitate, and implement cost-effective strategies and action plans to coordinate interagency and intergovernmental economic adjustment efforts;

(i) Encourage effective Federal, State, regional, metropolitan, and community cooperation and concerted involvement of public interest groups and private sector organizations in Defense economic adjustment activities;

(j) Serve as a clearinghouse to exchange information among Federal, State, regional, metropolitan, and community officials involved in the resolution of community economic adjustment problems. Such information may include, for example, previous studies, technical information, and sources of public and private financing;

(k) Assist in the diversification of local economies to lessen dependence on Defense activities;

(l) Encourage and facilitate private sector interim use of lands and buildings to generate jobs as military activities diminish;

(m) Develop ways to streamline property disposal procedures to enable Defense-impacted communities to acquire base property to generate jobs as military activities diminish; and

(n) Encourage resolution of regulatory issues that impede encroachment prevention and local economic adjustment efforts.

Sec. 4. *Economic Adjustment Committee.*

(a) *Membership.* The Economic Adjustment Committee ("Committee") shall be composed of the following individuals or a designated principal deputy of these individuals, and such other individuals from the executive branch as the President may designate. Such individuals shall include the:

(1) Secretary of Agriculture;
(2) Attorney General;
(3) Secretary of Commerce;

(4) Secretary of Defense;
(5) Secretary of Education;
(6) Secretary of Energy;
(7) Secretary of Health and Human Services;
(8) Secretary of Housing and Urban Development;
(9) Secretary of Interior;
(10) Secretary of Labor;
(11) Secretary of State;
(12) Secretary of Transportation;
(13) Secretary of Treasury;
(14) Secretary of Veterans Affairs;
(15) Secretary of Homeland Security;
(16) Chairman, Council of Economic Advisers;
(17) Director of the Office of Management and Budget;
(18) Director of the Office of Personnel Management;
(19) Administrator of the Environmental Protection Agency;
(20) Administrator of General Services;
(21) Administrator of the Small Business Administration; and
(22) Postmaster General.

(b) The Secretary of Defense, or the Secretary's designee, shall chair the Committee.

(c) The Secretaries of Labor and Commerce shall serve as Vice Chairmen of the Committee. The Vice Chairmen shall co-chair the Committee in the absence of both the Chairman and the Chairman's designee and may also preside over meetings of designated representatives of the concerned executive agencies.

(d) *Executive Director.* The head of the Department of Defense's Office of Economic Adjustment shall provide all necessary policy and administrative support for the Committee and shall be responsible for coordinating the application of the Defense Economic Adjustment Program to Department of Defense activities.

(e) *Duties.* The Committee shall:
(1) Advise, assist, and support the Defense Economic Adjustment Programs;
(2) Develop procedures for ensuring that State, regional, and community officials, and representatives of organized labor in those States, municipalities, localities, or labor organizations that are substantially and seriously affected by changes in Defense expenditures, realignments or closures, or cancellation or curtailment of major Defense contracts, are notified of available Federal economic adjustment programs; and
(3) Report annually to the President and then to the Congress on the work of the Economic Adjustment Committee during the preceding fiscal year.

Sec. 5. Responsibilities of Executive Agencies.

(a) The head of each agency represented on the Committee shall designate an agency representative to:
(1) Serve as a liaison with the Secretary of Defense's economic adjustment staff;
(2) Coordinate agency support and participation in economic adjustment assistance projects; and
(3) Assist in resolving Defense-related impacts on Defense-affected communities.

(b) All executive agencies shall:
(1) Support, to the extent permitted by law, the economic adjustment assistance activities of the Secretary of Defense. Such support may include the use and application of personnel, technical expertise, legal authorities, and available financial resources. This support may be used, to the extent permitted by law, to provide a coordinated Federal response to the needs of individual States, regions, municipalities, and communities adversely affected by necessary Defense changes; and
(2) Afford priority consideration to requests from Defense-affected communities for Federal technical assistance, financial resources, excess or surplus property, or other requirements, that are part of a comprehensive plan used by the Committee.

Sec. 6. Judicial Review. This order shall not be interpreted to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, its agents, or any person.

Sec. 7. Construction. (a) Nothing in this order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any agency or head thereof to the authority of any other agency or officer or as abrogating or restricting any such function in any manner.

(b) This order shall be effective immediately and shall supersede Executive Order No 12049.

GEORGE BUSH
THE WHITE HOUSE
January 15, 1992.

[Amended 2/28/03 by President George W. Bush, E.O. 13286]
[Amended 5/12/05 by President George W. Bush, E.O. 13378]

RESCHEDULED MEETING OF THE PRESIDENT's ECONOMIC ADJUSTMENT COMMITTEE

Monday, October 17, 2005
1:00 – 3:00 p.m.
Horizon Room of the Ronald Reagan Building
1300 Pennsylvania Avenue, Washington, D.C.
(Federal Triangle Metro Station)

The President's Economic Adjustment Committee (EAC) meeting originally scheduled for August 16 will take place on Monday, October 17 to formally begin its efforts to coordinate Federal interagency support for BRAC 2005.

This initial EAC meeting is a joint session of both Advisory Group members and Working Group members of the 22 Federal Departments and Agencies with specific programs for technical and financial assistance to assist communities, businesses, and/or workers adversely impacted by Department of Defense (DoD) program changes, such as BRAC. The EAC members form the core interagency network for program information exchange, resolution of cross-cutting issues and coordination of defense economic adjustment efforts. Your support and participation in this important effort helps mitigate impacts by ensuring a responsive menu of Federal support for affected communities.

A copy of Executive Order 12788, as amended, that updates the Defense Adjustment Program and the President's Economic Adjustment Committee is attached. Additional information and an agenda for the October 17th EAC meeting will be forthcoming. Please contact OEA [redacted] at [redacted] or by email at [redacted]@wso.whs.mil or [redacted] at [redacted] or by email at [redacted]@wso.whs.mil to confirm your attendance, or if you need further information regarding the EAC or this meeting.

Thank you for your attention to this request. We look forward to your support and participation.

MEETING OF THE PRESIDENT's ECONOMIC ADJUSTMENT COMMITTEE

Agenda and Reminder

Monday, October 17, 2005
1:00 - 3:00 p.m.
Horizon Room of the Ronald Reagan Building
1300 Pennsylvania Avenue, Washington, D.C.
(Federal Triangle Metro Station)

Questions concerning the EAC meeting may be addressed to [redacted] or at [redacted]@wso.whs.mil; or to [redacted] or at [redacted]@wso.whs.mil .

Thank you for your support of the President's Defense Economic Adjustment Program. We look forward to seeing you on Monday, October 17, 2005.

[redacted]

Website: www.oea.gov

This e-mail message may contain confidential and/or privileged information. If you are not an addressee or otherwise authorized to receive this message, you should not use, copy, disclose or take any action based on this e-mail or any information contained in the message. If you have received this material in error, please advise the sender immediately by reply e-mail and delete this message.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 7:45 AM
To: Gorsuch, Neil M

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, September 12, 2005 8:25 AM
To:	Shaw, Aloma A
Subject:	FW: President's Economic Adjustment Committee (EAC) Meeting Agenda f or 10/17
Attachments:	tmp.htm; RESCHEDULED EAC NOTICE-DRAFT.doc; EO Amending 12788 5-12-05.pdf
Importance:	High

please could you add this to the calendar and accept on my behalf?

-----Original Message-----
From: [redacted]@wso.whs.mil [mailto:[redacted]@wso.whs.mil]
Sent: Monday, September 12, 2005 7:12 AM
To: Orr, David M; Gorsuch, Neil M[redacted]@mail.va.gov;
[redacted](DHS); [redacted]@ios.doi.gov; gblank@cea.eop.gov;
[redacted]@gsa.gov; [redacted]@hhs.gov; [redacted]@epamail.epa.gov;
[redacted]@osd.mil; [redacted]@hq.doe.gov;
[redacted]@ed.gov; [redacted]@opm.gov; [redacted]@hud.gov;
[redacted]@sba.gov; Ruben_S._Barrales@who.eop.gov;
[redacted]@state.gov; [redacted]@usda.gov; [redacted]@eda.doc.gov;
[redacted]@cdfi.treas.gov; [redacted]@dol.gov; [redacted]@dot.gov;
[redacted]@osd.mil; [redacted]@gsa.gov; [redacted]@osd.mil;
[redacted]@usps.gov; [redacted]@dol.gov;
[redacted]@faa.gov; [redacted]@dol.gov; [redacted]@ios.doi.gov;
[redacted](DHS); [redacted]@wdc.usda.gov; [redacted]@opm.gov;
[redacted]@sba.gov; Kathryn_E._Rust@who.eop.gov;
[redacted]@eda.doc.gov; sdaigle@cea.eop.gov[redacted]@dol.gov;
[redacted]@dol.gov; [redacted]@usda.gov;
[redacted]@va.gov; [redacted]@ed.gov; [redacted]@hud.gov;
[redacted]@achp.gov; [redacted]@mail.va.gov;
[redacted]@ios.doi.gov[redacted]@faa.gov;
[redacted]@marad.dot.gov; [redacted]@ed.gov;
[redacted]@hq.doe.gov; [redacted]@osd.mil;
[redacted]@usda.gov; [redacted]@wso.whs.mil; [redacted]@eda.doc.gov;
dfalaschetti@cea.eop.gov; John_G._Burke@who.eop.gov;
[redacted]@sba.gov; [redacted]@va.gov; [redacted]DHS);
[redacted]@achp.gov; [redacted]@opm.gov; [redacted]@hud.gov;
[redacted]@mail.va.gov; [redacted]@hhs.gov; [redacted]@epa.gov;
[redacted]@dol.gov; [redacted]@faa.gov; [redacted]@faa.gov;
[redacted]@wso.whs.mil; [redacted]@ed.gov;
[redacted]@gsa.gov; [redacted]@fta.dot.gov;
[redacted]@fhwa.dot.gov; [redacted]@dot.gov;
[redacted]@usps.gov; Terrence_Blackburne@omb.eop.gov;
[redacted]@state.gov; [redacted]@state.gov; [redacted]@ed.gov;

[redacted]@gsa.gov; [redacted]@wso.whs.mil;
[redacted]@wso.whs.mil; [redacted]@wso.whs.mil;
[redacted]@wso.whs.mil; [redacted]@wso.whs.mil;
[redacted]@wso.whs.mil; [redacted]@wso.whs.mil;
[redacted]@wso.whs.mil; [redacted]@wso.whs.mil;
[redacted]@wso.whs.mil; [redacted]@wso.whs.mil;
[redacted]@wso.whs.mil; [redacted]@wso.whs.mil;
[redacted]@wso.whs.mil
Subject: President's Economic Adjustment Committee (EAC) Meeting Agenda
f or 10/17
Importance: High

MEETING OF THE PRESIDENT's

ECONOMIC ADJUSTMENT COMMITTEE

Agenda and Reminder

Monday, October 17, 2005

1:00 - 3:00 p.m.

Horizon Room of the Ronald Reagan Building

1300 Pennsylvania Avenue, Washington, D.C.

(Federal Triangle Metro Station)

Questions concerning the EAC meeting may be addressed to [redacted] or at
<mailto:[redacted]@wso.whs.mil> [redacted]@wso.whs.mil; or to [redacted]
or at [redacted]@wso.whs.mil <mailto[redacted]@wso.whs.mil> .

Thank you for your support of the President's Defense Economic Adjustment Program. We look forward to seeing you on Monday, October 17, 2005.

[redacted]

[redacted]

Website: www.oea.gov <http://www.oea.gov/>

This e-mail message may contain confidential and/or privileged information.
If you are not an addressee or otherwise authorized to receive this message, you should not use, copy, disclose or take any action based on this e-mail or any information contained in the message. If you have received this material in error, please advise the sender immediately by reply e-mail and delete this message.

The White House
President George W. Bush

Click to Print this document

For Immediate Release
Office of the Press Secretary
May 12, 2005

Executive Order Amendments to Executive Order 12788 Relating to the Defense Economic Adjustment Program

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 10 U.S.C. 2391 and the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990, enacted as Division D, section 4001 et seq., of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, and in order to update the Defense Economic Adjustment Program, it is hereby ordered that Executive Order 12788 of January 15, 1992, as amended, is further amended as follows:

Section 1. The text of section 2 of Executive Order 12788 is revised to read as follows: "The Defense Economic Adjustment Program shall (1) assist substantially and seriously affected communities, businesses, and workers from the effects of major Defense base closures, realignments, and Defense contract-related adjustments, and (2) assist State and local governments in preventing the encroachment of civilian communities from impairing the operational utility of military installations."

Sec. 2. (a) The text of section 3(c) is amended by deleting "and communities" and inserting in lieu thereof "communities, and businesses";

(b) The text of section 3(l) is amended by deleting "and" after the semicolon;

(c) The text of section 3(m) is amended by adding "and" after "diminish;" and

(d) A new section 3(n) is added to read: "(n) Encourage resolution of regulatory issues that impede encroachment prevention and local economic adjustment efforts."

Sec. 3. (a) Section 4(a) is amended by: (i) deleting "(19) Director of the United States Arms Control and Disarmament Agency;" (ii) deleting "(21) Director of the Federal Emergency Management Agency;" and (iii) renumbering the remaining subsections listing the officials on the Economic Adjustment Committee (the "Committee") accordingly;

(b) The text of section 4(b) is revised to read as follows: "The Secretary of Defense, or the Secretary's designee, shall chair the Committee."; and

(c) The text of section 4(c) is revised to read as follows: "The Secretaries of Labor and Commerce shall serve as Vice Chairmen of the Committee. The Vice Chairmen shall co-chair the Committee in the absence of both the Chairman and the Chairman's designee and may also preside over meetings of designated representatives of the concerned executive agencies."

Sec. 4. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable by any party at law or in equity against the United States, its departments, agencies, entities, officers, employees, agents, or any other person.

GEORGE W. BUSH

THE WHITE HOUSE,

May 12, 2005.

DOJ_NMG_ 0147497

THE PRESIDENT

EXECUTIVE ORDER 12788 **As AMENDED**

Defense Economic Adjustment Program

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 10 U.S.C. 2391 and the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990, enacted as Division D, section 4001 *et seq.*, of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, and to provide coordinated Federal economic adjustment assistance necessitated by changes in Department of Defense activities, it is hereby ordered as follows:

Section 1. *Function of the Secretary of Defense.* The Secretary of Defense shall, through the Economic Adjustment Committee, design and establish a Defense Economic Adjustment Program.

Sec. 2. The Defense Economic Adjustment Program shall (1) assist substantially and seriously affected communities, businesses, and workers from the effects of major Defense base closures, realignments, and Defense contract-related adjustments, and (2) assist State and local governments in preventing the encroachment of civilian communities from impairing the operational utility of military installations.

Sec. 3 *Functions of the Defense Economic Adjustment Program.* The Defense Adjustment Program shall:

(a) Identify problems of States, regions, metropolitan areas, or communities that result from major Defense base closures, realignments, and Defense contract-related adjustments, and the encroachment of the civilian community on the mission of military installations and that require Federal assistance;

(b) Use and maintain a uniform socioeconomic impact analysis to justify the use of Federal economic adjustment resources prior to particular realignments;

(c) Apply consistent policies, practices, and procedures in the administration of Federal programs that are used to assist Defense-affected States, regions, metropolitan areas, communities, and businesses;

(d) Identify and strengthen existing agency mechanisms to coordinate employment opportunities for displaced agency personnel;

(e) Identify and strengthen existing agency mechanisms to improve reemployment opportunities for dislocated Defense industry personnel;

(f) Assure timely consultation and cooperation with Federal, State, regional, metropolitan, and community officials concerning Defense-related impacts on Defense-affected communities' problems;

(g) Assure coordinated interagency and intergovernmental adjustment assistance concerning Defense impact problems;

(h) Prepare, facilitate, and implement cost-effective strategies and action plans to coordinate interagency and intergovernmental economic adjustment efforts;

(i) Encourage effective Federal, State, regional, metropolitan, and community cooperation and concerted involvement of public interest groups and private sector organizations in Defense economic adjustment activities;

(j) Serve as a clearinghouse to exchange information among Federal, State, regional, metropolitan, and community officials involved in the resolution of community economic adjustment problems. Such information may include, for example, previous studies, technical information, and sources of public and private financing;

(k) Assist in the diversification of local economies to lessen dependence on Defense activities;

(l) Encourage and facilitate private sector interim use of lands and buildings to generate jobs as military activities diminish;

(m) Develop ways to streamline property disposal procedures to enable Defense-impacted communities to acquire base property to generate jobs as military activities diminish; and

(n) Encourage resolution of regulatory issues that impede encroachment prevention and local economic adjustment efforts.

Sec. 4. *Economic Adjustment Committee.*

(a) *Membership.* The Economic Adjustment Committee ("Committee") shall be composed of the following individuals or a designated principal deputy of these individuals, and such other individuals from the executive branch as the President may designate. Such individuals shall include the:

(1) Secretary of Agriculture;
(2) Attorney General;
(3) Secretary of Commerce;

(4) Secretary of Defense;
(5) Secretary of Education;
(6) Secretary of Energy;
(7) Secretary of Health and Human Services;
(8) Secretary of Housing and Urban Development;
(9) Secretary of Interior;
(10) Secretary of Labor;
(11) Secretary of State;
(12) Secretary of Transportation;
(13) Secretary of Treasury;
(14) Secretary of Veterans Affairs;
(15) Secretary of Homeland Security;
(16) Chairman, Council of Economic Advisers;
(17) Director of the Office of Management and Budget;
(18) Director of the Office of Personnel Management;
(19) Administrator of the Environmental Protection Agency;
(20) Administrator of General Services;
(21) Administrator of the Small Business Administration; and
(22) Postmaster General.

(b) The Secretary of Defense, or the Secretary's designee, shall chair the Committee.

(c) The Secretaries of Labor and Commerce shall serve as Vice Chairmen of the Committee. The Vice Chairmen shall co-chair the Committee in the absence of both the Chairman and the Chairman's designee and may also preside over meetings of designated representatives of the concerned executive agencies.

(d) *Executive Director.* The head of the Department of Defense's Office of Economic Adjustment shall provide all necessary policy and administrative support for the Committee and shall be responsible for coordinating the application of the Defense Economic Adjustment Program to Department of Defense activities.

(e) *Duties.* The Committee shall:
(1) Advise, assist, and support the Defense Economic Adjustment Programs;
(2) Develop procedures for ensuring that State, regional, and community officials, and representatives of organized labor in those States, municipalities, localities, or labor organizations that are substantially and seriously affected by changes in Defense expenditures, realignments or closures, or cancellation or curtailment of major Defense contracts, are notified of available Federal economic adjustment programs; and
(3) Report annually to the President and then to the Congress on the work of the Economic Adjustment Committee during the preceding fiscal year.

Sec. 5. Responsibilities of Executive Agencies.

(a) The head of each agency represented on the Committee shall designate an agency representative to:
(1) Serve as a liaison with the Secretary of Defense's economic adjustment staff;
(2) Coordinate agency support and participation in economic adjustment assistance projects; and
(3) Assist in resolving Defense-related impacts on Defense-affected communities.

(b) All executive agencies shall:
(1) Support, to the extent permitted by law, the economic adjustment assistance activities of the Secretary of Defense. Such support may include the use and application of personnel, technical expertise, legal authorities, and available financial resources. This support may be used, to the extent permitted by law, to provide a coordinated Federal response to the needs of individual States, regions, municipalities, and communities adversely affected by necessary Defense changes; and
(2) Afford priority consideration to requests from Defense-affected communities for Federal technical assistance, financial resources, excess or surplus property, or other requirements, that are part of a comprehensive plan used by the Committee.

Sec. 6. Judicial Review. This order shall not be interpreted to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, its agents, or any person.

Sec. 7. Construction. (a) Nothing in this order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any agency or head thereof to the authority of any other agency or officer or as abrogating or restricting any such function in any manner.

(b) This order shall be effective immediately and shall supersede Executive Order No 12049.

GEORGE BUSH
THE WHITE HOUSE
January 15, 1992.

[Amended 2/28/03 by President George W. Bush, E.O. 13286]
[Amended 5/12/05 by President George W. Bush, E.O. 13378]

RESCHEDULED MEETING OF THE PRESIDENT's ECONOMIC ADJUSTMENT COMMITTEE

Monday, October 17, 2005
1:00 – 3:00 p.m.
Horizon Room of the Ronald Reagan Building
1300 Pennsylvania Avenue, Washington, D.C.
(Federal Triangle Metro Station)

The President's Economic Adjustment Committee (EAC) meeting originally scheduled for August 16 will take place on Monday, October 17 to formally begin its efforts to coordinate Federal interagency support for BRAC 2005.

This initial EAC meeting is a joint session of both Advisory Group members and Working Group members of the 22 Federal Departments and Agencies with specific programs for technical and financial assistance to assist communities, businesses, and/or workers adversely impacted by Department of Defense (DoD) program changes, such as BRAC. The EAC members form the core interagency network for program information exchange, resolution of cross-cutting issues and coordination of defense economic adjustment efforts. Your support and participation in this important effort helps mitigate impacts by ensuring a responsive menu of Federal support for affected communities.

A copy of Executive Order 12788, as amended, that updates the Defense Adjustment Program and the President's Economic Adjustment Committee is attached. Additional information and an agenda for the October 17th EAC meeting will be forthcoming. Please contact [redacted] or by email at [redacted]@wso.whs.mil or OEA [redacted] or by email at [redacted]@wso.whs.mil to confirm your attendance, or if you need further information regarding the EAC or this meeting.

Thank you for your attention to this request. We look forward to your support and participation.

MEETING OF THE PRESIDENT's ECONOMIC ADJUSTMENT COMMITTEE

Agenda and Reminder

Monday, October 17, 2005
1:00 - 3:00 p.m.
Horizon Room of the Ronald Reagan Building
1300 Pennsylvania Avenue, Washington, D.C.
(Federal Triangle Metro Station)

Questions concerning the EAC meeting may be addressed to [redacted] or at [redacted]@wso.whs.mil; or to [redacted] or at [redacted]@wso.whs.mil .

Thank you for your support of the President's Defense Economic Adjustment Program. We look forward to seeing you on Monday, October 17, 2005.

[redacted]

Website: www.oea.gov

This e-mail message may contain confidential and/or privileged information. If you are not an addressee or otherwise authorized to receive this message, you should not use, copy, disclose or take any action based on this e-mail or any information contained in the message. If you have received this material in error, please advise the sender immediately by reply e-mail and delete this message.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 8:27 AM
To: 'Rajeev_V._Venkayya@who.eop.gov'; Moschella, William
Cc: Bucholtz, Jeffrey (CIV); Marc_Kesselman (E-mail)
Subject: RE: healthcare worker liability

We seem to have consensus with State and I expect us to turn something around by tomorrow representing our shared views. I have a message this morning from OPM expressing interest in this area as well and I intend to invite them to our conf call this afternoon and hope to work them into the effort. Will keep you apprised.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Sunday, September 11, 2005 12:37 PM
To: Moschella, William; Gorsuch, Neil M
Subject: Re: healthcare worker liability

Thanks for the follow up. I'll touch base with Marc tomorrow morning. Please let me if anything arises that might stand in the way of consensus between the departments and/or a rapid turnaround of the document. This is a high priority for us.

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
Sent: Sun Sep 11 12:11:41 2005
Subject: Re: healthcare worker liability

Rajeev - we did send a bill to omb last week. Marc Kesselman PDGC there liked it but said State and others were working on similar bills and asked me to coordinate efforts. Jeff and I met with State Friday and will do so again Monday. We hope to have a revised bill representing our joint recommendation by Tuesday.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov <Rajeev_V._Venkayya@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 10 10:48:51 2005
Subject: Fw: healthcare worker liability

Neil- Meant to copy you on this. Let me know if you have additional information. Thanks. -Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
To: 'William.Moschella@usdoj.gov' <William.Moschella@usdoj.gov>
Sent: Sat Sep 10 10:42:32 2005
Subject: Re: healthcare worker liability

I'd like to follow up with OMB to ensure that this moves forward. Did it go to them on Wed? If so, can you tell me who your POC is there?

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>
To: Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>; Robert.McCallum@usdoj.gov <Robert.McCallum@usdoj.gov>; Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>; Rachel.Brand@usdoj.gov <Rachel.Brand@usdoj.gov>; Peter.D.Keisler@usdoj.gov <Peter.D.Keisler@usdoj.gov>; Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>; DL-HSC-CHEM-BIO <DL-HSC-CHEM-BIO@eopds.eop.gov>; Leggitt, Lance B. <Lance_B._Leggitt@who.eop.gov>; Mitnick, John M. <John_M._Mitnick@who.eop.gov>
Sent: Wed Sep 07 09:06:45 2005

Subject: RE: healthcare worker liability

For timing purposes, DOJ is putting this provision into final legislative form with a section-by-section analysis. We hope to submit it to OMB by COB today after a very short internal circulation.

We have already provided to OMB (last night) a package of Katrina related proposals on other subjects.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Wednesday, September 07, 2005 12:07 AM
To: Christopher_W._Frech@who.eop.gov
Cc: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); Moschella, William; McCallum, Robert (SMO); Hertling, Richard; Brand, Rachel; Keisler, Peter D. (CIV); Gorsuch, Neil M; DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov; John_M._Mitnick@who.eop.gov
Subject: FW: healthcare worker liability

Chris,

As the events of the past week unfolded, it once again became clear that we need to address the issue of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the Hill. I ran a working group on the subject last year, and we took an option of amendment of the Volunteer Protection Act all the way to Deputies and received approval. There was a desire to fold it into the MedMal legislation, and not much happened after that.

DOJ was extremely helpful in the original assessment of this issue, and provided legislative language to address the problem at that time. I contacted them today and asked them to update documents that they had prepared in Nov 2004, and they provided the attached revision.

DOJ just informed me that they plan to formally submit this to OLA tomorrow to be considered as part of a broader legislative package. I will leave it to them to officially transmit that language, but I wanted you to know that this approach has already been vetted by the HSC Deputies Committee, and we fully support it. Please let me know if I can provide you with any additional background information. Thanks.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, September 06, 2005 3:24 PM
To: Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; DL-HSC-CHEM-BIO; Leggitt, Lance B.
Subject: RE: healthcare worker liability

Rajeev,

I think the "Emergency Health Freestanding Section" document is a sound approach and would resolve many of the problems we have had this week. In the attached version I have added two passages, neither of which is essential but might prove helpful later on.

The first change is to add the bolded language in paragraph (a):

the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction (including foreign countries) to provide such healthcare.

This is consistent with the discussions we had last year that a Canadian doctor who helped out at 9/11 should receive the same protection as a Massachusetts doctor. Explicitly mentioning foreign countries may make it easier to recruit foreign health care volunteers.

The second change is to add the bolded language in the next sentence:

Subsection (b) of section 3 and subsections (c) and (d) of section 4 of such chapter (42 U.S.C. § § 14502(b) and 14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

This change addresses the opt-out language of the VPA. 42 U.S.C. § 14502(b) provides that the VPA's protections do not apply if a state has specifically elected to make the VPA inapplicable. This change would remove the opt-out option for declared national emergencies. We have researched Louisiana or Mississippi law on the issue, and it does not appear that either has enacted such legislation. It would probably expedite relief efforts in future catatrosphes if the opt-out question were taken off the table. I don't know whether the issue is worth including in emergency legislation.

One other small matter. The "Emergency Health Freestanding Section" document contains the language, "for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), ... and subsections (c) and (d) of section 4 of such chapter ...." I have not found the reference that section 4 is Section 14503; but, relying on it I have referred to the previous section (14502) as "section 3."

Please call if I can be of further assistance.

Paul

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM

To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Shaw, Aloma A

From:	Shaw, Aloma A
Sent:	Monday, September 12, 2005 8:30 AM
To:	Gorsuch, Neil M
Subject:	Read: President's Economic Adjustment Committee (EAC) Meeting Agenda f or 10/17
Importance:	High

McCallum, Robert (SMO)

From:	McCallum, Robert (SMO)
Sent:	Monday, September 12, 2005 8:39 AM
To:	Sampson, Kyle; Roberts, Crystal; Scolinos, Tasia; Brand, Rachel; Battle, Michael (USAEO)
Cc:	Mercer, Bill; Gorsuch, Neil M
Subject:	FW: NCSC General Counsel Committee Meeting, October 27, 2005
Attachments:	tmp.htm; Roundtable2005.doc

What say you about my accepting this invitation and attending this event. I am very much inclined to do so whether or not DOJ issues the additional guidance memo that has been drafted and is being circulated. Even though it is off "the record", it will become and be public info, certainly if we have issued the guidance memo. Thoughts, caveats, vetoes? Robt.

-----Original Message-----
From: [redacted]
Sent: Sunday, September 11, 2005 2:44 PM
To: McCallum, Robert (SMO)
Subject: NCSC General Counsel Committee Meeting, October 27, 2005

Robert- We had such a good time visiting at lunch last week that I forgot one of my main duties. The National Center for State Courts was founded by Congress at the urging of Chief Justice Berger to assure greater performace of the state court system. The general counsel committee of the Center is comprised of Fortune 150 GCs who gather with the Chiefs of the States Courts annually to discuss developments within the administration of justice. As you will see from the attachments, a major program to be presented to the Chiefs and the GCs this year is on the Privilege. The Center would very much like for you to be on the program at the place indicated. The program will be the morning of Friday, October 28 and will be off the record. I hope that you are able to join us. Best[redacted]
-----Original Message-----
From: [redacted]@ncsc.dni.us]
Sent: Thursday, September 01, 2005 1:15 PM
To: [redacted]

Cc: [redacted] McQueen, Mary; Baldwin, Robert
Subject: NCSC General Counsel Committee Meeting, October 27, 2005

From [redacted]

The next meeting of the General Counsel Committee of the National Center for State Courts (NCSC) will be held on Thursday, October 27, 3:00-4:30pm at the Willard InterContinental Hotel in Washington, D.C. You are also invited to attend the NCSC's Justice Roundtable with the state chief justices on Friday, October 28 (9:00-11:30am). Preliminary agendas are attached for your review and comment. A copy of the May 2005 minutes is also attached.

At the General Counsel Committee meeting, we will once again be meeting with leaders of the nation's judicial policy-making body, the Conference of Chief Justices, to discuss ways to improve the quality of the administration of justice in our state courts. We will also consider how we can collaborate with the NCSC's International Program to advance the rule of law and identify next steps in our constituency-building effort for state courts. A report on the NCSC's Civil Justice Reform Initiative will be followed by an expanded discussion with the chief justices on critical issues facing the state justice system.

This year's Justice Roundtable has been designed to advance the policy debate and recommend action (s) to preserve the attorney-client privilege and work product doctrine in today's enforcement and regulatory climate.
The topic selection, Attorney-Client Privilege: Preserving Essential Principles, responds to suggestions of both the General Counsel Committee and the Professionalism and Competency of the Bar Committee of the Conference of Chief Justices.

In addition to these meetings, you are also invited to attend the William H. Rehnquist Award Dinner at the U. S. Supreme Court on Thursday evening, October 27 and the NCSC's Annual Luncheon at noon on Friday, October 28. Your invitations to these events will be mailed in September.

These are important opportunities to exchange information and insights with the chief justices and other leaders of the NCSC on issues of mutual significance to business and the courts. We look forward to your participation in the October meetings.

<<AgendaOct27.doc>> <<Roundtable2005.doc>> <<May05minutes.doc>>

CONFIDENTIALITY NOTICE:
This e-mail and any attachments contain information from the law firm of [redacted] and are intended solely for the use of the named recipient or recipients. This e-mail may contain privileged attorney/client communications or work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

NCSC Justice Roundtable 2005
October 28, 2005 9:00 – 11:30 am (continental breakfast at 8:30 am)
Willard Intercontinental Hotel, Washington, D.C.

Attorney-Client Privilege: Preserving Essential Principles

Host: Chief Justice Randall T. Shepard, Chair, NCSC Board of Directors and President of the Conference of Chief Justices
Moderator: Mary McQueen, NCSC President

Panel: ABA Task Force and liaison (Ide, Fricklas)
Law professor (Saltzburg-GW, Rice-AU, Green-Fordham)
GC—Big Four accounting firm
DOJ (Robert McCallum) or SEC (Linda Thompsen, Giovanni Prezioso)
Plaintiffs' perspective (Larry Stewart)

I. Why the privilege is important

Policy and practical reasons for attorney-client privilege
Policy and practical reasons fostering erosion of attorney-client privilege
The sanctity of the privilege vs. need for the information

II. Today's enforcement / regulatory / litigation climate: questions of privilege and waiver

Requests for waiver by the government in criminal or regulatory actions
Requests for waiver by auditors
Effects of waiver as to third parties in civil litigation
Is waiver under pressure a voluntary waiver for all purposes?
What is the role of waiver in civil litigation?

III. What actions should courts / state court leaders / NCSC take to address these issues?

States' role to regulate the legal profession
Are rules of professional conduct arcane?
Possible actions— Judicial education
Develop template for model rules of evidence and discovery
Change lawyers' professional code of conduct
Federal: legislation, rules of evidence

--ABA Task Force Report on Attorney-Client Privilege
--The Auditor's Need For The Client's Detailed Information vs. The Client's Need to Preserve the Attorney-Client Privilege and Work Product Protection (General Counsel Consortium)
--CCJ Resolution
--ABA Resolution

Robert- We had such a good time visiting at lunch last week that I forgot one of my main duties. The National Center for State Courts was founded by Congress at the urging of Chief Justice Berger to assure greater performace of the state court system. The general counsel committee of the Center is comprised of Fortune 150 GCs who gather with the Chiefs of the States Courts annually to discuss developments within the administration of justice. As you will see from the attachments, a major program to be presented to the Chiefs and the GCs this year is on the Privilege. The Center would very much like for you to be on the program at the place indicated. The program will be the morning of Friday, October 28 and will be off the record. I hope that you are able to join us. Best [redacted]

-----Original Message-----

From: [redacted]@ncsc.dni.us]

Sent: Thursday, September 01, 2005 1:15 PM

To: [redacted]

Cc: [redacted] McQueen, Mary; Baldwin, Robert

Subject: NCSC General Counsel Committee Meeting, October 27, 2005

From [redacted]

The next meeting of the General Counsel Committee of the National Center for State Courts (NCSC) will be held on Thursday, October 27, 3:00-4:30pm at the Willard InterContinental Hotel in Washington, D.C. You are also invited to attend the NCSC's Justice Roundtable with the state chief justices on Friday, October 28 (9:00-11:30am). Preliminary agendas are attached for your review and comment. A copy of the May 2005 minutes is also attached.

At the General Counsel Committee meeting, we will once again be meeting with leaders of the nation's judicial policy-making body, the Conference of Chief Justices, to discuss ways to improve the quality of the administration of justice in our state courts. We will also consider how we can collaborate with the NCSC's International Program to advance the rule of law and identify next steps in our constituency-building effort for state courts. A report on the NCSC's Civil Justice Reform Initiative will be followed by an expanded discussion with the chief justices on critical issues facing the state justice system.

This year's Justice Roundtable has been designed to advance the policy debate and recommend action(s) to preserve the attorney-client privilege and work product doctrine in today's enforcement and regulatory climate. The topic selection, *Attorney-Client Privilege: Preserving Essential Principles*, responds to suggestions of both the General Counsel Committee and the Professionalism and Competency of the Bar Committee of the Conference of Chief Justices.

In addition to these meetings, you are also invited to attend the William H. Rehnquist Award Dinner at the U. S. Supreme Court on Thursday evening, October 27 and the NCSC's Annual Luncheon at noon on Friday, October 28. Your invitations to these events will be mailed in September.

These are important opportunities to exchange information and insights with the chief justices and other leaders of the NCSC on issues of mutual significance to business and the courts. We look forward to your participation in the October meetings.

<<AgendaOct27.doc>> <<Roundtable2005.doc>> <<May05minutes.doc>>

CONFIDENTIALITY NOTICE:
This e-mail and any attachments contain information from the law firm of [redacted] and are intended solely for the use of the named recipient or recipients. This e-mail may contain privileged attorney/client communications or work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 8:57 AM
To: McCallum, Robert (SMO)
Subject: RE: NCSC General Counsel Committee Meeting, October 27, 2005

I circulated the memo w/i Main on Thursday and asked for comments by noon today, adding that we intended to broaden the circulation at that time. So far, I've received no suggestions. Have you?

If not, I'm happy to distribute the memo out this afternoon inviting comments to you and me. In this distribution, I think we should include McNulty, Christie, Immergut, Tenpas, Garcia, and Murphy, as well as current head of corp fraud task force, with a cc to Battle, Buchanan, Fisher, and Mercer (we've already sent the memo to these folks). Is there anyone else whose views you want to solicit? I suggest we ask for any further comments by the end of this week.

NMG

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, September 12, 2005 8:39 AM
To: Sampson, Kyle; Roberts, Crystal; Scolinos, Tasia; Brand, Rachel; Battle, Michael (USAEO)
Cc: Mercer, Bill; Gorsuch, Neil M
Subject: FW: NCSC General Counsel Committee Meeting, October 27, 2005

What say you about my accepting this invitation and attending this event. I am very much inclined to do so whether or not DOJ issues the additional guidance memo that has been drafted and is being circulated. Even though it is off "the record", it will become and be public info, certainly if we have issued the guidance memo. Thoughts, caveats, vetoes? Robt.

-----Original Message-----
From: [redacted]
Sent: Sunday, September 11, 2005 2:44 PM
To: McCallum, Robert (SMO)
Subject: NCSC General Counsel Committee Meeting, October 27, 2005

Robert- We had such a good time visiting at lunch last week that I forgot one of my main duties. The National Center for State Courts was founded by Congress at the urging of Chief Justice Berger to assure greater performace of the state court system. The general counsel committee of the Center is comprised of Fortune 150 GCs who gather with the Chiefs of the States Courts annually to discuss developments within the administration of justice. As you will see from the attachments, a major program to be presented to the Chiefs and the GCs this year is on the Privilege. The Center would very much like for you to be on the program at the place indicated. The program will be the morning of Friday, October 28 and will be off the record. I hope that you are able to join us. Best [redacted]

Friday, October 28 and will be off the record. I hope that you are able to join us. Best [redacted]

-----Original Message-----

From: [redacted]@ncsc.dni.us]

Sent: Thursday, September 01, 2005 1:15 PM

To: [redacted]

Cc: [redacted] McQueen, Mary; Baldwin, Robert

Subject: NCSC General Counsel Committee Meeting, October 27, 2005

From [redacted]

The next meeting of the General Counsel Committee of the National Center for State Courts (NCSC) will be held on Thursday, October 27, 3:00-4:30pm at the Willard InterContinental Hotel in Washington, D.C.

You are also invited to attend the NCSC's Justice Roundtable with the state chief justices on Friday, October 28 (9:00-11:30am). Preliminary agendas are attached for your review and comment. A copy of the May 2005 minutes is also attached.

At the General Counsel Committee meeting, we will once again be meeting with leaders of the nation's judicial policy-making body, the Conference of Chief Justices, to discuss ways to improve the quality of the administration of justice in our state courts. We will also consider how we can collaborate with the NCSC's International Program to advance the rule of law and identify next steps in our constituency-building effort for state courts. A report on the NCSC's Civil Justice Reform Initiative will be followed by an expanded discussion with the chief justices on critical issues facing the state justice system.

This year's Justice Roundtable has been designed to advance the policy debate and recommend action (s) to preserve the attorney-client privilege and work product doctrine in today's enforcement and regulatory climate.

The topic selection, Attorney-Client Privilege: Preserving Essential Principles, responds to suggestions of both the General Counsel Committee and the Professionalism and Competency of the Bar Committee of the Conference of Chief Justices.

In addition to these meetings, you are also invited to attend the William H. Rehnquist Award Dinner at the U. S. Supreme Court on Thursday evening, October 27 and the NCSC's Annual Luncheon at noon on Friday, October 28. Your invitations to these events will be mailed in September.

These are important opportunities to exchange information and insights with the chief justices and other leaders of the NCSC on issues of mutual significance to business and the courts. We look forward to your participation in the October meetings.

<<AgendaOct27.doc>> <<Roundtable2005.doc>> <<May05minutes.doc>>

CONFIDENTIALITY NOTICE:
This e-mail and any attachments contain information from the law firm of [redacted] and are intended solely for the use of the named recipient or recipients. This e-mail may contain privileged attorney/client communications or work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, September 12, 2005 8:59 AM
To: Gorsuch, Neil M
Subject: RE: NCSC General Counsel Committee Meeting, October 27, 2005

No comments received by me. Send out for comments this pm. Put Courtney and Ted on the list. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 8:57 AM
To: McCallum, Robert (SMO)
Subject: RE: NCSC General Counsel Committee Meeting, October 27, 2005

I circulated the memo w/i Main on Thursday and asked for comments by noon today, adding that we intended to broaden the circulation at that time. So far, I've received no suggestions. Have you?

If not, I'm happy to distribute the memo out this afternoon inviting comments to you and me. In this distribution, I think we should include McNulty, Christie, Immergut, Tenpas, Garcia, and Murphy, as well as current head of corp fraud task force, with a cc to Battle, Buchanan, Fisher, and Mercer (we've already sent the memo to these folks). Is there anyone else whose views you want to solicit? I suggest we ask for any further comments by the end of this week.

NMG

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, September 12, 2005 8:39 AM
To: Sampson, Kyle; Roberts, Crystal; Scolinos, Tasia; Brand, Rachel;
Battle, Michael (USAEO)
Cc: Mercer, Bill; Gorsuch, Neil M
Subject: FW: NCSC General Counsel Committee Meeting, October 27, 2005

What say you about my accepting this invitation and attending this event. I am very much inclined to do so whether or not DOJ issues the additional guidance memo that has been drafted and is being circulated. Even though it is off "the record", it will become and be public info, certainly if we have issued the guidance memo. Thoughts, caveats, vetoes? Robt.

-----Original Message-----
From: [redacted]
Sent: Sunday, September 11, 2005 2:44 PM
To: McCallum, Robert (SMO)
Subject: NCSC General Counsel Committee Meeting, October 27, 2005

Robert- We had such a good time visiting at lunch last week that I forgot one of my main duties. The National Center for State Courts was founded by Congress at the urging of Chief Justice Berger to assure greater performace of the state court system. The general counsel committee of the Center is comprised of Fortune 150 GCs who gather with the Chiefs of the States Courts annually to discuss developments within the administration of justice. As you will see from the attachments, a major program to be presented to the Chiefs and the GCs this year is on the Privilege. The Center would very much like for you to be on the program at the place indicated. The program will be the morning of Friday, October 28 and will be off the record. I hope that you are able to join us. Best [redacted]

-----Original Message-----

From: [redacted]@ncsc.dni.us]

Sent: Thursday, September 01, 2005 1:15 PM

To: [redacted]

Cc: [redacted] McQueen, Mary; Baldwin, Robert

Subject: NCSC General Counsel Committee Meeting, October 27, 2005

From [redacted]

The next meeting of the General Counsel Committee of the National Center for State Courts (NCSC) will be held on Thursday, October 27, 3:00-4:30pm at the Willard InterContinental Hotel in Washington, D.C.

You are also invited to attend the NCSC's Justice Roundtable with the state chief justices on Friday, October 28 (9:00-11:30am). Preliminary agendas are attached for your review and comment. A copy of the May 2005 minutes is also attached.

At the General Counsel Committee meeting, we will once again be meeting with leaders of the nation's judicial policy-making body, the Conference of Chief Justices, to discuss ways to improve the quality of the administration of justice in our state courts. We will also consider how we can collaborate with the NCSC's International Program to advance the rule of law and identify next steps in our constituency-building effort for state courts. A report on the NCSC's Civil Justice Reform Initiative will be followed by an expanded discussion with the chief justices on critical issues facing the state justice system.

This year's Justice Roundtable has been designed to advance the policy debate and recommend action

(s) to preserve the attorney-client privilege and work product doctrine in today's enforcement and regulatory climate.
The topic selection, Attorney-Client Privilege: Preserving Essential Principles, responds to suggestions of both the General Counsel Committee and the Professionalism and Competency of the Bar Committee of the Conference of Chief Justices.

In addition to these meetings, you are also invited to attend the William H. Rehnquist Award Dinner at the U. S. Supreme Court on Thursday evening, October 27 and the NCSC's Annual Luncheon at noon on Friday, October 28. Your invitations to these events will be mailed in September.

These are important opportunities to exchange information and insights with the chief justices and other leaders of the NCSC on issues of mutual significance to business and the courts. We look forward to your participation in the October meetings.

<<AgendaOct27.doc>> <<Roundtable2005.doc>> <<May05minutes.doc>>

CONFIDENTIALITY NOTICE:
This e-mail and any attachments contain information from the law firm of [redacted] and are intended solely for the use of the named recipient or recipients. This e-mail may contain privileged attorney/client communications or work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 10:00 AM
To: McCallum, Robert (SMO)
Subject: RE: NCSC General Counsel Committee Meeting, October 27, 2005

Will do

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, September 12, 2005 8:59 AM
To: Gorsuch, Neil M
Subject: RE: NCSC General Counsel Committee Meeting, October 27, 2005

No comments received by me. Send out for comments this pm. Put Courtney and Ted on the list. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 8:57 AM
To: McCallum, Robert (SMO)
Subject: RE: NCSC General Counsel Committee Meeting, October 27, 2005

I circulated the memo w/i Main on Thursday and asked for comments by noon today, adding that we intended to broaden the circulation at that time. So far, I've received no suggestions. Have you?

If not, I'm happy to distribute the memo out this afternoon inviting comments to you and me. In this distribution, I think we should include McNulty, Christie, Immergut, Tenpas, Garcia, and Murphy, as well as current head of corp fraud task force, with a cc to Battle, Buchanan, Fisher, and Mercer (we've already sent the memo to these folks). Is there anyone else whose views you want to solicit? I suggest we ask for any further comments by the end of this week.

NMG

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, September 12, 2005 8:39 AM
To: Sampson, Kyle; Roberts, Crystal; Scolinos, Tasia; Brand, Rachel;
Battle, Michael (USAEO)
Cc: Mercer, Bill; Gorsuch, Neil M
Subject: FW: NCSC General Counsel Committee Meeting, October 27, 2005

What say you about my accepting this invitation and attending this event. I am very much inclined to do so whether or not DOJ issues the additional guidance memo that has been drafted and is being

do so whether or not DOJ issues the additional guidance memo that has been drafted and is being circulated. Even though it is off "the record", it will become and be public info, certainly if we have issued the guidance memo. Thoughts, caveats, vetoes? Robt.

-----Original Message-----
From: [redacted]
Sent: Sunday, September 11, 2005 2:44 PM
To: McCallum, Robert (SMO)
Subject: NCSC General Counsel Committee Meeting, October 27, 2005

Robert- We had such a good time visiting at lunch last week that I forgot one of my main duties. The National Center for State Courts was founded by Congress at the urging of Chief Justice Berger to assure greater performace of the state court system. The general counsel committee of the Center is comprised of Fortune 150 GCs who gather with the Chiefs of the States Courts annually to discuss developments within the administration of justice. As you will see from the attachments, a major program to be presented to the Chiefs and the GCs this year is on the Privilege. The Center would very much like for you to be on the program at the place indicated. The program will be the morning of Friday, October 28 and will be off the record. I hope that you are able to join us. Best [redacted]
-----Original Message-----
From: [redacted]@ncsc.dni.us]
Sent: Thursday, September 01, 2005 1:15 PM
To: [redacted]
Cc: [redacted] McQueen, Mary; Baldwin, Robert
Subject: NCSC General Counsel Committee Meeting, October 27, 2005

From [redacted]

The next meeting of the General Counsel Committee of the National Center for State Courts (NCSC) will be held on Thursday, October 27, 3:00-4:30pm at the Willard InterContinental Hotel in Washington, D.C.
You are also invited to attend the NCSC's Justice Roundtable with the state chief justices on Friday, October 28 (9:00-11:30am). Preliminary agendas are attached for your review and comment. A copy of the May 2005 minutes is also attached.

At the General Counsel Committee meeting, we will once again be meeting with leaders of the nation's judicial policy-making body, the Conference of Chief Justices, to discuss ways to improve the quality of the administration of justice in our state courts. We will also consider how we can collaborate with the NCSC's International Program to advance the rule of law and identify next steps in our constituency-building effort for state courts. A report on the NCSC's Civil Justice Reform Initiative will be followed by an expanded discussion with the chief justices on critical issues facing the state justice system.

This year's Justice Roundtable has been designed to advance the policy debate and recommend action (s) to preserve the attorney-client privilege and work product doctrine in today's enforcement and regulatory climate.
The topic selection, Attorney-Client Privilege: Preserving Essential Principles, responds to suggestions of both the General Counsel Committee and the Professionalism and Competency of the Bar Committee of the Conference of Chief Justices.

In addition to these meetings, you are also invited to attend the William H. Rehnquist Award Dinner at the U. S. Supreme Court on Thursday evening, October 27 and the NCSC's Annual Luncheon at noon on Friday, October 28. Your invitations to these events will be mailed in September.

These are important opportunities to exchange information and insights with the chief justices and other leaders of the NCSC on issues of mutual significance to business and the courts. We look forward to your participation in the October meetings.

<<AgendaOct27.doc>> <<Roundtable2005.doc>> <<May05minutes.doc>>

CONFIDENTIALITY NOTICE:
This e-mail and any attachments contain information from the law firm of [redacted] and are intended solely for the use of the named recipient or recipients. This e-mail may contain privileged attorney/client communications or work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 10:04 AM
To: Sampson, Kyle
Subject: a/c waiver memo

At the morning meeting I thought you said you might have some comments. I just wanted to follow up. Will be around at your convenience to discuss. I was hoping to circulate the memo this afternoon to the US Atty cmty. Thanks. NMG

Marc_Kesselman@omb.eop.gov

From:	Marc_Kesselman@omb.eop.gov
Sent:	Monday, September 12, 2005 10:17 AM
To:	Moschella, William; Gorsuch, Neil M; Rajeev_V._Venkayya@who.eop.gov
Cc:	Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject:	RE: healthcare worker liability

Thanks Neil! As I mentioned I would do on Friday, I raised this issue with the GCs hurricane working group, and a few of them expressed that they may reach out to you today. Everyone seemed on board with the concept, they just had a few ideas about potential additional classes of people whom they want covered. I let them know that this was on a very fast track, and that we were doing our best to wrap this up by COB today or early Tuesday at the latest. I am happy to get involved as you think would be most appropriate, and really appreciate your taking the point on this.

I am about to send the draft to a couple of GCs who hadn't yet seen the draft language. Is there a more recent version that would be most helpful to share?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 8:28 AM
To: William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Kesselman, Marc
Subject: RE: healthcare worker liability

We seem to have consensus with State and I expect us to turn something around by tomorrow representing our shared views. I have a message this morning from OPM expressing interest in this area as well and I intend to invite them to our conf call this afternoon and hope to work them into the effort. Will keep you apprised.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Sunday, September 11, 2005 12:37 PM
To: Moschella, William; Gorsuch, Neil M
Subject: Re: healthcare worker liability

Thanks for the follow up. I'll touch base with Marc tomorrow morning. Please let me if anything arises that might stand in the way of consensus between the departments and/or a rapid turnaround of the document. This is a high priority for us.

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019

fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
Sent: Sun Sep 11 12:11:41 2005
Subject: Re: healthcare worker liability

Rajeev - we did send a bill to omb last week. Marc Kesselman PDGC there liked it but said State and others were working on similar bills and asked me to coordinate efforts. Jeff and I met with State Friday and will do so again Monday. We hope to have a revised bill representing our joint recommendation by Tuesday.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov <Rajeev_V._Venkayya@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 10 10:48:51 2005
Subject: Fw: healthcare worker liability

Neil- Meant to copy you on this. Let me know if you have additional information. Thanks. -Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
To: 'William.Moschella@usdoj.gov' <William.Moschella@usdoj.gov>
Sent: Sat Sep 10 10:42:32 2005
Subject: Re: healthcare worker liability

I'd like to follow up with OMB to ensure that this moves forward. Did it go to them on Wed? If so, can you tell me who your POC is there?

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019

fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>
To: Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>; Robert.McCallum@usdoj.gov <Robert.McCallum@usdoj.gov>; Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>; Rachel.Brand@usdoj.gov <Rachel.Brand@usdoj.gov>; Peter.D.Keisler@usdoj.gov <Peter.D.Keisler@usdoj.gov>; Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>; DL-HSC-CHEM-BIO <DL-HSC-CHEM-BIO@eopds.eop.gov>; Leggitt, Lance B. <Lance_B._Leggitt@who.eop.gov>; Mitnick, John M. <John_M._Mitnick@who.eop.gov>
Sent: Wed Sep 07 09:06:45 2005
Subject: RE: healthcare worker liability

For timing purposes, DOJ is putting this provision into final legislative form with a section-by-section analysis. We hope to submit it to OMB by COB today after a very short internal circulation.

We have already provided to OMB (last night) a package of Katrina related proposals on other subjects.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Wednesday, September 07, 2005 12:07 AM
To: Christopher_W._Frech@who.eop.gov
Cc: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); Moschella, William; McCallum, Robert (SMO); Hertling, Richard; Brand, Rachel; Keisler, Peter D. (CIV); Gorsuch, Neil M; DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov; John_M._Mitnick@who.eop.gov
Subject: FW: healthcare worker liability

Chris,

As the events of the past week unfolded, it once again became clear that we need to address the issue of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the Hill. I ran a working group on the subject last year, and we took an option of amendment of the Volunteer Protection Act all the way to Deputies and received approval. There was a desire to fold it into the MedMal legislation, and not much happened after that.

DOJ was extremely helpful in the original assessment of this issue, and provided legislative language to address the problem at that time. I contacted them today and asked them to update documents that they had prepared in Nov 2004, and they provided the attached revision.

DOJ just informed me that they plan to formally submit this to OLA tomorrow to be considered as part of a broader legislative package. I will leave it to them to officially transmit that language, but I wanted you to know that this approach has already been vetted by the HSC Deputies Committee, and

we fully support it. Please let me know if I can provide you with any additional background information. Thanks.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, September 06, 2005 3:24 PM
To: Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; DL-HSC-CHEM-BIO; Leggitt, Lance B.
Subject: RE: healthcare worker liability

Rajeev,

I think the "Emergency Health Freestanding Section" document is a sound approach and would resolve many of the problems we have had this week. In the attached version I have added two passages, neither of which is essential but might prove helpful later on.

The first change is to add the bolded language in paragraph (a):

the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction (including foreign countries) to provide such healthcare.

This is consistent with the discussions we had last year that a Canadian doctor who helped out at 9/11 should receive the same protection as a Massachusetts doctor. Explicitly mentioning foreign countries may make it easier to recruit foreign health care volunteers.

The second change is to add the bolded language in the next sentence:

Subsection (b) of section 3 and subsections (c) and (d) of section 4 of such chapter (42 U.S.C. § § 14502(b) and 14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

This change addresses the opt-out language of the VPA. 42 U.S.C. § 14502(b) provides that the VPA's protections do not apply if a state has specifically elected to make the VPA inapplicable. This change would remove the opt-out option for declared national emergencies. We have researched Louisiana or Mississippi law on the issue, and it does not appear that either has enacted such legislation. It would probably expedite relief efforts in future catatrosphes if the opt-out question were taken off the table. I don't know whether the issue is worth including in emergency legislation.

One other small matter. The "Emergency Health Freestanding Section" document contains the language, "for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), ... and subsections (c) and (d) of section 4 of such chapter ...." I have not found the reference that section 4 is Section 14503; but, relying on it I have referred to the previous section (14502) as "section 3."

Please call if I can be of further assistance.

Paul

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Bucholtz, Jeffrey (CIV)

From:	Bucholtz, Jeffrey (CIV)
Sent:	Monday, September 12, 2005 10:30 AM
To:	Gorsuch, Neil M
Subject:	FW: healthcare worker liability
Attachments:	Katrina latest healthcare emergency volunteer bill.wpd

Neil: Attached is the new version of the healthcare emergency volunteer bill, with the new language re: compensation that I e-mailed you over the weekend, in case you want to send it to Marc.

Jeff

-----Original Message-----
From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Monday, September 12, 2005 10:17 AM
To: Moschella, William; Gorsuch, Neil M; Rajeev_V._Venkayya@who.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Thanks Neil! As I mentioned I would do on Friday, I raised this issue with the GCs hurricane working group, and a few of them expressed that they may reach out to you today. Everyone seemed on board with the concept, they just had a few ideas about potential additional classes of people whom they want covered. I let them know that this was on a very fast track, and that we were doing our best to wrap this up by COB today or early Tuesday at the latest. I am happy to get involved as you think would be most appropriate, and really appreciate your taking the point on this.

I am about to send the draft to a couple of GCs who hadn't yet seen the draft language. Is there a more recent version that would be most helpful to share?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 8:28 AM
To: William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Kesselman, Marc
Subject: RE: healthcare worker liability

We seem to have consensus with State and I expect us to turn something around by tomorrow representing our shared views. I have a message this morning from OPM expressing interest in this area as well and I intend to invite them to our conf call this afternoon and hope to work them into the effort. Will keep you apprised.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov

[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Sunday, September 11, 2005 12:37 PM
To: Moschella, William; Gorsuch, Neil M
Subject: Re: healthcare worker liability

Thanks for the follow up. I'll touch base with Marc tomorrow morning. Please let me if anything arises that might stand in the way of consensus between the departments and/or a rapid turnaround of the document. This is a high priority for us.

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
Sent: Sun Sep 11 12:11:41 2005
Subject: Re: healthcare worker liability

Rajeev - we did send a bill to omb last week. Marc Kesselman PDGC there liked it but said State and others were working on similar bills and asked me to coordinate efforts. Jeff and I met with State Friday and will do so again Monday. We hope to have a revised bill representing our joint recommendation by Tuesday.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov <Rajeev_V._Venkayya@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 10 10:48:51 2005
Subject: Fw: healthcare worker liability

Neil- Meant to copy you on this. Let me know if you have additional information. Thanks. -Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
To: 'William.Moschella@usdoj.gov' <William.Moschella@usdoj.gov>
Sent: Sat Sep 10 10:42:32 2005
Subject: Re: healthcare worker liability

I'd like to follow up with OMB to ensure that this moves forward. Did it go to them on Wed? If so, can you tell me who your POC is there?

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>
To: Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>; Robert.McCallum@usdoj.gov <Robert.McCallum@usdoj.gov>; Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>; Rachel.Brand@usdoj.gov <Rachel.Brand@usdoj.gov>; Peter.D.Keisler@usdoj.gov <Peter.D.Keisler@usdoj.gov>; Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>; DL-HSC-CHEM-BIO <DL-HSC-CHEM-BIO@eopds.eop.gov>; Leggitt, Lance B. <Lance_B._Leggitt@who.eop.gov>; Mitnick, John M. <John_M._Mitnick@who.eop.gov>
Sent: Wed Sep 07 09:06:45 2005
Subject: RE: healthcare worker liability

For timing purposes, DOJ is putting this provision into final legislative form with a section-by-section analysis. We hope to submit it to OMB by COB today after a very short internal circulation.

We have already provided to OMB (last night) a package of Katrina related proposals on other subjects.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Wednesday, September 07, 2005 12:07 AM
To: Christopher_W._Frech@who.eop.gov
Cc: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); Moschella, William; McCallum, Robert (SMO); Hertling, Richard; Brand, Rachel; Keisler, Peter D. (CIV); Gorsuch, Neil M; DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov; John_M._Mitnick@who.eop.gov
Subject: FW: healthcare worker liability

Chris

Chris,

As the events of the past week unfolded, it once again became clear that we need to address the issue of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the Hill. I ran a working group on the subject last year, and we took an option of amendment of the Volunteer Protection Act all the way to Deputies and received approval. There was a desire to fold it into the MedMal legislation, and not much happened after that.

DOJ was extremely helpful in the original assessment of this issue, and provided legislative language to address the problem at that time. I contacted them today and asked them to update documents that they had prepared in Nov 2004, and they provided the attached revision.

DOJ just informed me that they plan to formally submit this to OLA tomorrow to be considered as part of a broader legislative package. I will leave it to them to officially transmit that language, but I wanted you to know that this approach has already been vetted by the HSC Deputies Committee, and we fully support it. Please let me know if I can provide you with any additional background information. Thanks.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, September 06, 2005 3:24 PM
To: Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; DL-HSC-CHEM-BIO; Leggitt, Lance B.
Subject: RE: healthcare worker liability

Rajeev,

I think the "Emergency Health Freestanding Section" document is a sound approach and would resolve many of the problems we have had this week. In the attached version I have added two passages, neither of which is essential but might prove helpful later on.

The first change is to add the bolded language in paragraph (a):

the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction (including foreign countries) to provide such healthcare.

This is consistent with the discussions we had last year that a Canadian doctor who helped out at 9/11

should receive the same protection as a Massachusetts doctor. Explicitly mentioning foreign countries may make it easier to recruit foreign health care volunteers.

The second change is to add the bolded language in the next sentence:

Subsection (b) of section 3 and subsections (c) and (d) of section 4 of such chapter (42 U.S.C. § § 14502(b) and 14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

This change addresses the opt-out language of the VPA. 42 U.S.C. § 14502(b) provides that the VPA's protections do not apply if a state has specifically elected to make the VPA inapplicable. This change would remove the opt-out option for declared national emergencies. We have researched Louisiana or Mississippi law on the issue, and it does not appear that either has enacted such legislation. It would probably expedite relief efforts in future catatrosphes if the opt-out question were taken off the table. I don't know whether the issue is worth including in emergency legislation.

One other small matter. The "Emergency Health Freestanding Section" document contains the language, "for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), ... and subsections (c) and (d) of section 4 of such chapter ...." I have not found the reference that section 4 is Section 14503; but, relying on it I have referred to the previous section (14502) as "section 3."

Please call if I can be of further assistance.

Paul

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council

White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Sec. 1 – Short title.

This legislation may be cited as the "Healthcare Emergency Volunteer Protection Act of 2005."

Sec. 2 – Relief to Healthcare Emergency Volunteers

In title __, United States Code, add the following section:

"____. Healthcare Emergency Volunteers

(a) Liability of healthcare emergency volunteers

A healthcare emergency volunteer, as defined in this section, shall not be liable for harm caused by an act or omission of such volunteer within the scope of such volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency if --

(1) the harm was not caused by willful or criminal misconduct, reckless misconduct, or conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(2) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires the operator or the owner of the vehicle, craft, or vessel to --

(A) possess an operator's license; or

(B) maintain insurance.

(b) Limitation on punitive damages based on actions of healthcare emergency volunteers

(1) General rule

Punitive damages may not be awarded against a healthcare emergency volunteer in an action brought for harm based on an act or omission of such volunteer within the scope of such volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency, unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an act of such volunteer that constitutes willful or criminal misconduct or conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Nothing in this section creates or enlarges any cause of action for punitive damages or preempts or supersedes any federal or state law to the extent that such law would further

prohibit or limit an award of punitive damages.

(c) Liability of employer or partner of healthcare emergency volunteer

An employer or business partner of a healthcare emergency volunteer shall not be liable for any act or omission of such volunteer within the scope of the volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency.

(d) Liability of host or enabling person, entity, or organization

A person, entity, or organization, including a governmental entity or a healthcare facility, that works with, accepts services from, or opens its facilities to a healthcare emergency volunteer to enable such volunteer to render health or medical services in connection with a Declared Healthcare Emergency shall not be liable for any act or omission of such volunteer within the scope of the volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency.

(e) Liability of healthcare emergency volunteer for non-economic loss

(1) General rule

In any civil action against a healthcare emergency volunteer based on an act or omission of such volunteer within the scope of the volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency, the liability of such volunteer for non-economic loss shall be determined in accordance with this subsection.

(2) Amount of liability

(A) Each defendant who is a healthcare emergency volunteer shall be liable only for the amount of non-economic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with subparagraph (B)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(B) For purposes of determining the amount of non-economic loss allocated to a defendant who is a healthcare emergency volunteer under this section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant's harm.

(f) Construction

Nothing in this section shall be construed to abrogate or limit any protection that a volunteer, as defined in the Volunteer Protection Act, Pub. L. 105-19, 42 U.S.C. 14501-14505, may be entitled to under that Act.

(g) Supplemental Declaration

In the event of a Declared Healthcare Emergency as defined herein, the President, the Secretary of Health and Human Services, or the Secretary of Homeland Security may issue a Supplemental Declaration under this section.

(1) Temporal effect

Such Supplemental Declaration may provide that, for purposes of this section, such Declared Healthcare Emergency shall have such temporal effect as the President or the Secretary may deem necessary or appropriate to further the public interest, including providing that such Declared Healthcare Emergency shall have an effective date earlier than the date of the declaration or determination of such Declared Healthcare Emergency.
(2) Geographic and other conditions

Such Supplemental Declaration may provide that, for purposes of this section, such Declared Healthcare Emergency shall have such geographic or other conditions as the President or the Secretary may deem necessary or appropriate to further the public interest, including providing that "health care emergency volunteer" as defined herein shall include individuals who are properly licensed, certified, or authorized to provide health or medical services by the appropriate authorities of a foreign country, under such conditions as the Supplemental Declaration may prescribe.

(h) Definitions

For purposes of this section –

(1) "Declared Healthcare Emergency" means a public health emergency declared by the Secretary of Health and Human Services under 42 U.S.C. 247d; a determination by the Secretary of Homeland Security in accordance with 42 U.S.C. 300hh-11; or an emergency or disaster declaration under 42 U.S.C. 5191 or 42 U.S.C. 5170.

(2) "Healthcare emergency volunteer" means an individual who provides medical services or assistance in connection with a Declared Healthcare Emergency, in a location other than his or her usual place of business or practice and without expectation or receipt of compensation for such services or assistance, provided that such individual is properly licensed, certified, or authorized to provide health or medical services by the appropriate authorities of a State (as defined herein) or (if and to the extent specified in a Supplemental Declaration under this section) a foreign country.

(3) "Healthcare facility" means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile services platform or vehicle used for the provision of health or medical services.

(4) "Non-economic loss" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic

service), hedonic damages, injury to reputation, and all other non-pecuniary losses of any kind or nature.

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) "Compensation" means monetary or other compensation of any kind provided in exchange for an individual's services, but does not include reasonable reimbursement or allowance for expenses actually incurred by such individual.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 10:34 AM
To: Bucholtz, Jeffrey (CIV)
Subject: RE: healthcare worker liability

thanks much.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Monday, September 12, 2005 10:30 AM
To: Gorsuch, Neil M
Subject: FW: healthcare worker liability

Neil: Attached is the new version of the healthcare emergency volunteer bill, with the new language re: compensation that I e-mailed you over the weekend, in case you want to send it to Marc.

Jeff

-----Original Message-----
From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Monday, September 12, 2005 10:17 AM
To: Moschella, William; Gorsuch, Neil M; Rajeev_V._Venkayya@who.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Thanks Neil! As I mentioned I would do on Friday, I raised this issue with the GCs hurricane working group, and a few of them expressed that they may reach out to you today. Everyone seemed on board with the concept, they just had a few ideas about potential additional classes of people whom they want covered. I let them know that this was on a very fast track, and that we were doing our best to wrap this up by COB today or early Tuesday at the latest. I am happy to get involved as you think would be most appropriate, and really appreciate your taking the point on this.

I am about to send the draft to a couple of GCs who hadn't yet seen the draft language. Is there a more recent version that would be most helpful to share?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 8:28 AM
To: William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Kesselman, Marc
Subject: RE: healthcare worker liability

We seem to have consensus with State and I expect us to turn something around by tomorrow representing our shared views. I have a message this morning from OPM expressing interest in this area as well and I intend to invite them to our conf call this afternoon and hope to work them into the effort. Will keep you apprised.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Sunday, September 11, 2005 12:37 PM
To: Moschella, William; Gorsuch, Neil M
Subject: Re: healthcare worker liability

Thanks for the follow up. I'll touch base with Marc tomorrow morning. Please let me if anything arises that might stand in the way of consensus between the departments and/or a rapid turnaround of the document. This is a high priority for us.

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
Sent: Sun Sep 11 12:11:41 2005
Subject: Re: healthcare worker liability

Rajeev - we did send a bill to omb last week. Marc Kesselman PDGC there liked it but said State and others were working on similar bills and asked me to coordinate efforts. Jeff and I met with State Friday and will do so again Monday. We hope to have a revised bill representing our joint recommendation by Tuesday.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov <Rajeev_V._Venkayya@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 10 10:48:51 2005
Subject: Fw: healthcare worker liability

Neil- Meant to copy you on this. Let me know if you have additional information. Thanks. -Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
To: 'William.Moschella@usdoj.gov' <William.Moschella@usdoj.gov>
Sent: Sat Sep 10 10:42:32 2005
Subject: Re: healthcare worker liability

I'd like to follow up with OMB to ensure that this moves forward. Did it go to them on Wed? If so, can you tell me who your POC is there?

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>
To: Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>; Robert.McCallum@usdoj.gov <Robert.McCallum@usdoj.gov>; Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>; Rachel.Brand@usdoj.gov <Rachel.Brand@usdoj.gov>; Peter.D.Keisler@usdoj.gov <Peter.D.Keisler@usdoj.gov>; Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>; DL-HSC-CHEM-BIO <DL-HSC-CHEM-BIO@eopds.eop.gov>; Leggitt, Lance B. <Lance_B._Leggitt@who.eop.gov>; Mitnick, John M. <John_M._Mitnick@who.eop.gov>
Sent: Wed Sep 07 09:06:45 2005
Subject: RE: healthcare worker liability

For timing purposes, DOJ is putting this provision into final legislative form with a section-by-section analysis. We hope to submit it to OMB by COB today after a very short internal circulation.

We have already provided to OMB (last night) a package of Katrina related proposals on other subjects.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Wednesday, September 07, 2005 12:07 AM

Sent: Wednesday, September 07, 2005 12:07 AM
To: Christopher_W._Frech@who.eop.gov
Cc: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); Moschella, William; McCallum, Robert (SMO); Hertling, Richard; Brand, Rachel; Keisler, Peter D. (CIV); Gorsuch, Neil M; DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov; John_M._Mitnick@who.eop.gov
Subject: FW: healthcare worker liability

Chris,

As the events of the past week unfolded, it once again became clear that we need to address the issue of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the Hill. I ran a working group on the subject last year, and we took an option of amendment of the Volunteer Protection Act all the way to Deputies and received approval. There was a desire to fold it into the MedMal legislation, and not much happened after that.

DOJ was extremely helpful in the original assessment of this issue, and provided legislative language to address the problem at that time. I contacted them today and asked them to update documents that they had prepared in Nov 2004, and they provided the attached revision.

DOJ just informed me that they plan to formally submit this to OLA tomorrow to be considered as part of a broader legislative package. I will leave it to them to officially transmit that language, but I wanted you to know that this approach has already been vetted by the HSC Deputies Committee, and we fully support it. Please let me know if I can provide you with any additional background information. Thanks.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, September 06, 2005 3:24 PM
To: Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; DL-HSC-CHEM-BIO; Leggitt, Lance B.
Subject: RE: healthcare worker liability

Rajeev,

I think the "Emergency Health Freestanding Section" document is a sound approach and would resolve many of the problems we have had this week. In the attached version I have added two passages,

neither of which is essential but might prove helpful later on.

The first change is to add the bolded language in paragraph (a):

the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction (including foreign countries) to provide such healthcare.

This is consistent with the discussions we had last year that a Canadian doctor who helped out at 9/11 should receive the same protection as a Massachusetts doctor. Explicitly mentioning foreign countries may make it easier to recruit foreign health care volunteers.

The second change is to add the bolded language in the next sentence:

Subsection (b) of section 3 and subsections (c) and (d) of section 4 of such chapter (42 U.S.C. § § 14502(b) and 14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

This change addresses the opt-out language of the VPA. 42 U.S.C. § 14502(b) provides that the VPA's protections do not apply if a state has specifically elected to make the VPA inapplicable. This change would remove the opt-out option for declared national emergencies. We have researched Louisiana or Mississippi law on the issue, and it does not appear that either has enacted such legislation. It would probably expedite relief efforts in future catatrosphes if the opt-out question were taken off the table. I don't know whether the issue is worth including in emergency legislation.

One other small matter. The "Emergency Health Freestanding Section" document contains the language, "for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), ... and subsections (c) and (d) of section 4 of such chapter ...." I have not found the reference that section 4 is Section 14503; but, relying on it I have referred to the previous section (14502) as "section 3."

Please call if I can be of further assistance.

Paul

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section"

amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, September 12, 2005 10:37 AM
To:	'Marc_Kesselman@omb.eop.gov'; Moschella, William; Rajeev_V._Venkayya@who.eop.gov
Cc:	Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject:	RE: healthcare worker liability
Attachments:	Katrina latest healthcare emergency volunteer bill.wpd

Marc, The draft is attached but we are in the process of expanding it to cover (a) all volunteers, not just healthcare volunteers, though the structure of the bill will remain the same, as well as (b) govt employees (whether foreign or domestic). We are working with State and OPM (the two agencies we've heard from so far) to have a revised version ready for you by tonight or early tomorrow at the latest. NMG

-----Original Message-----
From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Monday, September 12, 2005 10:17 AM
To: Moschella, William; Gorsuch, Neil M; Rajeev_V._Venkayya@who.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Thanks Neil! As I mentioned I would do on Friday, I raised this issue with the GCs hurricane working group, and a few of them expressed that they may reach out to you today. Everyone seemed on board with the concept, they just had a few ideas about potential additional classes of people whom they want covered. I let them know that this was on a very fast track, and that we were doing our best to wrap this up by COB today or early Tuesday at the latest. I am happy to get involved as you think would be most appropriate, and really appreciate your taking the point on this.

I am about to send the draft to a couple of GCs who hadn't yet seen the draft language. Is there a more recent version that would be most helpful to share?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 8:28 AM
To: William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Kesselman, Marc
Subject: RE: healthcare worker liability

We seem to have consensus with State and I expect us to turn something around by tomorrow representing our shared views. I have a message this morning from OPM expressing interest in this area as well and I intend to invite them to our conf call this afternoon and hope to work them into the effort. Will keep you apprised.

-----Original Message-----

From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Sunday, September 11, 2005 12:37 PM
To: Moschella, William; Gorsuch, Neil M
Subject: Re: healthcare worker liability

Thanks for the follow up. I'll touch base with Marc tomorrow morning. Please let me if anything arises that might stand in the way of consensus between the departments and/or a rapid turnaround of the document. This is a high priority for us.

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
Sent: Sun Sep 11 12:11:41 2005
Subject: Re: healthcare worker liability

Rajeev - we did send a bill to omb last week. Marc Kesselman PDGC there liked it but said State and others were working on similar bills and asked me to coordinate efforts. Jeff and I met with State Friday and will do so again Monday. We hope to have a revised bill representing our joint recommendation by Tuesday.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov <Rajeev_V._Venkayya@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 10 10:48:51 2005
Subject: Fw: healthcare worker liability

Neil- Meant to copy you on this. Let me know if you have additional information. Thanks. -Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

rvenkayya@who.eop.gov

-----Original Message-----
From: Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
To: 'William.Moschella@usdoj.gov' <William.Moschella@usdoj.gov>
Sent: Sat Sep 10 10:42:32 2005
Subject: Re: healthcare worker liability

I'd like to follow up with OMB to ensure that this moves forward. Did it go to them on Wed? If so, can you tell me who your POC is there?

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>
To: Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>; Robert.McCallum@usdoj.gov <Robert.McCallum@usdoj.gov>; Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>; Rachel.Brand@usdoj.gov <Rachel.Brand@usdoj.gov>; Peter.D.Keisler@usdoj.gov <Peter.D.Keisler@usdoj.gov>; Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>; DL-HSC-CHEM-BIO <DL-HSC-CHEM-BIO@eopds.eop.gov>; Leggitt, Lance B. <Lance_B._Leggitt@who.eop.gov>; Mitnick, John M. <John_M._Mitnick@who.eop.gov>
Sent: Wed Sep 07 09:06:45 2005
Subject: RE: healthcare worker liability

For timing purposes, DOJ is putting this provision into final legislative form with a section-by-section analysis. We hope to submit it to OMB by COB today after a very short internal circulation.

We have already provided to OMB (last night) a package of Katrina related proposals on other subjects.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Wednesday, September 07, 2005 12:07 AM
To: Christopher_W._Frech@who.eop.gov
Cc: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); Moschella, William; McCallum, Robert (SMO); Hertling, Richard; Brand, Rachel; Keisler, Peter D. (CIV); Gorsuch, Neil M; DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov; John_M._Mitnick@who.eop.gov
Subject: FW: healthcare worker liability

Chris,

As the events of the past week unfolded, it once again became clear that we need to address the issue of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the Hill. I ran a working group on the subject last year, and we took an option of amendment of the Volunteer Protection Act all the way to Deputies and received approval. There was a desire to fold it into the MedMal legislation, and not much happened after that.

DOJ was extremely helpful in the original assessment of this issue, and provided legislative language to address the problem at that time. I contacted them today and asked them to update documents that they had prepared in Nov 2004, and they provided the attached revision.

DOJ just informed me that they plan to formally submit this to OLA tomorrow to be considered as part of a broader legislative package. I will leave it to them to officially transmit that language, but I wanted you to know that this approach has already been vetted by the HSC Deputies Committee, and we fully support it. Please let me know if I can provide you with any additional background information. Thanks.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, September 06, 2005 3:24 PM
To: Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; DL-HSC-CHEM-BIO; Leggitt, Lance B.
Subject: RE: healthcare worker liability

Rajeev,

I think the "Emergency Health Freestanding Section" document is a sound approach and would resolve many of the problems we have had this week. In the attached version I have added two passages, neither of which is essential but might prove helpful later on.

The first change is to add the bolded language in paragraph (a):

the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction (including foreign countries) to provide such healthcare.

This is consistent with the discussions we had last year that a Canadian doctor who helped out at 9/11 should receive the same protection as a Massachusetts doctor. Explicitly mentioning foreign countries may make it easier to recruit foreign health care volunteers.

The second change is to add the bolded language in the next sentence:

Subsection (b) of section 3 and subsections (c) and (d) of section 4 of such chapter (42 U.S.C. § § 14502(b) and 14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

This change addresses the opt-out language of the VPA. 42 U.S.C. § 14502(b) provides that the VPA's protections do not apply if a state has specifically elected to make the VPA inapplicable. This change would remove the opt-out option for declared national emergencies. We have researched Louisiana or Mississippi law on the issue, and it does not appear that either has enacted such legislation. It would probably expedite relief efforts in future catatrosphes if the opt-out question were taken off the table. I don't know whether the issue is worth including in emergency legislation.

One other small matter. The "Emergency Health Freestanding Section" document contains the language, "for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), ... and subsections (c) and (d) of section 4 of such chapter ...." I have not found the reference that section 4 is Section 14503; but, relying on it I have referred to the previous section (14502) as "section 3."

Please call if I can be of further assistance.

Paul

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD

Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Sec. 1 – Short title.

This legislation may be cited as the "Healthcare Emergency Volunteer Protection Act of 2005."

Sec. 2 – Relief to Healthcare Emergency Volunteers

In title __, United States Code, add the following section:

"____. Healthcare Emergency Volunteers

(a) Liability of healthcare emergency volunteers

A healthcare emergency volunteer, as defined in this section, shall not be liable for harm caused by an act or omission of such volunteer within the scope of such volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency if --

(1) the harm was not caused by willful or criminal misconduct, reckless misconduct, or conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(2) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires the operator or the owner of the vehicle, craft, or vessel to --

(A) possess an operator's license; or

(B) maintain insurance.

(b) Limitation on punitive damages based on actions of healthcare emergency volunteers

(1) General rule

Punitive damages may not be awarded against a healthcare emergency volunteer in an action brought for harm based on an act or omission of such volunteer within the scope of such volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency, unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an act of such volunteer that constitutes willful or criminal misconduct or conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Nothing in this section creates or enlarges any cause of action for punitive damages or preempts or supersedes any federal or state law to the extent that such law would further

prohibit or limit an award of punitive damages.

(c) Liability of employer or partner of healthcare emergency volunteer

An employer or business partner of a healthcare emergency volunteer shall not be liable for any act or omission of such volunteer within the scope of the volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency.

(d) Liability of host or enabling person, entity, or organization

A person, entity, or organization, including a governmental entity or a healthcare facility, that works with, accepts services from, or opens its facilities to a healthcare emergency volunteer to enable such volunteer to render health or medical services in connection with a Declared Healthcare Emergency shall not be liable for any act or omission of such volunteer within the scope of the volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency.

(e) Liability of healthcare emergency volunteer for non-economic loss

(1) General rule

In any civil action against a healthcare emergency volunteer based on an act or omission of such volunteer within the scope of the volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency, the liability of such volunteer for non-economic loss shall be determined in accordance with this subsection.

(2) Amount of liability

(A) Each defendant who is a healthcare emergency volunteer shall be liable only for the amount of non-economic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with subparagraph (B)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(B) For purposes of determining the amount of non-economic loss allocated to a defendant who is a healthcare emergency volunteer under this section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant's harm.

(f) Construction

Nothing in this section shall be construed to abrogate or limit any protection that a volunteer, as defined in the Volunteer Protection Act, Pub. L. 105-19, 42 U.S.C. 14501-14505, may be entitled to under that Act.

(g) Supplemental Declaration

In the event of a Declared Healthcare Emergency as defined herein, the President, the Secretary of Health and Human Services, or the Secretary of Homeland Security may issue a Supplemental Declaration under this section.

(1) Temporal effect

Such Supplemental Declaration may provide that, for purposes of this section, such Declared Healthcare Emergency shall have such temporal effect as the President or the Secretary may deem necessary or appropriate to further the public interest, including providing that such Declared Healthcare Emergency shall have an effective date earlier than the date of the declaration or determination of such Declared Healthcare Emergency.
(2) Geographic and other conditions

Such Supplemental Declaration may provide that, for purposes of this section, such Declared Healthcare Emergency shall have such geographic or other conditions as the President or the Secretary may deem necessary or appropriate to further the public interest, including providing that "health care emergency volunteer" as defined herein shall include individuals who are properly licensed, certified, or authorized to provide health or medical services by the appropriate authorities of a foreign country, under such conditions as the Supplemental Declaration may prescribe.

(h) Definitions

For purposes of this section –

(1) "Declared Healthcare Emergency" means a public health emergency declared by the Secretary of Health and Human Services under 42 U.S.C. 247d; a determination by the Secretary of Homeland Security in accordance with 42 U.S.C. 300hh-11; or an emergency or disaster declaration under 42 U.S.C. 5191 or 42 U.S.C. 5170.

(2) "Healthcare emergency volunteer" means an individual who provides medical services or assistance in connection with a Declared Healthcare Emergency, in a location other than his or her usual place of business or practice and without expectation or receipt of compensation for such services or assistance, provided that such individual is properly licensed, certified, or authorized to provide health or medical services by the appropriate authorities of a State (as defined herein) or (if and to the extent specified in a Supplemental Declaration under this section) a foreign country.

(3) "Healthcare facility" means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile services platform or vehicle used for the provision of health or medical services.

(4) "Non-economic loss" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic

service), hedonic damages, injury to reputation, and all other non-pecuniary losses of any kind or nature.

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) "Compensation" means monetary or other compensation of any kind provided in exchange for an individual's services, but does not include reasonable reimbursement or allowance for expenses actually incurred by such individual.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 10:37 AM
To: Nichols, Carl (CIV); Monheim, Thomas
Subject: RE: Robt's Prep Today

Good idea

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Monday, September 12, 2005 10:32 AM
To: Monheim, Thomas; Gorsuch, Neil M
Subject: Robt's Prep Today

I asked Terry Henry to come, if that's ok.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 10:39 AM
To: 'mark.robbins@opm.gov'
Subject: vounteer liability legislation
Attachments: Katrina latest healthcare emergency volunteer bill.wpd

Mark, The draft is attached but we are in the process of expanding it to cover (a) all volunteers, not just healthcare volunteers, though the structure of the bill will remain the same, as well as (b) govt employees (whether foreign or domestic). We have a call scheduled for 2:30 with State to discuss these changes further. If you or your designee would like to participate, we'd be glad to have you. NMG

Sec. 1 – Short title.

This legislation may be cited as the "Healthcare Emergency Volunteer Protection Act of 2005."

Sec. 2 – Relief to Healthcare Emergency Volunteers

In title __, United States Code, add the following section:

"____. Healthcare Emergency Volunteers

(a) Liability of healthcare emergency volunteers

A healthcare emergency volunteer, as defined in this section, shall not be liable for harm caused by an act or omission of such volunteer within the scope of such volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency if --

(1) the harm was not caused by willful or criminal misconduct, reckless misconduct, or conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(2) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires the operator or the owner of the vehicle, craft, or vessel to --

(A) possess an operator's license; or

(B) maintain insurance.

(b) Limitation on punitive damages based on actions of healthcare emergency volunteers

(1) General rule

Punitive damages may not be awarded against a healthcare emergency volunteer in an action brought for harm based on an act or omission of such volunteer within the scope of such volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency, unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an act of such volunteer that constitutes willful or criminal misconduct or conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Nothing in this section creates or enlarges any cause of action for punitive damages or preempts or supersedes any federal or state law to the extent that such law would further

prohibit or limit an award of punitive damages.

(c) Liability of employer or partner of healthcare emergency volunteer

An employer or business partner of a healthcare emergency volunteer shall not be liable for any act or omission of such volunteer within the scope of the volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency.

(d) Liability of host or enabling person, entity, or organization

A person, entity, or organization, including a governmental entity or a healthcare facility, that works with, accepts services from, or opens its facilities to a healthcare emergency volunteer to enable such volunteer to render health or medical services in connection with a Declared Healthcare Emergency shall not be liable for any act or omission of such volunteer within the scope of the volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency.

(e) Liability of healthcare emergency volunteer for non-economic loss

(1) General rule

In any civil action against a healthcare emergency volunteer based on an act or omission of such volunteer within the scope of the volunteer's aiding or facilitating the provision of health or medical services in connection with a Declared Healthcare Emergency, the liability of such volunteer for non-economic loss shall be determined in accordance with this subsection.

(2) Amount of liability

(A) Each defendant who is a healthcare emergency volunteer shall be liable only for the amount of non-economic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with subparagraph (B)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(B) For purposes of determining the amount of non-economic loss allocated to a defendant who is a healthcare emergency volunteer under this section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant's harm.

(f) Construction

Nothing in this section shall be construed to abrogate or limit any protection that a volunteer, as defined in the Volunteer Protection Act, Pub. L. 105-19, 42 U.S.C. 14501-14505, may be entitled to under that Act.

(g) Supplemental Declaration

In the event of a Declared Healthcare Emergency as defined herein, the President, the Secretary of Health and Human Services, or the Secretary of Homeland Security may issue a Supplemental Declaration under this section.

(1) Temporal effect

Such Supplemental Declaration may provide that, for purposes of this section, such Declared Healthcare Emergency shall have such temporal effect as the President or the Secretary may deem necessary or appropriate to further the public interest, including providing that such Declared Healthcare Emergency shall have an effective date earlier than the date of the declaration or determination of such Declared Healthcare Emergency.
(2) Geographic and other conditions

Such Supplemental Declaration may provide that, for purposes of this section, such Declared Healthcare Emergency shall have such geographic or other conditions as the President or the Secretary may deem necessary or appropriate to further the public interest, including providing that "health care emergency volunteer" as defined herein shall include individuals who are properly licensed, certified, or authorized to provide health or medical services by the appropriate authorities of a foreign country, under such conditions as the Supplemental Declaration may prescribe.

(h) Definitions

For purposes of this section –

(1) "Declared Healthcare Emergency" means a public health emergency declared by the Secretary of Health and Human Services under 42 U.S.C. 247d; a determination by the Secretary of Homeland Security in accordance with 42 U.S.C. 300hh-11; or an emergency or disaster declaration under 42 U.S.C. 5191 or 42 U.S.C. 5170.

(2) "Healthcare emergency volunteer" means an individual who provides medical services or assistance in connection with a Declared Healthcare Emergency, in a location other than his or her usual place of business or practice and without expectation or receipt of compensation for such services or assistance, provided that such individual is properly licensed, certified, or authorized to provide health or medical services by the appropriate authorities of a State (as defined herein) or (if and to the extent specified in a Supplemental Declaration under this section) a foreign country.

(3) "Healthcare facility" means, but is not limited to, a hospital, clinic, outpatient facility, or an emergency or mobile services platform or vehicle used for the provision of health or medical services.

(4) "Non-economic loss" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic

service), hedonic damages, injury to reputation, and all other non-pecuniary losses of any kind or nature.

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) "Compensation" means monetary or other compensation of any kind provided in exchange for an individual's services, but does not include reasonable reimbursement or allowance for expenses actually incurred by such individual.

[redacted]@state.gov

From: [redacted]@state.gov
Sent: Monday, September 12, 2005 12:02 PM
To: Gorsuch, Neil M
Subject: RE: healthcare volunteer liability

Neil: I'm hoping that [redacted] of our office can join us for the 2:30 call. [redacted] advises that she has worked in the past on foreign sovereign immunity issues with Sharon Swingle in Civil Appellate [redacted] Thnx, [redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Friday, September 09, 2005 2:25 PM
To: [redacted] (E-mail)
Subject: FW: healthcare volunteer liability

[redacted] - Here's our current draft. HSC approved a version of this last year, but our new proposal reaches a bit further in (a) protecting healthcare emergency volunteers from liability for gross negligence, and (b) providing that foreign volunteers could be protected under certain circumstances, subject to regulatory control. HSC didn't consider either of these two issues last year, and they now support our approach in both respects. NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

> > <<Katrina latest healthcare emergency volunteer bill.wpd>>
>
>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 1:57 PM
To: Elwood, Courtney; Ullyot, Theodore; Sampson, Kyle; Taylor, Jeffrey (OAG)
Subject: RE: Attorney-Client Waiver Guidance Memo

Great. Let's talk at your convenience.

-----Original Message-----
From: Elwood, Courtney
Sent: Monday, September 12, 2005 1:56 PM
To: Gorsuch, Neil M; Ullyot, Theodore; Sampson, Kyle; Taylor, Jeffrey (OAG)
Subject: RE: Attorney-Client Waiver Guidance Memo

Neil -- I read it carefully today and have a few things to discuss with you -- for my own clarification.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 1:55 PM
To: Elwood, Courtney; Ullyot, Theodore; Sampson, Kyle; Taylor, Jeffrey (OAG)
Cc: McCallum, Robert (SMO)
Subject: FW: Attorney-Client Waiver Guidance Memo

FYI - After circulating the memo within Main, Robert has reached out to some particular people in the US Atty community who have previously expressed views. We hope to wrap up the consultation process this week and have the memo in final form for OAG review early next week. NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 1:51 PM
To: McNulty, Paul (USAVAE); Christie, Christopher; Immergut, Karin; Tenpas, Ronald; Garcia, Michael; Murphy, Stephen J. (USAMIE); Coleman, Tim (ODAG)
Cc: Battle, Michael (USAEO); Buchanan, MaryBeth; Mercer, Bill (ODAG); Fisher, Alice
Subject: Attorney-Client Waiver Guidance Memo

All:

Because of your particular interest in this issue, Robert has asked me to share with you the attached revision of the draft attorney-client waiver guidance memorandum. In this version, we have sought to incorporate all of the various comments we've received from you and others over the last several weeks. If you have any further suggestions, please let Robert or me know. We'd appreciate any comments by noon on Friday, September 16th.

Very many thanks,

Neil

<< File: DRAFT PRIV WAIVER MCC cleanrevisionII(9-8-05).doc >>

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530

direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Rajeev_V._Venkayya@who.eop.gov

From:	Rajeev_V._Venkayya@who.eop.gov
Sent:	Monday, September 12, 2005 2:38 PM
To:	Moschella, William; Gorsuch, Neil M; Marc_Kesselman@omb.eop.gov
Cc:	Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject:	RE: healthcare worker liability
Attachments:	tmp.htm

Jeff and/or Neil:

Could you clarify two things?
1. Aren't USG employees already covered by FTCA?
2. Are current protections afforded to non-healthcare volunteers deemed to be insufficient under the existing VPA?

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 10:39 AM
To: Kesselman, Marc; William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Ho, Allyson N.
Subject: RE: healthcare worker liability

Marc, The draft is attached but we are in the process of expanding it to cover (a) all volunteers, not just healthcare volunteers, though the structure of the bill will remain the same, as well as (b) govt employees (whether foreign or domestic). We are working with State and OPM (the two agencies we've heard from so far) to have a revised version ready for you by tonight or early tomorrow at the latest. NMG

-----Original Message-----
From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Monday, September 12, 2005 10:17 AM
To: Moschella, William; Gorsuch, Neil M; Rajeev_V._Venkayya@who.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Thanks Neil! As I mentioned I would do on Friday, I raised this issue with the GCs hurricane working group, and a few of them expressed that they may reach out to you today. Everyone seemed on board with the concept, they just had a few ideas about potential additional classes of people whom they want covered. I let them know that this was on a very fast track, and that we were doing our best to wrap this up by COB today or early Tuesday at the latest. I am happy to get involved as you think would be most appropriate, and really appreciate your taking the point on this.

I am about to send the draft to a couple of GCs who hadn't yet seen the draft language. Is there a more recent version that would be most helpful to share?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 8:28 AM
To: William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Kesselman, Marc
Subject: RE: healthcare worker liability

We seem to have consensus with State and I expect us to turn something around by tomorrow representing our shared views. I have a message this morning from OPM expressing interest in this area as well and I intend to invite them to our conf call this afternoon and hope to work them into the effort. Will keep you apprised.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Sunday, September 11, 2005 12:37 PM
To: Moschella, William; Gorsuch, Neil M
Subject: Re: healthcare worker liability

Thanks for the follow up. I'll touch base with Marc tomorrow morning. Please let me if anything arises that might stand in the way of consensus between the departments and/or a rapid turnaround of the document. This is a high priority for us.

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
Sent: Sun Sep 11 12:11:41 2005
Subject: Re: healthcare worker liability

Subject: Re: healthcare worker liability

Rajeev - we did send a bill to omb last week. Marc Kesselman PDGC there liked it but said State and others were working on similar bills and asked me to coordinate efforts. Jeff and I met with State Friday and will do so again Monday. We hope to have a revised bill representing our joint recommendation by Tuesday.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov <Rajeev_V._Venkayya@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 10 10:48:51 2005
Subject: Fw: healthcare worker liability

Neil- Meant to copy you on this. Let me know if you have additional information. Thanks. -Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
To: 'William.Moschella@usdoj.gov' <William.Moschella@usdoj.gov>
Sent: Sat Sep 10 10:42:32 2005
Subject: Re: healthcare worker liability

I'd like to follow up with OMB to ensure that this moves forward. Did it go to them on Wed? If so, can you tell me who your POC is there?

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>
To: Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Jeffrey.Bucholtz@usdoj.gov

<Jeffrey.Bucholtz@usdoj.gov>; Robert.McCallum@usdoj.gov <Robert.McCallum@usdoj.gov>; Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>; Rachel.Brand@usdoj.gov <Rachel.Brand@usdoj.gov>; Peter.D.Keisler@usdoj.gov <Peter.D.Keisler@usdoj.gov>; Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>; DL-HSC-CHEM-BIO <DL-HSC-CHEM-BIO@eopds.eop.gov>; Leggitt, Lance B. <Lance_B._Leggitt@who.eop.gov>; Mitnick, John M. <John_M._Mitnick@who.eop.gov>
Sent: Wed Sep 07 09:06:45 2005
Subject: RE: healthcare worker liability

For timing purposes, DOJ is putting this provision into final legislative form with a section-by-section analysis. We hope to submit it to OMB by COB today after a very short internal circulation.

We have already provided to OMB (last night) a package of Katrina related proposals on other subjects.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Wednesday, September 07, 2005 12:07 AM
To: Christopher_W._Frech@who.eop.gov
Cc: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); Moschella, William; McCallum, Robert (SMO); Hertling, Richard; Brand, Rachel; Keisler, Peter D. (CIV); Gorsuch, Neil M; DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov; John_M._Mitnick@who.eop.gov
Subject: FW: healthcare worker liability

Chris,

As the events of the past week unfolded, it once again became clear that we need to address the issue of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the Hill. I ran a working group on the subject last year, and we took an option of amendment of the Volunteer Protection Act all the way to Deputies and received approval. There was a desire to fold it into the MedMal legislation, and not much happened after that.

DOJ was extremely helpful in the original assessment of this issue, and provided legislative language to address the problem at that time. I contacted them today and asked them to update documents that they had prepared in Nov 2004, and they provided the attached revision.

DOJ just informed me that they plan to formally submit this to OLA tomorrow to be considered as part of a broader legislative package. I will leave it to them to officially transmit that language, but I wanted you to know that this approach has already been vetted by the HSC Deputies Committee, and we fully support it. Please let me know if I can provide you with any additional background information. Thanks.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]

cc: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, September 06, 2005 3:24 PM
To: Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; DL-HSC-CHEM-BIO; Leggitt, Lance B.
Subject: RE: healthcare worker liability

Rajeev,

I think the "Emergency Health Freestanding Section" document is a sound approach and would resolve many of the problems we have had this week. In the attached version I have added two passages, neither of which is essential but might prove helpful later on.

The first change is to add the bolded language in paragraph (a):

the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction (including foreign countries) to provide such healthcare.

This is consistent with the discussions we had last year that a Canadian doctor who helped out at 9/11 should receive the same protection as a Massachusetts doctor. Explicitly mentioning foreign countries may make it easier to recruit foreign health care volunteers.

The second change is to add the bolded language in the next sentence:

Subsection (b) of section 3 and subsections (c) and (d) of section 4 of such chapter (42 U.S.C. § § 14502(b) and 14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

This change addresses the opt-out language of the VPA. 42 U.S.C. § 14502(b) provides that the VPA's protections do not apply if a state has specifically elected to make the VPA inapplicable. This change would remove the opt-out option for declared national emergencies. We have researched Louisiana or Mississippi law on the issue, and it does not appear that either has enacted such legislation. It would probably expedite relief efforts in future catatrosphes if the opt-out question were taken off the table. I don't know whether the issue is worth including in emergency legislation.

One other small matter. The "Emergency Health Freestanding Section" document contains the language, "for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), ... and subsections (c) and (d) of section 4 of such chapter ...." I have not found the reference that section 4 is Section 14503; but, relying on it I have referred to the previous section (14502) as "section 3."

Please call if I can be of further assistance.

Paul

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Jeff and/or Neil:

Could you clarify two things?
1. Aren't USG employees already covered by FTCA?
2. Are current protections afforded to non-healthcare volunteers deemed to be insufficient under the existing VPA?

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 10:39 AM
To: Kesselman, Marc; William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Ho, Allyson N.
Subject: RE: healthcare worker liability

Marc, The draft is attached but we are in the process of expanding it to cover (a) all volunteers, not just healthcare volunteers, though the structure of the bill will remain the same, as well as (b) govt employees (whether foreign or domestic). We are working with State and OPM (the two agencies we've heard from so far) to have a revised version ready for you by tonight or early tomorrow at the latest. NMG

-----Original Message-----
From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Monday, September 12, 2005 10:17 AM
To: Moschella, William; Gorsuch, Neil M; Rajeev_V._Venkayya@who.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Thanks Neil! As I mentioned I would do on Friday, I raised this issue with the GCs hurricane working group, and a few of them expressed that they may reach out to you today. Everyone seemed on board with the concept, they just had a few ideas about potential additional classes of people whom they want covered. I let them know that this was on a very fast track, and that we were doing our best to wrap this up by COB today or early Tuesday at the latest. I am happy to get involved as you think would be most appropriate, and really appreciate your taking the point on this.

I am about to send the draft to a couple of GCs who hadn't yet seen the draft language. Is there a more recent version that would be most helpful to share?

-----Original Message-----

From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 8:28 AM
To: William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Kesselman, Marc
Subject: RE: healthcare worker liability

We seem to have consensus with State and I expect us to turn something around by tomorrow representing our shared views. I have a message this morning from OPM expressing interest in this area as well and I intend to invite them to our conf call this afternoon and hope to work them into the effort. Will keep you apprised.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Sunday, September 11, 2005 12:37 PM
To: Moschella, William; Gorsuch, Neil M
Subject: Re: healthcare worker liability

Thanks for the follow up. I'll touch base with Marc tomorrow morning. Please let me if anything arises that might stand in the way of consensus between the departments and/or a rapid turnaround of the document. This is a high priority for us.

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
Sent: Sun Sep 11 12:11:41 2005
Subject: Re: healthcare worker liability

Rajeev - we did send a bill to omb last week. Marc Kesselman PDGC there liked it but said State and others were working on similar bills and asked me to coordinate efforts. Jeff and I met with State Friday and will do so again Monday. We hope to have a revised bill representing our joint recommendation by Tuesday.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov <Rajeev_V._Venkayya@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 10 10:48:51 2005
Subject: Fw: healthcare worker liability

Neil- Meant to copy you on this. Let me know if you have additional information. Thanks. -Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
To: 'William.Moschella@usdoj.gov' <William.Moschella@usdoj.gov>
Sent: Sat Sep 10 10:42:32 2005
Subject: Re: healthcare worker liability

I'd like to follow up with OMB to ensure that this moves forward. Did it go to them on Wed? If so, can you tell me who your POC is there?

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>
To: Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>; Robert.McCallum@usdoj.gov <Robert.McCallum@usdoj.gov>; Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>; Rachel.Brand@usdoj.gov <Rachel.Brand@usdoj.gov>; Peter.D.Keisler@usdoj.gov <Peter.D.Keisler@usdoj.gov>; Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>; DL-HSC-CHEM-BIO <DL-HSC-CHEM-BIO@eopds.eop.gov>; Leggitt, Lance B. <Lance_B._Leggitt@who.eop.gov>; Mitnick, John M. <John_M._Mitnick@who.eop.gov>
Sent: Wed Sep 07 09:06:45 2005
Subject: RE: healthcare worker liability

For timing purposes, DOJ is putting this provision into final legislative form with a section-by-section analysis. We hope to submit it to OMB by COB today after a very short internal circulation.

We have already provided to OMB (last night) a package of Katrina related proposals on other subjects.

-----Original Message-----

From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Wednesday, September 07, 2005 12:07 AM
To: Christopher_W._Frech@who.eop.gov
Cc: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); Moschella, William; McCallum, Robert (SMO); Hertling, Richard; Brand, Rachel; Keisler, Peter D. (CIV); Gorsuch, Neil M; DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov; John_M._Mitnick@who.eop.gov
Subject: FW: healthcare worker liability

Chris,

As the events of the past week unfolded, it once again became clear that we need to address the issue of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the Hill. I ran a working group on the subject last year, and we took an option of amendment of the Volunteer Protection Act all the way to Deputies and received approval. There was a desire to fold it into the MedMal legislation, and not much happened after that.

DOJ was extremely helpful in the original assessment of this issue, and provided legislative language to address the problem at that time. I contacted them today and asked them to update documents that they had prepared in Nov 2004, and they provided the attached revision.

DOJ just informed me that they plan to formally submit this to OLA tomorrow to be considered as part of a broader legislative package. I will leave it to them to officially transmit that language, but I wanted you to know that this approach has already been vetted by the HSC Deputies Committee, and we fully support it. Please let me know if I can provide you with any additional background information. Thanks.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, September 06, 2005 3:24 PM
To: Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; DL-HSC-CHEM-BIO; Leggitt, Lance B.
Subject: RE: healthcare worker liability

Rajeev,

I think the "Emergency Health Freestanding Section" document is a sound approach and would resolve many

of the problems we have had this week. In the attached version I have added two passages, neither of which is essential but might prove helpful later on.

The first change is to add the bolded language in paragraph (a):

the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction (including foreign countries) to provide such healthcare.

This is consistent with the discussions we had last year that a Canadian doctor who helped out at 9/11 should receive the same protection as a Massachusetts doctor. Explicitly mentioning foreign countries may make it easier to recruit foreign health care volunteers.

The second change is to add the bolded language in the next sentence:

Subsection (b) of section 3 and subsections (c) and (d) of section 4 of such chapter (42 U.S.C. § § 14502(b) and 14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

This change addresses the opt-out language of the VPA. 42 U.S.C. § 14502(b) provides that the VPA's protections do not apply if a state has specifically elected to make the VPA inapplicable. This change would remove the opt-out option for declared national emergencies. We have researched Louisiana or Mississippi law on the issue, and it does not appear that either has enacted such legislation. It would probably expedite relief efforts in future catatrosphes if the opt-out question were taken off the table. I don't know whether the issue is worth including in emergency legislation.

One other small matter. The "Emergency Health Freestanding Section" document contains the language, "for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), ... and subsections (c) and (d) of section 4 of such chapter ...." I have not found the reference that section 4 is Section 14503; but, relying on it I have referred to the previous section (14502) as "section 3."

Please call if I can be of further assistance.

Paul

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, September 12, 2005 2:41 PM
To: Gorsuch, Neil M
Subject: Caqll Courtney Elwood 4-2267

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, September 12, 2005 2:59 PM
To:	'Rajeev_V._Venkayya@who.eop.gov'; Moschella, William; Marc_Kesselman@omb.eop.gov
Cc:	Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject:	RE: healthcare worker liability

Rajeev - (1) USG empees are covered by FTCA, but foreign govt workers remain exposed to liability, something State is concerned about and has asked us to address. (2) Non-healthcare volunteers are currently immunized only for negligence, not gross negligence. The line between the two, however, is very fine and often simple to plead around. Our thought was to raise the bar for all volunteers, creating liability only for willful, knowing, or reckless misconduct. Jeff may have more to add. NMG

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Monday, September 12, 2005 2:38 PM
To: Moschella, William; Gorsuch, Neil M; Marc_Kesselman@omb.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Jeff and/or Neil:

Could you clarify two things?
1. Aren't USG employees already covered by FTCA?
2. Are current protections afforded to non-healthcare volunteers deemed to be insufficient under the existing VPA?

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 10:39 AM
To: Kesselman, Marc; William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Ho, Allyson N.

Subject: RE: healthcare worker liability

Marc, The draft is attached but we are in the process of expanding it to cover (a) all volunteers, not just healthcare volunteers, though the structure of the bill will remain the same, as well as (b) govt employees (whether foreign or domestic). We are working with State and OPM (the two agencies we've heard from so far) to have a revised version ready for you by tonight or early tomorrow at the latest. NMG

-----Original Message-----
From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Monday, September 12, 2005 10:17 AM
To: Moschella, William; Gorsuch, Neil M; Rajeev_V._Venkayya@who.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Thanks Neil! As I mentioned I would do on Friday, I raised this issue with the GCs hurricane working group, and a few of them expressed that they may reach out to you today. Everyone seemed on board with the concept, they just had a few ideas about potential additional classes of people whom they want covered. I let them know that this was on a very fast track, and that we were doing our best to wrap this up by COB today or early Tuesday at the latest. I am happy to get involved as you think would be most appropriate, and really appreciate your taking the point on this.

I am about to send the draft to a couple of GCs who hadn't yet seen the draft language. Is there a more recent version that would be most helpful to share?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 8:28 AM
To: William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Kesselman, Marc
Subject: RE: healthcare worker liability

We seem to have consensus with State and I expect us to turn something around by tomorrow representing our shared views. I have a message this morning from OPM expressing interest in this area as well and I intend to invite them to our conf call this afternoon and hope to work them into the effort. Will keep you apprised.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Sunday, September 11, 2005 12:37 PM
To: Moschella, William; Gorsuch, Neil M
Subject: Re: healthcare worker liability

Thanks for the follow up. I'll touch base with Marc tomorrow morning. Please let me if anything arises that might stand in the way of consensus between the departments and/or a rapid turnaround of the document. This is a high priority for us.

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
Sent: Sun Sep 11 12:11:41 2005
Subject: Re: healthcare worker liability

Rajeev - we did send a bill to omb last week. Marc Kesselman PDGC there liked it but said State and others were working on similar bills and asked me to coordinate efforts. Jeff and I met with State Friday and will do so again Monday. We hope to have a revised bill representing our joint recommendation by Tuesday.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov <Rajeev_V._Venkayya@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 10 10:48:51 2005
Subject: Fw: healthcare worker liability

Neil- Meant to copy you on this. Let me know if you have additional information. Thanks. -Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
To: 'William.Moschella@usdoj.gov' <William.Moschella@usdoj.gov>
Sent: Sat Sep 10 10:42:32 2005
Subject: Re: healthcare worker liability

I'd like to follow up with OMB to ensure that this moves forward. Did it go to them on Wed? If so, can you tell me who your POC is there?

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>
To: Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>; Robert.McCallum@usdoj.gov <Robert.McCallum@usdoj.gov>; Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>; Rachel.Brand@usdoj.gov <Rachel.Brand@usdoj.gov>; Peter.D.Keisler@usdoj.gov <Peter.D.Keisler@usdoj.gov>; Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>; DL-HSC-CHEM-BIO <DL-HSC-CHEM-BIO@eopds.eop.gov>; Leggitt, Lance B. <Lance_B._Leggitt@who.eop.gov>; Mitnick, John M. <John_M._Mitnick@who.eop.gov>
Sent: Wed Sep 07 09:06:45 2005
Subject: RE: healthcare worker liability

For timing purposes, DOJ is putting this provision into final legislative form with a section-by-section analysis. We hope to submit it to OMB by COB today after a very short internal circulation.

We have already provided to OMB (last night) a package of Katrina related proposals on other subjects.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Wednesday, September 07, 2005 12:07 AM
To: Christopher_W._Frech@who.eop.gov
Cc: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); Moschella, William; McCallum, Robert (SMO); Hertling, Richard; Brand, Rachel; Keisler, Peter D. (CIV); Gorsuch, Neil M; DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov; John_M._Mitnick@who.eop.gov
Subject: FW: healthcare worker liability

Chris,

As the events of the past week unfolded, it once again became clear that we need to address the issue of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the Hill. I ran a working group on the subject last year, and we took an option of amendment of the Volunteer Protection Act all the way to Deputies and received approval. There was a desire to fold it into the MedMal legislation, and not much happened after that.

DOJ was extremely helpful in the original assessment of this issue, and provided legislative language to address the problem at that time. I contacted them today and asked them to update documents that they had prepared in Nov 2004, and they provided the attached revision.

DOJ just informed me that they plan to formally submit this to OLA tomorrow to be considered as part of a broader legislative package. I will leave it to them to officially transmit that language, but I wanted you to know that this approach has already been vetted by the HSC Deputies Committee, and we fully support it. Please let me know if I can provide you with any additional background information. Thanks.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, September 06, 2005 3:24 PM
To: Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; DL-HSC-CHEM-BIO; Leggitt, Lance B.
Subject: RE: healthcare worker liability

Rajeev,

I think the "Emergency Health Freestanding Section" document is a sound approach and would resolve many of the problems we have had this week. In the attached version I have added two passages, neither of which is essential but might prove helpful later on.

The first change is to add the bolded language in paragraph (a):

the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction (including foreign countries) to provide such healthcare.

This is consistent with the discussions we had last year that a Canadian doctor who helped out at 9/11 should receive the same protection as a Massachusetts doctor. Explicitly mentioning foreign countries may make it easier to recruit foreign health care volunteers.

The second change is to add the bolded language in the next sentence:

Subsection (b) of section 3 and subsections (c) and (d) of section 4 of such chapter (42 U.S.C. § § 14502(b) and 14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

This change addresses the opt-out language of the VPA. 42 U.S.C. § 14502(b) provides that the VPA's protections do not apply if a state has specifically elected to make the VPA inapplicable. This change would remove the opt-out option for declared national emergencies. We have researched Louisiana or

would remove the opt-out option for declared national emergencies. We have researched Louisiana or Mississippi law on the issue, and it does not appear that either has enacted such legislation. It would probably expedite relief efforts in future catatrosphes if the opt-out question were taken off the table. I don't know whether the issue is worth including in emergency legislation.

One other small matter. The "Emergency Health Freestanding Section" document contains the language, "for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), ... and subsections (c) and (d) of section 4 of such chapter ...." I have not found the reference that section 4 is Section 14503; but, relying on it I have referred to the previous section (14502) as "section 3."

Please call if I can be of further assistance.

Paul

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Bucholtz, Jeffrey (CIV)

From:	Bucholtz, Jeffrey (CIV)
Sent:	Monday, September 12, 2005 3:07 PM
To:	Gorsuch, Neil M; Rajeev_V._Venkayya@who.eop.gov; Moschella, William; Marc_Kesselman@omb.eop.gov
Cc:	Allyson_N._Ho@who.eop.gov
Subject:	RE: healthcare worker liability

What Neil says is right. In addition to foreign govts, which was State's specific concern, domestic state and local govt employees aren't covered by the FTCA either. Our healthcare emergency volunteer bill provides additional protection beyond the VPA in a few respects. One, as Neil says, is raising (or lowering) the threshold for non-protected conduct from gross negligence to reckless misconduct. Another is abrogating the vicarious liability of the volunteer's employer or business partner. A third is covering the volunteer even if his or her professional license is in a state other than the one where he or she provides volunteer services. All three of these issues apply to non-healthcare volunteers, though perhaps with a bit less force (e.g., the question of what state the volunteer is credentialed in is irrelevant if the volunteer isn't providing services for which professional credentials are needed).

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 2:59 PM
To: Rajeev_V._Venkayya@who.eop.gov; Moschella, William; Marc_Kesselman@omb.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Rajeev - (1) USG empees are covered by FTCA, but foreign govt workers remain exposed to liability, something State is concerned about and has asked us to address. (2) Non-healthcare volunteers are currently immunized only for negligence, not gross negligence. The line between the two, however, is very fine and often simple to plead around. Our thought was to raise the bar for all volunteers, creating liability only for willful, knowing, or reckless misconduct. Jeff may have more to add. NMG

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Monday, September 12, 2005 2:38 PM
To: Moschella, William; Gorsuch, Neil M; Marc_Kesselman@omb.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Jeff and/or Neil:

Could you clarify two things?
1. Aren't USG employees already covered by FTCA?

2. Are current protections afforded to non-healthcare volunteers deemed to be insufficient under the existing VPA?

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 10:39 AM
To: Kesselman, Marc; William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Ho, Allyson N.
Subject: RE: healthcare worker liability

Marc, The draft is attached but we are in the process of expanding it to cover (a) all volunteers, not just healthcare volunteers, though the structure of the bill will remain the same, as well as (b) govt employees (whether foreign or domestic). We are working with State and OPM (the two agencies we've heard from so far) to have a revised version ready for you by tonight or early tomorrow at the latest. NMG

-----Original Message-----
From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Monday, September 12, 2005 10:17 AM
To: Moschella, William; Gorsuch, Neil M; Rajeev_V._Venkayya@who.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Thanks Neil! As I mentioned I would do on Friday, I raised this issue with the GCs hurricane working group, and a few of them expressed that they may reach out to you today. Everyone seemed on board with the concept, they just had a few ideas about potential additional classes of people whom they want covered. I let them know that this was on a very fast track, and that we were doing our best to wrap this up by COB today or early Tuesday at the latest. I am happy to get involved as you think would be most appropriate, and really appreciate your taking the point on this.

I am about to send the draft to a couple of GCs who hadn't yet seen the draft language. Is there a more recent version that would be most helpful to share?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 8:28 AM
To: William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Kesselman, Marc

Subject: RE: healthcare worker liability

We seem to have consensus with State and I expect us to turn something around by tomorrow representing our shared views. I have a message this morning from OPM expressing interest in this area as well and I intend to invite them to our conf call this afternoon and hope to work them into the effort. Will keep you apprised.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Sunday, September 11, 2005 12:37 PM
To: Moschella, William; Gorsuch, Neil M
Subject: Re: healthcare worker liability

Thanks for the follow up. I'll touch base with Marc tomorrow morning. Please let me if anything arises that might stand in the way of consensus between the departments and/or a rapid turnaround of the document. This is a high priority for us.

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
Sent: Sun Sep 11 12:11:41 2005
Subject: Re: healthcare worker liability

Rajeev - we did send a bill to omb last week. Marc Kesselman PDGC there liked it but said State and others were working on similar bills and asked me to coordinate efforts. Jeff and I met with State Friday and will do so again Monday. We hope to have a revised bill representing our joint recommendation by Tuesday.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov <Rajeev_V._Venkayya@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 10 10:48:51 2005
Subject: Fw: healthcare worker liability

Neil- Meant to copy you on this. Let me know if you have additional information. Thanks. -Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
To: 'William.Moschella@usdoj.gov' <William.Moschella@usdoj.gov>
Sent: Sat Sep 10 10:42:32 2005
Subject: Re: healthcare worker liability

I'd like to follow up with OMB to ensure that this moves forward. Did it go to them on Wed? If so, can you tell me who your POC is there?

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>
To: Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>; Robert.McCallum@usdoj.gov <Robert.McCallum@usdoj.gov>; Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>; Rachel.Brand@usdoj.gov <Rachel.Brand@usdoj.gov>; Peter.D.Keisler@usdoj.gov <Peter.D.Keisler@usdoj.gov>; Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>; DL-HSC-CHEM-BIO <DL-HSC-CHEM-BIO@eopds.eop.gov>; Leggitt, Lance B. <Lance_B._Leggitt@who.eop.gov>; Mitnick, John M. <John_M._Mitnick@who.eop.gov>
Sent: Wed Sep 07 09:06:45 2005
Subject: RE: healthcare worker liability

For timing purposes, DOJ is putting this provision into final legislative form with a section-by-section analysis. We hope to submit it to OMB by COB today after a very short internal circulation.

We have already provided to OMB (last night) a package of Katrina related proposals on other subjects.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Wednesday, September 07, 2005 12:07 AM

To: Christopher_W._Frech@who.eop.gov
Cc: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); Moschella, William; McCallum, Robert (SMO); Hertling, Richard; Brand, Rachel; Keisler, Peter D. (CIV); Gorsuch, Neil M; DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov; John_M._Mitnick@who.eop.gov
Subject: FW: healthcare worker liability

Chris,

As the events of the past week unfolded, it once again became clear that we need to address the issue of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the Hill. I ran a working group on the subject last year, and we took an option of amendment of the Volunteer Protection Act all the way to Deputies and received approval. There was a desire to fold it into the MedMal legislation, and not much happened after that.

DOJ was extremely helpful in the original assessment of this issue, and provided legislative language to address the problem at that time. I contacted them today and asked them to update documents that they had prepared in Nov 2004, and they provided the attached revision.

DOJ just informed me that they plan to formally submit this to OLA tomorrow to be considered as part of a broader legislative package. I will leave it to them to officially transmit that language, but I wanted you to know that this approach has already been vetted by the HSC Deputies Committee, and we fully support it. Please let me know if I can provide you with any additional background information. Thanks.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, September 06, 2005 3:24 PM
To: Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; DL-HSC-CHEM-BIO; Leggitt, Lance B.
Subject: RE: healthcare worker liability

Rajeev,

I think the "Emergency Health Freestanding Section" document is a sound approach and would resolve many of the problems we have had this week. In the attached version I have added two passages, neither of which is essential but might prove helpful later on

passages, neither of which is essential but might prove helpful later on.

The first change is to add the bolded language in paragraph (a):

the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction (including foreign countries) to provide such healthcare.

This is consistent with the discussions we had last year that a Canadian doctor who helped out at 9/11 should receive the same protection as a Massachusetts doctor. Explicitly mentioning foreign countries may make it easier to recruit foreign health care volunteers.

The second change is to add the bolded language in the next sentence:

Subsection (b) of section 3 and subsections (c) and (d) of section 4 of such chapter (42 U.S.C. § § 14502(b) and 14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

This change addresses the opt-out language of the VPA. 42 U.S.C. § 14502(b) provides that the VPA's protections do not apply if a state has specifically elected to make the VPA inapplicable. This change would remove the opt-out option for declared national emergencies. We have researched Louisiana or Mississippi law on the issue, and it does not appear that either has enacted such legislation. It would probably expedite relief efforts in future catatrosphes if the opt-out question were taken off the table. I don't know whether the issue is worth including in emergency legislation.

One other small matter. The "Emergency Health Freestanding Section" document contains the language, "for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), ... and subsections (c) and (d) of section 4 of such chapter ...." I have not found the reference that section 4 is Section 14503; but, relying on it I have referred to the previous section (14502) as "section 3."

Please call if I can be of further assistance.

Paul

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section"

document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Rajeev_V._Venkayya@who.eop.gov

From:	Rajeev_V._Venkayya@who.eop.gov
Sent:	Monday, September 12, 2005 3:25 PM
To:	Moschella, William; Gorsuch, Neil M; Bucholtz, Jeffrey (CIV); Marc_Kesselman@omb.eop.gov
Cc:	Allyson_N._Ho@who.eop.gov
Subject:	RE: healthcare worker liability

Understood and I appreciate the clarification. However, while countless healthcare providers have cited liability as an impediment to providing volunteer health/medical services, I have not heard similar concerns expressed on behalf of non-health/medical volunteers (they may exist, but I am just unaware).

WRT S/L employees, wouldn't they be covered by the VPA if the are performing services at the behest of an organization (e.g., S/L govt)?

As for vicarious liability coverage, I think it is one of the most essential provisions in the DOJ healthcare volunteer proposal. That said, I am concerned that expanding this protection to all institutions in which all volunteers provide all services could make this an impossible pill for Congress to swallow.

In any case, I look forward to seeing both versions. Thanks.

-----Original Message-----
From: Jeffrey.Bucholtz@usdoj.gov [mailto:Jeffrey.Bucholtz@usdoj.gov]
Sent: Monday, September 12, 2005 3:12 PM
To: Neil.Gorsuch@usdoj.gov; William.Moschella@usdoj.gov; Kesselman, Marc; Venkayya, Rajeev V.
Cc: Ho, Allyson N.
Subject: RE: healthcare worker liability

What Neil says is right. In addition to foreign govts, which was State's specific concern, domestic state and local govt employees aren't covered by the FTCA either. Our healthcare emergency volunteer bill provides additional protection beyond the VPA in a few respects. One, as Neil says, is raising (or lowering) the threshold for non-protected conduct from gross negligence to reckless misconduct. Another is abrogating the vicarious liability of the volunteer's employer or business partner. A third is covering the volunteer even if his or her professional license is in a state other than the one where he or she provides volunteer services. All three of these issues apply to non-healthcare volunteers, though perhaps with a bit less force (e.g., the question of what state the volunteer is credentialed in is irrelevant if the volunteer isn't providing services for which professional credentials are needed).

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 2:59 PM
To: Rajeev_V._Venkayya@who.eop.gov; Moschella, William; Marc_Kesselman@omb.eop.gov

Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Rajeev - (1) USG empees are covered by FTCA, but foreign govt workers remain exposed to liability, something State is concerned about and has asked us to address. (2) Non-healthcare volunteers are currently immunized only for negligence, not gross negligence. The line between the two, however, is very fine and often simple to plead around. Our thought was to raise the bar for all volunteers, creating liability only for willful, knowing, or reckless misconduct. Jeff may have more to add. NMG

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Monday, September 12, 2005 2:38 PM
To: Moschella, William; Gorsuch, Neil M; Marc_Kesselman@omb.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Jeff and/or Neil:

Could you clarify two things?
1. Aren't USG employees already covered by FTCA?
2. Are current protections afforded to non-healthcare volunteers deemed to be insufficient under the existing VPA?

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 10:39 AM
To: Kesselman, Marc; William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Ho, Allyson N.
Subject: RE: healthcare worker liability

Marc, The draft is attached but we are in the process of expanding it to cover (a) all volunteers, not just healthcare volunteers, though the structure of the bill will remain the same, as well as (b) govt employees (whether foreign or domestic). We are working with State and OPM (the two agencies we've heard from so far) to have a revised version ready for you by tonight or early tomorrow at the latest. NMG

-----Original Message-----

From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Monday, September 12, 2005 10:17 AM
To: Moschella, William; Gorsuch, Neil M; Rajeev_V._Venkayya@who.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Thanks Neil! As I mentioned I would do on Friday, I raised this issue with the GCs hurricane working group, and a few of them expressed that they may reach out to you today. Everyone seemed on board with the concept, they just had a few ideas about potential additional classes of people whom they want covered. I let them know that this was on a very fast track, and that we were doing our best to wrap this up by COB today or early Tuesday at the latest. I am happy to get involved as you think would be most appropriate, and really appreciate your taking the point on this.

I am about to send the draft to a couple of GCs who hadn't yet seen the draft language. Is there a more recent version that would be most helpful to share?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 8:28 AM
To: William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Kesselman, Marc
Subject: RE: healthcare worker liability

We seem to have consensus with State and I expect us to turn something around by tomorrow representing our shared views. I have a message this morning from OPM expressing interest in this area as well and I intend to invite them to our conf call this afternoon and hope to work them into the effort. Will keep you apprised.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Sunday, September 11, 2005 12:37 PM
To: Moschella, William; Gorsuch, Neil M
Subject: Re: healthcare worker liability

Thanks for the follow up. I'll touch base with Marc tomorrow morning. Please let me if anything arises that might stand in the way of consensus between the departments and/or a rapid turnaround of the document. This is a high priority for us.

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
Sent: Sun Sep 11 12:11:41 2005
Subject: Re: healthcare worker liability

Rajeev - we did send a bill to omb last week. Marc Kesselman PDGC there liked it but said State and others were working on similar bills and asked me to coordinate efforts. Jeff and I met with State Friday and will do so again Monday. We hope to have a revised bill representing our joint recommendation by Tuesday.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov <Rajeev_V._Venkayya@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 10 10:48:51 2005
Subject: Fw: healthcare worker liability

Neil- Meant to copy you on this. Let me know if you have additional information. Thanks. -Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
To: 'William.Moschella@usdoj.gov' <William.Moschella@usdoj.gov>
Sent: Sat Sep 10 10:42:32 2005
Subject: Re: healthcare worker liability

I'd like to follow up with OMB to ensure that this moves forward. Did it go to them on Wed? If so, can you tell me who your POC is there?

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>
To: Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>; Robert.McCallum@usdoj.gov <Robert.McCallum@usdoj.gov>; Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>; Rachel.Brand@usdoj.gov <Rachel.Brand@usdoj.gov>; Peter.D.Keisler@usdoj.gov <Peter.D.Keisler@usdoj.gov>; Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>; DL-HSC-CHEM-BIO <DL-HSC-CHEM-BIO@eopds.eop.gov>; Leggitt, Lance B. <Lance_B._Leggitt@who.eop.gov>; Mitnick, John M. <John_M._Mitnick@who.eop.gov>
Sent: Wed Sep 07 09:06:45 2005
Subject: RE: healthcare worker liability

For timing purposes, DOJ is putting this provision into final legislative form with a section-by-section analysis. We hope to submit it to OMB by COB today after a very short internal circulation.

We have already provided to OMB (last night) a package of Katrina related proposals on other subjects.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Wednesday, September 07, 2005 12:07 AM
To: Christopher_W._Frech@who.eop.gov
Cc: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); Moschella, William; McCallum, Robert (SMO); Hertling, Richard; Brand, Rachel; Keisler, Peter D. (CIV); Gorsuch, Neil M; DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov; John_M._Mitnick@who.eop.gov
Subject: FW: healthcare worker liability

Chris,

As the events of the past week unfolded, it once again became clear that we need to address the issue of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the Hill. I ran a working group on the subject last year, and we took an option of amendment of the Volunteer Protection Act all the way to Deputies and received approval. There was a desire to fold it into the MedMal legislation, and not much happened after that.

DOJ was extremely helpful in the original assessment of this issue, and provided legislative language to address the problem at that time. I contacted them today and asked them to update documents that they had prepared in Nov 2004, and they provided the attached revision.

DOJ just informed me that they plan to formally submit this to OLA tomorrow to be considered as part of a broader legislative package. I will leave it to them to officially transmit that language, but I wanted you to know that this approach has already been vetted by the HSC Deputies Committee, and we fully support it. Please let me know if I can provide you with any additional background information. Thanks.

Rajeev

Rajeev Venkayya, MD

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, September 06, 2005 3:24 PM
To: Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; DL-HSC-CHEM-BIO; Leggitt, Lance B.
Subject: RE: healthcare worker liability

Rajeev,

I think the "Emergency Health Freestanding Section" document is a sound approach and would resolve many of the problems we have had this week. In the attached version I have added two passages, neither of which is essential but might prove helpful later on.

The first change is to add the bolded language in paragraph (a):

the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction (including foreign countries) to provide such healthcare.

This is consistent with the discussions we had last year that a Canadian doctor who helped out at 9/11 should receive the same protection as a Massachusetts doctor. Explicitly mentioning foreign countries may make it easier to recruit foreign health care volunteers.

The second change is to add the bolded language in the next sentence:

Subsection (b) of section 3 and subsections (c) and (d) of section 4 of such chapter (42 U.S.C. § § 14502(b) and 14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

This change addresses the opt-out language of the VPA. 42 U.S.C. § 14502(b) provides that the VPA's protections do not apply if a state has specifically elected to make the VPA inapplicable. This change would remove the opt-out option for declared national emergencies. We have researched Louisiana or Mississippi law on the issue, and it does not appear that either has enacted such legislation. It would probably expedite relief efforts in future catatrosphes if the opt-out question were taken off the table. I don't know whether the issue is worth including in emergency legislation.

One other small matter. The "Emergency Health Freestanding Section" document contains the language, "for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), ... and subsections (c) and (d) of section 4 of such chapter ...." I have not found the reference that section 4 is Section 14503; but, relying on it I have referred to the previous section (14502) as "section 3."

Please call if I can be of further assistance.

Paul

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Bucholtz, Jeffrey (CIV)

From:	Bucholtz, Jeffrey (CIV)
Sent:	Monday, September 12, 2005 3:40 PM
To:	Rajeev_V._Venkayya@who.eop.gov; Moschella, William; Gorsuch, Neil M; Marc_Kesselman@omb.eop.gov
Cc:	Allyson_N._Ho@who.eop.gov
Subject:	RE: healthcare worker liability

Yes, state and local (US) govt employees would be covered by the VPA if they perform their volunteer services within the scope of their responsibilities in the state or local govt and if they satisfied the other conditions of the VPA -- e.g., licensing in the state in which they provide services, if licensing is appropriate and required. This licensing provision may be most obviously a concern for healthcare volunteers, but it may also apply to other categories of volunteers. The VPA is useless to any volunteer who provides services for which some kind of licensing, certification, or authorization by a state is "appropriate," if the volunteer acts outside his or her home (or otherwise licensed) state.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Monday, September 12, 2005 3:25 PM
To: Moschella, William; Gorsuch, Neil M; Bucholtz, Jeffrey (CIV);
Marc_Kesselman@omb.eop.gov
Cc: Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Understood and I appreciate the clarification. However, while countless healthcare providers have cited liability as an impediment to providing volunteer health/medical services, I have not heard similar concerns expressed on behalf of non-health/medical volunteers (they may exist, but I am just unaware).

WRT S/L employees, wouldn't they be covered by the VPA if the are performing services at the behest of an organization (e.g., S/L govt)?

As for vicarious liability coverage, I think it is one of the most essential provisions in the DOJ healthcare volunteer proposal. That said, I am concerned that expanding this protection to all institutions in which all volunteers provide all services could make this an impossible pill for Congress to swallow.

In any case, I look forward to seeing both versions. Thanks.

-----Original Message-----
From: Jeffrey.Bucholtz@usdoj.gov [mailto:Jeffrey.Bucholtz@usdoj.gov]
Sent: Monday, September 12, 2005 3:12 PM
To: Neil.Gorsuch@usdoj.gov; William.Moschella@usdoj.gov; Kesselman, Marc; Venkayya, Rajeev V.

Cc: Ho, Allyson N.
Subject: RE: healthcare worker liability

What Neil says is right. In addition to foreign govts, which was State's specific concern, domestic state and local govt employees aren't covered by the FTCA either. Our healthcare emergency volunteer bill provides additional protection beyond the VPA in a few respects. One, as Neil says, is raising (or lowering) the threshold for non-protected conduct from gross negligence to reckless misconduct. Another is abrogating the vicarious liability of the volunteer's employer or business partner. A third is covering the volunteer even if his or her professional license is in a state other than the one where he or she provides volunteer services. All three of these issues apply to non-healthcare volunteers, though perhaps with a bit less force (e.g., the question of what state the volunteer is credentialed in is irrelevant if the volunteer isn't providing services for which professional credentials are needed).

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 2:59 PM
To: Rajeev_V._Venkayya@who.eop.gov; Moschella, William; Marc_Kesselman@omb.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Rajeev - (1) USG empees are covered by FTCA, but foreign govt workers remain exposed to liability, something State is concerned about and has asked us to address. (2) Non-healthcare volunteers are currently immunized only for negligence, not gross negligence. The line between the two, however, is very fine and often simple to plead around. Our thought was to raise the bar for all volunteers, creating liability only for willful, knowing, or reckless misconduct. Jeff may have more to add. NMG

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Monday, September 12, 2005 2:38 PM
To: Moschella, William; Gorsuch, Neil M; Marc_Kesselman@omb.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Jeff and/or Neil:

Could you clarify two things?
1. Aren't USG employees already covered by FTCA?
2. Are current protections afforded to non-healthcare volunteers deemed to be insufficient under the existing VPA?

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]

rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 10:39 AM
To: Kesselman, Marc; William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Ho, Allyson N.
Subject: RE: healthcare worker liability

Marc, The draft is attached but we are in the process of expanding it to cover (a) all volunteers, not just healthcare volunteers, though the structure of the bill will remain the same, as well as (b) govt employees (whether foreign or domestic). We are working with State and OPM (the two agencies we've heard from so far) to have a revised version ready for you by tonight or early tomorrow at the latest. NMG

-----Original Message-----
From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Monday, September 12, 2005 10:17 AM
To: Moschella, William; Gorsuch, Neil M; Rajeev_V._Venkayya@who.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Thanks Neil! As I mentioned I would do on Friday, I raised this issue with the GCs hurricane working group, and a few of them expressed that they may reach out to you today. Everyone seemed on board with the concept, they just had a few ideas about potential additional classes of people whom they want covered. I let them know that this was on a very fast track, and that we were doing our best to wrap this up by COB today or early Tuesday at the latest. I am happy to get involved as you think would be most appropriate, and really appreciate your taking the point on this.

I am about to send the draft to a couple of GCs who hadn't yet seen the draft language. Is there a more recent version that would be most helpful to share?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 8:28 AM
To: William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Kesselman, Marc
Subject: RE: healthcare worker liability

We seem to have consensus with State and I expect us to turn something around by tomorrow representing our shared views. I have a message this morning from OPM expressing interest in this area as well and I intend to invite them to our conf call this afternoon and hope to work them into the effort. Will keep you apprised.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Sunday, September 11, 2005 12:37 PM
To: Moschella, William; Gorsuch, Neil M

To: Moschella, William; Gorsuch, Neil M
Subject: Re: healthcare worker liability

Thanks for the follow up. I'll touch base with Marc tomorrow morning. Please let me if anything arises that might stand in the way of consensus between the departments and/or a rapid turnaround of the document. This is a high priority for us.

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
Sent: Sun Sep 11 12:11:41 2005
Subject: Re: healthcare worker liability

Rajeev - we did send a bill to omb last week. Marc Kesselman PDGC there liked it but said State and others were working on similar bills and asked me to coordinate efforts. Jeff and I met with State Friday and will do so again Monday. We hope to have a revised bill representing our joint recommendation by Tuesday.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov <Rajeev_V._Venkayya@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 10 10:48:51 2005
Subject: Fw: healthcare worker liability

Neil- Meant to copy you on this. Let me know if you have additional information. Thanks. -Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----

From: Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
To: 'William.Moschella@usdoj.gov' <William.Moschella@usdoj.gov>
Sent: Sat Sep 10 10:42:32 2005
Subject: Re: healthcare worker liability

I'd like to follow up with OMB to ensure that this moves forward. Did it go to them on Wed? If so, can you tell me who your POC is there?

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>
To: Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>; Robert.McCallum@usdoj.gov <Robert.McCallum@usdoj.gov>; Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>; Rachel.Brand@usdoj.gov <Rachel.Brand@usdoj.gov>; Peter.D.Keisler@usdoj.gov <Peter.D.Keisler@usdoj.gov>; Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>; DL-HSC-CHEM-BIO <DL-HSC-CHEM-BIO@eopds.eop.gov>; Leggitt, Lance B. <Lance_B._Leggitt@who.eop.gov>; Mitnick, John M. <John_M._Mitnick@who.eop.gov>
Sent: Wed Sep 07 09:06:45 2005
Subject: RE: healthcare worker liability

For timing purposes, DOJ is putting this provision into final legislative form with a section-by-section analysis. We hope to submit it to OMB by COB today after a very short internal circulation.

We have already provided to OMB (last night) a package of Katrina related proposals on other subjects.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Wednesday, September 07, 2005 12:07 AM
To: Christopher_W._Frech@who.eop.gov
Cc: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); Moschella, William; McCallum, Robert (SMO); Hertling, Richard; Brand, Rachel; Keisler, Peter D. (CIV); Gorsuch, Neil M; DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov; John_M._Mitnick@who.eop.gov
Subject: FW: healthcare worker liability

Chris,

As the events of the past week unfolded, it once again became clear that we need to address the issue of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the

of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the Hill. I ran a working group on the subject last year, and we took an option of amendment of the Volunteer Protection Act all the way to Deputies and received approval. There was a desire to fold it into the MedMal legislation, and not much happened after that.

DOJ was extremely helpful in the original assessment of this issue, and provided legislative language to address the problem at that time. I contacted them today and asked them to update documents that they had prepared in Nov 2004, and they provided the attached revision.

DOJ just informed me that they plan to formally submit this to OLA tomorrow to be considered as part of a broader legislative package. I will leave it to them to officially transmit that language, but I wanted you to know that this approach has already been vetted by the HSC Deputies Committee, and we fully support it. Please let me know if I can provide you with any additional background information. Thanks.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, September 06, 2005 3:24 PM
To: Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; DL-HSC-CHEM-BIO; Leggitt, Lance B.
Subject: RE: healthcare worker liability

Rajeev,

I think the "Emergency Health Freestanding Section" document is a sound approach and would resolve many of the problems we have had this week. In the attached version I have added two passages, neither of which is essential but might prove helpful later on.

The first change is to add the bolded language in paragraph (a):

the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction (including foreign countries) to provide such healthcare.

This is consistent with the discussions we had last year that a Canadian doctor who helped out at 9/11 should receive the same protection as a Massachusetts doctor. Explicitly mentioning foreign countries may make it easier to recruit foreign health care volunteers.

The second change is to add the bolded language in the next sentence:

Subsection (b) of section 3 and subsections (c) and (d) of section 4 of such chapter (42 U.S.C. § § 14502(b) and 14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

This change addresses the opt-out language of the VPA. 42 U.S.C. § 14502(b) provides that the VPA's protections do not apply if a state has specifically elected to make the VPA inapplicable. This change would remove the opt-out option for declared national emergencies. We have researched Louisiana or Mississippi law on the issue, and it does not appear that either has enacted such legislation. It would probably expedite relief efforts in future catatrosphes if the opt-out question were taken off the table. I don't know whether the issue is worth including in emergency legislation.

One other small matter. The "Emergency Health Freestanding Section" document contains the language, "for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), ... and subsections (c) and (d) of section 4 of such chapter ...." I have not found the reference that section 4 is Section 14503; but, relying on it I have referred to the previous section (14502) as "section 3."

Please call if I can be of further assistance.

Paul

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]

cell: [redacted]
rvenkayya@who.eop.gov

Bucholtz, Jeffrey (CIV)

From:	Bucholtz, Jeffrey (CIV)
Sent:	Monday, September 12, 2005 4:20 PM
To:	Gorsuch, Neil M
Subject:	FW: healthcare worker liability
Attachments:	Katrina disaster response volunteer bill.wpd

Neil: New, broader bill attached -- addressing "disaster response volunteers" and govtl entity donations of goods. Let me know your thoughts. (Note the questions at the end re: whether it's necessary or advisable to define "governmental entity" or "donate". My inclination is no, but I'm not sure.)

Jeff

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Monday, September 12, 2005 3:25 PM
To: Moschella, William; Gorsuch, Neil M; Bucholtz, Jeffrey (CIV);
Marc_Kesselman@omb.eop.gov
Cc: Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Understood and I appreciate the clarification. However, while countless healthcare providers have cited liability as an impediment to providing volunteer health/medical services, I have not heard similar concerns expressed on behalf of non-health/medical volunteers (they may exist, but I am just unaware).

WRT S/L employees, wouldn't they be covered by the VPA if the are performing services at the behest of an organization (e.g., S/L govt)?

As for vicarious liability coverage, I think it is one of the most essential provisions in the DOJ healthcare volunteer proposal. That said, I am concerned that expanding this protection to all institutions in which all volunteers provide all services could make this an impossible pill for Congress to swallow.

In any case, I look forward to seeing both versions. Thanks.

-----Original Message-----
From: Jeffrey.Bucholtz@usdoj.gov [mailto:Jeffrey.Bucholtz@usdoj.gov]
Sent: Monday, September 12, 2005 3:12 PM
To: Neil.Gorsuch@usdoj.gov; William.Moschella@usdoj.gov; Kesselman, Marc; Venkayya, Rajeev V.

Cc: Ho, Allyson N.
Subject: RE: healthcare worker liability

What Neil says is right. In addition to foreign govts, which was State's specific concern, domestic state and local govt employees aren't covered by the FTCA either. Our healthcare emergency volunteer bill provides additional protection beyond the VPA in a few respects. One, as Neil says, is raising (or lowering) the threshold for non-protected conduct from gross negligence to reckless misconduct. Another is abrogating the vicarious liability of the volunteer's employer or business partner. A third is covering the volunteer even if his or her professional license is in a state other than the one where he or she provides volunteer services. All three of these issues apply to non-healthcare volunteers, though perhaps with a bit less force (e.g., the question of what state the volunteer is credentialed in is irrelevant if the volunteer isn't providing services for which professional credentials are needed).

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 2:59 PM
To: Rajeev_V._Venkayya@who.eop.gov; Moschella, William; Marc_Kesselman@omb.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Rajeev - (1) USG empees are covered by FTCA, but foreign govt workers remain exposed to liability, something State is concerned about and has asked us to address. (2) Non-healthcare volunteers are currently immunized only for negligence, not gross negligence. The line between the two, however, is very fine and often simple to plead around. Our thought was to raise the bar for all volunteers, creating liability only for willful, knowing, or reckless misconduct. Jeff may have more to add. NMG

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Monday, September 12, 2005 2:38 PM
To: Moschella, William; Gorsuch, Neil M; Marc_Kesselman@omb.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Jeff and/or Neil:

Could you clarify two things?
1. Aren't USG employees already covered by FTCA?
2. Are current protections afforded to non-healthcare volunteers deemed to be insufficient under the existing VPA?

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]

rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 10:39 AM
To: Kesselman, Marc; William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Ho, Allyson N.
Subject: RE: healthcare worker liability

Marc, The draft is attached but we are in the process of expanding it to cover (a) all volunteers, not just healthcare volunteers, though the structure of the bill will remain the same, as well as (b) govt employees (whether foreign or domestic). We are working with State and OPM (the two agencies we've heard from so far) to have a revised version ready for you by tonight or early tomorrow at the latest. NMG

-----Original Message-----
From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Monday, September 12, 2005 10:17 AM
To: Moschella, William; Gorsuch, Neil M; Rajeev_V._Venkayya@who.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov
Subject: RE: healthcare worker liability

Thanks Neil! As I mentioned I would do on Friday, I raised this issue with the GCs hurricane working group, and a few of them expressed that they may reach out to you today. Everyone seemed on board with the concept, they just had a few ideas about potential additional classes of people whom they want covered. I let them know that this was on a very fast track, and that we were doing our best to wrap this up by COB today or early Tuesday at the latest. I am happy to get involved as you think would be most appropriate, and really appreciate your taking the point on this.

I am about to send the draft to a couple of GCs who hadn't yet seen the draft language. Is there a more recent version that would be most helpful to share?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 8:28 AM
To: William.Moschella@usdoj.gov; Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; Kesselman, Marc
Subject: RE: healthcare worker liability

We seem to have consensus with State and I expect us to turn something around by tomorrow representing our shared views. I have a message this morning from OPM expressing interest in this area as well and I intend to invite them to our conf call this afternoon and hope to work them into the effort. Will keep you apprised.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Sunday, September 11, 2005 12:37 PM
To: Moschella, William; Gorsuch, Neil M

To: Moschella, William; Gorsuch, Neil M
Subject: Re: healthcare worker liability

Thanks for the follow up. I'll touch base with Marc tomorrow morning. Please let me if anything arises that might stand in the way of consensus between the departments and/or a rapid turnaround of the document. This is a high priority for us.

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
Sent: Sun Sep 11 12:11:41 2005
Subject: Re: healthcare worker liability

Rajeev - we did send a bill to omb last week. Marc Kesselman PDGC there liked it but said State and others were working on similar bills and asked me to coordinate efforts. Jeff and I met with State Friday and will do so again Monday. We hope to have a revised bill representing our joint recommendation by Tuesday.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov <Rajeev_V._Venkayya@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 10 10:48:51 2005
Subject: Fw: healthcare worker liability

Neil- Meant to copy you on this. Let me know if you have additional information. Thanks. -Rajeev

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----

From: Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
To: 'William.Moschella@usdoj.gov' <William.Moschella@usdoj.gov>
Sent: Sat Sep 10 10:42:32 2005
Subject: Re: healthcare worker liability

I'd like to follow up with OMB to ensure that this moves forward. Did it go to them on Wed? If so, can you tell me who your POC is there?

Rajeev Venkayya, M.D.
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>
To: Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>; Venkayya, Rajeev V. <Rajeev_V._Venkayya@who.eop.gov>
CC: Paul.Figley@usdoj.gov <Paul.Figley@usdoj.gov>; Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>; Robert.McCallum@usdoj.gov <Robert.McCallum@usdoj.gov>; Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>; Rachel.Brand@usdoj.gov <Rachel.Brand@usdoj.gov>; Peter.D.Keisler@usdoj.gov <Peter.D.Keisler@usdoj.gov>; Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>; DL-HSC-CHEM-BIO <DL-HSC-CHEM-BIO@eopds.eop.gov>; Leggitt, Lance B. <Lance_B._Leggitt@who.eop.gov>; Mitnick, John M. <John_M._Mitnick@who.eop.gov>
Sent: Wed Sep 07 09:06:45 2005
Subject: RE: healthcare worker liability

For timing purposes, DOJ is putting this provision into final legislative form with a section-by-section analysis. We hope to submit it to OMB by COB today after a very short internal circulation.

We have already provided to OMB (last night) a package of Katrina related proposals on other subjects.

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Wednesday, September 07, 2005 12:07 AM
To: Christopher_W._Frech@who.eop.gov
Cc: Figley, Paul (CIV); Bucholtz, Jeffrey (CIV); Moschella, William; McCallum, Robert (SMO); Hertling, Richard; Brand, Rachel; Keisler, Peter D. (CIV); Gorsuch, Neil M; DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov; John_M._Mitnick@who.eop.gov
Subject: FW: healthcare worker liability

Chris,

As the events of the past week unfolded, it once again became clear that we need to address the issue of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the

of liability of volunteer healthcare providers, and that this might be an opportune time to take it to the Hill. I ran a working group on the subject last year, and we took an option of amendment of the Volunteer Protection Act all the way to Deputies and received approval. There was a desire to fold it into the MedMal legislation, and not much happened after that.

DOJ was extremely helpful in the original assessment of this issue, and provided legislative language to address the problem at that time. I contacted them today and asked them to update documents that they had prepared in Nov 2004, and they provided the attached revision.

DOJ just informed me that they plan to formally submit this to OLA tomorrow to be considered as part of a broader legislative package. I will leave it to them to officially transmit that language, but I wanted you to know that this approach has already been vetted by the HSC Deputies Committee, and we fully support it. Please let me know if I can provide you with any additional background information. Thanks.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

-----Original Message-----
From: Paul.Figley@usdoj.gov [mailto:Paul.Figley@usdoj.gov]
Sent: Tuesday, September 06, 2005 3:24 PM
To: Venkayya, Rajeev V.
Cc: Jeffrey.Bucholtz@usdoj.gov; DL-HSC-CHEM-BIO; Leggitt, Lance B.
Subject: RE: healthcare worker liability

Rajeev,

I think the "Emergency Health Freestanding Section" document is a sound approach and would resolve many of the problems we have had this week. In the attached version I have added two passages, neither of which is essential but might prove helpful later on.

The first change is to add the bolded language in paragraph (a):

the volunteer is properly licensed, certified, or authorized by the appropriate authorities of some jurisdiction (including foreign countries) to provide such healthcare.

This is consistent with the discussions we had last year that a Canadian doctor who helped out at 9/11 should receive the same protection as a Massachusetts doctor. Explicitly mentioning foreign countries may make it easier to recruit foreign health care volunteers.

The second change is to add the bolded language in the next sentence:

Subsection (b) of section 3 and subsections (c) and (d) of section 4 of such chapter (42 U.S.C. § § 14502(b) and 14503(c) and (d)) shall not apply to any claim arising from acts of a volunteer as defined herein.

This change addresses the opt-out language of the VPA. 42 U.S.C. § 14502(b) provides that the VPA's protections do not apply if a state has specifically elected to make the VPA inapplicable. This change would remove the opt-out option for declared national emergencies. We have researched Louisiana or Mississippi law on the issue, and it does not appear that either has enacted such legislation. It would probably expedite relief efforts in future catatrosphes if the opt-out question were taken off the table. I don't know whether the issue is worth including in emergency legislation.

One other small matter. The "Emergency Health Freestanding Section" document contains the language, "for purposes of chapter 139 of title 42, United States Code (popularly known as the "Volunteer Protection Act"), ... and subsections (c) and (d) of section 4 of such chapter ...." I have not found the reference that section 4 is Section 14503; but, relying on it I have referred to the previous section (14502) as "section 3."

Please call if I can be of further assistance.

Paul

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov [mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Tuesday, September 06, 2005 1:25 PM
To: Figley, Paul (CIV)
Cc: Bucholtz, Jeffrey (CIV); DL-HSC-CHEM-BIO@eopds.eop.gov; Lance_B._Leggitt@who.eop.gov
Subject: healthcare worker liability

Paul,

I hesitate to ask for assistance again, but you're the right person. In light of Katrina, I'm interested in proposing liability protection for volunteer healthcare workers again. I've attached three documents that you've sent me in the past. The "VPA document" was sent in November, and the other two in December, 2004. Could you take a look and let me know what you recommend that we use for draft VPA amendment language, with any changes that you think are appropriate.? If the freestanding amendment is still a reasonable approach, any edits to the "Emergency Health Freestanding Section" document would also be appreciated. Thanks in advance for your help.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]

cell: [redacted]
rvenkayya@who.eop.gov

Sec. 1 – Short title.

This legislation may be cited as the "Disaster Response Volunteer Protection Act of 2005."

Sec. 2 – Relief to Disaster Response Volunteers

In title __, United States Code, add the following section:

"____. Disaster Response Volunteers

(a) Liability of disaster response volunteers

A disaster response volunteer, as defined in this section, shall not be liable for harm caused by an act or omission of such volunteer within the scope of such volunteer's aiding or facilitating the provision of disaster response services in connection with a Declared Disaster if --

(1) the harm was not caused by willful or criminal misconduct, reckless misconduct, or conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(2) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires the operator or the owner of the vehicle, craft, or vessel to --

(A) possess an operator's license; or

(B) maintain insurance.

(b) Limitation on punitive damages based on actions of disaster response volunteers

(1) General rule

Punitive damages may not be awarded against a disaster response volunteer in an action brought for harm based on an act or omission of such volunteer within the scope of such volunteer's aiding or facilitating the provision of disaster response services in connection with a Declared Disaster, unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an act of such volunteer that constitutes willful or criminal misconduct or conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Nothing in this section creates or enlarges any cause of action for punitive damages or preempts or supersedes any federal or state law to the extent that such law would further prohibit or limit an award of punitive damages.

(c) Liability of employer or partner of disaster response volunteer

An employer or business partner of a disaster response volunteer shall not be liable for any act or omission of such volunteer within the scope of the volunteer's aiding or facilitating the provision of disaster response services in connection with a Declared Disaster.

(d) Liability of host or enabling person, entity, or organization

A person, entity, or organization, including a governmental entity, that works with, accepts services from, or opens its facilities to a disaster response volunteer to enable such volunteer to render disaster response services in connection with a Declared Disaster shall not be liable for any act or omission of such volunteer within the scope of the volunteer's aiding or facilitating the provision of disaster response services in connection with a Declared Disaster.

(e) Liability of disaster response volunteer for non-economic loss

(1) General rule

In any civil action against a disaster response volunteer based on an act or omission of such volunteer within the scope of the volunteer's aiding or facilitating the provision of disaster response services in connection with a Declared Disaster, the liability of such volunteer for non-economic loss shall be determined in accordance with this subsection.

(2) Amount of liability

(A) Each defendant who is a disaster response volunteer shall be liable only for the amount of non-economic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with subparagraph (B)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(B) For purposes of determining the amount of non-economic loss allocated to a defendant who is a disaster response volunteer under this section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant's harm.

(f) Construction

Nothing in this section shall be construed to abrogate or limit any protection that a volunteer, as defined in the Volunteer Protection Act, Pub. L. 105-19, 42 U.S.C. 14501-14505, may be entitled to under that Act.

(g) Supplemental Declaration

In the event of a Declared Disaster as defined herein, the President, the Secretary of Health and

Human Services, or the Secretary of Homeland Security may issue a Supplemental Declaration under this section.

(1) Temporal effect

Such Supplemental Declaration may provide that, for purposes of this section, such Declared Disaster shall have such temporal effect as the President or the Secretary may deem necessary or appropriate to further the public interest, including providing that such Declared Disaster shall have an effective date earlier than the date of the declaration or determination of such Declared Disaster.

(2) Geographic and other conditions

Such Supplemental Declaration may provide that, for purposes of this section, such Declared Disaster shall have such geographic or other conditions as the President or the Secretary may deem necessary or appropriate to further the public interest, including providing that "disaster response volunteer" as defined herein shall include individuals who are properly licensed, certified, or authorized to provide relevant disaster response services by the appropriate authorities of a foreign country, under such conditions as the Supplemental Declaration may prescribe.

(h) Definitions

For purposes of this section –

(1) "Declared Disaster" means a public health emergency declared by the Secretary of Health and Human Services under 42 U.S.C. 247d; a determination by the Secretary of Homeland Security in accordance with 42 U.S.C. 300hh-11; or an emergency or disaster declaration under 42 U.S.C. 5191 or 42 U.S.C. 5170.

(2) "Disaster response volunteer" means an individual who provides disaster response services or assistance in connection with a Declared Disaster, in a location other than his or her usual place of business or practice and without expectation or receipt of compensation for such services or assistance, provided that, if appropriate or required, such individual is properly licensed, certified, or authorized to provide the relevant services or assistance by the appropriate authorities of a State (as defined herein) or (if and to the extent specified in a Supplemental Declaration under this section) a foreign country.

(3) "Disaster response services or assistance" means services or assistance provided in preparation for, response to, or recovery from a Declared Disaster, including but not limited to health, medical, firefighting, ___, ____, and any other services or assistance specified by a Supplemental Declaration under this section as necessary or desirable to prepare for, respond to, or recover from such Declared Disaster.

(4) "Non-economic loss" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of

life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other non-pecuniary losses of any kind or nature.

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) "Compensation" means monetary or other compensation of any kind provided in exchange for an individual's services, but does not include reasonable reimbursement or allowance for expenses actually incurred by such individual.

Sec. 3 – Relief to Governmental Entities for Donations of Disaster Response Goods

In title __, United States code, add the following section:

"___. Government Donations of Disaster Response Goods

(a) Liability of governmental entities for donations of disaster response goods

A governmental entity that donates to an agency or instrumentality of the United States disaster response goods in connection with a Declared Disaster shall not be liable for harm caused by such donated goods if the harm was not caused by willful or criminal misconduct, reckless misconduct, or conscious, flagrant indifference to the rights or safety of the individual harmed by the goods.

(b) Limitation of governmental entity liability for punitive damages based on donations of disaster response goods

(1) General rule

Punitive damages may not be awarded against a governmental entity in an action brought for harm caused by disaster response goods donated by such governmental entity to an agency or instrumentality of the United States in connection with a Declared Disaster, unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an act of such governmental entity that constitutes willful or criminal misconduct or conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Nothing in this section creates or enlarges any cause of action for punitive damages or preempts or supersedes any federal or state law to the extent that such law would further prohibit or limit an award of punitive damages.

(c) Liability of governmental entity for non-economic loss based on donation of disaster response goods

(1) General rule

In any civil action against a governmental entity brought for harm caused by disaster response goods donated by such governmental entity to an agency or instrumentality of the United States in connection with a Declared Disaster, the liability of such governmental entity for non-economic loss shall be determined in accordance with this subsection.

(2) Amount of liability

(A) Each defendant that is a governmental entity shall be liable only for the amount of non-economic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with subparagraph (B)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(B) For purposes of determining the amount of non-economic loss allocated to a defendant that is a governmental entity under this section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant's harm.

(d) Construction

Nothing in this section shall be construed to abrogate or limit any protection that any governmental entity may be entitled to under any other provision of law.

(e) Supplemental Declaration

In the event of a Declared Disaster as defined herein, the President, the Secretary of Health and Human Services, or the Secretary of Homeland Security may issue a Supplemental Declaration under this section.

(1) Temporal effect

Such Supplemental Declaration may provide that, for purposes of this section, such Declared Disaster shall have such temporal effect as the President or the Secretary may deem necessary or appropriate to further the public interest, including providing that such Declared Disaster shall have an effective date earlier than the date of the declaration or determination of such Declared Disaster.

(2) Geographic and other conditions

Such Supplemental Declaration may provide that, for purposes of this section, such

Declared Disaster shall have such geographic or other conditions as the President or the Secretary may deem necessary or appropriate to further the public interest, including providing that "disaster response goods" as defined herein shall include goods that it is necessary or appropriate to accept from a foreign governmental entity, under such conditions as the Supplemental Declaration may prescribe.

(f) Definitions

For purposes of this section –

(1) "Declared Disaster" means a public health emergency declared by the Secretary of Health and Human Services under 42 U.S.C. 247d; a determination by the Secretary of Homeland Security in accordance with 42 U.S.C. 300hh-11; or an emergency or disaster declaration under 42 U.S.C. 5191 or 42 U.S.C. 5170.

(2) "Disaster response goods" means goods provided in preparation for, response to, or recovery from a Declared Disaster and reasonably necessary to such preparation, response, or recovery, as defined more fully, if applicable, by a Supplemental Declaration under this section.

(3) "Non-economic loss" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other non-pecuniary losses of any kind or nature.

[need to define "governmental entity" or "donate"?]

Roberts, Crystal

From:	Roberts, Crystal
Sent:	Monday, September 12, 2005 5:17 PM
To:	McCallum, Robert (SMO); Sampson, Kyle; Scolinos, Tasia; Brand, Rachel; Battle, Michael (USAEO)
Cc:	Mercer, Bill; Gorsuch, Neil M
Subject:	RE: NCSC General Counsel Committee Meeting, October 27, 2005

I would recommend accepting. It's a good opportunity for outreach.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, September 12, 2005 8:39 AM
To: Sampson, Kyle; Roberts, Crystal; Scolinos, Tasia; Brand, Rachel;
Battle, Michael (USAEO)
Cc: Mercer, Bill; Gorsuch, Neil M
Subject: FW: NCSC General Counsel Committee Meeting, October 27, 2005

What say you about my accepting this invitation and attending this event. I am very much inclined to do so whether or not DOJ issues the additional guidance memo that has been drafted and is being circulated. Even though it is off "the record", it will become and be public info, certainly if we have issued the guidance memo. Thoughts, caveats, vetoes? Robt.

-----Original Message-----
From: [redacted]
Sent: Sunday, September 11, 2005 2:44 PM
To: McCallum, Robert (SMO)
Subject: NCSC General Counsel Committee Meeting, October 27, 2005

Robert- We had such a good time visiting at lunch last week that I forgot one of my main duties. The National Center for State Courts was founded by Congress at the urging of Chief Justice Berger to assure greater performace of the state court system. The general counsel committee of the Center is comprised of Fortune 150 GCs who gather with the Chiefs of the States Courts annually to discuss developments within the administration of justice. As you will see from the attachments, a major program to be presented to the Chiefs and the GCs this year is on the Privilege. The Center would very much like for you to be on the program at the place indicated. The program will be the morning of Friday, October 28 and will be off the record. I hope that you are able to join us. Best [redacted]
-----Original Message-----
From: [redacted] [mailto[redacted]@ncsc.dni.us]
Sent: Thursday, September 01, 2005 1:15 PM
To: [redacted]

[redacted]

Cc: [redacted] McQueen, Mary; Baldwin, Robert
Subject: NCSC General Counsel Committee Meeting, October 27, 2005

From [redacted]

The next meeting of the General Counsel Committee of the National Center for State Courts (NCSC) will be held on Thursday, October 27, 3:00-4:30pm at the Willard InterContinental Hotel in Washington, D.C. You are also invited to attend the NCSC's Justice Roundtable with the state chief justices on Friday, October 28 (9:00-11:30am). Preliminary agendas are attached for your review and comment. A copy of the May 2005 minutes is also attached.

At the General Counsel Committee meeting, we will once again be meeting with leaders of the nation's judicial policy-making body, the Conference of Chief Justices, to discuss ways to improve the quality of the administration of justice in our state courts. We will also consider how we can collaborate with the NCSC's International Program to advance the rule of law and identify next steps in our constituency-building effort for state courts. A report on the NCSC's Civil Justice Reform Initiative will be followed by an expanded discussion with the chief justices on critical issues facing the state justice system.

This year's Justice Roundtable has been designed to advance the policy debate and recommend action (s) to preserve the attorney-client privilege and work product doctrine in today's enforcement and regulatory climate.
The topic selection, Attorney-Client Privilege: Preserving Essential Principles, responds to suggestions of both the General Counsel Committee and the Professionalism and Competency of the Bar Committee of the Conference of Chief Justices.

In addition to these meetings, you are also invited to attend the William H. Rehnquist Award Dinner at the U. S. Supreme Court on Thursday evening, October 27 and the NCSC's Annual Luncheon at noon on Friday, October 28. Your invitations to these events will be mailed in September.

These are important opportunities to exchange information and insights with the chief justices and other leaders of the NCSC on issues of mutual significance to business and the courts. We look forward to your participation in the October meetings.

<<AgendaOct27.doc>> <<Roundtable2005.doc>> <<May05minutes.doc>>

CONFIDENTIALITY NOTICE:
This e-mail and any attachments contain information from the law firm of [redacted]

[redacted]nd are intended solely for the use of the named recipient or recipients. This e-mail may contain privileged attorney/client communications or work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

Gunn, Currie (SMO)

Subject:	Updated: Bi-weekly OJP Meeting
Location:	Main Room 5710
Start:	Tuesday, August 02, 2005 2:00 PM
End:	Tuesday, August 02, 2005 3:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Tuesday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Henke, Tracy (SMO); Schofield, Regina; Tzitzon, Nicholas; Daley, Cybele; Gorsuch, Neil M; Greenfeld, Larry; Herraiz, Domingo S.; Gillis, John; Flores, Robert; Tzitzon, Nicholas; Mercer, Bill (ODAG); Morgan, John
Optional Attendees:	Palma, Josephine; Fowler, Liane; Palma, Josephine; Walker, Rhea; Madison, Cynthia; Walker, Rhea; Penn, Lynn; Stokely, Tangent

When: Occurs every 2 week(s) on Tuesday effective 8/2/05 from 2:00 PM to 3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

~~*~*~*~*~*~*~*~*~*

Removal of Sarah Hart, addition on John Morgan - NIJ

Attendees: ASG Robert McCallum, Jr., Tracy Henke-OASG, Neil Gorsuch-OASG, Bill Mercer - ODAG, Regina Schofield-AAG-OJP, Nicholas Tziton-OJP, Cybele Daley-OJP, John Morgan-NIJ, Larry Greenfeld-BJS, Domingo Herraiz-BJA, John Gillis-OVC, Robert Flores-OJJDP

POC: Currie Gunn x4-9500
OJP POC: Jo Palma x5-9239

Gunn, Currie (SMO)

Subject:	Updated: Bi-weekly OJP Meeting
Location:	Main Room 5710
Start:	Tuesday, September 27, 2005 2:00 PM
End:	Tuesday, September 27, 2005 3:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Tuesday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Henke, Tracy (SMO); Schofield, Regina; Tzitzon, Nicholas; Daley, Cybele; Gorsuch, Neil M; Hart, Sarah V.; Greenfeld, Larry; Herraiz, Domingo S.; Gillis, John; Flores, Robert; Mercer, Bill (ODAG); Morgan, John
Optional Attendees:	Stokely, Tangent; Palma, Josephine; Fowler, Liane; Walker, Rhea; Madison, Cynthia; Penn, Lynn

When: Tuesday, September 27, 2005 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

~~*~*~*~*~*~*~*~*~*

Removal of Sarah Hart, addition on John Morgan - NIJ

Attendees: ASG Robert McCallum, Jr., Tracy Henke-OASG, Neil Gorsuch-OASG, Bill Mercer - ODAG, Regina Schofield-AAG-OJP, Nicholas Tziton-OJP, Cybele Daley-OJP, John Morgan-NIJ, Larry Greenfeld-BJS, Domingo Herraiz-BJA, John Gillis-OVC, Robert Flores-OJJDP

POC: Currie Gunn x4-9500
OJP POC: Jo Palma x5-9239

Brand, Rachel

From: Brand, Rachel
Sent: Monday, September 12, 2005 6:19 PM
To: Gorsuch, Neil M
Subject: Read: TRO papers

[redacted]@nber.org

From: [redacted]@nber.org
Sent: Monday, September 12, 2005 6:29 PM
To: [redacted]@truman.gov; [redacted]@truman.gov; [redacted]
Subject: reminder, RE: save-the-date: Truman/TSA mentoring program

to: all mentors and mentees for this year's pilot Truman/TSA mentoring program

per our earlier announcement, a kick-off event on the 22nd will mark the beginning of the Truman/TSA mentoring program. We would like to encourage everyone to attend as best possible.

Truman/TSA Mentoring Program kick-off event
Thursday, September 22nd
6:30-8:30pm
America Restaurant Union Station
(50 Massachusetts Avenue)
phone: 202.682.9555

We will be in touch soon regarding your mentor/mentee matches.

Look forward to having you all involved with the program this year!

sincerely,

[redacted](from the Truman Foundation)
[redacted]

[redacted]

O'Connor, Eileen J. (AAG/TAX)

From:	O'Connor, Eileen J. (AAG/TAX)
Sent:	Monday, September 12, 2005 6:47 PM
To:	McCallum, Robert (SMO)
Cc:	Gorsuch, Neil M; Reyes, Luis (SMO); Boente, Dana J. (TAX); Hofer, Patrick F. (TAX); Fallon, Claire (TAX); Morrison, Richard T. (TAX); Alvarez, Michelle M. (TAX); Cole, Thomas P. (TAX)
Subject:	My whereabouts September 13 through 19

Robert - I will be in transit September 13 to Palo Alto, California, to make an Attorney General's Honors Program presentation Wednesday, September 14, to law students at Stanford University Law School. Thursday through Saturday, I will be attending the ABA Tax Section meeting in San Francisco. I will be in transit back to the office on Monday, September 19, and back in the saddle the next day. I will have my cellphone [redacted] and Blackberry with me, and Michelle Alvarez has my locations during this period. DAAG Dana J. Boente will be acting AAG for matters requiring action during my absence. Best regards,

Lee O'C.

Eileen J. O'Connor
Assistant Attorney General, Tax Division
United States Department of Justice
Washington, D.C.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 7:01 PM
To: O'Connor, Eileen J. (AAG/TAX)
Subject: RE: My whereabouts September 13 through 19

Lee, Safe travels. Sorry we weren't able to talk after the OASG meeting today. Perhaps we can get together when you return. All the best, NMG

-----Original Message-----
From: O'Connor, Eileen J. (AAG/TAX)
Sent: Monday, September 12, 2005 6:47 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M; Reyes, Luis (SMO); Boente, Dana J. (TAX); Hofer, Patrick F. (TAX); Fallon, Claire (TAX); Morrison, Richard T. (TAX); Alvarez, Michelle M. (TAX); Cole, Thomas P. (TAX)
Subject: My whereabouts September 13 through 19

Robert - I will be in transit September 13 to Palo Alto, California, to make an Attorney General's Honors Program presentation Wednesday, September 14, to law students at Stanford University Law School. Thursday through Saturday, I will be attending the ABA Tax Section meeting in San Francisco. I will be in transit back to the office on Monday, September 19, and back in the saddle the next day. I will have my cellphone [redacted] and Blackberry with me, and Michelle Alvarez has my locations during this period. DAAG Dana J. Boente will be acting AAG for matters requiring action during my absence. Best regards,

Lee O'C.

Eileen J. O'Connor
Assistant Attorney General, Tax Division
United States Department of Justice
Washington, D.C.

O'Connor, Eileen J. (AAG/TAX)

From: O'Connor, Eileen J. (AAG/TAX)
Sent: Monday, September 12, 2005 7:02 PM
To: Gorsuch, Neil M
Subject: RE: My whereabouts September 13 through 19

Thanks. We have nothing urgent.

Lee O'C.

From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 7:01 PM
To: O'Connor, Eileen J. (AAG/TAX)
Subject: RE: My whereabouts September 13 through 19

Lee, Safe travels. Sorry we weren't able to talk after the OASG meeting today. Perhaps we can get together when you return. All the best, NMG

-----Original Message-----
From: O'Connor, Eileen J. (AAG/TAX)
Sent: Monday, September 12, 2005 6:47 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M; Reyes, Luis (SMO); Boente, Dana J. (TAX); Hofer, Patrick F. (TAX); Fallon, Claire (TAX); Morrison, Richard T. (TAX); Alvarez, Michelle M. (TAX); Cole, Thomas P. (TAX)
Subject: My whereabouts September 13 through 19

Robert - I will be in transit September 13 to Palo Alto, California, to make an Attorney General's Honors Program presentation Wednesday, September 14, to law students at Stanford University Law School. Thursday through Saturday, I will be attending the ABA Tax Section meeting in San Francisco. I will be in transit back to the office on Monday, September 19, and back in the saddle the next day. I will have my cellphone [redacted] and Blackberry with me, and Michelle Alvarez has my locations during this period. DAAG Dana J. Boente will be acting AAG for matters requiring action during my absence. Best regards,

Lee O'C.

Eileen J. O'Connor
Assistant Attorney General, Tax Division
United States Department of Justice
Washington, D.C.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 7:02 PM
To: [redacted]@truman.gov; [redacted]@truman.gov
Subject: RE: reminder, RE: save-the-date: Truman/TSA mentoring program

have I been assigned a mentee?

-----Original Message-----
From: [redacted]@nber.org [mailto:heidiw@nber.org]
Sent: Monday, September 12, 2005 6:29 PM
To: [redacted]@truman.gov; [redacted]@truman.gov; [redacted]
Subject: reminder, RE: save-the-date: Truman/TSA mentoring program

to: all mentors and mentees for this year's pilot Truman/TSA mentoring program

per our earlier announcement, a kick-off event on the 22nd will mark the beginning of the Truman/TSA mentoring program. We would like to encourage everyone to attend as best possible.

Truman/TSA Mentoring Program kick-off event
Thursday, September 22nd
6:30-8:30pm
America Restaurant Union Station
(50 Massachusetts Avenue)
phone: 202.682.9555

We will be in touch soon regarding your mentor/mentee matches.

Look forward to having you all involved with the program this year!

sincerely,

[redacted] (from the Truman Foundation)
[redacted]

[redacted]

[redacted]

Swenson, Lily F

From: Swenson, Lily F
Sent: Monday, September 12, 2005 8:03 PM
To: Davis, John S. (USAVAE); Gorsuch, Neil M
Subject: RE: Privacy Office Options Memo

Without speaking for Neil, I think this looks great and is ready for circulation. As for who else, the only other folks I can think of are OLA.

-----Original Message-----
From: Davis, John S. (USAVAE)
Sent: Monday, September 12, 2005 1:16 PM
To: Burton, Dawn (ODAG); McIntosh, Brent; Brand, Rachel; Kessler, Elizabeth A; Mercer, Bill (ODAG); Swenson, Lily F; Gorsuch, Neil M
Cc: Rybicki, James E; Davis, John S (ODAG); Ullyot, Theodore
Subject: Privacy Office Options Memo

<<Privacy options mem.wpd>>
To the privacy options memo I previously circulated, I have added Lily's additional option and her description of OIP, and made a few other changes to make this more palatable. Please review this draft and advise by COB Tuesday (tomorrow, September 13) if you have any objection to my circulating it to the components for comment.

I was planning on allowing two weeks for comment, and to send to the following components: OIP, JMD-OGC, OCIO, OLP, CIV, CRM, OIPR, Civil Rights, FBI-OGC. Anyone else?

John

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 13, 2005 8:02 AM
To: Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 13, 2005 8:35 AM
To: Williams, Jan
Subject: RE: National Day of Prayer and Remembrance Invite

Thanks, Jan. I would like to attend. Best, NMG

-----Original Message-----
From: Williams, Jan
Sent: Tuesday, September 13, 2005 8:23 AM
To: Washington, Tracy T; Walker, Shelia M; Gunn, Currie (SMO); Potter, Janet
Cc: O'Connor, Eileen J. (AAG/TAX); Barnett, Thomas O.; Johnson, Kelly A. (ENRD); Fisher, Alice; Bradbury, Steve; McCallum, Robert (SMO); Mercer, Bill (ODAG); Keisler, Peter D. (CIV); Schofield, Regina; Roberts, Crystal; Brand, Rachel; Mueller, Robert S (LEO); Tandy, Karen P; Battle, Michael (USAEO); [redacted] (USMS); Corts, Paul R; Truscott, Carl J.; Moschella, William; Schlozman, Brad (CRT); Gorsuch, Neil M; Clement, Paul D; Sampson, Kyle; Ullyot, Theodore; Elwood, Courtney; Taylor, Jeffrey (OAG)
Subject: National Day of Prayer and Remembrance Invite

The President will give remarks at the National Cathedral on Friday, September 16, at 11:00 a.m. in honor of the National Day of Prayer and Remembrance. Please rsvp for yourself or your principal by replying to this email by 10:30am this morning. Thank you.

Jan

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 13, 2005 8:36 AM
To: [redacted]@truman.gov'; [redacted]@truman.gov
Subject: RE: reminder, RE: save-the-date: Truman/TSA mentoring program

Thanks so much. Will try to make the 22d. Best, Neil

-----Original Message-----
From: [redacted]@truman.gov [mailto[redacted]@truman.gov]
Sent: Tuesday, September 13, 2005 7:48 AM
To: Gorsuch, Neil M; [redacted]@truman.gov
Subject: RE: reminder, RE: save-the-date: Truman/TSA mentoring program

Hi Neil!

Yes, you have been assigned a mentee for this coming year although I'm not sure who your mentee is as TSA has graciously taken the role of matching mentors and mentees. [redacted] will be sending out the name of your mentee to you later this week (there is a TSA meeting tonight and then they will distribute the names). I'm sorry for any confusion and I hope that you're able to join us all for the kick-off event on the evening of the 22nd. Thank you once again for your willingness to serve as a mentor this year!

regards,
[redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 12, 2005 7:02 PM
To: [redacted]
Subject: RE: reminder, RE: save-the-date: Truman/TSA mentoring program

have I been assigned a mentee?

-----Original Message-----
From: [redacted]@nber.org [mailto[redacted]@nber.org]
Sent: Monday, September 12, 2005 6:29 PM
To: [redacted]@truman.gov; [redacted]@truman.gov; [redacted]
Subject: reminder, RE: save-the-date: Truman/TSA mentoring program

to: all mentors and mentees for this year's pilot Truman/TSA mentoring program

per our earlier announcement, a kick-off event on the 22nd will mark the beginning of the Truman/TSA mentoring program. We would like to encourage everyone to attend as best possible.

Truman/TSA Mentoring Program kick-off event
Thursday, September 22nd
6:30-8:30pm
America Restaurant Union Station
(50 Massachusetts Avenue)
phone: 202.682.9555

We will be in touch soon regarding your mentor/mentee matches.

Look forward to having you all involved with the program this year!

sincerely,

[redacted] from the Truman Foundation)
[redacted]

[redacted]

Full Name: Raul Yanes
Last Name: Yanes
First Name: Raul

Business: (202) 395-5044

E-mail: Raul_F._Yanes@omb.eop.gov
E-mail Display As: Raul_F._Yanes@omb.eop.gov

[redacted]

[redacted]

DOJ_NMG_ 0147636

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 13, 2005 8:46 AM
To: 'Raul_F._Yanes@omb.eop.gov'
Cc: Shapiro, Elizabeth (CIV)
Subject: RE:

Raul,

We miss you here, but I hope you're enjoying the new job.

Here's a quick, shorthand answer to the question: If an agency doesn't respond to a FOIA request within 20 days (or extend that time period for its response as provided for by FOIA), that can be treated as "constructive exhaustion" of administrative remedies and the requestor may file an action in court immediately. However, if the agency provides a response within 20 days (or the period provided for by the extension), the requestor must first exhaust administrative remedies before going to court.

I am adding Betsy Shapiro, the Department's FOIA litigation expert, in case she has any nuances to add.

All the best,

NMG

-----Original Message-----
From: Raul_F._Yanes@omb.eop.gov [mailto:Raul_F._Yanes@omb.eop.gov]
Sent: Monday, September 12, 2005 11:15 PM
To: Gorsuch, Neil M
Subject:

Hope all is well.

Quick question: under foia can a requestor file an action in federal court seeking enforcement of its request as soon as the 20 day statutory clock runs if the docs have not yet been produced?

Beach, Andrew

Subject:	Updated: Senior Management Meeting
Start:	Friday, September 16, 2005 8:15 AM
End:	Friday, September 16, 2005 8:35 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Roehrkasse, Brian

When: Friday, September 16, 2005 8:15 AM-8:35 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Courtney Elwood, Bill Mercer, Neil Gorsuch, Brian Roehrkasse, Jeff Oldham, Martha Pacold

Beach, Andrew

Subject:	Updated: Component Coordination Meeting
Start:	Friday, September 16, 2005 8:30 AM
End:	Friday, September 16, 2005 8:50 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Moschella, William; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Roehrkasse, Brian

When: Friday, September 16, 2005 8:30 AM-8:50 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Courtney Elwood, Brian Roehrkasse, Bill Mercer, Neil Gorsuch, Jeff Oldham, Martha Pacold, Rachel Brand, Jan Williams, Will Moschella, Crystal Roberts

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 13, 2005 10:00 AM
To: Shapiro, Elizabeth (CIV)
Subject: RE:

Thanks, Betsy.

-----Original Message-----
From: Shapiro, Elizabeth (CIV)
Sent: Tuesday, September 13, 2005 9:53 AM
To: Gorsuch, Neil M; Raul_F._Yanes@omb.eop.gov
Subject: RE:

Neil is exactly right. The only other wrinkle is that if a requester waits 20 days, the agency does not respond, but then the agency later responds before the requester files his complaint in federal court, the requester is still required to exhaust administrative remedies.

Good luck at OMB, and feel free to call with FOIA or other government information related questions.

Betsy

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 13, 2005 8:46 AM
To: Raul_F._Yanes@omb.eop.gov
Cc: Shapiro, Elizabeth (CIV)
Subject: RE:

Raul,

We miss you here, but I hope you're enjoying the new job.

Here's a quick, shorthand answer to the question: If an agency doesn't respond to a FOIA request within 20 days (or extend that time period for its response as provided for by FOIA), that can be treated as "constructive exhaustion" of administrative remedies and the requestor may file an action in court immediately. However, if the agency provides a response within 20 days (or the period provided for by the extension), the requestor must first exhaust administrative remedies before going to court.

I am adding Betsy Shapiro, the Department's FOIA litigation expert, in case she has any nuances to add.

All the best,

NMG

-----Original Message-----
From: Raul_F._Yanes@omb.eop.gov [mailto:Raul_F._Yanes@omb.eop.gov]
Sent: Monday, September 12, 2005 11:15 PM
To: Gorsuch, Neil M
Subject:

Hope all is well.

Quick question: under foia can a requestor file an action in federal court seeking enforcement of its request as soon as the 20 day statutory clock runs if the docs have not yet been produced?

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 13, 2005 11:13 AM
To: USDOJ- Office of Public Affairs
Subject: MEDIA ADVISORY: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT NATIONAL HISPANIC FOUNDATION FOR THE ARTS EVENT

Department of Justice

FOR PLANNING PURPOSES ONLY
TUESDAY, SEPTEMBER 13, 2005
WWW.USDOJ.GOV

AG
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT NATIONAL HISPANIC FOUNDATION FOR THE ARTS EVENT

WASHINGTON, DC - Attorney General Alberto R. Gonzales will deliver remarks at the National Hispanic Foundation for the Arts dinner **TODAY, SEPTEMBER 13, 2005 at 8:45 P.M. EDT.**

WHO: Attorney General Alberto R. Gonzales

WHAT: National Hispanic Foundation for the Arts Dinner

WHEN: **TODAY, SEPTEMBER 13, 2005**
8:45 P.M. EDT
Media arrival by **6:00 P.M. EDT**

WHERE: Grand Ballroom
Renaissance Mayflower Hotel
1127 Connecticut Ave., N.W.
Washington, D.C. 20036

NOTE: ALL media MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as driver's license) as well as VALID MEDIA CREDENTIALS. Media interested in attending the event should register by **5:30 P.M. EDT** with Carol Marshall at 213-598-5888**.** Media should arrive by **6:00 P.M. EDT.** All press inquiries regarding logistics should be directed to John Nowacki at 202-353-5621.

###

05-474

DOJ_NMG_ 0147642

DOJ_NMG_ 0147643

Image not available for this document, ID: 0.7.10316.67072-000001

Image not available for this document, ID: 0.7.10316.67072-000002

meetings@cfr.org

From:	meetings@cfr.org
Sent:	Tuesday, September 13, 2005 11:29 AM
To:	Gorsuch, Neil M
Subject:	CFR Invitation to 09/20 NY Meeting w/ Prince Saud Al Faisal
Attachments:	092005 Saud Al Faisal889.rtf

Dear Mr. Gorsuch:

You are invited to the following meeting in New York:

The Fight Against Extremism and the Search for Peace

PRINCE SAUD AL FAISAL
Minister of Foreign Affairs, Kingdom of Saudi Arabia

Tuesday, September 20, 2005
10:30 a.m. to 12:00 p.m.

10:30 to 11:00 a.m. Reception
11:00 a.m. to 12:00 p.m. Meeting

** Please note special time. **

** This meeting will be on the record. **

at the Harold Pratt House, 58 East 68th Street, New York

To attend, please reply to this email, fax the attached form to the CFR New York Meetings Department at (212) 434-9804, call the Meetings Response Line at (212) 434-9600, or register online at www.cfr.org/member.

This invitation is not transferable.

CFR meetings are open to Council members only unless otherwise noted.

____ I will attend
Please update the information below if necessary.
Member Name: Neil M. Gorsuch
Title: Principal Deputy Associate Attorney General
Company/Affiliation: U.S. Department of Justice
Work Phone: 202-305-1434
Fax: 202-514-0238
E-mail: neil.gorsuch@usdoj.gov
I prefer to receive invitations and meeting updates via: email fax

Thank you,

NY Meetings Program

To: Mr. Neil M. Gorsuch, U.S. Department of Justice

COUNCIL ON FOREIGN RELATIONS

58 EAST 68 TH STREET • NEW YORK • NEW YORK 10021
Tel 212 434 9 600 Fax 212 434 9804 meetings@cfr.org

NEW YORK MEETING

The Fight Against Extremism and the Search for Peace

Prince Saud Al Faisal

Minister of Foreign Affairs
Kingdom of Saudi Arabia

Tuesday, September 20, 2005
10:30 a.m. - 12:00 p.m.

10:30 - 11:00 a.m. Reception
11:00 a.m. - 12:00 p.m. Meeting
*** Please note special time. ****

** *This meeting will be on the record.* **

at the Harold Pratt House, 58 East 68th Street, New York

To attend, please fax this form to the CFR New York Meetings Department at **(212) 434-9804,** call the Meetings Response Line at **(212) 434-9600,** or register online at **www.cfr.org/member**.
This invitation is not transferable.
CFR meetings are open to Council members only unless otherwise noted.

____ I will attend

Please update the information below if necessary.

Member Name: Neil M. Gorsuch
Title: Principal Deputy Associate Attorney General
Company/Affiliation: U.S. Department of Justice
Work Phone: 202-305-1434 Fax: 202-514-0238 E-mail: neil.gorsuch@usdoj.gov
I prefer to receive invitations and meeting updates via: ☐ *email* ☐ *fax* (11402)

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 13, 2005 12:12 PM
To: USDOJ- Office of Public Affairs
Subject: DEFENDANT PLEADS GUILTY IN EASTERN EUROPEAN EMPLOYEE LEASING SCAM

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 13, 2005
WWW.USDOJ.GOV

AG
(202) 514-2008
TDD (202) 514-1888

DEFENDANT PLEADS GUILTY IN EASTERN EUROPEAN EMPLOYEE LEASING SCAM

WASHINGTON, D.C. - A Florida resident originally from Poland has pleaded guilty to three charges related to a nationwide employee leasing conspiracy that used hundreds of illegal aliens, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney R. Alexander Acosta of the Southern District of Florida announced today.

Pavel Preus, 39, of Pompano Beach, Florida, pleaded guilty yesterday before U.S. District Judge Kenneth Marra at the federal courthouse in Fort Lauderdale, Florida. Preus, a native of Poland, holds conditional lawful permanent residency in the United States.

Preus pleaded guilty to conspiracy to induce and encourage aliens to enter and remain unlawfully in the United States for commercial advantage, conspiracy to transport and conceal aliens in the United States for commercial advantage, and conspiracy to cause the making of false statements to government agencies; conspiracy to commit money laundering; and conspiracy to defraud the United States of taxes due.

Preus faces a maximum sentence of up to 20 years in prison and a fine of up to $500,000 on the money laundering charge, and up to five years in prison and fines of up to $250,000 on the other counts. Sentencing is scheduled for Nov. 21, 2005.

From 1995 to the present, Preus conspired to provide unauthorized workers, mostly Eastern Europeans who had entered the United States on tourist visas, to American companies with which Preus and others had contracted to provide authorized foreign workers. During the course of the conspiracy, Preus and his co-conspirators failed to collect and pay approximately $6 million in federal payroll taxes and laundered in excess of $20 million.

"This defendant constructed an elaborate fraud with others which involved misrepresenting the visa status of hundreds of aliens, taking advantage of laws designed to secure opportunity for legitimate immigrant workers, and defrauding the American public of millions of dollars in revenue," said Assistant Attorney General

DOJ_NMG_ 0147649

Fisher. "The Department of Justice is committed to the vigorous prosecution of this defendant and others who believe that they can cheat the system by circumventing immigration laws for profit."

United States Attorney R. Alexander Acosta added, "Our nation has been built on the sweat and dreams of immigrants. Lawful immigration remains part of the American Dream. Our nation, however, also has been built on the rule of law. We will prosecute violations of immigration laws vigorously."

Preus' plea is the first in the culmination of Operation Pisces, an investigation begun in 2002 and led by the Kansas City Office of the U.S. Department of Homeland Security, Office of Immigration and Customs Enforcement (then the INS); the U.S. Department of Labor, Office of the Inspector General, Labor Racketeering and Fraud Investigations; and the Miami, Florida, field office of the Internal Revenue Service, and joined by the Miami division of the U.S. Postal Inspection Service.

The case is being prosecuted by Trial Attorneys Michael E. Barr and Judith R. O'Sullivan of the Department of Justice's Criminal Division, Domestic Security Section, and by Assistant U.S. Attorney Jeffrey H. Kay of the Ft. Lauderdale office of the U.S. Attorney for the Southern District of Florida.

###

05-471

DOJ_NMG_ 0147650

Image not available for this document, ID: 0.7.10316.67045-000001

Image not available for this document, ID: 0.7.10316.67045-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 13, 2005 12:50 PM
To: USDOJ- Office of Public Affairs
Subject: U.S. ANNOUNCES CLEAN AIR AGREEMENT WITH NATION'S LARGEST HAZARDOUS WASTE TREATMENT AND DISPOSAL OPERATOR

Department of Justice

ENVIRONMENTAL PROTECTION AGENCY

FOR IMMEDIATE RELEASE — ENRD (202) 514-2007
TUESDAY, SEPTEMBER 13, 2005 — EPA (202) 564-4355
WWW.USDOJ.GOV <http://WWW.USDOJ.GOV> — TDD (202) 514-1888

U.S. ANNOUNCES CLEAN AIR AGREEMENT WITH NATION'S LARGEST HAZARDOUS WASTE TREATMENT AND DISPOSAL OPERATOR

Operator to Properly Calculate Benzene Emissions at 10 Facilities in Eight States

WASHINGTON, D.C.-The Justice Department and the Environmental Protection Agency (EPA) today announced a settlement with Clean Harbors Environmental Services that is expected to enhance calculating and reporting on benzene emissions from North America's largest operator of hazardous waste treatment and disposal facilities. This settlement involves 10 facilities in eight states. It confirms the proper industry standard for compliance with the Clean Air Act regulation that limits benzene emissions from facilities that treat, store, and dispose of hazardous waste.

The affected facilities are located in Chicago, Illinois; Cincinnati, Ohio; Braintree, Massachusetts; Bristol, Connecticut; Baton Rouge, Louisiana; Plaquemine, Louisiana; La Porte, Texas; Deer Park, Texas; Kimball, Nebraska; and Aragonite, Utah.

The agreement with Clean Harbors is part of EPA's efforts to enhance compliance with benzene regulations among hazardous waste treatment, storage, and disposal facilities. Benzene is a hazardous air pollutant and a known carcinogen.

"By enforcing proper methods to calculate benzene emissions, we move closer to ensuring that this hazardous air pollutant is not unlawfully emitted into our environment," said Acting Assistant Attorney General Kelly A. Johnson. "Today's settlement with the country's largest operator of hazardous waste treatment and disposal facilities should set the standard for the rest of this industry."

A consent decree, filed today in U.S. District Court for the Northern District of Illinois, will require Clean Harbors to properly determine the benzene quantities in waste shipments received from its customers. Clean Harbors will not be allowed to estimate the benzene received by using the middle number in a range of

DOJ_NMG_ 0147653

possible benzene concentrations that a customer supplies. Instead, Clean Harbors will have to measure the actual benzene concentration or use the high end of the range in order to ensure that benzene is not underreported. Underreporting benzene can result in failing to install pollution controls on tanks and other equipment that handle benzene.

The states of Illinois and Louisiana are joining the settlement.

"This settlement underscores EPA's commitment to enforcing the Clean Air Act. Companies that treat, store, or dispose hazardous waste are required to properly quantify the amount of benzene received at their sites," said Granta Nakayama, EPA Assistant Administrator for the Office of Enforcement and Compliance Assurance. "It is particularly important for facilities that have the potential to release benzene, a known carcinogen, into the air."

"Benzene is a known carcinogen. With this settlement, Clean Harbors will be required to keep more accurate records of benzene quantities and better train its employees in its handling, so that proper controls can be utilized when it is transported through or disposed of at its Chicago facility," Illinois Attorney General Lisa Madigan said. "This agreement will provide more protection not only for the company's employees, but also for Illinois residents."

To meet its obligations under the consent decree, Clean Harbors will revise its nationwide "Waste Material Profile Sheet" to ensure that all customers that are covered by the benzene waste regulation properly evaluate and certify the amount of benzene in their waste shipments. Clean Harbors will institute a program to sample these wastes to ensure proper reporting and will train its employees on compliance with the benzene regulations. Clean Harbors will also pay a $300,000 penalty.

The proposed consent decree is subject to a 30-day public comment period. A copy of the consent decree lodged today is available on the Department of Justice website at <http://www.usdoj.gov/enrd/open.html>.

###

05-476

DOJ_NMG_ 0147654

Image not available for this document, ID: 0.7.10316.67042-000001

Image not available for this document, ID: 0.7.10316.67042-000002

Image not available for this document, ID: 0.7.10316.67042-000003

Elwood, Courtney

From: Elwood, Courtney
Sent: Tuesday, September 13, 2005 1:36 PM
To: Nichols, Carl (CIV)
Cc: Gorsuch, Neil M
Subject: Re: BRAC developments

I actually thght of this on my way to work this am, and I meant to discuss with you when I saw you today. I am glad you raised it. How many people are on the team? Do you have any suggestions?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 13 13:23:59 2005
Subject: RE: BRAC developments

Courtney:
Now that we have some breathing room on these cases -- which resulted in several outstanding victories that permitted the transmission of the Report to the President and, hopefully, the transmission by the President to Congress of a "pure" Report (i.e., one unaffected by litigation) -- I wanted to raise w/ you whether there is anything that can be done to recognize the extraordinary effort of the team. Thanks, Carel

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, September 02, 2005 8:49 AM
To: Nichols, Carl (CIV)
Subject: RE: BRAC developments

Yes, but they deserve recognition for their efforts once this is over. Just remind me and I'll see what we can do.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Friday, September 02, 2005 8:44 AM
To: Elwood, Courtney
Subject: RE: BRAC developments

They are working around-the-clock, but it's pretty exciting stuff, and it's clear that the craziness can only last so long, so it's not the worst thing in the world.

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, September 02, 2005 6:00 AM
To: Nichols, Carl (CIV)
Subject: Re: BRAC developments

This sounds miserable for you and your team -- just before the holiday weekend. We'll have to think of something nice to do for folks once this is over.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
To: Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 21:31:55 2005
Subject: Fw: BRAC developments

FYI

-----Original Message-----
From: Tannenbaum, Andrew (CIV) <ATannenb@CIV.USDOJ.GOV>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>; Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>; Kopp, Robert (CIV) <RKopp@CIV.USDOJ.GOV>; Letter, Douglas (CIV) <DLetter@CIV.USDOJ.GOV>; Byron, H. Thomas (CIV) <HByron@CIV.USDOJ.GOV>; Hunt, Jody (CIV) <JHunt@CIV.USDOJ.GOV>; Garvey, Vincent (CIV) <VGarvey@CIV.USDOJ.GOV>; Lepore, Matthew (CIV) <MLepore@CIV.USDOJ.GOV>; Meron, Daniel (CIV) <DMeron@CIV.USDOJ.GOV>; McIntosh, Scott (CIV) <smcintos@CIV.USDOJ.GOV>; Stewart, Malcolm L <Malcolm.L.Stewart@SMOJMD.USDOJ.gov>; Hungar, Thomas G <Thomas.G.Hungar@SMOJMD.USDOJ.gov>; Haas, Alexander (CIV) <AHaas@CIV.USDOJ.GOV>; Smith, Jeffrey (CIV) <jesmith@CIV.USDOJ.GOV>
Sent: Thu Sep 01 18:11:04 2005
Subject: BRAC developments

Briefs in CT and TN have been filed, and are attached. We received TRO/PI papers from IL, which I will forward, and the judge in that case has already set a TRO hearing for 10 a.m. Central Time tomorrow. We also have a TRO hearing in the TN case tomorrow at 9 a.m. Central Time. We had a status call with the court in MO this morning, and the judge asked that we try to file our PI opposition by COB tomorrow, and she may conduct a phone argument on Tuesday if she finds it necessary. CT PI hearing is still scheduled for Wed.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 13, 2005 1:54 PM
To: Shaw, Aloma A
Subject: please could you get the email address for naomi row in counsel's office? thanks

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Tuesday, September 13, 2005 1:55 PM
To: Elwood, Courtney
Cc: Gorsuch, Neil M
Subject: RE: BRAC developments

Just looking on the web site, it seems like there are two things that might be appropriate. the first would be the AG's john marshall team award, which is an annual award and (i assume) requires a choice among many worthy candidates. the second is an "on-the-spot award," which the web site describes this way:

Information on Performance and On-The-Spot Awards The Office of Personnel Management has established incentive awards as a means to honor those individuals and groups whose contributions are so outstanding as to warrant special recognition. In addition, the various components within the Department have established and administered commendation awards and other special awards which are unique to their workforce to honor and recognize individual or group achievements by employees. Information on these awards may be obtained by contacting the servicing personnel office of your component.

* * *

On-the-Spot Awards are awarded to employees who have made a high-quality contribution to a difficult or important project or assignment; produced exceptionally high-quality work under a tight deadline; performed added or emergency assignments in additional to regular duties; demonstrated exceptional courtesy or responsiveness in dealing with the public, client agencies, or colleagues; and exercised extraordinary initiative or creativity in addressing a critical need or a difficult problem. These awards are recommended by supervisors and endorsed by higher-level approving officials.

It seems like these would not be mutually exclusive choices.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Tuesday, September 13, 2005 1:45 PM
To: Elwood, Courtney
Cc: Gorsuch, Neil M
Subject: RE: BRAC developments

There were ten people primarily involved, though I'm not sure whether it makes sense to include all of them (e.g., Tom Hungar or me), so it might be a smaller group. I don't have a clue about what is typically done in these circumstances.

-----Original Message-----
From: Elwood, Courtney

Sent: Tuesday, September 13, 2005 1:36 PM
To: Nichols, Carl (CIV)
Cc: Gorsuch, Neil M
Subject: Re: BRAC developments

I actually thght of this on my way to work this am, and I meant to discuss with you when I saw you today. I am glad you raised it. How many people are on the team? Do you have any suggestions?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 13 13:23:59 2005
Subject: RE: BRAC developments

Courtney:
Now that we have some breathing room on these cases -- which resulted in several outstanding victories that permitted the transmission of the Report to the President and, hopefully, the transmission by the President to Congress of a "pure" Report (i.e., one unaffected by litigation) -- I wanted to raise w/ you whether there is anything that can be done to recognize the extraordinary effort of the team. Thanks, Carel

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, September 02, 2005 8:49 AM
To: Nichols, Carl (CIV)
Subject: RE: BRAC developments

Yes, but they deserve recognition for their efforts once this is over. Just remind me and I'll see what we can do.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Friday, September 02, 2005 8:44 AM
To: Elwood, Courtney
Subject: RE: BRAC developments

They are working around-the-clock, but it's pretty exciting stuff, and it's clear that the craziness can only last so long, so it's not the worst thing in the world.

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, September 02, 2005 6:00 AM
To: Nichols, Carl (CIV)
Subject: Re: BRAC developments

This sounds miserable for you and your team -- just before the holiday weekend. We'll have to think of something nice to do for folks once this is over.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
To: Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 21:31:55 2005
Subject: Fw: BRAC developments

FYI

-----Original Message-----
From: Tannenbaum, Andrew (CIV) <ATannenb@CIV.USDOJ.GOV>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>; Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>; Kopp, Robert (CIV) <RKopp@CIV.USDOJ.GOV>; Letter, Douglas (CIV) <DLetter@CIV.USDOJ.GOV>; Byron, H. Thomas (CIV) <HByron@CIV.USDOJ.GOV>; Hunt, Jody (CIV) <JHunt@CIV.USDOJ.GOV>; Garvey, Vincent (CIV) <VGarvey@CIV.USDOJ.GOV>; Lepore, Matthew (CIV) <MLepore@CIV.USDOJ.GOV>; Meron, Daniel (CIV) <DMeron@CIV.USDOJ.GOV>; McIntosh, Scott (CIV) <smcintos@CIV.USDOJ.GOV>; Stewart, Malcolm L <Malcolm.L.Stewart@SMOJMD.USDOJ.gov>; Hungar, Thomas G <Thomas.G.Hungar@SMOJMD.USDOJ.gov>; Haas, Alexander (CIV) <AHaas@CIV.USDOJ.GOV>; Smith, Jeffrey (CIV) <jesmith@CIV.USDOJ.GOV>
Sent: Thu Sep 01 18:11:04 2005
Subject: BRAC developments

Briefs in CT and TN have been filed, and are attached. We received TRO/PI papers from IL, which I will forward, and the judge in that case has already set a TRO hearing for 10 a.m. Central Time tomorrow. We also have a TRO hearing in the TN case tomorrow at 9 a.m. Central Time. We had a status call with the court in MO this morning, and the judge asked that we try to file our PI opposition by COB tomorrow, and she may conduct a phone argument on Tuesday if she finds it necessary. CT PI hearing is still scheduled for Wed.

Beach, Andrew

Subject:	Updated: Senior Management Meeting
Start:	Thursday, September 15, 2005 8:15 AM
End:	Thursday, September 15, 2005 8:30 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Roehrkasse, Brian

When: Thursday, September 15, 2005 8:15 AM-8:30 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Courtney Elwood, Neil Gorsuch, Brian Roehrkasse, Jeff Oldham, Martha Pacold

Beach, Andrew

Subject:	Updated: Component Coordination Meeting
Start:	Thursday, September 15, 2005 8:25 AM
End:	Thursday, September 15, 2005 8:45 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Moschella, William; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Roehrkasse, Brian

When: Thursday, September 15, 2005 8:25 AM-8:45 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Courtney Elwood, Brian Roehrkasse, Neil Gorsuch, Jeff Oldham, Martha Pacold, Rachel Brand, Jan Williams, Will Moschella, Crystal Roberts

Clark, Jeffrey B. (ENRD)

From: Clark, Jeffrey B. (ENRD)
Sent: Tuesday, September 13, 2005 2:11 PM
Subject: Farewell

Goodbye to everyone at the Department. Today is my last day. It's been a wonderful four years to work with all of you and to serve the President and two Attorneys General, Gonzales and Ashcroft. The issues in the environmental area have been ever-interesting and ever-contentious. But working with all of you has always been a joy. Thanks for being my teachers and my colleagues at this wonderful institution, unmatched within the government, of the Department of Justice.

I hope to stay in touch with as many of you as I can. I'll miss everyone, of course. And you can always track me down at my law firm, for which info is below. I'm not going anywhere far off -- just blocks away, across from the Treasury Building.

God Bless all of you!

Future Contact Information:

Jeffrey B. Clark


[redacted]@truman.gov

From: [redacted]@truman.gov
Sent: Tuesday, September 13, 2005 2:17 PM
To: [redacted]@truman.gov
Cc: [redacted]@truman.gov; [redacted]@truman.gov; [redacted]@aya.yale.edu; [redacted]@hotmail.com; [redacted]@nber.org
Subject: Mentor/Mentee Matches announced...

to: all mentors and mentees for this year's pilot Truman/TSA mentoring program

Below are a list of the mentor/mentee matches for the upcoming Fellows Program. In the next day or two, we will be sending e-mails to the individual mentor/mentee pairs with the contact information for your mentor/mentee, but we also wanted to send out a general note about this year's pilot program.

We have two requests with regard to these matches:

(1) Please e-mail [redacted]@nber.org) to RSVP as to whether you will be able to attend the kick-off event on the 22nd.

Please RSVP by this Friday, 16 September if possible.

(2) After you receive the email with your match's contact information, please follow-up with a short introductory e-mail to your mentor/mentee as soon as possible, and be sure to mention whether they should expect to see you at the kick-off event on the 22nd.

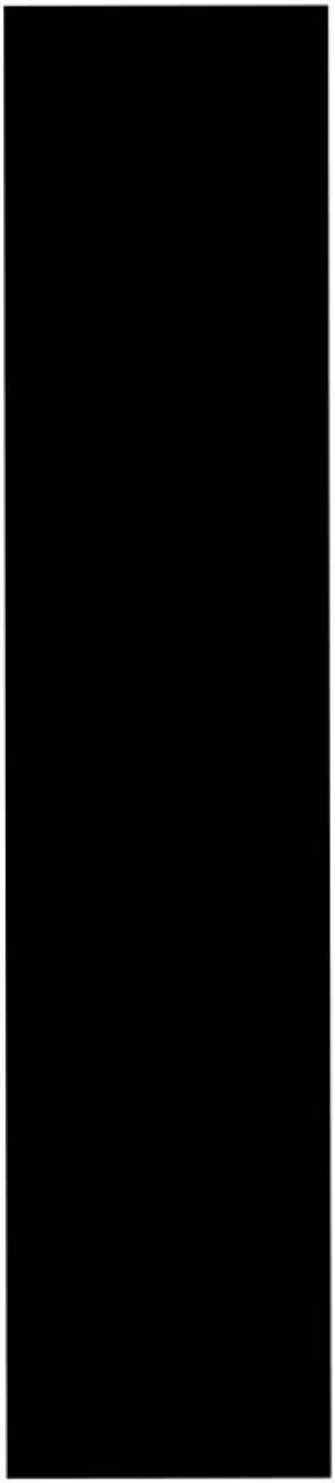
If you have any questions, please feel free to contact:

[redacted]@hotmail.com
[redacted]@aya.yale.edu
[redacted]@nber.org

Warm thanks.
sincerely,
[redacted]('93 PA) (from the Truman Foundation) [redacted]'97, MI), [redacted]('96, NY), & [redacted]('02, ND) (from TSA)

MENTEE/MENTOR MATCHES:
(*) = mentor
(-) = mentee

*Neil Gorsuch
[redacted]



Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, September 13, 2005 2:23 PM
To: Gorsuch, Neil M
Subject: RE: please could you get the email address for naomi row in counsel's office? thanks

Left message on her answering service. You know the folks over there are not willing to give out any information.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 13, 2005 1:54 PM
To: Shaw, Aloma A
Subject: please could you get the email address for naomi row in counsel's office? thanks

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, September 13, 2005 2:29 PM
To: Gorsuch, Neil M
Subject: FW: AAAS Fellows Session on Wed., Sept. 14

-----Original Message-----
From: [redacted]@aaas.org [mailto[redacted]@aaas.org]
Sent: Tuesday, September 13, 2005 9:09 AM
To: Shaw, Aloma A
Subject: AAAS Fellows Session on Wed., Sept. 14

Dear Aloma,

Thank you for the phone message. This is just to confirm that Neil will attend the lunch and not need a-v equipment. You need not respond unless that information is wrong.

Just as a reminder, the lunch begins at 12:30pm in the Columbus Room at Union Station. (In my phone conversation with Neil, I may have mistakenly given 12pm as the start time.) Our luncheon speaker will be Rep. Ileana Ros-Lehtinen. The session on the judicial branch from 2:30-3:30pm, following the lunch session. Judge Susan Braden will join Neil on the dais, and each of them will have 20 min. for prepared remarks.

Thank you for all of your help in facilitating Neil's participation.

[redacted]

[redacted]
Director, Scientific Freedom,
Responsibility & Law Program
AAAS
1200 New York Ave., NW
Washington, DC 20005
ph.[redacted]
fax 202.289.4950
[redacted]@aaas.org

[redacted]@khhte.com

From: [redacted]@khhte.com
Sent: Tuesday, September 13, 2005 2:34 PM
To: Gorsuch, Neil M
Subject: RE: [redacted] is looking for a counsel to oversee white collar crime issues.

It is kind of you to think of me. While it sounds like an intersting assignment and good move, I don't think I am the right person for [redacted] due, among other things, to my lack of white collar experience. I will try to think of someone.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, September 13, 2005 2:15 PM
To: [redacted]
Subject: Alice is looking for a counsel to oversee white collar crime issues.

I know it's hard to tempt you, but this would be a mighty interesting and good move... If not you, who?

Fowler, Liane

Subject:	Accepted: Mtg. w/ Rafael Madan
Location:	5706
Start:	Wednesday, September 14, 2005 11:00 AM
End:	Wednesday, September 14, 2005 11:10 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Fowler, Liane

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, September 13, 2005 2:48 PM
To: Gorsuch, Neil M
Subject: Call Will 4-2141

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, September 13, 2005 4:11 PM
To: Gorsuch, Neil M
Subject: "Rao"

Neil:

No wonder the WH switchboard had trouble finding her, it's spelled Rao. Ms. Rao's email address is NRao@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 13, 2005 4:12 PM
To: Shaw, Aloma A
Subject: RE: "Rao"

thanks!

-----Original Message-----
From: Shaw, Aloma A
Sent: Tuesday, September 13, 2005 4:11 PM
To: Gorsuch, Neil M
Subject: "Rao"

Neil:

No wonder the WH switchboard had trouble finding her, it's spelled Rao. Ms. Rao's email address is NRao@who.eop.gov

Moschella, William

From:	Moschella, William
Sent:	Tuesday, September 13, 2005 4:24 PM
To:	Gorsuch, Neil M; 'Marc_Kesselman@omb.eop.gov'; Hertling, Richard; Brand, Rachel; Silas, Adrien; 'Rajeev_V._Venkayya@who.eop.gov'; [redacted]@opm.gov'; [redacted]@ state.gov'; 'Allyson_N._Ho@who.eop.gov'; 'John_M._Mitnick@who.eop.gov'
Cc:	McCallum, Robert (SMO); Bucholtz, Jeffrey (CIV); Elwood, Courtney; 'Raul_F._Yanes@omb.eop.gov'
Subject:	RE: Disaster Volunteer Liability

Let me be more direct. We need to finalize this ASAP!!!!!!!!!!!

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 13, 2005 4:03 PM
To: 'Marc_Kesselman@omb.eop.gov'; Moschella, William; Hertling, Richard; Brand, Rachel; Silas, Adrien; Rajeev_V._Venkayya@who.eop.gov; [redacted]@opm.gov; [redacted]@state.gov; Allyson_N._Ho@who.eop.gov; John_M._Mitnick@who.eop.gov
Cc: McCallum, Robert (SMO); Bucholtz, Jeffrey (CIV); Elwood, Courtney; Raul_F._Yanes@omb.eop.gov
Subject: RE: Disaster Volunteer Liability
Importance: High

Marc/Allyson -

Attached is a revised draft, reflecting comments from the various commenting agencies and our discussion. As you'll see, in the interest of time we've left a place holder for the findings we discussed.

Will M. informs that Sensenbrenner is very anxious to act and that he'd like to share this with the House as soon as possible. Jeff and I remain available for any questions or comments and we'll continue working on the finding section.

NMG

Sellers, Kiahna (OAG)

Subject:	Canceled: Senior Management Meeting
Start:	Wednesday, September 21, 2005 9:00 AM
End:	Wednesday, September 21, 2005 9:20 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sellers, Kiahna (OAG)
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia
Importance:	High

When: Wednesday, September 21, 2005 9:00 AM-9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Courtney Elwood, Bill Mercer, Neil Gorsuch, Tasia Scolinos, Jeff Oldham, Martha Pacold

Sellers, Kiahna (OAG)

Subject:	Canceled: Component Coordination Meeting
Start:	Wednesday, September 21, 2005 9:20 AM
End:	Wednesday, September 21, 2005 9:40 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Sellers, Kiahna (OAG)
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Moschella, William; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Gorsuch, Neil M
Importance:	High

When: Wednesday, September 21, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Courtney Elwood, Tasia Scolinos, Bill Mercer, Neil Gorsuch, Jeff Oldham, Martha Pacold, Rachel Brand, Jan Williams, Will Moschella, Crystal Roberts

Sellers, Kiahna (OAG)

Subject:	Canceled: Senior Management Meeting
Start:	Monday, September 26, 2005 9:00 AM
End:	Monday, September 26, 2005 9:20 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Sellers, Kiahna (OAG)
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia
Importance:	High

When: Monday, September 26, 2005 9:00 AM-9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Courtney Elwood, Bill Mercer, Neil Gorsuch, Tasia Scolinos, Jeff Oldham, Martha Pacold

Sellers, Kiahna (OAG)

Subject:	Canceled: Component Coordination Meeting
Start:	Monday, September 26, 2005 9:20 AM
End:	Monday, September 26, 2005 9:40 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Sellers, Kiahna (OAG)
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Moschella, William; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Gorsuch, Neil M
Importance:	High

When: Monday, September 26, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Courtney Elwood, Tasia Scolinos, Bill Mercer, Neil Gorsuch, Jeff Oldham, Martha Pacold, Rachel Brand, Jan Williams, Will Moschella, Crystal Roberts

Moschella, William

Subject:	Accepted: Phone Call with Hill re: Good Samaritan Legislation
Location:	Neil's Office
Start:	Tuesday, September 13, 2005 5:45 PM
End:	Tuesday, September 13, 2005 6:15 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Moschella, William

Gunn, Currie (SMO)

Subject:	Updated: OASG Staff Meeting
Location:	Conference Room 5710
Start:	Wednesday, September 14, 2005 2:00 PM
End:	Wednesday, September 14, 2005 3:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Tuesday and Thursday from 5:00 PM to 6:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Kessler, Elizabeth A; Senger, Jeffrey M; Reyes, Luis (SMO); Henke, Tracy (SMO); Wiggins, Mike; Gunn, Currie (SMO); Swenson, Lily F; Wiggins, Mike; Gorsuch, Neil M
Optional Attendees:	Shaw, Aloma A

When: Wednesday, September 14, 2005 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Conference Room 5710

~~*~*~*~*~*~*~*~*~*

Addition of Neil Gorsuch

Attendees: ASG Robert McCallum, Elizabeth Kessler-OASG, Tracy Henke-OASG,
Mike Wiggins-OASG, Jeff Senger-OASG, Luis Reyes-OASG, Lily Fu Swenson-OASG

POC: Currie Gunn x4-9500

McNulty, Paul (USAVAE)

From: McNulty, Paul (USAVAE)
Sent: Tuesday, September 13, 2005 6:31 PM
To: Gorsuch, Neil M
Subject: RE: Attorney-Client Waiver Guidance Memo
Attachments: tmp.htm

Neil: Are you available for a call this evening? I would like to get your thoughts about this process before I start responding to USA calls which are starting to come in. Thanks.

From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 1:51 PM
To: Christie, Christopher; Immergut, Karin; Tenpas, Ronald; Garcia, Michael; Coleman, Tim (ODAG); McNulty, Paul (USAVAE); Murphy, Stephen J. (USAMIE)
Cc: Buchanan, MaryBeth; Mercer, Bill (ODAG); Battle, Michael (USAEO); Fisher, Alice
Subject: Attorney-Client Waiver Guidance Memo

All:

Because of your particular interest in this issue, Robert has asked me to share with you the attached revision of the draft attorney-client waiver guidance memorandum. In this version, we have sought to incorporate all of the various comments we've received from you and others over the last several weeks. If you have any further suggestions, please let Robert or me know. We'd appreciate any comments by noon on Friday, September 16th.

Very many thanks,

Neil

<<DRAFT PRIV WAIVER MCC cleanrevisionII(9-8-05).doc>>

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238

e-mail: neil.gorsuch@usdoj.gov

Neil: Are you available for a call this evening? I would like to get your thoughts about this process before I start responding to USA calls which are starting to come in. Thanks.

From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 1:51 PM
To: Christie, Christopher; Immergut, Karin; Tenpas, Ronald; Garcia, Michael; Coleman, Tim (ODAG); McNulty, Paul (USAVAE); Murphy, Stephen J. (USAMIE)
Cc: Buchanan, MaryBeth; Mercer, Bill (ODAG); Battle, Michael (USAEO); Fisher, Alice
Subject: Attorney-Client Waiver Guidance Memo

All:

Because of your particular interest in this issue, Robert has asked me to share with you the attached revision of the draft attorney-client waiver guidance memorandum. In this version, we have sought to incorporate all of the various comments we've received from you and others over the last several weeks. If you have any further suggestions, please let Robert or me know. We'd appreciate any comments by noon on Friday, September 16th.

Very many thanks,

Neil

<<DRAFT PRIV WAIVER MCC cleanrevisionII(9-8-05).doc>>

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 13, 2005 6:34 PM
To: McNulty, Paul (USAVAE)
Subject: RE: Attorney-Client Waiver Guidance Memo

Absolutely. Call me at your convenience - 202 305 1434. Best, NMG

-----Original Message-----
From: McNulty, Paul (USAVAE)
Sent: Tuesday, September 13, 2005 6:31 PM
To: Gorsuch, Neil M
Subject: RE: Attorney-Client Waiver Guidance Memo

Neil: Are you available for a call this evening? I would like to get your thoughts about this process before I start responding to USA calls which are starting to come in. Thanks.

From: Gorsuch, Neil M
Sent: Monday, September 12, 2005 1:51 PM
To: Christie, Christopher; Immergut, Karin; Tenpas, Ronald; Garcia, Michael; Coleman, Tim (ODAG); McNulty, Paul (USAVAE); Murphy, Stephen J. (USAMIE)
Cc: Buchanan, MaryBeth; Mercer, Bill (ODAG); Battle, Michael (USAEO); Fisher, Alice
Subject: Attorney-Client Waiver Guidance Memo

All:

Because of your particular interest in this issue, Robert has asked me to share with you the attached revision of the draft attorney-client waiver guidance memorandum. In this version, we have sought to incorporate all of the various comments we've received from you and others over the last several weeks. If you have any further suggestions, please let Robert or me know. We'd appreciate any comments by noon on Friday, September 16th.

Very many thanks,

Neil

<<DRAFT PRIV WAIVER MCC cleanrevisionII(9-8-05).doc>>

Neil M. Gorsuch
Principal Deputy Associate Attorney General

Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

allison_orris@hotmail.com

From: [redacted]@hotmail.com
Sent: Tuesday, September 13, 2005 8:18 PM
To: Gorsuch, Neil M [redacted]@gmail.com
Cc: [redacted]
Subject: mentor/mentee match contact information

Hi Neil and [redacted]

Per the earlier e-mail you should have received from [redacted] and [redacted] at the Truman Foundation, below is the contact information for your matches.

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

[redacted]@gmail.com

If you have any questions, please let us know.

Thanks!
Sincerely,
[redacted] (from the Truman Foundation) [redacted] ('97, MI) [redacted] ('96, NY), & [redacted] ('02, ND) (from TSA)

Battle, Michael (USAEO)

From: Battle, Michael (USAEO)
Sent: Tuesday, September 13, 2005 10:00 PM
To: Gorsuch, Neil M
Subject: Read: process forward
Attachments: ATTACHMENT.TXT

Your message

To: Battle, Michael (USAEO)
Subject: process forward
Sent: Tue, 13 Sep 2005 16:36:53 -0400

was read on Tue, 13 Sep 2005 21:59:34 -0400

Final-Recipient: RFC822; MBattle@usa.doj.gov
Disposition: automatic-action/MDN-sent-automatically; displayed
X-MSExch-Correlation-Key: lDSy3apzAECt3hpIhwVCyg==
Original-Message-ID: <B2450DEB8F0C3444B0812B54FE39574B08011E26@jmd0082.jmd.doj.gov>

Battle, Michael (USAEO)

From: Battle, Michael (USAEO)
Sent: Tuesday, September 13, 2005 10:00 PM
To: Gorsuch, Neil M
Subject: Re: process forward

Neil, since we talked I have learned that since your e-mail went to Karen Immergut as chair of the WCC she convened a conference call as a way to gather comment for presentation to you rather than all of the USA community contacting you individually.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@usdoj.gov>
To: Battle, Michael (USAEO) <MBattle@usa.doj.gov>
Sent: Tue Sep 13 16:36:53 2005
Subject: process forward

Mike - The process we had in mind with respect to the draft circulated Monday is outlined in these emails. Robert has invited comments by any member of the AGAC, but would like them made directly by the commenter to Robert or me. Thanks again, NMG

<<Attorney-Client Waiver Guidance Memo>> <<RE: Attorney-Client Waiver Guidance Memo>>

Letter, Douglas (CIV)

From: Letter, Douglas (CIV)
Sent: Tuesday, September 13, 2005 11:02 PM
To: Meron, Daniel (CIV); Gorsuch, Neil M
Subject: Email addresses

Dan or Neil:

Do you have email addresses for [redacted] and [redacted]? I think I have [redacted] but I can't locate it. Thank you.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 14, 2005 8:12 AM
To: Letter, Douglas (CIV); Meron, Daniel (CIV)
Subject: Re: Email addresses

[redacted]@dhs.gov and [redacted]@dhs.gov

-----Original Message-----
From: Letter, Douglas (CIV) <DLetter@CIV.USDOJ.GOV>
To: Meron, Daniel (CIV) <DMeron@CIV.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 13 23:01:53 2005
Subject: Email addresses

Dan or Neil:

Do you have email addresses for [redacted] and [redacted]? I think I have [redacted] but I can't locate it. Thank you.

Letter, Douglas (CIV)

From: Letter, Douglas (CIV)
Sent: Wednesday, September 14, 2005 8:16 AM
To: Gorsuch, Neil M
Subject: RE: Email addresses

Thanks.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 14, 2005 8:12 AM
To: Letter, Douglas (CIV); Meron, Daniel (CIV)
Subject: Re: Email addresses

[redacted]@dhs.gov and [redacted]@dhs.gov

-----Original Message-----
From: Letter, Douglas (CIV) <DLetter@CIV.USDOJ.GOV>
To: Meron, Daniel (CIV) <DMeron@CIV.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 13 23:01:53 2005
Subject: Email addresses

Dan or Neil:

Do you have email addresses for [redacted] and [redacted]? I think I have [redacted] but I can't locate it. Thank you.

Shaw, Aloma A

Subject:	Updated: Civil Division Weekly
Location:	5710
Start:	Wednesday, September 14, 2005 11:00 AM
End:	Wednesday, September 14, 2005 12:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Wednesday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	McCallum, Robert (SMO); Keisler, Peter D. (CIV); Meron, Daniel (CIV); Taylor, Wendell L; Bucholtz, Jeffrey (CIV); Cohn, Jonathan (CIV); Schiffer, Stuart (CIV); Katsas, Gregory (CIV); Kessler, Elizabeth A; Wiggins, Mike; Senger, Jeffrey M; Reyes, Luis (SMO); Nichols, Carl (CIV); Swenson, Lily F; Swenson, Lily F; Gorsuch, Neil M

When: Wednesday, September 14, 2005 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Please note time change for this meeting only.

Addition of Neil Gorsuch - PDAAG OASG

Attendees: ASG Robert McCallum, Peter Keisler-AAG Civil, Dan Meron-Civil, Wendell Taylor-ODAG, Brian Boyle-OASG, Jeff Senger-OASG, Mike Wiggins-OASG, Liz Kessler-OASG, Stuart Schiffer-Civil, Carl Nichols-Civil, Jonathan Cohn-Civil, Jeff Bucholtz-Civil, Greg Katsas-Civil, Lily Swenson-OASG, Neil Gorsuch-OASG

POC: Currie Gunn x4-9500

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, September 14, 2005 8:50 AM
To: Gorsuch, Neil M
Subject: Read: Washington DC Truman Selection Panel March 8/RSVP by Sept 27

Shaw, Aloma A

Subject:	Hold for 2006 Truman Scholars Selection Panel
Location:	TBD
Start:	Wednesday, March 8, 2006 8:00 AM
End:	Wednesday, March 8, 2006 6:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

poc: [redacted]@truman.gov

Please plan to arrive at the U.S. Court of Appeals between 8:20-8:30 am on Wednesday, March 8th. The Court of Appeals is located at 717 Madison Place, along the east side of Lafayette Park at the White House. The cross streets are Vermont Avenue and H Streets. We were unable to secure parking at this interview site. If you would like to take the metro, the McPherson Square stop on the orange and blue lines is one block from the courthouse. Otherwise, the Foundation will reimburse you for any parking fees and mileage.

You may enter through the main lobby. When everyone has arrived, security will escort us to the conference rooms as a group. Please let me know if you have any questions.

You should receive your panel binder tomorrow or Friday.

Thanks for taking time out of your day to serve on this panel,
Christy

[redacted]
Program Manager
Harry S. Truman Scholarship Foundation
[redacted]
fax 202.395.6995

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 14, 2005 9:18 AM
To: McCallum, Robert (SMO)
Subject: morning mtg

If it's ok with you, I'd like to miss the morning mtg today. I have nothing to report and CIV asked me to attend a mtg at the Am Assn for Advancement of Science for which I'd like to prepare a bit this am. Is this ok with you?

Meron, Daniel (CIV)

From: Meron, Daniel (CIV)
Sent: Wednesday, September 14, 2005 10:15 AM
To: McCallum, Robert (SMO)
Cc: Nichols, Carl (CIV); Gorsuch, Neil M

Robert,

I wil be unalbe to make the weekly meeting at its rescheduled time today. are you available at some time between 2 and 4:30 to discuss some pressing issues re the gold train litigation (filings by the plaintiff addressing objections etc are due tomorrow)

Dan

Daniel Meron
Principal Deputy Assistant Attorney General
Civil Division
U.S. Department of Justice
RFK Main Justice Bldg.
950 Pennsylvania Ave., N.W.
Room 3605
Washington, D.C. 20530-0001
(202) 353-2793
Fax (202) 514-8071

Moschella, William

From: Moschella, William
Sent: Wednesday, September 14, 2005 11:33 AM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Cc: Clinger, James H
Subject: Katrina Civil Liability Bill on Floor Now

Turn on C-SPAN

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 14, 2005 12:06 PM
To: Moschella, William; Bucholtz, Jeffrey (CIV)
Cc: Clinger, James H
Subject: RE: Katrina Civil Liability Bill on Floor Now

Quite a learned debate. Is our effort DOA now or is there anything we can/should do -- eg in Senate?

-----Original Message-----
From: Moschella, William
Sent: Wednesday, September 14, 2005 11:33 AM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Cc: Clinger, James H
Subject: Katrina Civil Liability Bill on Floor Now

Turn on C-SPAN

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 14, 2005 1:25 PM
To: Gorsuch, Neil M; Moschella, William
Cc: Clinger, James H
Subject: RE: Katrina Civil Liability Bill on Floor Now

Or, e.g., the section-by-section that I was hoping to get to today. At this point is there any reason for me to do one?

Also, do you know whether the House fixed its bill to eliminate the "good faith" and "qualified immunity" language and to clarify the "willful [mis]conduct" standard?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 14, 2005 12:06 PM
To: Moschella, William; Bucholtz, Jeffrey (CIV)
Cc: Clinger, James H
Subject: RE: Katrina Civil Liability Bill on Floor Now

Quite a learned debate. Is our effort DOA now or is there anything we can/should do -- eg in Senate?

-----Original Message-----
From: Moschella, William
Sent: Wednesday, September 14, 2005 11:33 AM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Cc: Clinger, James H
Subject: Katrina Civil Liability Bill on Floor Now

Turn on C-SPAN

Moschella, William

From: Moschella, William
Sent: Wednesday, September 14, 2005 1:26 PM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Cc: Clinger, James H
Subject: RE: Katrina Civil Liability Bill on Floor Now

We will regroup with the WH and figure that out. We think the House may work on this bill separately.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 14, 2005 12:06 PM
To: Moschella, William; Bucholtz, Jeffrey (CIV)
Cc: Clinger, James H
Subject: RE: Katrina Civil Liability Bill on Floor Now

Quite a learned debate. Is our effort DOA now or is there anything we can/should do -- eg in Senate?

-----Original Message-----
From: Moschella, William
Sent: Wednesday, September 14, 2005 11:33 AM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Cc: Clinger, James H
Subject: Katrina Civil Liability Bill on Floor Now

Turn on C-SPAN

Clinger, James H

From:	Clinger, James H
Sent:	Wednesday, September 14, 2005 1:50 PM
To:	Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Cc:	Moschella, William
Subject:	FW: H.R. 3736
Attachments:	SENSEN_068_XML.PDF

Here's the House-passed version of the volunteer liability bill.

-----Original Message-----
From: [redacted]@mail.house.gov [mailto:[redacted]@mail.house.gov]
Sent: Wednesday, September 14, 2005 1:42 PM
To: Moschella, William
Cc: Clinger, James H; cfrech@who.eop.gov
Subject: H.R. 3736

Just FYI, H.R. 3736, the Katrina Volunteer Protection Act (attached), passed the House by voice vote earlier today.

.....

(Original Signature of Member)

109TH CONGRESS
1ST SESSION

H. R. _____

To protect volunteers assisting the victims of Hurricane Katrina.

IN THE HOUSE OF REPRESENTATIVES

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on _____

A BILL

To protect volunteers assisting the victims of Hurricane Katrina.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Katrina Volunteer Protection Act of 2005''.

SEC. 2. PROTECTION OF VOLUNTEERS.

(a) QUALIFIED IMMUNITY FROM SUIT.—Any person or entity (including any Indian Tribe) that, in response

to harm caused by Hurricane Katrina of 2005, voluntarily, in good faith, and without a preexisting duty or expectation of compensation, renders aid (including medical treatment and rescue assistance) to any individual, shall not be liable for any injury (including personal injury, property damage or loss, and death) arising out of or resulting from that aid that was not caused by—

(1) willful, wanton, reckless or criminal conduct of that person or entity; or

(2) conduct of that person or entity that constitutes a violation of a Federal or State civil rights law.

(b) PREEMPTION.—This Act preempts the laws of a State to the the extent such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability relating to volunteers.

Moschella, William

From: Moschella, William
Sent: Wednesday, September 14, 2005 1:51 PM
To: Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Cc: Clinger, James H
Subject: RE: Katrina Civil Liability Bill on Floor Now

I would hold off. I will let you know.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 14, 2005 1:25 PM
To: Gorsuch, Neil M; Moschella, William
Cc: Clinger, James H
Subject: RE: Katrina Civil Liability Bill on Floor Now

Or, e.g., the section-by-section that I was hoping to get to today. At this point is there any reason for me to do one?

Also, do you know whether the House fixed its bill to eliminate the "good faith" and "qualified immunity" language and to clarify the "willful [mis]conduct" standard?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 14, 2005 12:06 PM
To: Moschella, William; Bucholtz, Jeffrey (CIV)
Cc: Clinger, James H
Subject: RE: Katrina Civil Liability Bill on Floor Now

Quite a learned debate. Is our effort DOA now or is there anything we can/should do -- eg in Senate?

-----Original Message-----
From: Moschella, William
Sent: Wednesday, September 14, 2005 11:33 AM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Cc: Clinger, James H
Subject: Katrina Civil Liability Bill on Floor Now

Turn on C-SPAN

Moschella, William

From: Moschella, William
Sent: Wednesday, September 14, 2005 2:06 PM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV); Clinger, James H; Seidel, Rebecca
Subject: FW: H.R. 3736
Attachments: SENSEN_068_XML.PDF

FYI

-----Original Message-----
From [redacted]@mail.house.gov [mailto[redacted]@mail.house.gov]
Sent: Wednesday, September 14, 2005 1:42 PM
To: Moschella, William
Cc: Clinger, James H; cfrech@who.eop.gov
Subject: H.R. 3736

Just FYI, H.R. 3736, the Katrina Volunteer Protection Act (attached), passed the House by voice vote earlier today.

.....

(Original Signature of Member)

109TH CONGRESS
1ST SESSION

H. R. _____

To protect volunteers assisting the victims of Hurricane Katrina.

IN THE HOUSE OF REPRESENTATIVES

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on _____

A BILL

To protect volunteers assisting the victims of Hurricane Katrina.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Katrina Volunteer Protection Act of 2005''.

SEC. 2. PROTECTION OF VOLUNTEERS.

(a) QUALIFIED IMMUNITY FROM SUIT.—Any person or entity (including any Indian Tribe) that, in response

to harm caused by Hurricane Katrina of 2005, voluntarily, in good faith, and without a preexisting duty or expectation of compensation, renders aid (including medical treatment and rescue assistance) to any individual, shall not be liable for any injury (including personal injury, property damage or loss, and death) arising out of or resulting from that aid that was not caused by—

(1) willful, wanton, reckless or criminal conduct of that person or entity; or

(2) conduct of that person or entity that constitutes a violation of a Federal or State civil rights law.

(b) PREEMPTION.—This Act preempts the laws of a State to the the extent such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability relating to volunteers.

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, September 14, 2005 2:31 PM
To: Gorsuch, Neil M
Subject: FW: H.R. 3736
Attachments: SENSEN_068_XML.PDF

This is so frustrating. They didn't even fix this bill in the easy, obvious ways.

-----Original Message-----
From: Moschella, William
Sent: Wednesday, September 14, 2005 2:06 PM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV); Clinger, James H; Seidel, Rebecca
Subject: FW: H.R. 3736

FYI

-----Original Message-----
From: [redacted]@mail.house.gov [mailto[redacted]@mail.house.gov]
Sent: Wednesday, September 14, 2005 1:42 PM
To: Moschella, William
Cc: Clinger, James H; cfrech@who.eop.gov
Subject: H.R. 3736

Just FYI, H.R. 3736, the Katrina Volunteer Protection Act (attached), passed the House by voice vote earlier today.

.....

(Original Signature of Member)

109TH CONGRESS
1ST SESSION

H. R. _____

To protect volunteers assisting the victims of Hurricane Katrina.

IN THE HOUSE OF REPRESENTATIVES

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on _____

A BILL

To protect volunteers assisting the victims of Hurricane Katrina.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Katrina Volunteer Protection Act of 2005''.

SEC. 2. PROTECTION OF VOLUNTEERS.

(a) QUALIFIED IMMUNITY FROM SUIT.—Any person or entity (including any Indian Tribe) that, in response

to harm caused by Hurricane Katrina of 2005, voluntarily, in good faith, and without a preexisting duty or expectation of compensation, renders aid (including medical treatment and rescue assistance) to any individual, shall not be liable for any injury (including personal injury, property damage or loss, and death) arising out of or resulting from that aid that was not caused by—

(1) willful, wanton, reckless or criminal conduct of that person or entity; or

(2) conduct of that person or entity that constitutes a violation of a Federal or State civil rights law.

(b) PREEMPTION.—This Act preempts the laws of a State to the the extent such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability relating to volunteers.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Wednesday, September 14, 2005 6:16 PM
To: Gunn, Currie (SMO); Reyes, Luis (SMO)
Cc: Gorsuch, Neil M
Subject: RE: Support Staff Awards

please let me have info from last year. I recall nothing about it. Robt.

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Wednesday, September 14, 2005 6:11 PM
To: McCallum, Robert (SMO); Reyes, Luis (SMO)
Subject: Support Staff Awards

I have been contacted by CEO. They indicated that we need to get in our support staff awards if we are planning to do so. I can give you the information from last year and you can decide.

Thanks

Currie

Delp, Leslie

From:	Delp, Leslie
Sent:	Wednesday, September 14, 2005 7:17 PM
To:	Nichols, Carl (CIV); Gorsuch, Neil M; Marshall, C. Kevin; Monheim, Thomas
Cc:	Brown, Angela
Subject:	You have a package in the Command Center from Pat Rowan for pick up.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 7:58 AM
To: Shaw, Aloma A
Subject: FW: You have a package in the Command Center from Pat Rowan for pick up.

are you able to get this while I'm in the morning mtg?
-----Original Message-----
From: Delp, Leslie
Sent: Wednesday, September 14, 2005 7:17 PM
To: Nichols, Carl (CIV); Gorsuch, Neil M; Marshall, C. Kevin; Monheim, Thomas
Cc: Brown, Angela
Subject: You have a package in the Command Center from Pat Rowan for pick up.

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Thursday, September 15, 2005 8:19 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing 9/15/05
Attachments:	agnb050915.pdf; agnb050915.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: **THE ATTORNEY GENERAL AND SENIOR STAFF**

DATE: **THURSDAY, SEPTEMBER 15, 2005 7:45 AM EDT**

TODAY'S EDITION

Terrorism News:

Former 9/11 Commissioners Flatly Dismiss Weldon Able Danger Claims....4

Judge Rules Alleged Mall Bomb Plotter's Statements Admissible....4

Philippine Government Willing To Turn Over Espionage Suspects....4

Patriot Act:

Former AG Ashcroft Defends Patriot Act....4

Homeland Response:

Chertoff Orders Completion Of Border Fence Near San Diego....5

Internal Disputes Hinder Goss Efforts To Reform CIA....5

Suspect In Ricin Threat Remains At Large....5

King Chosen To Chair House Homeland Security Panel....5

9th Circuit Troubled By US Border Search Requests....6

Romney Calls For Increased US Surveillance Of Mosques, International Students....6

Flight 93 Memorial Draws Criticism For Including Crescent In Design....6

War News:

Al Qaeda Stages Series Of Car Bombings In Baghdad....6

Rice Says More Allied Forces In Iraq Unnecessary....8

CBS Questions Detention Of Iraqi Cameraman....8

Diverse Field Of Candidates Seek Office In Afghan Elections....8

Afghan Commanders Said To Have Helped Bin Laden Escape To Pakistan....9

Corporate Scandals:

Merrill Lynch To Change Forecasting Of Stock Option Earnings....9

Former Marsh Executives Expect New York Fraud Indictments....9

Former NYSE Regulator Testifies Before SEC On E-Mail Policies....10

Risks Of Credit Derivatives Are Focus Of New York Meeting....10

Greenspan Warns Congress Against Lack Of Control Over Fannie, Freddie....10

Criminal Law:

House Passes Child Safety Bill With Gay Hate Crime Protection Provision....11

House GOP Blocks Democratic Resolutions Forcing Release Of Plame Documents....11

USAT Endorses .xxx Domain Concept For Pornography....11

Texas Executes Black Woman For 1987 Killing Of Family....12

Ohio County Commissioner Seeks FBI Probe Of Equipment Lease....12

Massachusetts GOP Official Resigns After Drug Money Laundering Arrest....12

Tennessee Lawmakers Weigh Ethics Legislation In Wake Of Corruption Charges....12

FBI Raids Denver Law Firm....13

Louisiana Teamsters President Claims FBI Illegally Recorded Contract Negotiations....13

Florida Pair Arrested On Real Estate Fraud Charges....13

Three High School Students Held In Michigan Bank Robbery....13

Rep. Jefferson Fights More Allegations Of Wrongdoing....14

Civil Rights:

Senate Approves New DOJ Cold-Case Unit For Civil Rights Crimes....14

Federal Judge Rules "Under God" In Pledge Unconstitutional....14

Massachusetts Legislature Defeats Amendment To Ban Gay Marriage....15

Antitrust:
Realtors' Study Finds Robust Real Estate Brokerage Competition. 15
House Democrats Launch Attack On High Gas Prices. 16
Gillette Launches New Shaving System Amid Merger Concerns. 16
RIAA Urges File-Sharing Firms To Protect Music Industry Rights 17
Merger Specialist Joins JP Morgan Chase. 17
EU Fines Thread-Makers For Fixing Prices. 17
South Korea Fines Fixed-Line Telecom Firms For Price-Fixing. 18
European Bank Head Warns Against Removal Of Governor. 18

Environment/Indian Affairs:
Mirant Corp To Request Reopening Of Virginia Plant. 18
Controversial Judge In Indian Trust Fund Case Profiled. 18

FBI/DEA/ATF/USMS:
Report Finds FBI Turnover Hampers Cooperation. 19
Appellate Court Rules FBI Whistleblower May Seek Damages, Jury Trial. 19
Mayor Of LA Meets With Gonzales Over Gang Intervention Programs. 19
Guru Of Ganja" Challenges Drug Convictions. 19
Venezuela May Lose 'Certification' As Collaborating In The War On Drugs. 20
New Hampshire Drug Raids Yield 100 Indictments. 20
Texas Man Gets 55-Year Prison Sentence In Drug Case. 20
Mississippi Teen Convicted In Bomb Case. 20
US Targets Alabama Gun Crime. 20
US Plan To Blow Up Rudolph Truck Upsets Bomb Victims' Families. 21
Marshals Reverse Ban On Releasing Mug Shots. 21

Immigration:
Arizona Bosnian Serbs Charged With Lying On Immigration Applications. 21
Rove Discusses Immigration Reform With Lawmakers. 22
Kilgore Pledges Crackdown On Firms Hiring Illegal Aliens. 22

Tax:
Anti-Tax Advocate Schiff Stands Trial In Nevada. 22

Congress-Administration:
Roberts Jousts With Senators On Second Day Of Confirmation Hearing. 23
Bush Thanks Nations For Katrina Help, Links Terror Fight To Reducing Poverty. 26
In Prime Time Speech From New Orleans, Bush Will Vow To Rebuild Gulf Coast. 28
Gonzales Appoints Katrina Internet Fraud Task Force. 30
Senate GOP Leaders Seek "Marshall Plan" For Region. 31
Fight Looming Over Control Of Gulf Coast Rebuilding Effort. 31
Documents Suggest Chertoff Had Authority To Authorize Early Response. 32
Brown Says He Stressed Katrina Urgency, Blames Blanco For Delays. 33
Senate Opens Hearings On Future Role Of FEMA. 33
Senate Rejects Independent Katrina Investigation. 34
Katrina Survivors Now Negotiating Maze Of Federal Assistance Bureaucracy. 35
9/11 Panelists Criticize Federal Response To Katrina. 35
Officials Announce Plan To Repopulate New Orleans. 36
Death Toll In Louisiana Rises To 423. 37
Louisiana AG Examining Evacuation Procedures Of Hospitals, Nursing Homes. 37
Military, Law Enforcement Describe Chaos In New Orleans Convention Center 37
Number Of Katrina Evacuees In Houston Astrodome Down To 1,000. 38
USED Officials Visit Districts Schooling Evacuees 38
Louisiana Officials Postpone Local Elections. 38
Lloyd's Says Its Katrina Claims Could Reach $2.55 Billion. 38
North Carolina Braces For Hurricane Ophelia. 39
Katrina Renews Scrutiny Of Superfund. 39
Katrina Has Negative Effect On Consumer Spending, Gasoline Consumption. 40
Georgia Chief Justice Tries To Help Katrina-Displaced Attorneys. 41
Lawmakers Remain At Odds With Bush Over Spending Bill. 41

Other News:
Labor Split Deepens As Fourth Union Quits AFL-CIO. 41
Delta, Northwest Airlines Declare Bankruptcy. 42
Weiner Concedes Mayoral Primary; Ferrer To Face Bloomberg. 43
Schwarzenegger Hints He Will Seek Second Term. 43
Legislator Says Mississippi Has Benefited From Tort Reform. 43
North Korea Demands Reactor In Exchange For Ending Arms Program. 44
Rice Predicts Regional Changes Will Help Isolate Iran. 44
Hundreds Of Arms Smuggled Over Egypt-Gaza Border. 44
US-EU Trade Talk Efforts Hindered By Farm Tariffs. 45
"Untested" Merkel Expected To Win German Election. 45

DOJ_NMG_ 0147720

Protestant Anger Dashes Ulster Reconciliation, Fuels Violence. 45
Factory Seizure Fans Corruption Claims In Ukraine. 46
Ortega Has "Fighting Chance" Of Returning To Power. 46
Former USTR Urges US To See China As Tough Competitor. 46

Washington's Schedule:

Today's Events In Washington. 46

The Big Picture:

Headlines From Today's Front Pages. 50

DOJ_NMG_ 0147721

TERRORISM NEWS:

Former 9/11 Commissioners Flatly Dismiss Weldon Able Danger Claims. The AP (9/15, Barrett) reports former 9/11 commissioners "on Wednesday dismissed assertions that…Pentagon intelligence unit" Able Danger "identified lead hijacker Mohamed Atta as an member of al-Qaida long before the 2001 attacks. The ex-commissioners also criticized the government for not putting in place changes recommended last year in homeland security and emergency response." The AP notes that Rep. Curt Weldon "had accused the commission of ignoring intelligence about Atta while it investigated the attacks," but former commission chairman Thomas Kean "said there was no evidence anyone in the government knew about Atta before Sept. 11, 2001." Former commissioner and US Sen. Slade Gorton said, "Bluntly, it just didn't happen and that's the conclusion of all 10 of us."

Judge Rules Alleged Mall Bomb Plotter's Statements Admissible. The AP (9/14) reports US District Judge Algenon Marbley on Tuesday ruled federal prosecutors can use statements made by alleged mall bomb plotter Nuradin Abdi at trial. Abdi lawyers "had sought to bar statements he made to authorities in which he admitted to falsifying immigration documents and planning to blow up an undetermined Columbus-area mall." Marbley said "that the statements were admissible because Abdi made them in the presence of his lawyer," despite the fact that "Abdi's arrest in November 2003 was illegal because government agents appeared to act only so they could interrogate him."

Philippine Government Willing To Turn Over Espionage Suspects. The Manila Sun Star (9/15) reports, "The Philippine Government is willing to turn over three public officials tagged by the US Federal Bureau of Investigation…in connection with the espionage case filed against former police official Michael Ray Aquino in the US, Justice Secretary Raul Gonzalez Sr. said. Gonzalez met with US legal attaché to the Philippines Jeff Cole, who furnished him confidential notes on the arrest of Aquino in Queens, New York and his friend, FBI analyst Leandro Aragoncillo, a Filipino-American, in New Jersey. … In a press briefing, Gonzalez said among those who are allegedly involved in Aquino's espionage activities include a former official and two incumbent officials." The Sun Star adds, "Once the names of the three Philippine officials are revealed and it is proven that they are Aquino's cohorts, they will be named as co-conspirators for violation of US laws." The Philippine Star (9/15) also reports the Philippine government is ready to turn over the officials to the US.

FBI To Identify Philippine Officials Who Allegedly Received Documents. Manila-based news Web site ABS-CBN Interactive (9/15) reports the FBI "will reveal next week the names of former and current Philippine government officials who allegedly received classified US government documents sent by Michael Ray Aquino, the National Bureau of Investigation…said Thursday." NBI International Police division chief Ricardo Diaz "said two of the officials identified by the FBI are on active government service. He said the FBI will unseal the documents on the case on September 21 and 22. Diaz said the names in the FBI files pertain to former and current government officials who received classified information stolen by Aragoncillo while working as an intelligence analyst at the US Army's Fort Monmouth facility in New Jersey."

PATRIOT ACT:

Former AG Ashcroft Defends Patriot Act. The South Bend Tribune (9/14, Draeger) reports, "Former Attorney General John Ashcroft is well aware his name is nearly synonymous with the 2001 Patriot Act that gave the FBI and Justice Department broad powers." The Tribune continues, "As its chief enforcer and defender, Ashcroft has been a target of librarians and civil rights activists who say the Patriot Act brings Big Brother into the private lives of ordinary citizens by allowing investigators to detain terrorism suspects. … 'I'm probably a poster boy for the ACLU (American Civil Liberties Union),' Ashcroft told members of the Economic Club of SW Michigan Tuesday at the Mendel Center for the Arts and Technology at Lake Michigan College (in Benton Harbor, MI). … 'They've built their membership against me,' he added." The Tribune adds, "But he told the audience of mostly like-minded Republicans why the act is necessary in a post-9/11 country. … The act's measures give federal investigators more tools to prevent future terrorist attacks, such as 'bringing down the wall' of silence that prevented the CIA, FBI and local enforcement agencies from sharing

DOJ_NMG_ 0147722

information that could've stopped the planners of the Sept. 11, 2001, attacks. … Measures like 'roving wiretaps,' he said, sound alarmist, but they extend to terrorists what law officers have used to fight drug dealers for years. … 'We needed the authority to extend that to terrorists,' he said." The Tribune notes, "Another provision that angered librarians at the time about the federal government being allowed to inquire about reading materials of patrons was also highlighted by a bookstore owner in the audience. … She told Ashcroft she has no safeguards against her records being seized. … Ashcroft said during the first two years of the Patriot Act, no library records were seized to hunt for terrorists."

HOMELAND RESPONSE:

Chertoff Orders Completion Of Border Fence Near San Diego. The Washington Times (9/15, Seper) reports, "Homeland Security Secretary Michael Chertoff yesterday exercised his legal authority to bypass regulatory obstacles that had long delayed completion of a 14-mile border 'enforcement zone' near San Diego." Chertoff said, "Completing the border infrastructure system will strengthen our efforts to reduce illegal entry to the United States. Congress provided us the authority to ensure this project is completed, and I intend to use it." The border fence "has been delayed since 1996 by litigation and environmental challenges." And Rep. James Sensenbrenner "said the project would improve the security of the American public, especially those in the San Diego area; allow CBP to use its resources in a more effective manner; and clean up the environmental destruction that has resulted from illegal border crossings."

Internal Disputes Hinder Goss Efforts To Reform CIA. Highlighting the CIA's lack of progress in improving its intelligence capabilities after the 9/11 attacks, the Washington Times (9/15, Gertz) reports CIA associate deputy director of operations Robert Richer "will leave earlier than announced because of a dispute with CIA Director Porter J. Goss on reforms within the agency's spying branch." Richer's "scheduled departure highlights an ongoing and largely secret political struggle inside the CIA over efforts by Mr. Goss to reform the agency in the aftermath of intelligence failures related to September 11 and Iraq's weapons programs." While the exact nature of Richer's dispute is unclear, "Goss and four close aides have been working behind the scenes to try to improve the agency's spying operations and have encountered resistance from officials who oppose some of the changes." The Times notes, "In particular, Mr. Goss is pressing hard for agency spies to do better in Iraq."

Suspect In Ricin Threat Remains At Large. The Hill (9/15, Kucinich) reports, "It has been nearly 18 months since" a threatening message "was sent with a vile of ricin to the Department of Transportation (DoT). A similar letter was mailed to the White House, and traces of the deadly substance were found on a mail-opening machine in Majority Leader Bill Frist's…mailroom." Although "no one has been implicated yet," Browning See president Lee Browning "said he suspects that the FBI knows where the letters came from and who sent them because of extensive research on the DNA of castor beans, from which ricin is derived." FBI spokeswoman Debbie Wireman "said there are currently no updates on the case but 'it is still being looked at.'" After the attacks funding was "increased for projects that genetically engineer castor beans without ricin"

King Chosen To Chair House Homeland Security Panel. Rep. Peter King has been selected to be the next chairman of the House Homeland Security Committee. Roll Call (9/15, Pershing) reports that the House Republican Steering Committee selected King "at a time when the panel's turf is under heavy scrutiny." Roll Call notes, "The Steering choice is still subject to ratification by the full Republican Conference, but it is highly doubtful that the larger GOP group wouldn't approve the choice." Republican aides said that the choice of King "just days after the fourth anniversary of 9/11 would be important symbolically. The fact that King is a moderate with good relationships across the aisle is also considered helpful, given the nature of the post."

The New York Times (9/15, Hernandez) adds that King is a "moderate" who is "known for his independent streak." The selection of King "provides New York a potentially more prominent voice in a critical area at a time when the state's heavily Democratic delegation in the House finds itself largely sidelined by conservatives from other parts of the country. His appointment is expected to be ratified by House Republicans."

The Hill (9/15, Tiron) notes the for Rep. Curt Weldon, "the vice chairman of the committee, who waged an aggressive campaign based on his two decades of

DOJ_NMG_ 0147723

experience on homeland-security issues, the defeat is a stinging blow. The Steering Committee has passed him over for two other chairmanships in the past, including the homeland-security panel when it was first created."

9th Circuit Troubled By US Border Search Requests. The California Recorder (9/15, Scheck) reports, "Judge Betty Fletcher gave the federal government what it wanted Wednesday. But she didn't feel too good about it. And her colleague, Judge Raymond Fisher, wasn't really happy, either." The Recorder continues, "Fletcher, a senior judge on the 9th U.S. Circuit U.S. Court of Appeals, authored two opinions Wednesday, and sat on the panel that offered a third, per curiam opinion. They said that border agents searching for contraband may disembowel gas tanks, drill holes in truck beds and disassemble car doors without reasonable cause for suspicion. … Fletcher made her feelings known in a concurrence to her own opinion in U.S.A. v. Chaudhry, 05 C.D.O.S. 8344, that, she wrote, is intended 'to express my distaste for the government's game-playing.'" The Recorder adds, "The game-playing involved the government's goal of getting an appeals court to agree that border agents could take apart an automobile without apparent suspicion. … But in all three cases, there were clear reasons for suspicion that the government chose not to enter into evidence -- from drug-sniffing dogs to visibly nervous drivers. … 'But the government wanted confirmation that no suspicion is required for extensive, intrusive searches at the border,' Fletcher wrote. 'This would have an ancillary benefit for the government -- it would not have to prove the reliability of its drug-sniffing dogs.' … The question of whether the government may conduct such extensive searches without suspicion, she added, 'is an entirely fictional construct. Suspicion existed in each case, and in my view, review of cases at the appellate level is a waste of judicial resources. The only possible purposes are the government's desire to push the envelope to its limits: to find out how much destruction it can do without any suspicion, and to avoid proving it uses reliable dogs.'"

Romney Calls For Increased US Surveillance Of Mosques, International Students. The Boston Globe (9/15, Helman) reports that in a speech to the Heritage Foundation on Wednesday, Massachusetts Gov. Mitt Romney "raised the prospect of wiretapping mosques and conducting surveillance of foreign students in Massachusetts, as he issued a broad call…for the federal government to devote far more money and attention to domestic intelligence gathering. In remarks that caused alarm among civil libertarians and advocates for immigrants rights, Romney said…that the United States needs to radically rethink how it guards itself against terrorism." The Globe notes, "Ali Noorani, executive director of the Massachusetts Immigrants and Refugee Advocacy Coalition, called the methods Romney suggested misguided and ineffective. Tracking people based on their ethnicity, he said, will only sow resentment among immigrant communities and prevent their cooperation with authorities."

Flight 93 Memorial Draws Criticism For Including Crescent In Design. The Washington Times (9/15, Harper) reports, "It is unbuilt, but already under fire. The proposed memorial to United Flight 93 has a chorus of critics, irked by a single design element that ultimately might be reconfigured." The Times continues, "The 'Crescent of Embrace,' a double arc of maple trees that will turn red in the fall, has drawn the ire of some, who say it will resemble the red crescent -- a symbol of Islam dear to the hearts of the September 11 hijackers on the flight that crashed into a Pennsylvania field." Rep. Tom Tancredo called on the National Park Service "to reject the design as 'a flash point for controversy and criticism.'"

WAR NEWS:

Al Qaeda Stages Series Of Car Bombings In Baghdad. Eleven suicide bombers struck in Baghdad yesterday, killing at least 160 people and wounding an additional 500. The violence was directed against Shiite Muslims, and al Qaeda in Iraq claimed responsibility for the attack, saying it was intended as retaliation for the joint US/Iraqi offensive in Tal Afar. CBS led with the story, while ABC reported it third in its newscast and NBC reported it sixth.

NBC Nightly News (9/14, story 6, 2:20, Engel) reported, "A senior US Commander told NBC News the attacks were timed to embarrass the Iraqi government while both President Talibani and Prime Minister Al Jaafari are in the United States, and to put Zarquawi back in the media spotlight after almost nonstop coverage of Hurricane Katrina. And Zarquawi used that spotlight to declare war on all Shiites in Iraq, his clearest call yet for a civil war."

DOJ_NMG_ 0147724

The CBS Evening News (9/14, lead story , 2:35, Schieffer) reported, "A series of car bombings began early this morning in Baghdad went on until mid-afternoon and by the time it ended it had become the deadliest day in the capital since the war began." A "militant Website then followed up with an al Qaeda declaration of war on all Iraqi Shiites."

ABC World News Tonight (9/14, story 3, 2:35, Vargas) reported it was "a terrible day, the most violence since the US invaded and took control of the country." ABC (Berman) added, "Nearly all of the victims were Shiite Muslims. In a recording released today, a man claiming to be the Sunni terrorist Abu Musab al Zarqawi declared a holy war on all Shiite Muslims in Iraq. He also claimed credit for today's attacks, calling them revenge for the US and Iraqi offensive in the northern city of Tal Afar near the Syrian border." ABC (Vargas) added, "Attacks by insurgents in Iraq have been on the rise. From about 60 attack as day before September to an average of nearly 80 a day this month."

USA Today (9/15, Jervis, Mahmoud) adds that in its Web posting, "al-Qaeda in Iraq linked the attacks to an offensive by Iraqi and U.S. forces in Tal Afar, near the Syrian border. The offensive began Saturday and evicted most insurgents from the city. The U.S. military estimated 200 militants were killed. No Americans were killed." Abu Musab al-Zarqawi, "al-Qaeda's leader in Iraq, purportedly declared 'all-out war' on Shiite Muslims, Iraqi troops and the country's government in an audio recording released on the Internet."

The Los Angeles Times (9/15, Daragahi) reports, "A senior US military official, speaking on condition of anonymity, said the attacks were evidence of insurgents' weakness against Iraq's nascent security forces. '(The insurgents) failed to stand up to the assault up north, so they slink away and kill civilians in Baghdad,' he said. 'It is astonishing that they can try to claim some victory from pure murder.'"

The Financial Times (9/15, Negus) reports "witnesses said that no US or Iraqi military or police targets were in the vicinity, suggesting that the attacker had aimed to cause as much civilian carnage as possible." The blast "comes two weeks after a stampede at a Shia religious commemoration sparked by fears of a suicide bomber killed over 1,000 people in the same area."

The Wall Street Journal (9/15, Fassihi) says "the scale and scope of the attacks, with Sunni Arab militants targeting and killing groups of Shiites, shows the increasingly sectarian nature of the conflict, and is reviving doubts about whether the newly trained Iraqi forces can properly secure it." The Journal adds, "Many analysts believe the buffer keeping Iraq's Sunni and Shiites from a full-fledge civil war has been the Shiite religious and political leaders' restraint from accusing the Sunnis outright and calling for Shiites to retaliate." But "no one is sure how much longer the Shiite community will be willing to heed their advice."

The New York Times (9/15, Worth) notes Iraq's "National Assembly and Iraqi government, led by Mr. Jaafari, who had given approval for the Tal Afar offensive, are both dominated by Shiites." Iraqi and American officials have been "anticipating a rise in violence in reaction to Iraq's new constitution, which has provoked angry opposition from many Sunni leaders and demonstrations in several cities since it was presented in the National Assembly last month."

The Washington Post (9/15, Knickmeyer, Nouri) reports, "The attacks appeared calculated to undermine public faith in the ability of the fledgling government to protect its people, by showing that insurgents could strike in Baghdad despite the US and Iraqi military efforts to stop them."

The Washington Times (9/15, Hurst) runs a similar AP story on the bombings.

Insurgents Avoid US-Iraqi Efforts To Limit Mobility. The latest bombings in Iraq are a sign the insurgent's strategy to avoid being captured by US and Iraqi forces by abandoning cities until coalition forces leave is having some success. The Christian Science Monitor (9/15, Carroll, Murphy) says the "contrast between what are being described as largely successful operations against insurgent hotbeds in Tal Afar, Qaim, and Haditha…and ongoing violence across the country, demonstrates the fluidity of Iraq's insurgency against thinly spread US and Iraqi forces." For example, the coalition attack on Tal Afar "was aimed at limiting the mobility of Sunni insurgents." Approximately "200 militants were killed and hundreds captured. But as forces moved on the city, the US military said many insurgents simply fled, using a network of tunnels they'd created in advance of the assault. That pattern has become increasingly common since the April assault on Fallujah, where hundreds of insurgents died in the most sustained combat of the war."

WSJournal Sees Iraqi Forces As Key To Stabilizing Border. The Wall Street Journal (9/15) editorializes, "There are good reasons to believe the…operation in Tal Afar…will be a model of things to come." Unlike previous operations when US forces would eventually leave the area, "Iraqis are leading the fight and, most important, many will stay so the people of Tal Afar can begin to believe they can live free of

DOJ_NMG_ 0147725

terrorist intimidation." It also "calls into question the contention of war critics like Senator Joe Biden that there are only a handful of Iraqi troops capable of meaningful operations. … U.S. commanders classify about 40 battalions -- roughly 750 soldiers in each -- as 'fully independent' or able to fight 'in the lead.'" The Journal concludes, "Whether those Iraqi troops are competently led and deployed will depend on a political process that includes a constitutional referendum and another parliamentary election before the year is out. But" it "is the best sign of anti-insurgent progress since the Marine sweep through Fallujah."

Iraqi Families Rush To Retrieve Bodies Of Attack Victims. The Washington Post (9/15, A25, Knickmeyer) describes the efforts by local Iraqis to retrieve the bodies of the victims of the latest insurgent attacks, reporting "Bedlam was bubbling up in Iraq's capital all day Wednesday, bursting through the thin surface of what passes for routine. Families rushed to find loved ones and ambulances sped to aid survivors, even as new bombings sent more waves of frantic searchers into the chaos. Towers of black smoke rose into the sky as police turned away cars from hospitals, fearing secondary attacks that might target medical centers treating the bombing victims."

Rice Says More Allied Forces In Iraq Unnecessary. Secretary of State Condoleezza Rice in an interview on The O'Reilly Factor (9/14) was asked why NATO was not playing a larger role in Iraq. Rice said, "Well, NATO is doing some work in Iraq." Asked why NATO couldn't help increase security along Iraq's borders, Rice replied, "Actually, at this point now we don't need more foreign forces in Iraq. What we need is Iraqi forces to be trained up." Asked whether the US might need "more boots on the ground," Rice maintained, "We need Iraqi forces to be trained up, and that's what's happening. This fight has got to become the Iraqis' fight."

Rice Says Media Not Covering Long-Term Progress In Iraq. Rice, also on The O'Reilly Factor (9/14), was asked whether negative coverage by the press was responsible for public opposition to the war in Iraq. Rice said, "Quite apart from what the press may or may not like, there's also the problem that the press reports on a daily basis headlines every day when, in fact, this is a somewhat longer-term process in Iraq. And where the political process has been moving just inexorably along, that's harder to see. That's harder to report on. But there are times when people see it. When 8.5 million Iraqis vote out and voted, people knew we were in Iraq for the right reasons."

CBS Questions Detention Of Iraqi Cameraman. Iraqi officials and Western media have raised questions about the continued detention of Iraqis helping US reporters. The dispute over the detention of freelance cameraman Abdul Amir Younes Hussein is the latest flashpoint. The Wall Street Journal (9/15, Dreazen) reports the US military's explanation that Hussein had been "detained for alleged insurgent activity" has "sparked a bitter legal and political dispute with Viacom Inc.'s CBS, which has lobbied senior military and civilian officials to try to win the cameraman's release. Mr. Hussein, who has been unable to see his family or his lawyer since being detained, faces a hearing today in Baghdad that will determine whether he will be released."

The New York Times (9/15, Worth) notes, "Iraqi criminal authorities have reviewed his case and declined to prosecute him. Colleagues who were with him that day have produced affidavits supporting his innocence. The American military has not released any evidence against him, despite repeated requests for information by CBS producers, lawyers and even the network's president, Andrew Heyward." And recently "Iraq's justice minister, Abdul Hussein Shandal, criticized the detentions of Iraqi journalists in an interview with Reuters, saying he wanted to change a United Nations resolution that gives American troops immunity from Iraqi law."

Diverse Field Of Candidates Seek Office In Afghan Elections. The Christian Science Monitor (9/15, Baldauf) reports the diversity of the approximately 5,700 candidates running for office in Afghanistan "is both an endorsement of democracy, and a challenge to its very existence." Afghanis "will be selecting from candidates who hold conflicting views over concepts as fundamental as the very definition of democracy itself." The Monitor notes, "Many, perhaps the majority, pose as opponents of President Hamid Karzai, and some demand the removal of US troops as a sign that Afghanistan can now run itself."

Former Taliban Foes See Chance For Return To Power. The Washington Post (9/15, A20, Aizenman) reports, "As leading members of a coalition of northern ethnic militias that joined forces with the United States to topple the Taliban rulers after the Sept. 11 attacks, Massoud's Panjshiri

DOJ_NMG_ 0147726

successors were a dominant force in Afghanistan's first post-Taliban government. But over the last year and a half, the ethnic Tajiks of the Panjshir Valley have watched with dismay as President Hamid Karzai, a member of Afghanistan's majority Pashtun ethnic group, has replaced some of their most prominent leaders with Pashtuns and welcomed former Taliban officials back into the country as part of a reconciliation program." Now they "see Afghanistan's parliamentary elections, to be held Sunday, as their chance at a comeback."

Young Afghans Strive To Make Voices Heard. The New York Times (9/15, Gall) reports, "The young people of Afghanistan stand out in this already industrious nation as particularly motivated and politically aware and are seen by some here as an important constituency in the coming parliamentary elections, on Sunday." Similar to their parents "younger adults want security, good educational systems and a good health system, in that order," according to National Youth Solidarity Party leader Jamil Karzai, who is "a second cousin of President Hamid Karzai."

Female Candidate Sees Hope In Election. The Washington Times (9/15, Gentile) reports, "Jamilah Mujahid, who hopes to win one of 68 seats set aside for women in Afghanistan's parliament, view's Sunday's election as a turning point for her war-ravaged nation." Among her "priorities if elected would be education for women, especially those who are behind the learning curve because they grew up under the Taliban regime." She "called Sunday's scheduled parliamentary and provincial elections 'a new beginning for Afghanistan.'"

First Female Governor Provides Inspiration For Afghan Women. USA Today (9/15, Wiseman) reports describes the success of Afghani provincial governor Habiba Sarabi who is "the first woman to run a province in Afghan history." In her province of Bamiya women "are leaping into the political space created by the U.S.-led overthrow of the Islamic fundamentalist Taliban militia four years ago. They are more likely to run for office and to vote than other Afghan women." She "was appointed six months ago by Afghan President Hamid Karzai. She has emerged as a role model for Bamiyan's aspiring female politicians."

Afghan Commanders Said To Have Helped Bin Laden Escape To Pakistan. The Los Angeles Times/Reuters (9/15) reports that according to Afghan Interior Ministry spokesman Lutfullah Mashal "Osama bin Laden was given safe passage to Pakistan in 2001 by Afghan commanders paid by Al Qaeda and sympathetic to the terrorist network's cause." Mashal said, "Osama, along with other Al Qaeda people, managed to go to Parachinar at the time, and then Pakistani forces battled the Al Qaeda runaways, killing around 70 of them." He "told private Pakistani television channel Geo on Tuesday that U.S. forces had made a mistake in entrusting the capture of Bin Laden to Afghan commanders." He "said Bin Laden later recrossed the border to Khowst, where the leader of the Taliban there gave him refuge. He then returned to Pakistan, this time heading for Miranshah, the main town in another tribal area, North Waziristan."

CORPORATE SCANDALS:

Merrill Lynch To Change Forecasting Of Stock Option Earnings. USA Today/Reuters (9/15) reports, "Merrill Lynch on Wednesday said it will require all U.S. equity research analysts to include options and other stock-based compensation in their earnings forecasts for U.S. companies." Reuters continues, "The changes by the largest U.S. full-service brokerage, which covers more than 1,000 U.S. companies in 50 industries, are intended to reflect a controversial new accounting rule. That rule requires public companies in fiscal years beginning after June 15 to treat stock options as routine business expenses, such as salaries. … Many technology companies, including Cisco Systems, opposed the new rule, fearing it might increase operating costs and reduce profits. … But the Financial Accounting Standards Board and Securities and Exchange Commission backed the change, and companies such as Wal-Mart began implementing it before the deadline. Meanwhile, some companies, including Microsoft, have stopped granting stock options."

Former Marsh Executives Expect New York Fraud Indictments. The Wall Street Journal (9/15, McDonald) reports, "As many as eight former Marsh Inc. executives are expected to be indicted on criminal-fraud charges Thursday, according to two people close to the situation." The Journal continues, "As reported last month in The Wall Street Journal, a grand jury impaneled in Manhattan has been weighing criminal charges against the former executives. The probe is an outgrowth of a fraud investigation last year by New York Attorney General Eliot Spitzer that

DOJ_NMG_ 0147727

resulted in a $850 million settlement by Marsh & McLennan Cos. of bid-rigging charges early this year. Marsh Inc. is the New York company's insurance-brokerage unit. … In settling, Marsh apologized to clients for the 'shameful' conduct of some employees who 'unlawfully deceived their customers.'" The Journal adds, "Mr. Spitzer is expected to unseal indictments charging the former Marsh employees with scheming to defraud, according to the two people, barring any last-minute guilty-pleas hammered out with prosecutors. … In the civil suit settled by Marsh, state authorities alleged that some Marsh brokers cheated institutional clients by rigging bids for large insurance contracts and steering business to insurers who paid Marsh large commission payments. All told, more than 15 insurance managers and executives have pleaded guilty to criminal charges stemming from the probe, including other former Marsh brokers and former employees of large insurers American International Group Inc.; Zurich American Insurance Co., a unit of Zurich Financial Services AG; and ACE Ltd."

Former NYSE Regulator Testifies Before SEC On E-Mail Policies. The Wall Street Journal (9/15, Hughes) reports, "The Securities and Exchange Commission asked the New York Stock Exchange in 2001 to drop enforcement cases against a dozen Wall Street firms whose email retention and storage policies were deficient, according to a former NYSE regulator." The Journal continues, "Annette Nazareth, then-director of the SEC's market regulation and now an SEC commissioner, called the NYSE in the spring of 2001 and asked that the exchange's regulatory arm stop reporting email-retention violations to the NYSE's enforcement division and withdraw referrals that had already been made, according to testimony by Salvatore Pallante, former NYSE executive vice president for member-firm regulation." The Journal adds, "At the time, the SEC was in discussions with Wall Street over changes to its email rules, which the industry had criticized as being too broad. Because of those discussions, Ms. Nazareth believed it would be 'unreasonable' to bring enforcement actions, according to Mr. Pallante's testimony. … Mr. Pallante testified on behalf of Raymond James Financial Services Inc., which is fighting civil fraud charges filed by the SEC last year. The SEC sued Raymond James for failing to supervise a broker who allegedly bilked investors out of millions of dollars and also accused the firm of failing to fully preserve email records. The testimony was available through the SEC's public records office."

Risks Of Credit Derivatives Are Focus Of New York Meeting. The Wall Street Journal (9/15, Sender) reports, "The New York Federal Reserve Bank is gathering the big Wall Street players today. The topic: rising concerns about risk in what is known as the credit-derivatives markets." The Journal continues, "The talks come amid frustration about the failure of the structure of the market to keep pace with the explosive growth in the trading of these complex securities. … 'People have the best intentions, but there are resource issues,' says Donna Parisi, head of the derivatives practice at the law firm of Shearman & Sterling. Credit derivatives, which allow investors to take positions on the risk of default of both companies and countries, have been one of the most rapidly growing financial products on Wall Street." The Journal adds, "Infrastructure issues that have bedeviled the market involve processing and settling trades, or what some experts such as Thomas Russo, vice chairman of Lehman Brothers Holdings Inc., refer to as the 'plumbing of the market.' Such descriptions sound boring and technical. But the credit-derivatives arena has become increasingly important in terms of managing investment risk, which means regulators are eager to ensure that these complex and often opaque markets operate smoothly. … Thus far, their proddings have largely gone unheeded, leading to the unusual summit at the New York Fed." The Journal notes, "The love-hate relationship between Wall Street firms and their hedge-fund clients has grown more acrimonious when it comes to credit derivatives. Hedge funds claim that Wall Street firms are reluctant to move to more efficient electronic trading and processing systems, because such a move would crimp the Street's margins. The dealers in turn say that hedge funds have been reluctant to invest sufficient funds in their back offices, and that it is the hedge funds, not Wall Street firms, that are the problem. … In any case, the result is stacks of paper at both hedge funds and at Wall Street firms. And the paper load is growing, as the labor-intensive review of documents and agreements confirming trades falls increasingly behind the growing volume of new trades."

Greenspan Warns Congress Against Lack Of Control Over Fannie, Freddie. The Wall Street Journal (9/15, McKinnon, Kopecki) reports, "Federal Reserve

DOJ_NMG_ 0147728

Chairman Alan Greenspan, in his strongest warning yet, said in a recent letter that Wall Street investment firms eventually could be incapable of hedging all the financial risk posed by mortgage giants Fannie Mae and Freddie Mac, if Congress doesn't impose meaningful limits on them." Greenspan wrote Sen. Robert Bennett, "As Fannie and Freddie increase in size relative to the counterparties for their hedging transactions, the ability of these [companies] to quickly correct the inevitable misjudgments inherent in their complex hedging strategies becomes more difficult." The House is expected to vote on its version of GSE reform next week and its supporters "sought to improve chances for their bill by amending it to steer more of the companies' profits into affordable housing in the stricken Gulf Coast region." But "it isn't clear that the changes will be enough to overcome objections to the House measure among conservative critics" and Greenspan.

CRIMINAL LAW:

House Passes Child Safety Bill With Gay Hate Crime Protection Provision. The House passed the Children's Safety Act by an overwhelming 371-52 vote. The bill is focused on protecting children from child molesters but in an unexpected move lawmakers also approved expanding hate crime laws to protect homosexuals. USA Today (9/15) reports, "Sex offenders who abuse children would be subject to stringent monitoring requirements and face new mandatory penalties under" the bill which "would create a national website on pedophile sex offenders and stipulate that sex felons face up to 20-year sentences for not complying with registration requirements."

The Washington Post/AP (9/15, A2) notes, "Unexpectedly, the House voted 223 to 199 in favor of an amendment by Rep. John Conyers Jr. (D-Mich.) that expands current hate crime law to include some crimes involving sexual orientation, gender and disability." The AP adds, "The House has been the chief obstacle in numerous previous attempts to expand hate crimes law, and Joe Solmonese, president of the Human Rights Campaign, the nation's largest gay rights group, said it was an 'incredibly historic vote' that could give momentum to similar action in the Senate."

House GOP Blocks Democratic Resolutions Forcing Release Of Plame Documents. The AP (9/15, Sidoti) reports, "House Republicans derailed Democratic attempts on Wednesday to force the Bush administration to surrender documents on prewar intelligence and the disclosure of the identity of…CIA operative" Valerie Plame. "Largely along party lines, the House International Relations Committee unfavorably reported two of the resolutions on Iraq and one resolution on the Plame matter. Earlier, the House Judiciary Committee 'unfavorably' reported a similar Plame resolution." The AP adds that "the votes Wednesday against the measures all but prevented them from ever being taken up by the House."

Reuters (9/15) notes that Republicans "said Congress should await the outcome of a federal investigation by special counsel Patrick Fitzgerald. Democrats countered that Republicans were trying to protect President George W. Bush and his top political adviser, Karl Rove. 'We know that this is a political decision because there is potential embarrassment to the administration,' said Massachusetts Democratic Rep. William Delahunt."

USAT Endorses .xxx Domain Concept For Pornography. USA Today (9/15) editorializes, "The Internet has transformed the pornography business. In little more than a decade, online 'adult entertainment' has become a booming multibillion dollar industry, enabled by the World Wide Web's easy, impersonal accessibility. … Avoiding or blocking the X-rated onslaught can be nearly impossible. Internet content moves with no respect for borders and at such slippery speed that tracking it is like trying to grab hold of mercury. … For those who want porn, that may be fine. But for others, it can be deeply offensive. And for children, it can be damaging." USA continues, "A blanket ban is not a useful option because foreign sites are beyond the reach of U.S. law, which is why one fresh approach deserves encouragement. … It's a proposal for a virtual red-light district in the form of a new Internet domain. Instead of .com or one of the other familiar Web address suffixes, porn would have .xxx. People would know what they're getting. Parents could more easily filter it out." USA adds, "The idea is no cure-all. For one, it would be voluntary. Critics point out, correctly, that pornographers could still keep their .com addresses, and many probably would. Nor would it stop those deceptive e-mails. But that's not the point. … Its value is as an experiment, particularly for protecting children. Why not? … But the .xxx idea is running into opposition. Some critics say it would encourage online porn. Hello? Do they have computers? … Other opponents fear that the new domain would legitimize porn. Their protests — including more than 6,000 letters,

DOJ_NMG_ 0147729

many part of a campaign by the conservative Family Research Council — forced a delay in implementing .xxx. The regulatory board, the Internet Corporation for Assigned Names and Numbers, is to meet today on the issue. … The board shouldn't bow to the pressure. Internet porn is big business driven by big demand. It can't be eradicated. But trying to improve the protections for parents is a good idea — including a .xxx domain experiment."

More Commentary. In an op-ed in USA Today (9/15), Patrick Trueman, senior legal counsel at the Family Research Council, writes, "For years there has been near unanimous condemnation of the notion that (pornographers) should be rewarded with even more space on the Internet. Yet, the Internet Corporation for Assigned Names and Numbers (ICANN), the Internet's governing agency, is moving ahead on this seductive idea." Trueman continues, "Most who advocate for a .xxx domain for porn sites say children would be the chief beneficiaries because filtering pornography would become a simple matter — just block .xxx sites. That assumes that pornographers would give up their .com sites, the cash cow of the porn industry, and move to .xxx. … Pornographers may be sleazy, but that hasn't affected their sound business sense. They have been making millions on the .com domain since long before Michael Dell sold his first computer over the Internet, and they would keep all their current .com locations. … Nor would they be evicted. Indeed, any law attempting to force all pornographers to relocate to .xxx would likely be challenged in court. Although it is a myth that all pornography is protected by the First Amendment, the U.S. Supreme Court has said that it is "presumptively protected" unless and until it is ruled obscenity or child porn in a court." Trueman adds, "A relatively small number of U.S. pornographers own the vast majority of Web sites selling illegal material. That is why the Family Research Council supports the efforts of Attorney General Alberto Gonzales to establish an obscenity prosecution task force to prosecute violators of the obscenity law — rather than making them masters of a new domain."

Texas Executes Black Woman For 1987 Killing Of Family. The New York Times (9/15, Barnes) reports, "Frances Newton, convicted of murdering her husband and their two children in 1987, was executed last night in Huntsville, Tex." The Times continues, "The Supreme Court declined to review Ms. Newton's case earlier, and Gov. Rick Perry declined to intervene." The times add,s "The Texas Board of Pardons and Paroles unanimously refused on Monday to recommend that Mr. Perry, a Republican, commute her sentence to life in prison. … Ms. Newton, 40, was the third woman put to death in Texas since capital punishment resumed in 1982."

Ohio County Commissioner Seeks FBI Probe Of Equipment Lease. The Cincinnati Enquirer (9/15, Morse) reports, "Butler County Commissioner Chuck Furmon on Wednesday asked the FBI in Cincinnati to investigate a multimillion-dollar equipment lease that included the county's name without the commissioners' approval. FBI spokesman Michael Brooks confirmed that Furmon contacted the office. 'We'll look into the information that he provided and see if an investigation should be opened,' Brooks said, declining further comment." The Enquirer notes that Dynus Technologies "is a party to the disputed contract involving the lease of at least $5.3 million in telecommunications equipment used to transmit data via fiber-optic lines. The lease was signed before Dynus and Butler County commissioners finalized a contract in which Dynus is supposed to sign up customers for the county's fiber-optic loop." Dynus spokesman Tom Rowe said, "Based upon what we've looked into thus far, we haven't seen anything that would appear to warrant that type of action or an FBI investigation."

Massachusetts GOP Official Resigns After Drug Money Laundering Arrest. The AP (9/15) reports Massachusetts GOP vice chairman Lawrence Novak "resigned after a federal sting led to money-laundering charges accusing him of offering to 'cleanse' drug proceeds for a legal client," Scott Holyoke. "Novak resigned his party position on Tuesday after his release on bond. Holyoke is awaiting trial on federal drug trafficking charges and agreed to be a cooperating witness against Novak for the FBI." The AP notes state GOP chairman Darrell Crate "said in a statement the charges are strictly related to Novak's private business dealings and 'have absolutely no connection to the Republican Party.'" The Boston Globe (9/15, Lewis) also reports on Novak's resignation.

Tennessee Lawmakers Weigh Ethics Legislation In Wake Of Corruption Charges. The Tennessean (9/15, Seibert) reports, "Ethics legislation began to take shape yesterday as a panel of legislators

DOJ_NMG_ 0147730

unveiled proposals to prevent some of the problems revealed by the FBI's Operation Tennessee Waltz sting. But to some, the movement toward tougher laws for lawmakers is creeping along. At yesterday's meeting…the discussion revolved not around ethics, but largely around how lawmakers can efficiently use the state's electronic filing system for disclosures of their campaign contributions. … It was only in the last few minutes of the hours-long meeting that its leaders said they had plans for tougher ethics legislation. They put off discussion of those proposals until Oct. 10.

FBI Raids Denver Law Firm. The Rocky Mountain News (9/15, Accola) reports, "Federal agents raided the downtown offices of a Denver law firm Tuesday, seizing computers and records for evidence in an undisclosed FBI probe. Witnesses said as many as 20 agents from the Federal Bureau of Investigation searched the 11th-floor offices of Futro & Associates PC." The News notes, "The small law firm is headed by Denver attorney Peter Futro, who until last May was chairman of U.S. MedSys Corp., a one-time Denver company that is now the subject of a Securities and Exchange Commission investigation. … 'It's a confidential client-related matter,' he said of the FBI search that lasted most of Tuesday."

Louisiana Teamsters President Claims FBI Illegally Recorded Contract Negotiations. The Baton Rouge Advocate (9/15, Roberts) reports Baton Rouge Teamsters president Byron Keith Partin "claims the FBI illegally recorded his contract negotiations with Formosa Plastics Corp. In new court documents filed in federal court last month…Partin contends the FBI convinced Formosa Human Resources Manager Tim LeBlanc to record as many as eight conversations in 2001. Partin's lawyer…argues in two separate motions that secretly recording labor contract negotiations is a violation of the National Labor Relations Act. The motions seek to have the tapes thrown out and the case dismissed." The Advocate notes, "Federal authorities say Partin threatened to report the company for illegally discharging ethylene dicloride into the Mississippi River if it didn't pay the wages of eight union members for hours of work they missed during the negotiations."

Florida Pair Arrested On Real Estate Fraud Charges. The South Florida Sun Sentinel (9/14) reports, "Federal authorities arrested two Fort Lauderdale residents Tuesday on more than a dozen charges involving real estate and bankruptcy fraud, the U.S. Attorney's Office said. Edward Garnett, 62, and Shirley Akey, 69, lied on loan applications about income, assets, and tax information, a U.S. Attorney's Office news release says. According to the release, the two racked up $1.4 million in loans, which Akey laundered through different bank accounts. Garnett also hid money and assets from a bankruptcy proceeding." The Sun Sentinel notes, "Penalties for the charges could total more than 100 years in prison and $6 million in fines."

Three High School Students Held In Michigan Bank Robbery. The Detroit News (9/15, Shepardson) reports from Ann Arbor, MI, "On Monday, three 17-year-old Pioneer High School students were worrying about keeping up their grades and where to go to college next fall. … Today, they're spending their third day in the county jail, facing a lengthy prison sentence if convicted in the Aug. 22 robbery of an Ann Arbor bank." The News continues, "On Wednesday, the mothers of two of the students put their arms around each other as they watched grainy black and white closed-circuit video of their sons' brief arraignment on three felony charges. All three are charged as adults." The News adds, "Prosecutors contend that in the waning days of a quiet Ann Arbor summer, two of the students, Charles Spencer Heath and Brian Keith Jackson, robbed the Bank One branch on West Stadium and made off with about $19,000 -- after they had demanded $50,000 and access to the vault while brandishing a toy gun. … They apparently spent some of the money on clothes and music equipment and the alleged motive, lawyers say, was simply to get money. None of the three has any prior criminal record, and none has been in any serious disciplinary trouble at school. … The third student, Brian Christopher White, the son of a former teacher and a Big Three auto executive, told police he allowed his friends to use his car, but didn't know they planned to rob the bank, according to a written statement he gave police. He is charged with conspiracy and bank robbery -- even though police say he didn't enter the bank Aug. 22." The News notes that the magistrate "set bond at $100,000 cash for each of them. Their parents might be required to put up their homes as collateral. … The three students will have a chance to get a reduced bond Wednesday, when they face a preliminary examination in Ann Arbor District Court. All three likely will remain in the Washtenaw County Jail until then."

DOJ_NMG_ 0147731

Rep. Jefferson Fights More Allegations Of Wrongdoing. Roll Call (9/15, Billings, Whittington) reports, "Rep. William Jefferson (D-La.), under investigation by the FBI, went on the defensive Wednesday in the wake of a damaging ABC News report that the Congressman allegedly used National Guard resources to gather personal belongings from his New Orleans home amid the Hurricane Katrina rescue operation." Roll Call continues, "Jefferson is apparently gearing up for a tough legal fight. He recently retained defense attorney Robert Trout of the Washington, D.C., law firm Trout Cacheris, in addition to his New Orleans-based attorney, Michael Fawer. Trout is a former federal prosecutor. Jefferson also recently set up a legal defense fund." Roll Call adds, "Jefferson, according to sources, spoke to his colleagues at the Congressional Black Caucus meeting Wednesday. During the session, the Louisiana Democrat defended his tour of his damaged district on Sept. 2 and insisted that the ABC story that aired Tuesday night distorted the facts and misrepresented his actions. … In an interview, Melanie Rouffell, a Jefferson spokeswoman, reiterated her boss's belief that the story was unfair, noting that National Guard officials refused to let the Congressman tour the devastated area without the presence of armed guards. … She said that Jefferson was only doing his job by trying to assess the damage in his district and that he was concerned about his neighbors, whom he knew had not evacuated their homes." Roll Call notes, "But even as some of Jefferson's colleagues defended their friend, some Democrats wonder about the broader implications that the FBI investigation could have for their party. The Congressman had his homes in New Orleans and Washington, D.C., searched last month as part of an ongoing FBI investigation. … Authorities are investigating whether Jefferson illegally pocketed hundreds of thousands of dollars from a start-up technology firm during an FBI-authorized sting, according to published reports."

CNN's Anderson Cooper 360 Degrees (9/14, Cooper) reported on "questions on whether a congressman by the name of William Jefferson in New Orleans abused his power by getting National Guard troops to take him to his home when the city was under lockdown after Katrina hit. Congressman Jefferson was reportedly in the house for an hour, gathering his laptop computer, three suitcases and other items, while the troops waited for him outside. This was on Friday when there were still many people to be evacuated from this city." CNN's Paula Zahn Now (9/14, Griffin) reported, "Jefferson maintains he wanted an up-close look at the devastation in his district and only accepted the offer of an escort when National Guard officials urged it upon him for safety reasons."

CIVIL RIGHTS:

Senate Approves New DOJ Cold-Case Unit For Civil Rights Crimes. The AP (9/15, Hananel) reports, "A new Justice Department office would investigate and prosecute 'cold case' murders from the civil rights era, under a measure approved by the Senate on Wednesday." The AP continues, "The Unsolved Crimes Section would target pre-1970 homicides motivated by racial hatred that remain unsolved, often because of lax state and federal prosecution at the time they occurred. … The bill was inspired by efforts to reopen the case of Emmett Till, a 14-year old black boy who was murdered in 1955 after being accused of whistling at a white woman in Mississippi, said Sen. Jim Talent, R-Mo., who sponsored the legislation with Sen. Christopher Dodd, D-Conn. … 'We want the murderers and their accomplices who are still living to know there's an entire section of the Department of Justice that is going after them,' Talent said in a statement. 'We need to unearth the truth and do justice because there cannot be healing without the truth.'" The AP adds, "The Senate voted by unanimous consent to add the measure to the massive Commerce, Justice and Science appropriations bill, expected to pass the Senate this week. … A House-passed version of the bill does not include the civil rights measure, but lawmakers will try to include it in legislation that emerges from a conference committee."

Federal Judge Rules "Under God" In Pledge Unconstitutional. US District Judge Lawrence Karlton of Sacramento, California, yesterday ruled that the phrase "under God" in the Pledge of Allegiance is an unconstitutional introduction of prayer into public schools. Michael Newdow, the atheist whose case was dismissed by the Supreme Court for a technicality, filed the case on behalf of the parents of two children. The new case means it is likely that the Supreme Court will have to rule on the merits of the case.

The CBS Evening News (9/14, story 5, 1:50, Andrews) reported, "The case, which is almost identical to the one argued at the Supreme Court last year was brought, again, by Michael Newdow, a California atheist who says his school-

DOJ_NMG_ 0147732

aged daughter should not be forced to recite 'under God.'" ABC World News Tonight (9/14, lead story, 2:45, Woodruff) reported that for now, the case "just impacts three school districts in California. But here is the bigger issue. It is already unconstitutional for the government to introduce prayer into the schools. So the question is, is the Pledge of Allegiance like a prayer? The District court in California said it was." Michael Newdow, the "acknowledged atheist who brought the case, called it justice." The school district "and a group representing parents in favor of the pledge today vowed to appeal. They said school children have always had the right to stand silently during the pledge." NBC Nightly News (9/14, story 9, 0:25, Williams) ran a similar report on the case.

Most major newspapers run articles on the pledge decision. USA Today (9/15, Willing) reports, "The phrase "under God" was added to the Pledge of Allegiance by Congress in 1954 after a campaign by the Knights of Columbus, a Catholic men's group." The Supreme Court "has never ruled on the constitutionality of reciting the pledge in public schools and has a mixed record in other cases involving the public invocation of the deity."

The Los Angeles Times (9/15, Dolan) adds "the Becket Fund, a religious rights group that is a party to the case, said it would immediately appeal the case to the San Francisco-based US 9th Circuit Court of Appeals." If the court "does not change its precedent, the group would go to the Supreme Court." The Washington Post (9/15, Pomfret), New York Times (9/15, Murphy), the AP (9/15, Kravets) Bloomberg News (9/15) and the Washington Times (9/15, Duin), among other sources, run similar stories.

Massachusetts Legislature Defeats Amendment To Ban Gay Marriage. The New York Times (9/15, Belluck) reports that in a "sign that the legalization of same-sex marriage has changed the political landscape in Massachusetts, the legislature soundly defeated a proposed constitutional amendment on Wednesday to ban gay marriage and create civil unions, an amendment that lawmakers gave preliminary approval to in a raucous constitutional convention last year." The 157-to-39 vote "by a joint session of the House and Senate partly reflected the fact that some legislators now consider same-sex marriage more politically acceptable, after a largely conflict-free year in which some 6,600 same-sex couples got married and lawmakers who supported it got re-elected." The vote also "reflected some lawmakers' reluctance to pass a bill that could either withdraw rights from already married couples or create a class of married gay men and lesbians and a class of those unable to marry."

The Washington Post (9/15, A3, Fahrenthold) reports that amid "a pep-rally atmosphere, Massachusetts legislators on Wednesday overwhelmingly rejected an attempt to halt same-sex marriages here -- showing how quickly gay nuptials have moved from being a court-ordered imposition to a powerful political cause." The vote "leaves same-sex marriage as the status quo in Massachusetts, and it now seems likely to remain so until at least 2008. But, in a broader sense, the vote also illuminated how widely Massachusetts has diverged from much of the nation, where several dozen states have passed laws limiting marriage to heterosexual couples." Politicians in Massachusetts "credit the weddings themselves with shifting the political momentum, saying their growing ordinariness has defused some of the opposition."

The Washington Times (9/15, Wetzstein) reports Massachusetts lawmakers "yesterday rejected a marriage constitutional amendment, guaranteeing that same-sex 'marriage' will continue in that state for at least three more years." The amendment was "approved last year, 105-92, and lawmakers had to pass it a second time to place it on the 2006 ballot. However, yesterday's 157-39 rejection showed how little support the amendment had after a year." Many lawmakers said they "rejected the measure because they no longer wanted to undo the Massachusetts Supreme Judicial Court's 2004 ruling legalizing same-sex 'marriage.'" With "yesterday's defeat, the battle shifts to a petition drive for a marriage constitutional amendment aimed at the 2008 ballot. The amendment, sponsored by VoteOnMarriage.org and supported by Massachusetts Gov. Mitt Romney, a Republican, would outlaw same-sex 'marriage' in Massachusetts upon passage."

ANTITRUST:

Realtors' Study Finds Robust Real Estate Brokerage Competition. The Inman News (9/14, Swesey) reports, "A new study funded by the National Association of Realtors concludes that competition for customers among real estate brokerage firms in local housing markets across the nation is strong." Inman continues, "The study, compiled by researchers at Pennsylvania State University, looks at 12 local real estate markets and draws data from multiple listing services,

DOJ_NMG_ 0147733

interviews and secondary sources. … 'The central finding is the intense competition in local real estate markets,' Professor Steve Sawyer of Penn State's School of Information Sciences & Technology writes." Inman adds, "The report is timely in the continuing battle between the U.S. Justice Department and organized real estate. Competition in the real estate industry has come under fire after the DOJ filed an antitrust lawsuit last week against the National Association of Realtors over its policies for online listings. The DOJ charges that the powerful trade group's policies restrain competition by obstructing real estate brokers who use Web-based systems to offer consumers lower costs."

House Democrats Launch Attack On High Gas Prices. Knight Ridder (9/15, Recio) reports, "House Democratic leaders unveiled a plan Wednesday to combat what they said was price gouging at the pump, as some Republican lawmakers worried about the lackluster Bush administration response to high gasoline prices. … 'Many of America's families are experiencing a middle-class squeeze, and the price at the pump is becoming oppressive,' said House Democratic Leader Nancy Pelosi, D-Calif, adding that prices were high even before Hurricane Katrina knocked out 20 percent of the nation's supply lines. … 'Something must be done about this,' Pelosi told reporters after House Democrats signed off on the plan at their weekly meeting. 'There must be a federal law to investigate and prosecute price gouging, and to receive damages from those in violation of the law' that would be directed to the federal home heating oil assistance program." Knight Ridder adds, "The nationwide average price of regular gasoline was $2.93 per gallon Wednesday, according to the AAA, down from the Sept. 5 high of $3.05, but still 49 cents higher than a month ago and $1.10 a gallon more expensive than a year ago. The average price in Texas was $2.83 per gallon Wednesday. … House Democratic Caucus Chairman Robert Menendez of New Jersey faulted the Bush administration for not having 'sensitivity' on the issue. 'Maybe it's because we have two oilmen in the White House,' Menendez said. … President Bush is a former Texas oilman and Vice President Dick Cheney ran the oil services giant Halliburton Co. Bush has said he will not tolerate gouging and White House spokesman Scott McClellan said last week that gasoline prices were too high and the administration's sales from the Strategic Petroleum Reserve would ease supplies - and prices."

Gillette Launches New Shaving System Amid Merger Concerns. The New York Times (9/15, Deutsch) reports, "Let regulators worry whether Gillette's proposed merger with Procter & Gamble poses antitrust problems. Let investors worry about how that merger will affect the fused companies' stocks. The people at Gillette have a far more immediate challenge: persuading men that they need to buy yet another new shaving system." The Times continues, "Yesterday, Gillette unveiled Fusion (manual) and Fusion Power (battery operated), a wet-shaving system with a lot more bells and whistles than the company's Mach3Turbo and M3Power, currently the top-selling shavers. It also announced a line of shaving creams and gels to go with the new razors. … Gillette Fusion is 'the future of shaving,' James M. Kilts, Gillette's chairman and chief executive, told analysts and reporters who had gathered in a Manhattan auditorium to hear the latest news. Not to be outdone in hyperbole, Peter K. Hoffman, president of Gillette's blades and razors unit, defined fusion for the crowd – 'a nuclear reaction in which nuclei combine to create power' - and intimated that the Fusion system's 'breakthrough technology' lives up to the analogy." The Times adds, "Much is at stake. According to Gillette, American men spent about $1.7 billion on blades and razors last year, and another $300 million on shaving creams and gels. Globally, shaving products accounted for more than $10.4 billion in sales. … Gillette has already filed 70 patents on the Fusion razors, and it expects to be able to command prices about 30 percent higher than for the Mach3. The manual razor and two cartridges will sell for about $9.99, with a 4-pack of refill cartridges going for about $11.99. Fusion Power, with one cartridge and a battery - Duracell, of course, since Gillette owns that brand - will retail for about $11.99, with refill 4-packs going for $13 or $14. … The elephant in the room, though, is the merger with Procter, which, barring regulatory holdups, should be completed this fall. Procter is already doing pre-emptive divestitures to ward off the antitrust cops - for example, it is selling its SpinBrush electric toothbrush business to Church & Dwight to avoid becoming too dominant in that area when it joins forces with Gillette's formidable Oral-B line."

P&G To Sell SpinBrush To Church & Dwight. The New York Times/Reuters (9/15) reports, "Church & Dwight Co. Inc. on Wednesday said it has agreed to buy the SpinBrush toothbrush business from Procter & Gamble Co., a sale P&G hopes will help lead to antitrust approval of its multibillion dollar acquisition of Gillette Co." Reuters

DOJ_NMG_ 0147734

continues, "P&G had agreed to divest the business, which had $110 million in sales in the fiscal year that ended June 30, as part of its negotiations over the Gillette deal with the European Commission. … SpinBrush competes with some of Gillette's Oral-B toothbrushes." Reuters adds, "Church & Dwight would pay an initial $75 million in cash at the closing of the deal, which would unite the battery-powered toothbrush with its Arm & Hammer and Mentadent toothpaste brands. An additional inventory settlement would be paid following the transfer of the business and Church & Dwight would also pay up to another $30 million based on near-term performance, Church & Dwight said. … The price would be sharply lower than the $475 million P&G paid for SpinBrush between 2000 and 2002. But while battery powered toothbrushes were a hot item in the oral care industry for a while, sales have waned in the category lately."

RIAA Urges File-Sharing Firms To Protect Music Industry Rights. The Wall Street Journal (9/15, Mcbride) reports, "The Recording Industry Association of America has sent cease-and-desist letters to several file-sharing companies, including BearShare, LimeWire and WinMX, asking that they stop activities that allow users to download copyrighted music." The Journal continues, "The letters ask the companies to 'immediately cease and desist from enabling and inducing the infringement of RIAA member sound recordings,' according to a copy of the letter reviewed by The Wall Street Journal." The Journal adds, "The letters are an attempt by the music industry to build on the favorable ruling it received from the U.S. Supreme Court in June in the so-called Grokster case, involving a file-sharing company that was accused by the industry of facilitating copyright violations. In that ruling, the court found that copyright holders could sue file-sharing companies for encouraging people to violate copyrights. Now, the industry is taking the first step toward enforcing the ruling against other file-sharing companies. … 'Companies similar to Grokster have been given ample opportunity to do the right thing,' said the RIAA, which confirmed sending the letters to seven file-sharing companies. … The RIAA has long said it supports legal uses of file sharing. It wants file-sharing firms to alter their software -- for example, by creating filters to strip out copyrighted material or creating mechanisms to pay copyright holders. In recent months, it has been working with several file-sharing firms, including iMesh and Mashboxx, to create services that wouldn't violate copyrights."

Merger Specialist Joins JP Morgan Chase. The New York Times (9/15, Creswell) reports, "J. P. Morgan Chase said yesterday that Robert I. Lipp, a longtime financial services executive who has played a role in some of the biggest bank and insurance mergers in recent decades, is joining the bank as a senior adviser." The Times continues, "In his new role, Mr. Lipp, 67, will work closely with J. P. Morgan's chairman, William B. Harrison Jr., and its president, James Dimon, in strategic planning as the bank continues to integrate operations after last year's merger between J. P. Morgan Chase and Bank One." The Times adds, "While Morgan has been hampered from deal making by its low-valued stock, Mr. Dimon alluded in remarks this summer to analysts that the bank could be on the hunt for acquisitions as early as next year. … Mr. Lipp has a long personal and professional history with both Mr. Harrison and Mr. Dimon. He spent 23 years at Chemical Bank, where he worked with Mr. Harrison before leaving in the mid-1980's to join Sanford I. Weill at Commercial Credit, which is based in Baltimore. There, he worked alongside Mr. Dimon in turning the sleepy consumer finance company into the nation's largest financial services giant, Citigroup, through a series of acquisitions."

EU Fines Thread-Makers For Fixing Prices. Bloomberg News (9/15) reports, "European Union regulators fined manufacturers of industrial thread including Coats Ltd., the world's biggest, 43.5 million euros ($53 million) for operating a price-fixing cartel." Bloomberg continues, "The makers of thread used in products such as clothes, shoes, furniture and car seats held meetings starting in the 1990s to agree on prices, exchange information and allocate customers, the Brussels-based European Commission said today. The fine ends a probe that began with raids in the U.K. and Germany in 2001. … 'Cartel behavior is illegal, unjustified and unjustifiable, and will be punished severely no matter how large or small the companies involved,' Competition Commissioner Neelie Kroes said in a statement. 'I will not allow consumers to be denied the benefits of the single market by companies carving up markets between themselves.'" Bloomberg adds, "Under EU law, the commission, the EU's antitrust regulator, can fine companies accused of operating a cartel as much as 10 percent of their annual sales. It typically opts for about 2-3 percent of sales. The largest EU cartel fine was 462 million euros levied against Hoffmann-La Roche AG in 2001 for fixing the price of vitamins."

DOJ_NMG_ 0147735

South Korea Fines Fixed-Line Telecom Firms For Price-Fixing. Asia Pulse (9/15) reports, "South Korea's antitrust regulator decided Thursday to slap fines on four local fixed-line telecommunication service providers for illegal cartel activities." Asia Pulse continues, "The nine-person committee of the Fair Trade Commission (FTC) ruled to levy a combined 25.74 billion won (US$25.1 million) in fines against the country's four fixed-line companies - KT Corp., Hanarotelecom Inc., Onse Telecom Co. and Dacom Corp.. … KT, the country's largest fixed-line telephone and broadband Internet operator, has been ordered to pay 23.87 billion won in fines for rigging the prices of both its long distance domestic services and international telephone services. … Dacom, the nation's second-largest long-distance telephone company, was slapped with a total 1.6 billion won in fines, with Onse being ordered to pay 2.1 billion won for its involvement in illegally fixing long distance and international telephone services. … Hanarotelecom was fined 60 million won for irregularities in its domestic long distance line operations."

Reuters (9/15) reports, "The commission also found evidences of collusion in the high-speed Internet service charges, but only issued orders to improve business practices without imposing fines, the spokesman said. … The punishment comes as local operators struggle with stalled growth and cut-throat competition. In a separate case in May, the FTC slapped a record $120 million fine on KT, hanarotelecom and Dacom over collusion in local calls and network connection charges."

European Bank Head Warns Against Removal Of Governor. The Financial Times (9/15, Atkins, Barber) reports, "Jean-Claude Trichet, the European Central Bank president, made clear on Wednesday he would oppose unwarranted political attempts to remove Antonio Fazio, the Bank of Italy governor engulfed in controversy over his handling of bank takeover bids." The Times continues, "Using national legislation to eject a central bank governor would set 'a catastrophic precedent for the independence of all central banks', Mr Trichet told the European parliament's monetary affairs committee." The Times adds, "He was speaking as Domenico Siniscalco, Italy's finance minister, put more pressure on Mr Fazio by saying Italy risked isolation in international financial markets unless its central bank and regulatory systems were profoundly reformed. … Mr Siniscalco and several other government ministers are demanding Mr Fazio's resignation for alleged improper conduct in two takeover battles for Italian banks. Critics accuse Mr Fazio of favouring domestic bidders over foreign ones. The central banker denies wrongdoing and has benefited from divisions in Italy's centre-right government over how, or even whether, to remove him."

ENVIRONMENT/INDIAN AFFAIRS:

Mirant Corp To Request Reopening Of Virginia Plant. The Washington Post (9/15, Markon) reports, "Mirant Corp. plans to propose that its Alexandria power plant, which provides electricity to homes in the District and Maryland, be allowed to reopen on a limited basis. The plant was closed last month because of environmental problems." The Post continues, "Under a tentative plan Mirant outlined last week in documents filed with federal regulators, the Potomac River plant would operate at a level 'significantly reduced from full capacity' that does not violate national air quality standards. At the same time, Mirant would continue studying long-term fixes such as burning cleaner coal or raising the height of the plant's smokestacks to disperse pollutants." The Post adds, "The plan must pass muster with the Virginia Department of Environmental Quality (DEQ), which has ordered Mirant to take immediate steps to reduce pollution. DEQ spokesman Bill Hayden said the department has not seen a proposal from Mirant but 'will take a look at what they do propose. The main thing we're looking for is, if they are continuing to operate, it must be in a way that does not violate air quality standards.' … Federal regulators, meanwhile, are also evaluating a petition, filed by the D.C. Public Service Commission, that asks them to order the plant to reopen. Mirant revealed that it will probably propose the partial reopening in documents the company filed last week with the Federal Energy Regulatory Commission." The Post notes, "Amid the blitz of regulatory activity, it remains unclear when the plant might reopen, even temporarily. And Mirant acknowledges that a full-scale resumption of operations could be more than a year away. Although the plant is in Alexandria, it does not serve Virginia."

Controversial Judge In Indian Trust Fund Case Profiled. The Washington Post (9/15, A31, Leonnig) reports, "The fans of U.S. District Judge Royce Lamberth praise his straight-talking ways, his defense of the wronged, and his stinging rebukes of lawyers and officials

DOJ_NMG_ 0147736

who try to fudge the facts. … So many decades after he left his beloved Texas and cowboy roots for a legal career in government service, fellow judges and former colleagues say, old Royce still gets riled up when he smells a bunch of bull." The Post continues, "When Lamberth theorized in a July ruling that the Interior Department's failure, over many decades, to account for potentially billions of dollars owed to Native Americans could only be explained by outright evil, apathy, cowardice or -- more likely -- crushing bureaucratic incompetence, the Justice Department decided to go after the judge. … In one of the rarest legal moves Justice has ever taken, the government asked that a higher court remove Lamberth from a case he has overseen for the past nine years." The Post adds, "In the escalating and unparalleled war between the judge and Interior, Justice lawyers said privately they saw no other option. They argued to the U.S. Court of Appeals for the District of Columbia Circuit that Lamberth has gone overboard in a string of verbal harangues in recent years, accused agency officials of racism and lost the appearance of impartiality in the case. Already, he has found two secretaries of Interior in contempt of court and ordered sanctions against numerous government lawyers for improper conduct in the case. … When they stand before a different bench tomorrow, government lawyers are expected to try to shift the discussion from the acknowledged failure of Interior to properly account for money held in trust and due 50,000 Indians, to the often assaulting words and actions of a powerful Reagan appointee who has made no secret of his disgust. Only three times before has this appeals court disqualified a trial judge from a case."

FBI/DEA/ATF/USMS:

Report Finds FBI Turnover Hampers Cooperation. The AP (9/15, Sherman) reports, "The FBI has experienced excessive turnover among senior officials, hampering cooperation with state and local authorities since the Sept. 11 attacks, a new report released Wednesday said." The AP continues, "The senior agents who run the 56 FBI field offices average just 15 months in their jobs before moving on to new assignments or leaving the bureau altogether, according to a report by the congressionally chartered National Academy of Public Administration. At FBI headquarters in Washington, the average posting for high-ranking officials is 13 months, the report said." The AP adds, "The short tenures of Special Agents in Charge of the field offices, or SACs in FBI parlance, make "it difficult for them to perform one of their most important functions, developing effective relationships with state and local officials," said former Attorney General Richard Thornburgh, chairman of the panel that produced the report. It was released at a House Appropriations subcommittee hearing on changes at the FBI following the Sept. 11, 2001 attacks. … Thornburgh told lawmakers at the hearing that he was 'astonished to see the short tenures of SACs.'" The AP notes, "No senior executive in Washington and only four SACs have been in their jobs longer than FBI Director Robert Mueller, who started work 10 days before the attacks."

Appellate Court Rules FBI Whistleblower May Seek Damages, Jury Trial. The AP (9/15, Jalonick) reports the 8th US Circuit "has ruled that Jane Turner, an FBI whistleblower who accused the agency of discrimination and retaliation, may seek monetary damages and a jury trial. Turner accused male FBI agents of mishandling several cases of sexual abuse in Indian country and alleged her superiors transferred her from Minot, N.D., to Minneapolis in retaliation for complaints about sexual discrimination." The 8th Circuit "said Turner had sufficient evidence to justify at trial over whether the transfer was in retaliation for her complaints. But the judges dismissed Turner's claims that she worked in a hostile environment and was a victim of discrimination because of her gender. An FBI spokeswoman said the agency would not comment on the case because the litigation is ongoing."

Mayor Of LA Meets With Gonzales Over Gang Intervention Programs. KCAL-TV Los Angeles (9/14, 12:13 p.m.) reported that mayor "Villaraigosa, is meeting with…Alberto Gonzales. Villaraigosa hopes to encourage Washington to develop gang intervention programs."

KABC-TV Los Angeles (9/14, 11:14 a.m.) also covered this story.

Guru Of Ganja" Challenges Drug Convictions. The AP (9/15, Kravets) reports, "Attorneys for a man who has written books on how to grow marijuana and avoid getting caught asked a federal appeals court Tuesday to overturn his drug convictions." The AP continues, "Ed Rosenthal, the self-described 'Guru of Ganja,' was convicted two years ago of growing and distributing hundreds

DOJ_NMG_ 0147737

of marijuana plants. He says he was authorized to do so by the city of Oakland under a 1996 California medical marijuana law." The AP adds, After U.S. District Judge Charles Breyer refused to allow a jury to hear that defense, Rosenthal was convicted of being a major drug supplier. … Breyer sentenced him to one day in prison on grounds that Rosenthal reasonably believed he was immune from prosecution because he was acting on behalf of Oakland city officials. The government and Rosenthal both appealed." The AP notes, "The government maintained Rosenthal, now 60, should have gotten at least 24 months. Amber Rosen, an assistant United States attorney, told a three-judge panel of the 9th U.S. Circuit Court of Appeals that Breyer abused his discretion by issuing a sentence that fell outside sentencing guidelines."

Venezuela May Lose 'Certification' As Collaborating In The War On Drugs. The Financial Times (9/15, Webb-vidal) profiles Pedro Salcedo of Venezuela writing, "Fishing, however, is just an occasional pastime for Mr Salcedo. He makes better money transporting drugs to far-flung islands in the Caribbean, for a couple of thousand dollars a journey." The Times continues, "Mr Salcedo, and others like him, used to avoid soldiers from Venezuela's National Guard, the body charged with combating drugs-trafficking in the country, through which up to one-third of the cocaine smuggled from Colombia passes. But increasingly, US officials say, the fishermen are in competition with the National Guard, rogue elements of which also take part in drug-running. This may be one reason why the US...could remove Venezuela from its annual list of countries 'certified' as adequately collaborating in the war on drugs."

New Hampshire Drug Raids Yield 100 Indictments. New Hampshire's Union Leader (9/15) reports, "Operation Summer Sizzle" drug raids yielded more than 100 indictments against 41 people. The raids took place on Aug. 31 and involved 15 state and local law enforcement agencies, as well as the federal Drug Enforcement Administration. "The indictments were handed up on Monday by the Sullivan County grand jury. The raids took place mostly in Newport and Claremont, although arrests were made in Charlestown and Sunapee as well."

Texas Man Gets 55-Year Prison Sentence In Drug Case. The San Antonio (TX) Express (9/15) reports, "A federal judge on Wednesday sentenced a Texas Mexican Mafia member to 60 years in prison for his role in a violent drug-dealing conspiracy. Johnny "Gira" Garcia-Esparza, 45, was the last of four Mexican Mafia members awaiting punishment on charges stemming from their April conviction on drug-related charges." Garcia-Esparza was sentenced to 55 years in prison on the conspiracy and drug charges, plus five years on the gun charges. "Between 1999 and 2004, as many as 28 gang members were accused of delivering more than 150 kilos of cocaine and more than 30 kilos of heroin."

Mississippi Teen Convicted In Bomb Case. The Jackson Clarion-Ledger (9/15, Gates) reports, "A Brandon (MS) teenager who made a bomb powerful enough to blow up half of a car was convicted Tuesday of federal charges." The Clarion-Ledger continues, "U.S. District Judge William Barbour Jr. set James Vaughn Rankin, 19, sentencing for Dec. 1. He faces a maximum 30 years in prison. … Rankin was convicted of possession of an unregistered firearm, transfer of an unregistered firearm and the manufacture of an unregistered firearm." The Clarion-Ledger adds, "U.S. Assistant Attorney David Fulcher said Rankin intended for the bomb to kill. 'He said on the videotape it will destroy half of a car,' Fulcher said." The Clarion-Ledger notes, "During the two-day trial, jurors watched a videotape of Rankin selling the bomb to an undercover agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives. … Rankin's attorney, Federal Assistant Public Defender Kathy Nester, argued her client may have possessed the bomb, but the government didn't prove beyond a reasonable doubt that he intended to harm anyone. … Nester said ATF agent Connie Wilson testified on cross-examination that she didn't mention anything about wanting the bomb to kill an ex-husband until after Rankin had placed the device in her car. Also, Nester said the government didn't prove her client transported across state lines gunpowder used in making the bomb."

US Targets Alabama Gun Crime. The Fort Payne (AL) Times-Journal (9/13, Townsend) reports, "DeKalb County was one of five counties in Alabama that had indictments handed down Sept. 2 in federal court for various federal firearm violations. … The others were Cullman,

DOJ_NMG_ 0147738

Madison, Shelby and Jefferson counties." The Times-Journal continues, "U.S. Attorney Alice Martin would not release the names of those indicted. … 'The names of theses individuals are being withheld pending service of outstanding warrants,' Martin said. 'We cannot release any of this information, including how many were indicted in each county, until all the warrants have been served.'" The Times-Journal adds, "DeKalb County Drug Task Force Agent Darrell Collins said he couldn't recall the number of gun cases worked in the past couple of months. But he did say that normally, three-fourths of the methamphetamine cases they do work involve some type of firearm. … 'That is why we work with the ATF on a daily basis, in an effort to enforce the reduction of illegal gun use,' Collins said. … Martin, along with James M. Cavanaugh, Special Agent in Charge of the Bureau of Alcohol, Tobacco, Firearms and Explosives, said a grand jury returned indictments against 12 people in unrelated cases."

US Plan To Blow Up Rudolph Truck Upsets Bomb Victims' Families. The AP (9/15, Reeves) reports, "The government wants to blow up the truck Eric Rudolph was driving when he bombed an Alabama abortion clinic, a plan that has upset some of Rudolph's victims." The AP continues, "Authorities said they want to use the pickup truck in a training drill to prevent it from ending up in the hands of Rudolph's admirers. … 'It was done partly out of concern that it would show up on eBay,' said Assistant U.S. Attorney James Ingram, referring to the Internet auction site. 'Somebody would plunk down some money for it.' … But nurse Emily Lyons, who was badly wounded in the clinic bombing, believes the truck should go to Rudolph's victims, who are unlikely to get any other compensation, according to her husband, Jeff Lyons." The AP adds, "In 2003, a state court judge awarded the couple $115 million in a lawsuit against Rudolph, who was declared indigent in federal court and has not paid anything. Trucks similar to Rudolph's 1989 Nissan have a retail value of about $1,700, according to Kelley Blue Book, a pricing guide for used vehicles. … 'We had the judgment before they did the seizure,' Jeff Lyons said Wednesday. … Shortly after the clinic bombing, a witness recorded the truck's license plate number and reported it to police, who used the information to identify Rudolph as a suspect in the explosion. He was later tied to the 1996 Olympic park bombing and two other bombings in Atlanta in 1997."

Marshals Reverse Ban On Releasing Mug Shots. The Detroit News (9/15, Shepardson) reports, "The U.S. Marshals Service has reversed a ban on releasing mug shots in response to a pair of federal lawsuits." The News continues, "In an Aug. 10 memorandum made public Friday, the service's Office of General Counsel told officials in Michigan, Kentucky, Ohio and Tennessee -- the states covered by the U.S. Sixth Circuit Court of Appeals -- that they must release the photographs." The News adds, "The memo rescinded an Aug. 19, 2004, order that said officials would no longer release the mug shots, citing a March U.S. Supreme Court decision. … In that unanimous decision, the court said the government wasn't required to release four photographs of former White House lawyer Vincent Foster's dead body, saying it would violate the family's privacy." The News notes, "Two newspapers filed separate lawsuits this spring seeking to overturn an August 2004 decision by the U.S. Marshal Service to stop releasing the booking photos of prisoners to news media outlets and others under the Freedom of Information Act. … The Justice Department reversed itself and agreed to release the mugshots."

IMMIGRATION:

Arizona Bosnian Serbs Charged With Lying On Immigration Applications. The AP (9/15, DeFalco) reports, "Thirteen Bosnian Serbs living here were indicted on charges of lying to American authorities about their service in the Serbian Army and seven others were being detained for similar reasons, federal authorities said Wednesday." The AP notes, "This week's apprehensions left many in Phoenix's Bosnian Serbian community confounded as to why their friends and family members were taken away after living in this country peacefully for so many years." Goran Spiric, whose father and brother were among those arrested, "said he came to America 11 years ago from a concentration camp where he was kept by Bosnian Muslims, wondered if he would also be apprehended. 'Every single morning I go to work, I carefully watch on both sides and wonder if the FBI or someone is watching me,' Spiric said."

Defense Lawyer Seeks Dismissal Of Charges Against Bosnian Serb In Massachusetts. The Boston Globe (9/15) reports, "Charges against a Peabody construction worker accused of hiding his role in a Bosnian Muslim massacre should be thrown out because Marko

DOJ_NMG_ 0147739

Boskic was forced under threat of death to participate in the Srebrenica killings, his lawyer said yesterday." Defense attorney Max Stern told a US District Judge Douglas Woodlock "that Boskic was not deceptive on immigration forms when he entered the United States in 2000 and that he was never motivated by the fact that the victims were Muslim." The Globe notes, "Boskic faces a five-count indictment of fraudulently entering the US as a refugee, as well as concealing his past in a Bosnian Serb Army unit accused of killing some 7,000 Muslim men and boys."

Rove Discusses Immigration Reform With Lawmakers. With the capitol's focus on hurricane Katrina relief threatening to crowd the legislative agenda, White House Deputy Chief of Staff Karl Rove met with Reps. Jeff Flake and Jim Kolbe to discuss immigration reform. The key issue splitting the GOP seems to be whether an immigration reform bill registering illegal immigrants currently employed in the US should require immigrants to return to their countries of origin. The Hill (9/15, O'Connor) reports that while immigration reform is a difficult issue for GOP lawmakers because it "divides supporters of the business community from those social conservatives," with "the political climate favoring "a strong border-security measure, the business lobby could be essential in creating the political momentum to pass a broader bill through the Senate." Sens. Jon Kyl and John Cornyn support requiring immigrants to return while Kolbe, Flake and Sens. Edward Kennedy and John McCain support legislation without the requirement.

Kilgore Pledges Crackdown On Firms Hiring Illegal Aliens. The Washington Times (9/15, Bellantoni) reports Republican candidate Jerry W. Kilgore said "if elected he will go after businesses that knowingly hire illegal aliens." Kilgore said, "They are supposed to check for legal status. If they are knowingly violating the law they shouldn't be getting state contracts and they should not be getting state credits and benefits." The Times adds that Kilgore's "comments come one day after he debated" Democrat Timothy M. Kaine "over a host of topics, including the establishment of a day laborer center in Herndon that will provide services for legal immigrants and illegal aliens." Kilgore has said "officials in Northern Virginia are giving incentives to illegals by allowing such centers. One way to address the problem would be to revoke any tax credits or benefits companies receive from the state if they knowingly hire illegal aliens, he said."

TAX:

Anti-Tax Advocate Schiff Stands Trial In Nevada. The Las Vegas Sun (9/14, Kihara) reports, "The defendant in a tax evasion trial that began on Tuesday said he is innocent of the charges against him because there is essentially no law that requires people to pay income tax." The Sun continues, "In a rambling opening statement that brought at least seven objections from a Justice Department lawyer and just as many admonitions from U.S. District Judge Kent Dawson, Irwin Schiff also tried to discount his alleged influence, saying that doctors, lawyers and others wouldn't stop paying income taxes just because he told them to. … 'In my view, there is no law requiring people to pay income tax,' said Schiff, who is representing himself in the criminal case against him. … The trial is expected to last five weeks."

The Las Vegas Review-Journal (9/14, Thevenot) reports, "Prosecutors began presenting evidence Tuesday against Schiff and two of his followers, Cynthia Neun and Lawrence Cohen, who are accused of conspiring to defraud the federal government. … 'Nobody likes to pay taxes, but that's not what this case is about,' Justice Department attorney Jeffrey Neiman told the jury." The Review-Journal adds, "Schiff, the 77-year-old owner of Freedom Books in Las Vegas, has made a career of teaching his customers how to avoid paying federal income tax. … He claims no law requires Americans to pay the tax, and he has written several books advocating his position. … Neiman said the main issue in the criminal case is: 'What were the defendants aware of, and what were they told?' … The prosecutor said evidence will prove that the defendants knew the law and chose to violate it."

The AP (9/14) reports, "Schiff is accused of failing to report income on federal tax returns from 1987 to 2002, and of evading payment of $1.3 million in taxes, penalties and interest between 1979 and 1985. If convicted, he faces a maximum sentence of 43 years in prison and $3.25 million in fines. … Attorneys for co-defendants Cynthia Neun and Lawrence Cohen, who worked for Schiff, said their clients believed their conduct was legal." The AP adds, "Neun's lawyer, Michael Cristalli, said Neun followed Schiff's tax advice partly because of his powerful personality but also because she did not believe she was violating the law."

DOJ_NMG_ 0147740

CONGRESS-ADMINISTRATION:

Roberts Jousts With Senators On Second Day Of Confirmation Hearing. Chief Justice nominee John Roberts yesterday appeared before the Senate Judiciary Committee for a second day. He again received praise from observers for his intellect and wit, but Democrats were "frustrated" by some Roberts' answers, which some Democrats found evasive. Despite the Democrats' complaints, the media consensus continues to be that Roberts will easily be confirmed. CBS' Bob Schieffer summed up what most observers are predicting when he said it "sounds like it is going to be a slam dunk right now." Likewise, Dana Milbak writes in today's Washington Post (9/15) that by yesterday "the confirmation hearing had lost much of what little suspense it had in the first place. The only speculation in the halls outside the hearing was how many, if any, Democrats on the committee would vote for Roberts en route to his all-but-certain confirmation."

ABC World News Tonight (9/14, story 2, 2:10, Douglass) reported, "Senators were frustrated as they tried to pin Roberts down on some of the country's most emotional issues." Without "mentioning Terri Schiavo by name, Democrats demanded to know if families have the right to remove a loved one from life support." Some Republicans "pushed him on abortion, pushing him to say a fetus is a person with rights." Democrats "tried to shake Roberts by suggesting that he's been deceptive. He told them firmly that he's answered more questions than any other nominee."

The CBS Evening News (9/14, story 8, 2:55, Schieffer) reported, "Roberts said little on key issues, but that didn't stop senators from asking." CBS (Borger) added, "Today, the confirmation hearing of Judge John Roberts moved between the controversies of when life begins to when it ends." Roberts "did give some hints on issues, such as his approval of Justice Sandra Day O'Connor's view of affirmative action, which she considered acceptable in some cases." Yet Roberts "didn't miss the chance to defend his view of both the confirmation process and the job of a judge." Judge Roberts: "It is not a process under which senators get to say, 'I want you to rule this way, and if you tell me that you'll rule this way, I'll vote for you.' Judges are not politicians. They cannot promise to do certain things in exchange for votes. I think I've been much more forthcoming than other nominees." After the hearing, Sen. Biden "said that Judge Roberts is one of the best witnesses they had had before the committee in 30 years. And he was a great witness, but he didn't answer the questions the Democrats wanted answered." Schieffer: "It sounds like it's going to be a slam dunk right now." Borger: "Sure does."

NBC Nightly News (9/14, story 10, 1:10, Williams) reported, "There were more tough questions today, although the reviews are high for his intellect and ability."

The Washington Post (9/15, C1, Davis) reports, "Things are going pretty much like the day before: Democrats are pressing Roberts on voting rights and issues of privacy (translation: Roe v. Wade), and Roberts is looking a little bit like a young Muhammad Ali dancing his way around the hearing room."

The New York Times (9/15, Liptak, Toner) says Roberts "faced increasingly contentious questions from Democrats on Wednesday as he outlined his views on an array of legal issues," but "repeatedly declined to address some of the most ideologically charged matters, including whether the Constitution establishes a right to abortion and a right to die. 'I'm not standing for election,' Judge Roberts said in one testy exchange on end-of-life issues on the third day of his confirmation hearings for chief justice of the United States." His "refusal to elaborate on his statement that there is a constitutionally protected right to privacy drew criticism from Senator Joseph R. Biden Jr. of Delaware, one of several Democrats on the Judiciary Committee who challenged him with growing frustration on Wednesday. 'Without any knowledge of your understanding of the law, because you will not share it with us,' Mr. Biden said, 'we are rolling the dice with you, Judge.'" But Roberts, "by the end of a second long day of careful, unflappable testimony, appeared in comfortable position for a confirmation vote next Thursday." A second New York Times (9/15, Stolberg) story reports "the nominee is not talking nearly enough to satisfy Democrats, and how he is interpreting his standard has become a major flashpoint in the hearings."

The Baltimore Sun (9/15, Shaw) also says that "barring a major surprise, the Senate will confirm him as the nation's 17th chief justice this month." The Wall Street Journal (9/15, Cummings, Bravin), however, says "White House hopes for Judge John Roberts to be confirmed as chief justice by a wide margin in the Senate grew dimmer yesterday, as Democrats complained that the nominee gave narrowly crafted responses or declined to answer questions about civil rights, privacy and other issues." Roberts "is likely to be

DOJ_NMG_ 0147741

confirmed," but "Democrats on the Senate Judiciary Committee have stepped up their accusations that he is being evasive, and will use that claim to lobby their colleagues to withhold their votes."

USA Today (9/15, Biskupic, Kiely) says Roberts "suggested Wednesday that his views on civil rights were more moderate than those he expressed during his days as a Reagan administration lawyer," and he "hinted at a concern for gay men and lesbians who might face discrimination." Roberts also "described several principles that seemed to separate his legal views from those of Justices Antonin Scalia and Clarence Thomas, the high court's most conservative members." The Los Angeles Times (9/15, Savage) headlines its story "Roberts Distances Himself From Court Originalists," reporting Roberts "went out of his way at his Senate confirmation hearing to put some distance between himself and Justices Antonin Scalia and Clarence Thomas."

In an analysis piece, Charles Lane writes in the Washington Post (9/15) that "a new image of President Bush's nominee for chief justice of the United States is coming into focus. Still blurry at the edges, thanks to Roberts's refusal to declare how he would rule on abortion rights and other specific issues, it is nevertheless a picture of a conservative different in important respects from the two members of the Supreme Court whom Bush has said he most admires," Scalia and Thomas.

The Legal Times (9/15, Goldman, Mauro) reports, "John Roberts Jr. moved into the second day of questioning before the Senate Judiciary Committee on Wednesday, with Democrats still complaining that the likely future chief justice remains too much of a cipher, and with GOP committee members stressing that Roberts has answered more questions than any other nominee. … 'I do think I've been more expansive than most nominees, and those justices were confirmed,' Roberts told Sen. Jon Kyl, R-Ariz." The Times continues, "The committee will wrap up questioning of Roberts on Thursday morning, then proceed directly to six panels of witnesses, who will speak for and against the nominee. … Committee Chairman Arlen Specter, R-Pa., said late Wednesday that he would conclude the Roberts hearings on Thursday and set a committee vote on the nominee for Sept. 22." The Times adds, "As in his testimony on the previous day, Roberts was probed about his views on the Voting Rights Act, privacy and the judiciary's proper role in interpreting congressional statutes. … And as in Tuesday's performance, Roberts was loath to do more than outline in the broadest terms his view of how he would adjudicate certain issues … " The Times notes, "One chief counsel for a committee Republican noted the reams of paperwork being passed between staff and the panel's 18 members and remarked, 'Roberts has just got all this stuff in his head.' … Indeed, by the end of the day, the most interesting question was not whether Roberts would win confirmation, but whether he would secure any Democratic votes in the process."

The Los Angeles Times (9/15, Schmitt, Reynolds) describes the Democrats' questioning as "relentless and occasionally sharp," and adds "his new comments leaned toward a more moderate position than some of his writings as a Justice Department lawyer in the Reagan administration." However, "they were so sparse and cautiously phrased that they sparked protests from Democrats about his refusal to be more forthcoming."

A similar Reuters dispatch (9/15, Ferraro) reports Roberts said that if confirmed "he would seek consensus on the often bitterly divided Supreme Court that has spawned frustration with a series of 5-4 rulings." Roberts "calmly countered the complaint as he appeared headed toward confirmation by the Republican-led Senate before the court begins its new term on October 3."

The Democrats' frustration is also the major topic in the Washington Post (9/15, Babington, Becker), which says Democratic senators "angrily accused" the nominee "of hiding his views on end-of-life questions, privacy and other contentious issues." Roberts "Republican supporters," adds the Post, "said his confirmation is virtually assured." Sen. Charles E. Schumer "accused Roberts of treating the hearing room as a 'cone of silence.' 'It seems strange, I think, to the American people that you can't talk about decided cases -- past cases, not future cases -- when you've been nominated to the most important job in the federal judiciary,' the senator said."

The Christian Science Monitor (9/15, Richey) says Roberts' plan is to "reveal just enough information about his approach to judging to convince the senators of his integrity and constitutional expertise -0 but not enough to permit someone to forecast how he might vote once on the high court." Roberts "isn't just fighting for himself. If he is successful in holding that line he will help set the stage for the president's next high court nominee -- the pick that will replace centrist Justice Sandra Day O'Connor and potentially swing the court to the right." So far, "Roberts has fended off, dodged, and sidestepped his way through a gauntlet of

DOJ_NMG_ 0147742

Senate Judiciary Committee questions." But he "bottom line" is "Senators -- and the American public -- are learning precious little about which way Roberts is likely rule as the nation's most powerful judge."

The Hill (9/15, Allen) says the nominee "sailed through a second day of inquiries from the Senate Judiciary Committee yesterday, leaving some lawmakers and analysts to wonder whether President Bush's pick to fill a second Supreme Court vacancy will be able to measure up." Roberts "fielded and at times sidestepped questions with poise and humor, even as Democratic Senate heavyweights Joseph Biden (Del.) and Edward Kennedy (Mass.) pressed him repeatedly on civil rights and whether people have a right to determine when they die." Some "wondered if Roberts's composure and ability to establish his own framework for which questions to answer and which to avoid will set an artificially high bar for the next nominee."

The Washington Post (9/15, Goldstein) reports, "As Democrats on the Senate Judiciary Committee try to cast doubt on whether…Roberts deserves to become chief justice of the United States, the main club they are wielding are his own words -- as glimpsed in memos he wrote, as a young but well-positioned legal adviser inside the Reagan revolution, on the most polarizing civil rights issues of a generation ago." For two days, "the Democrats have read excerpts -- and at times even handed the nominee copies of his own work -- on voting rights, sex discrimination, affirmative action, racial bias, and the possibility of stripping the Supreme Court of jurisdiction over certain kinds of rights cases." The Post adds, "To try to blunt the impact of this document assault, Roberts has employed a two-pronged strategy: He has asserted that his words and legal reasoning were merely those of a staff lawyer. And he has largely refused to embrace or disavow the views his memos espouse."

The Washington Times (9/15, Hurt) focuses on Roberts' comments on eminent domain, reporting Roberts "told senators yesterday that laws restricting the government's power of eminent domain are legitimate, despite a landmark Supreme Court decision earlier this year that broadly expanded that authority." Roberts, adds the Times, "finished a second day of testimony yesterday with a few flare-ups, but no major upsets." The hearings "have been so devoid of fireworks that Senate staffers are having a hard time keeping the limited public seating area filled."

A second Washington Times (9/15, Hurt) adds that with Roberts' confirmation "appearing more likely, members of the Senate Judiciary Committee have resorted to using the hearings to lobby the nominee about their own favorite issues." Senators "have pressed their views on the prospective chief justice about televising Supreme Court proceedings, the right to die and abortion, among other issues."

The Washington Times (9/15, Taylor) also focuses on Roberts' "management of the Supreme Court," and how it "could differ starkly from his predecessor and mentor William H. Rehnquist: The number of cases the court takes on is likely to increase." Under Rehnquist, "the average high court caseload dropped from about 150 to 80 cases a year -- a trend Judge Roberts appeared intent on reversing during exchanges yesterday."

54% Paying "Close Attention" To Roberts Hearing. The CBS Evening News (9/14, story 7, 0:20, Schieffer) reported, "Even with so much attention on Hurricane Katrina, more Americans now say they are paying attention to the nomination of Judge John Roberts to be the next chief justice of the United States. In a new CBS News/'New York Times' poll, 54% said they were paying close attention. But 63% felt they didn't know enough to say whether Roberts should be confirmed."

Conservatives Seek Memos Detailing Contacts Between Democrats, Interest Groups. The Hill (9/15, Bolton) reports, "Conservative strategists are drafting a letter to Democratic members of the Senate Judiciary Committee demanding the release of hundreds of internal memos detailing contacts between the lawmakers and liberal interest groups opposing John Roberts's nomination to the Supreme Court." By "planning to press Democrats on the sensitive subject, conservatives seem to be pulling a page from the Democrats' own political playbook. In the weeks leading up to the confirmation hearings, Senate Democrats have repeatedly called on the White House to give them memos Roberts penned while he was deputy solicitor general in President George H.W. Bush's administration." In their letter, "conservatives quote [Sen. Pat] Leahy's argument that the Senate should have access to the withheld documents. In the letter, they assert that the public is equally entitled to know what is motivating and directing Senate Democratic scrutiny of Roberts, according to a verbal summary given to The Hill."

"Testy" Specter Questioning Seen As Sign Of Estrangement Between Congress, Court. The New York Times (9/15, Greenhouse) reports, "Senator Arlen Specter's testy interrogation of Judge John G. Roberts Jr. on the

DOJ_NMG_ 0147743

Supreme Court's treatment of Congress may well have left viewers scratching their heads on Wednesday morning, with cryptic references to the 'congruence and proportionality test' and to unfamiliar case names like 'Lane and Hibbs.'" But "the line of questioning that Mr. Specter, the Pennsylvania Republican who is Judiciary Committee chairman, chose to pursue offered a window on the increasingly troubled relationship between the court and Congress, as well as on one of the most consequential developments of the Rehnquist court's later years." In a series of decisions, "many written by Chief Justice William H. Rehnquist himself, the court declared unconstitutional acts of Congress that had been passed by broad bipartisan majorities. … From 1995 to 2003, the Supreme Court overturned all or parts of 33 federal statutes, 10 of them on the ground that Congress had exceeded its authority either to regulate interstate commerce or to enforce the constitutional guarantees of due process and equal protection."

Meanwhile, The Hill (9/15, Savodnik) reports this morning "the anti-abortion-rights group Concerned Women for America (CWA) is applying pressure on…Specter…to back Supreme Court Chief Justice nominee John Roberts. 'When it comes time for the committee to vote, Chairman Specter's promise of fairness should lead him to the inescapable conclusion that it couldn't possibly be fair not to vote for this exceptionally qualified nominee,' said the CWA chief counsel, Jan LaRue."

Brownback Hopes Next High Court Nominee Will Have Track Record Of Opposition To Roe. Roll Call (9/15, Kane) reports, "Sen. Sam Brownback (R-Kan.) said Wednesday that he would like the next Supreme Court nominee to have a detailed track record opposing the Roe v. Wade decision, as opposed to the relatively limited record on abortion issues held by Judge John Roberts." While Brownback "expects to support Roberts as President Bush's pick for chief justice of the United States, he warned that he and many in the conservative movement would like the nominee to replace retiring Associate Justice Sandra Day O'Connor to have a clearer record of opposing abortion rights than Roberts."

More Commentary On Roberts Hearings. The New York Times (9/15) writes in an editorial, "Roberts's record, on the bench and off, puts him well to the right end of the ideological spectrum." The Times adds that "there's reason for concern. He did not say he agrees with Roe, for instance, only that it is entitled to deference. That is a truism: all of the court's decisions are entitled to such deference, but some are reversed anyway." Senate Democrats "have two goals. Before Mr. Roberts…becomes chief justice for life, they want to try to determine that he does not hold far-right views on important issues. … No less important, Senate Democrats are putting down markers for the next judicial battle. … By subjecting Judge Roberts to tough questioning, they are sending a message that if President Bush chooses a far-right nominee, he can expect a major fight."

Meanwhile, the Washington Post (9/15) editorializes, "The cumulative impression is of a cautious, incremental conservative, unlikely to unmask himself as a liberal once on the bench but unlikely as well to try to impose his own political agenda."

Morton Kondracke writes in Roll Call (9/15), "It's about as certain as anything that John Roberts will be the next chief justice of the United States, but it's anything but certain where he'll come out ideologically." Roberts "may be a conservative, but he's not a rigid, big-C conservative ideologue. And, assuming he's being honest, he's not going to be the activist hoped for by the right and feared by the left."

The Wall Street Journal (9/15) runs an editorial titled "Dean Of The Democrats," but "not Howard. The Dean whom Democrats have tapped to represent them at John Roberts's confirmation hearings this week is John W. Dean III, White House Counsel to President Nixon and one of the architects of the Watergate coverup. … This paragon of the law is now a columnist for FindLaw.com, where he has been writing articles opposing Mr. Roberts's confirmation. … In other words, the Democrats are using a man who will go down in history for facilitating a Presidential coverup to make the case for open government." Meanwhile, "they ignore six Solicitors General from several administrations, Democrat and Republican, who have said publicly that the Roberts documents are covered by attorney-client privilege and should be kept confidential. So: a bipartisan group of law-abiding SGs vs. a convicted felon and Watergate enabler? You make the call."

Bush Thanks Nations For Katrina Help, Links Terror Fight To Reducing Poverty.

President Bush yesterday spoke to the UN General Assembly, calling for reform of the international body, particularly its handling of human rights, and a stepped up effort to end poverty and defeat terrorism. The speech received coverage in major newspapers, local TV stations across the country

DOJ_NMG_ 0147744

and the network's evening newscasts. The most notable exception was CBS, which offered no coverage of Bush's remarks on the CBS Evening News.

With the speech covering a variety of topics, TV reports have no overarching theme. Most print stories, meanwhile, focus on what they describe as the President's "conciliatory" tone in addressing the UN. Most newspaper articles also note Bush's words linking the reduction of trade barriers to eliminating poverty and defeating terrorism. That theme was largely ignored by network news and local TV stations.

For example, ABC World News Tonight (9/14, story 4, 1:05, Vargas) reported, "Bush addressed the UN General Assembly and thanked the international community for helping victims of Katrina. Then he said the UN must work to reform itself, especially when it comes to human rights." Bush was shown saying, "When this great institution's member states choose notorious abusers of human rights to sit on the UN Human Rights Commission, they discredit a noble effort and undermine the credibility of the whole organization." Vargas: "These meetings bring together all sorts of strange bedfellows. The new President of Iran, Mahmoud Ahmadinejad, was there for President Bush's speech. And he addressed the assembly later in the day. The US accuses his country of trying to build nuclear weapons, and right after the Iranian president began speaking, the US delegation walked out."

Meanwhile, NBC Nightly News (9/14, story 7, 0:50, Williams) reported, "Bush called on world leaders at the United Nations to step up the global war on terrorism." Bush was shown saying, "The terrorists must know that wherever they go, they cannot escape justice. We must send a clear message to the rulers of outlaw regimes that sponsor terror and pursue weapons of mass murder -- you will not be allowed to threaten the peace and stability of the world." NBC also noted the President today "thanked the more than 100 nations -- including Iraq and North Korea -- that have offered help to the victims of Hurricane Katrina."

Likewise, local TV stations chose to emphasize different aspects of the President's remarks. However, the subject most mentioned by local news was terrorism. Typical of that kind of story was WTSP-TV Tampa (9/14, 12:13 p.m.), which reported, "The global war on terror is the main issue" in the speech. WCCO-TV Minneapolis (9/14, 12:06 p.m.) said, "Once again he called on the nations to put the terrorists on notice." WOIO-TV Cleveland (9/14, 12:09 p.m.) added Bush was addressing "a skeptical and silent audience"

A few stations mentioned that the President signed an agreement to suppress nuclear terrorism. KING-TV Seattle (9/14, 12:21 p.m.) reported, "President Bush signed a United Nations resolution to formally strengthen international steps to combat terrorism. It would mandate a global commitment to prosecute and extradite those who are not in accordance."

WEWS-TV Cleveland (9/14, 5:15 p.m.) and KATU-TV Portland, OR (9/14, 11:10 p.m.) also reported on the resolution.

Coverage of the President's thanking the world for its help with the aftermath of Hurricane Katrina did not receive quite as much coverage as the terrorism issue. A typical example is KPHO-TV Phoenix (9/14, 5:13 p.m.) which reported, "President Bush thanked all who had offered help to victims of Katrina. Then he got down to other business: terrorism." KPRC-TV Houston (9/14, 5:17 p.m.) also said, "Addressing the United Nations, President Bush thanks the countries around the world that sent help for victims of Hurricane Katrina. The president says that just as Americans have seen the awesome power of nature, they have also witnessed the greater power of human compassion."

The third most commonly mentioned issue was the President's call for support in Iraq. KMGH-TV Denver (9/14, 5:13 p.m.) said Bush "focused most of the speech on Iraq and warned of the problems they could face if the blueprint for a free Iraq fails." WAGA-TV Atlanta (9/14, 12:23 p.m.), WJW-TV Cleveland (9/14, 10:13 p.m.), and WFOR-TV Miami (9/14, 5:12 p.m.) ran almost identical reports.

Bush's call for lowering trade barriers received a lot less attention than the topics covered above. KING-TV Seattle (9/14, 12:20 p.m.), for example, reported, "Bush challenged the countries of the United Nations to eliminate trade barriers saying if they do, the United States would also." WAGA-TV Atlanta (9/14, 12:23 p.m.) said that he "made a major pitch for scrapping agricultural tariffs saying more open trade would be a boost to nations."

The Los Angeles Times (9/15, Farley, Vieth) says Bush "surprised delegates by reversing US stances on trade and development that had nearly scuttled weeks of negotiation on the reforms. 'To spread a vision of hope, the United States is determined to help nations that are struggling with poverty,' Bush said. 'We are committed to the Millennium Development Goals.'" Those goals "include cutting poverty and hunger in half, ensuring universal education and stemming the spread of AIDS by 2015." Reuters (9/15,

Bohan) adds trade "experts saw little chance of the pledge becoming a reality."

Under the headline "At UN, Bush Links War On Terrorism To Anti-Poverty Efforts," the Washington Post (9/15, Baker, Lynch) reports, "Bush's two-day visit here focused his attention back on world affairs at a time of domestic crisis along the Gulf Coast. Many of his counterparts expressed their sympathy following the death and devastation caused by Hurricane Katrina; more than 115 countries have offered assistance. " Bush's "rhetorical nod to international harmony contrasted with past visits by Bush to the United Nations that were marked by bitter disagreement over the war in Iraq. Since his reelection last year, Bush has worked to heal those wounds and has adopted a more multilateral approach to sensitive issues such as Iran's nuclear program." A second Washington Post story (9/15, Kessler) reports, "Bush's speech Wednesday lacked the confrontational tone of his previous addresses here, and he reached out for common goals and objectives." Bush "even lingered to participate for the first time in a session of the UN Security Council and then joined other world leaders for a meal."

A similar theme runs though a New York Times story (9/15, Sanger, Hoge) headlined "Bush Thanks World Leaders And Takes Conciliatory Tone." The Times reports Bush described himself as "the grateful leader of a superpower that in recent days has received emergency aid from nations around the world." The President "balanced his discussion of the need to chase down terrorists with his endorsement of a set of antipoverty objectives called the millennium development goals. … Rather than declare, as he had in the past, that countries had to choose to be 'with us or against us' in battling terrorists, Mr. Bush cast himself as the leader of one of many nations fighting the same plague."

Print media emphasizes that the President suggested a link between lowering trade barriers and ending terrorism. USA Today (9/15) reports, "Declaring that poverty breeds despair and terrorism, Bush challenged world leaders to abolish trade tariffs and subsidies to promote prosperity and opportunity in poor nations, a move that would be worth billions of dollars." The President is quoted saying, "There can be no safety in looking away or seeking the quiet life by ignoring the hardship and oppression of others. Either hope will spread, or violence will."

The Wall Street Journal (9/15, King Jr.) reports, "Bush traveled here with several aims. The US hopes to build support from China, Russia and other nations to bring Iran's nuclear program before the Security Council, and to keep up pressure on North Korea through the six-party talks under way in Beijing." Bush "and his aides also have used the gathering to push for other goals, such as health programs and trade."

Meanwhile, the Washington Times (9/15, Sammon) runs a story titled "Bush Hits UN Corruption," reporting the President "implored the United Nations to rid itself of corruption and scolded the global body for squandering the world's respect and making a mockery of human rights."

More Commentary On Bush's Speech. In an editorial, the Los Angeles Times (9/15) says that Bush "deserves credit for making foreign aid a priority in a country where African poverty seldom shows up on the political radar screen. Yet this has the effect of making the administration's truculence on the Millennium Development Goals all the more frustrating. The administration has not met its commitments, and the president has failed to live up to his own inspirational rhetoric. Until it has and he does, speeches like the one Bush delivered on Wednesday will continue to be seen as cynical political ploys."

The New York Times (9/15) writes in an editorial, "Yesterday, Mr. Bush declared: 'The United States is ready to eliminate all tariffs, subsidies and other barriers to free flow of goods and services as other nations do the same. This is key to overcoming poverty in the world's poorest nations.' These were exactly the right words, and we applaud them. Now, let's get to it. The world is waiting."

USA Today (9/15) editorializes, "Bush is following the path of many second-term presidents who show a better understanding of the way the world works after a steep foreign-policy learning curve. In the short run, the legacy of the administration's in-your-face approach during Bush's first term is that the United States faces an increasingly lonely task trying to extricate itself from Iraq during his second." However, "over time…Bush's new attitude toward international cooperation might help turn global opinion around."

In Prime Time Speech From New Orleans, Bush Will Vow To Rebuild Gulf Coast.

President Bush will address the nation tonight from New Orleans. In his remarks, the President is expected to pledge additional Federal help to rebuilt the areas ravaged by Katrina. Moreover, Bush will outline steps to incorporate what the Wall Street Journal (9/15, Wilke, Mullins) calls "a broad range of conservative economic and social policies" into the government's rebuilding effort. Some of those measures,

DOJ_NMG_ 0147746

adds the Journal, "are already taking shape. In the past week, the Bush administration has suspended some union-friendly rules that require federal contractors pay prevailing wages, moved to ease tariffs on Canadian lumber, and allowed more foreign sugar imports to calm rising sugar prices. Just yesterday, it waived some affirmative-action rules for employers with federal contracts in the Gulf region. Now, Republicans are working on legislation that would limit victims' right to sue, offer vouchers for displaced school children, lift some environment restrictions on new refineries and create tax-advantaged enterprise zones to maximize private-sector participation in recovery and reconstruction."

The Los Angeles Times (9/15, Hart, Hook) adds, "White House aides said President Bush's address to the nation tonight would call for reconstructing the Gulf Coast using conservative blueprints and private-sector initiatives. In preparing for his speech to be delivered from New Orleans, the president consulted widely with Republican leaders and conservative thinkers."

USA Today (9/15, Keen) reports that in his prime-time address tonight, President Bush "will tell the nation…that he's committed to rebuilding New Orleans and the Gulf Coast, while eliminating the poverty and joblessness that were exposed in the wake of Hurricane Katrina. Dan Bartlett, Bush's counselor, said the president will reflect on 'the horrific suffering' in the region and 'outline the beginnings of a vision of the future.'" Bush will speak from New Orleans and "pledge more federal help providing housing, health care and education to evacuees." The speech "is part of a White House plan to show the president's concern and commitment to the devastated region after criticism about initial slow responses by Bush and federal agencies. Bush's statement Tuesday that he takes responsibility for those problems was part of the plan."

The Washington Post (9/15, A1, Weisman, VandeHei) also reports Bush "will call tonight for an unprecedented federal commitment to rebuild New Orleans and other areas obliterated by Hurricane Katrina, putting the United States on pace to spend more in the next year on the storm's aftermath than it has over three years on the Iraq war, according to White House and congressional officials. With the federal tab for Katrina already nearly quadruple the cost of the country's previous most expensive natural disaster cleanup, Bush plans to offer federal assistance to help flood victims find jobs, get housing and health care, and attend school."

USA Today (9/15, Hall) writes, "More than 100 tractor-trailers packed with water, ice and other critical hurricane-relief supplies have been sitting at an Air Force base in Montgomery, Ala., for nearly a week while the federal government pays $600 a day for each truck." The "idle trucks," called up by FEMA "to deliver supplies, are just the latest example of the waste, bureaucratic errors and miscommunication that continue to foul Hurricane Katrina relief efforts." Rep. Mike Pence said Congress "should create a special inspector general for hurricane relief, similar to the position overseeing spending on Iraq reconstruction. 'It is imperative that those most in need receive assistance and that no resources are wasted,' Pence said."

Labor Department Earmarks $12 Million To Train Recovery Workers. CNN's The Situation Room (9/14, Blitzer) reported, "The Labor Department says it's earmarking $12 million for training Katrina recovery workers. The money is going on, going to continue in grants to Alabama, Mississippi, Louisiana and Texas. It will fund training in fields including construction, energy, transportation, and security."

Katrina Response Drives Down Bush Approval In Two New Polls. The Wall Street Journal (9/15, Harwood) reports that Hurricane Katrina "has accelerated the erosion in public support for the Iraq war as President Bush's core of supporters dwindles and economic pessimism turns Americans' attention inward. A new Wall Street Journal/NBC News Poll shows that cutting spending on Iraq is Americans' top choice for financing the recovery from Katrina. Shaken by high gas prices and bracing for further jolts, Americans have turned negative about Mr. Bush across the board -- on handling the economy, foreign policy, and even the war on terrorism." Bush's overall approval "has fallen to a record-low for Mr. Bush of 40%, reflecting a shrunken core of base supporters. That promises to have repercussions for his domestic agenda on issues like Social Security, taxes and immigration, and leaves Mr. Bush with a steeper challenge on his most significant second-term priority: using American power and resources to transform Iraq and the broader Middle East."

On the NBC Nightly News (9/14, story 8, 2:20, Williams), Washington bureau chief Tim Russert discussed the new NBC/WSJ poll, saying it showed "the lowest favorable rating in the five-year presidency of George Bush, 40% approval. And this haunting question: If the victims were white, would there have been a faster response? Two-thirds of whites disagree with that, but seven out of 10 blacks think that is the case -- a

DOJ_NMG_ 0147747

huge racial divide confronting this President and this country." Williams: "That's a worrisome number for the White House."

The New York Times (9/15, Purdum, Connelly) reports that a "summer of bad news from Iraq, high gasoline prices, economic unease and now the devastation" of Katrina has left Bush with "overall approval ratings for his job performance and handling of Iraq, foreign policy and the economy at or near the lowest levels of his presidency, according to the latest New York Times/CBS News Poll. For the first time, just half of Americans approve of Mr. Bush's handling of terrorism, which has been his most consistent strength since he scored 90 percent approval ratings in the aftermath of the Sept. 11 attacks. More than 6 in 10 now say that he does not share their priorities for the country, 10 percentage points worse than on the eve of his re-election last fall, while barely half say he has strong qualities of leadership, about the same as said so at the early low-ebb of his presidency in the summer of 2001." In the Times/CBS poll, "41 percent of respondents approved of Mr. Bush's performance in office, while 53 percent disapproved."

The AP (9/15, Press) reports that the Times/CBS poll also found that most Americans "say rebuilding New Orleans is more important to them than cutting taxes or changing Social Security. … Cutting taxes and changing Social Security were both priorities of the Bush administration before the storm."

Rice Touts Bush Efforts For Minorities. Secretary of State Condoleezza Rice in an interview on The O'Reilly Factor (9/14) was asked about President Bush's low public support from African Americans, particularly in Katrina's wake. Rice said, "Let me just say right here that this is a President who has not only cared about minority empowerment, not only cared about equal opportunity for minorities, but he's done more than any other president I can think of in recent memory." For example, "the standards for -- so that school children are actually reading at the grade level they're supposed to be at, No Child Left Behind."

More Commentary On Bush's Speech, Declaration Of Responsibility. In his Washington Post (9/15, A33) column, Richard Cohen writes, "As if in the grand tradition of presidents affirming that the buck stops where Truman said it did -- the Oval Office -- George Bush has taken responsibility for the shortcomings in the federal effort regarding Hurricane Katrina. I f he means what he said, then Katrina washed up a whole new George Bush. But a little skepticism is in order here. After all, the George Bush we have come to know sorely lacks a rearview mirror. … For Bush there is only today and tomorrow. Yesterday is someone else's responsibility."

The New York Times (9/15) editorializes, "When President Bush addresses the country from New Orleans tonight, he will have the opportunity to build on the good beginning he made earlier this week, when he took responsibility for the federal government's failures in responding to Hurricane Katrina. In an administration that has hated to acknowledge that it ever does anything wrong, it was refreshing to hear Mr. Bush freely admit that Katrina demonstrated that there is a question about whether the nation is really prepared to respond to a terrorist attack or another natural disaster. It is only by squarely acknowledging past failure that the country will be able to do better in the future."

The Wall Street Journal (9/15) editorializes, "President Bush addresses the nation on Hurricane Katrina tonight, and after keeping too quiet for too long there's a lot for him to say. We hope he tells Americans that such a demonstrable failure at all levels of government is a rare opportunity to change that government, not another excuse to expand it willy-nilly. … The political trauma that has followed Katrina is almost entirely a result of the slow, haphazard government response in the first days after the storm hit. Mayor Nagin had an evacuation plan sitting in a drawer but never got the buses in place to implement it. He then blamed everyone else. Louisiana Governor Kathleen Blanco froze amid the crisis and failed to deploy the National Guard properly to protect those stranded at the Convention Center and Superdome. She is still blaming everyone else. FEMA was overwhelmed by the magnitude of the storm, and former director Michael Brown showed he was clueless about events that he could see merely by turning on his TV set. Notably, he is the only public official so far to lose his job, just as Mr. Bush is the only elected official who has so far accepted any public 'responsibility.' Alas, tonight the President isn't likely to assail the Department of Homeland Security that he helped to create, but he at least ought to admit that federal and state disaster duties and communication need to be better sorted out. He could also praise the Pentagon's relief success."

Gonzales Appoints Katrina Internet Fraud Task Force. WHBQ-TV Memphis (9/14, 11:13 p.m.) reported, "Attorney general Alberto Gonzales has appointed a task force specifically to deal with on-line fraud from Hurricane Katrina."

DOJ_NMG_ 0147748

WOWT-TV Omaha (9/14, 5:23 p.m.) also covered this story.

Kentucky Women Charged With Katrina Aid Fraud. The Louisville Courier Journal (9/15, Davis) reports, "Three Louisville women have been charged with felony fraud, accused of trying to cheat the American Red Cross in Jeffersonville, Ind., out of hundreds of dollars in Hurricane Katrina aid. Red Cross officials said yesterday that they believe that the case is part of a pattern of deceit in Clark County, Ind., that may include at least seven other individuals and families. Some people who received Red Cross debit cards in Jeffersonville over the last two weeks have used them to shop at Victoria's Secret, Circuit City and other stores that are 'not typical' destinations for disaster victims, said Phyllis Wilkins, executive director of the agency's Clark County chapter." The Courier Journal notes, "Several measures are now being taken to combat thefts in Clark County. Police began stationing a uniformed officer at the chapter's disaster resource center yesterday, and Capt. Bruce Wilkerson of the Jeffersonville Police Department said names of applicants were being entered into a national crime database run by the FBI."

Scam Artists May Try To Cash In On Relief Efforts. CNN's Lou Dobbs Tonight (9/14, Dobbs) reported, "Rising concerns tonight that scam artists are trying to cash in on the huge relief effort for victims of Hurricane Katrina. Criminals are using fake web sites to steal money that millions of Americans want to send to the survivors of the victims. And prosecutors are concerned about possible fraud in reconstruction contracts, as well." CNN (Sylvester) added, "Federal investigators are looking at 2,100 questionable web sites, seeking Katrina relief services. About 60 percent of them are from overseas, a possible red flag. … Donors should check out charities before giving or stick with reputable agencies. … But charity scams are not the only type of fraud the government is worried about. When the hurricanes hit Florida last year, dozens of residents and businesses filed false government claims. Rent paid for those who didn't need it, funerals covered by the government, unrelated to the hurricanes. … Democrats are asking for an oversight commission to review how FEMA spends $60 billion in hurricane relief aid. The Department of Justice is establishing a task force of law enforcement officials to investigate Katrina related crimes, including Internet fraud, identity theft and false government claims."

Senate GOP Leaders Seek "Marshall Plan" For Region. Reuters (9/15, Kenen) reports that Senate Republican leaders urged Bush to "establish a 'Marshall Plan' for the recovery after Hurricane Katrina, similar to the massive post-World War II effort to rebuild western Europe. In a letter to Bush, Majority Leader Bill Frist and the rest of the Senate Republican leadership called for a 'Marshall Plan' to establish a 'coordinated and comprehensive plan to help the Gulf Coast region.' They did not spell out precisely what such a plan would entail, but lawmakers are beginning to consider ways of assembling a public-private partnership to redevelop the shattered region in the coming years."

Novak Says Coburn's Calls For Post-Katrina Government Sacrifice Fall On Deaf Ears. Syndicated columnist Robert Novak (9/15) writes this morning that Oklahoma Sen. Tom Coburn "is arguing that massive federal spending in the wake of Hurricane Katrina must entail some sacrifice. By that he meant the pork so dear to his colleagues." Coburn called OMB Director Joshua Bolten "to ask support for $15.3 billion in offsets based on the administration's own proposed terminations and spending reductions," but Bolten told Coburn "that the administration's hands were full dealing with Katrina's aftermath. Coburn told me he did not blame Bolten but his superiors. The superior he meant was George W. Bush." But Coburn's "problem is less Bolten or even Bush and more his Senate colleagues," whom threaten "to run wild with new earmarks and additional spending." Meanwhile, Novak notes, "In the House, one liberal Democrat after another has taken the floor to demand higher taxes in upper income brackets." Coburn "contends any government worker could find room to cut back spending in his own department before the federal leviathan demands more funds from any individual taxpayers. … As Coburn asserts, 'It is inexcusable for the White House and Congress to not even make the effort to find any offsets.'"

Fight Looming Over Control Of Gulf Coast Rebuilding Effort. The Wall Street Journal (9/15, A1, Calmes, Carrns, Opdyke) reports in a front page story that with "as much as $200 billion beginning to gush out of Washington for the Hurricane Katrina disaster zone, the fight already has begun over who will control the spending and make critical decisions about the future of New Orleans and the Gulf Coast." The battle is "shaping up around three key questions: Will state, local or federal officials have the final say about the shape of redevelopment? Will existing

DOJ_NMG_ 0147749

government bodies spend the reconstruction bonanza, or will some new agency be created for the job? And finally, will New Orleans be rebuilt as it was, or will some low-lying areas -- often poor, working class or predominantly African-American -- be sacrificed to improve flood protection?" Washington officials "from both parties are concluding the reconstruction job is so immense that it demands an entirely new government entity, perhaps similar to the Depression-era Tennessee Valley Authority." Deputy White House Chief of Staff Karl Rove "and other administration officials have begun soliciting names for the new organization's czar. Former General Electric Co. chief Jack Welch has been mentioned as a possible candidate, as have former Secretary of State Colin Powell and former New York Mayor Rudy Giuliani, though those two have detractors within the White House." But the "prospect of a big federal role is arousing suspicion and anger along the Gulf Coast, an area with long memories of a painful post-Civil War reconstruction and powerful suspicions of intrusions on states' rights and local autonomy."

Firms Awarded No-Bid Contracts Have Checkered Pasts. USA Today (9/15, McCoy) reports two of "the first companies that got emergency no-bid federal contracts for Hurricane Katrina recovery work have faced questions over past business practices, court and government records show." A division of Fluor, "a California firm awarded a housing contract worth up to $100 million, has paid millions of dollars to settle federal government lawsuits — including one that accused it of overbilling for 1989 hurricane cleanup work." The Shaw Group, a Louisiana firm "that won housing and engineering contracts worth up to $200 million, has disclosed that it is being investigated by the Securities and Exchange Commission. The firm is also a defendant in federal securities class-action cases." The contracts "were awarded by the U.S. Army Corps of Engineers and Federal Emergency Management Agency as part of a relief effort expected to top $100 billion."

Union Officials Resisting Suspension Of Davis-Bacon Act. The Hill (9/15, Schor) reports that among the "litany of regulations in line to be eased or suspended during the daunting rebuilding process on the Gulf Coast are several that have greatly alarmed labor unions, whose furious lobbying efforts are hitting a brick wall of conservative might." Union officials are "concerned that President Bush's Sept. 8 suspension of the Davis-Bacon Act, which requires federal contractors to pay construction workers a prevailing wage, was only the beginning. Further hurting the union cause is GOP lawmakers' support for broad bureaucratic relaxation in the Labor Department, a push rooted in the long-standing bad blood between unions and Republican think tanks." The "presidents of LIUNA, the carpenters union and the engineers union wrote to Senate Majority Leader Bill Frist (R-Tenn.) and House Speaker Dennis Hastert (R-Ill.) yesterday decrying the Davis-Bacon suspension."

Officials Urged To Reshape New Orleans. In a USA Today (9/15), Alcestis "Cooky" Oberg says, "We have a historic opportunity to rebuild New Orleans better, safer — to change its shape, the location of its neighborhoods, even its topography. It's all been done before." The "greatest natural disaster to hit the USA — and the only one comparable to Katrina in the scope of its destruction — was the 1900 storm that devastated Galveston, Texas. Between 6,000 and 12,000 people died and, afterward, 75 looters had to be shot dead before law and order could be restored. Every Galvestonian knew that some places never come back from a storm like that." The project "took eight years and was financed by bonds underwritten by Galveston itself, along with tax relief from the state. When another monster hurricane came, in 1915, the city was ready: Only eight people died, and damage was relatively limited. The 1900 storm was a historic opportunity to change Galveston's vulnerability to hurricanes forever with an engineering project so vast, it was breathtaking. Such an opportunity now exists for New Orleans."

Documents Suggest Chertoff Had Authority To Authorize Early Response. Knight Ridder (9/15, Landay, Young, McCaffrey) reports, "The federal official with the power to mobilize a massive federal response to Hurricane Katrina was Homeland Security Secretary Michael Chertoff, not the former FEMA chief who was relieved of his duties and resigned earlier this week, federal documents reviewed by Knight Ridder show. Even before the storm struck the Gulf Coast, Chertoff could have ordered federal agencies into action without any request from state or local officials." Brown "had only limited authority to do so until about 36 hours after the storm hit, when Chertoff designated him as the 'principal federal official' in charge of the storm." As "thousands of hurricane victims went without food, water and shelter in the days after Katrina's early morning Aug. 29 landfall, critics assailed Brown for being responsible for delays that might have cost hundreds of lives. But Chertoff -- not Brown -- was in charge of managing the national

DOJ_NMG_ 0147750

response to a catastrophic disaster, according to the National Response Plan, the federal government's blueprint for how agencies will handle major natural disasters or terrorist incidents."

Chertoff "Right In The Middle" As FEMA Scrutinized. CNN's The Situation Room (9/14, Blitzer) reported, "The finger-pointing continuing even after FEMA Director Mike Brown took the fall a few days ago. Homeland Security Secretary Michael Chertoff was Brown's boss, and now is coming under fire for his scrutiny and for his involvement." CNN (Foreman) added, "They are very unhappy at Homeland Security today. That's what's going on right now. … Chertoff is the head of Homeland Security. They are in charge of FEMA. The President has now said he takes the blame for what went wrong. Michael Brown at FEMA has now lost his job for what went wrong. And right in the middle is Michael Chertoff."

Brown Says He Stressed Katrina Urgency, Blames Blanco For Delays. The New York Times (9/15, A1, Kirkpatrick, Shane) reports," Hours after Hurricane Katrina passed New Orleans on Aug. 29, as the scale of the catastrophe became clear, Michael D. Brown recalls, he placed frantic calls to his boss," DHS Secretary Michael Chertoff, "and to the office of the White House chief of staff, Andrew H. Card Jr." Brown, then head of FEMA, "said he told the officials in Washington that the Louisiana governor, Kathleen Babineaux Blanco, and her staff were proving incapable of organizing a coherent state effort and that his field officers in the city were reporting an 'out of control' situation. 'I am having a horrible time,' Mr. Brown said he told Mr. Chertoff and a White House official - either Mr. Card or his deputy, Joe Hagin -- in a status report that evening. 'I can't get a unified command established.'" In his "first extensive interview since resigning as FEMA director on Monday under intense criticism, Mr. Brown declined to blame President Bush or the White House for his removal or for the flawed response." Instead, he "focused much of his criticism on Governor Blanco, contrasting what he described as her confused response with far more agile mobilizations in Mississippi and Alabama, as well as in Florida during last year's hurricanes. But Mr. Brown's account, in which he described making 'a blur of calls' all week to Mr. Chertoff, Mr. Card and Mr. Hagin, suggested that Mr. Bush, or at least his top aides, were informed early and repeatedly by the top federal official at the scene that state and local authorities were overwhelmed and that the overall response was going badly." However, a "senior administration official said Wednesday night that White House officials recalled the conversations with Mr. Brown but did not believe they had the urgency or desperation he described in the interview."

CNN's Lou Dobbs Tonight (9/14, Henry) reported, "Democrats have acted surprised and outraged that the President's FEMA director had next to no experience. … But Democrats were running the Senate when Brown was easily confirmed as FEMA's deputy director in June 2002. The Democrat in charge of the confirmation hearing, Joe Lieberman, declared he would support Brown because of his, quote, 'extensive management experience.'"

Blanco Accepts "Full Responsibility." USA Today (9/15, 3A) reports Blanco "admitted 'failures at every level of government" in the response to Hurricane Katrina on Wednesday. New Orleans Mayor Ray Nagin also conceded missteps." In an "evening address to a special meeting of the state Legislature in Baton Rouge, Blanco said she shouldered blame for her state's situation." Blanco said, "The buck stops here, and as your governor, I take full responsibility." Nagin "also struck a more conciliatory note. 'We could have all done things better,' Nagin said."

The Washington Times/AP (9/15, Deslatte) reports Blanco "took responsibility for failures and missteps in the immediate response to Hurricane Katrina and pledged a united effort to rebuild areas ravaged by the storm." Her statement "came a day after President Bush said he would 'take responsibility' for federal failures in dealing with Katrina."

Senate Opens Hearings On Future Role Of FEMA. The Wall Street Journal (9/15, Block) reports that Congress "opened hearings yesterday to figure out what went wrong in the immediate response to Hurricane Katrina and resolve the question of what is to become" of FEMA, an agency that "has become synonymous with the government's bungled response to the hurricane, with a number of politicians saying part of the problem is that the agency is no longer cabinet-level but rather a small cog in the mammoth Department of Homeland Security." Prominent Democrats including Sen. Hillary Clinton "have proposed bills that would make FEMA an independent agency -- a move enthusiastically endorsed by several state emergency managers, who are effectively FEMA's 'clients.'" But the hearings "showed that such a move has far from unanimous backing in the Senate." Senate Homeland Security

DOJ_NMG_ 0147751

Chairwoman Susan Collins said she "would explore the idea but cautioned her colleagues against making any hasty moves." Collins said, "My inclination is that FEMA should be part of the Department of Homeland Security."

Paulison Shaking Up FEMA Personnel. The CBS Evening News (9/14, story 3, 0:20, Schieffer) reported, "More heads will apparently roll at FEMA. Administration sources say the new director, David Paulison, plans a series of changes and reassignments in the coming days."

Economist Says Congress Should "Sharpen" FEMA Mission. In a New York Times (9/15) "Economic Scene" column, Princeton economist Alan B. Krueger writes, "Although declaring a disaster should be clear-cut and above politics, the legislation that governs FEMA gives the president much discretion to decide whether an event is a disaster that qualifies for assistance. Upon receiving a request by a state's governor, the president may declare a 'major disaster' if a natural catastrophe 'causes damage of sufficient severity and magnitude to warrant major disaster assistance.' … When Congress turns to evaluating the Hurricane Katrina disaster, it should also consider sharpening FEMA's mission. One helpful step would be to define more precisely the requirements necessary for the president to declare a disaster."

Lawmakers To Visit Gulf Coast Friday. CNN's Anderson Cooper 360 Degrees (9/14, Cooper) reported, "Congressional lawmakers are planning to get their own firsthand look at the devastation. Today Senate Majority Leader Bill Frist and Democratic Leader Harry Reid announced they will lead a 14-member congressional delegation to the Gulf coast on Friday."

Columnist Sees Methodist Hospital Debacle As Example Of FEMA Failures. In his New York Times (9/15) column, Bob Herbert writes that the patients and staff at Methodist Hospital in New Orleans "could have been evacuated before Hurricane Katrina hit. But instead they were condemned to several days of fear and agony by bad decision-making in Louisiana and the chaotic ineptitude of the Federal Emergency Management Agency. Some of the patients died. Incredibly, when the out-of-state corporate owners of the hospital responded to the flooding by sending emergency relief supplies, they were confiscated at the airport by FEMA and sent elsewhere. … Everybody's suffering would have been eased if the emergency relief effort mounted by the hospital's owner…had not been interfered with by FEMA. … When you consider that the Methodist Hospital experience was just one small part of the New Orleans catastrophe, you get a sense of the size of the societal failure that we allowed to happen. Welcome to the United States in 2005."

Senate Rejects Independent Katrina Investigation. The Washington Post (9/15, A15, Hsu, White) reports the Senate "voted along party lines yesterday to reject creation of an independent panel to investigate the government's fumbling response to Hurricane Katrina." The proposal, from Sen. Hillary Rodham Clinton (D-N.Y.), "would have established a panel similar to the one that examined the Sept. 11, 2001, terrorist attacks. The partisan wrangling came amid rising calls from members of both parties to change how the nation manages major disasters." The House and Senate GOP leadership plan "to form a joint congressional investigative committee with a Republican majority. A House vote is scheduled for today. Democrats oppose the move." The stalemate "over the makeup of the panel muted the first hearing in Congress into the Katrina response led by the Senate Committee for Homeland Security and Governmental Affairs."

The Hill (9/15, Hearn, O'Connor) reports Republicans and Democrats "remained in a partisan deadlock yesterday as they prepared for a floor vote to determine how to investigate the bungled response to Hurricane Katrina." Republican House leaders "plan to bring their proposal to the floor today, despite Democratic opposition, and pass it in a largely party-line vote." The proposal "would set up a 20-member committee consisting of 11 Republicans and nine Democrats on the House side, according to a draft of the resolution. The minority will be extended the ability to call for extra witnesses at hearings. A budget of $500,000 will be provided through the House Administration Committee." Both parties "face potential political fallout from the bitter standoff. Democrats could face charges of partisanship for failing to go along with the Republicans' joint panel, a type of committee that has been used dozens of times in recent decades to investigate different administrations, including the Iran-Contra scandal, Republicans argue." Democrats "counter that the circumstances were different during the 1980s because Democrats controlled Congress and were investigating a Republican administration."

The Washington Times/AP (9/15) reports Sen. Clinton's "bid to establish the panel -- which also would have made recommendations on how to improve the government's

DOJ_NMG_ 0147752

disaster-response apparatus -- failed to win the two-thirds majority needed to overcome procedural hurdles." But the Senate vote "likely won't be the last word on whether to create an independent commission or, as an alternative, a special congressional committee to investigate the Katrina response. A CNN/USA Today/Gallup poll taken last Thursday through Sunday found that 70 percent of those surveyed supported an independent panel to investigate the government's response to Katrina."

Katrina Survivors Now Negotiating Maze Of Federal Assistance Bureaucracy. The Washington Post (9/15, D1, Alexander, Henderson) reports, "First they had to ride out a howling storm. Then find shelter. Then food and water. Now, the thousands of families driven from their homes by Hurricane Katrina face the daunting challenge of applying for financial assistance under a dizzying mix of government programs." The Congressional Budget Office "has estimated that the storm wiped out about as many as 400,000 jobs in Louisiana, Mississippi and Alabama, prompting a surge in new claims for unemployment insurance benefits." Many of those impacted are "newly eligible for food stamps, Medicaid, housing assistance, subsidized school lunches, emergency cash assistance" from FEMA, "and other programs. But many have never received such benefits and will have to navigate through multiple government agencies to find out if they qualify and how to apply."

FEMA Organizing Trailer Complexes For Katrina Evacuees. The CBS Evening News (9/14, story 10, 2:50, Schieffer) reported, "FEMA estimated today that the number of people living in shelters after Hurricane Katrina is 112,000. Many of them may be moved to trailers FEMA is setting up with your tax dollars." CBS (Attkisson) added, "As many as 300,000 trailers will eventually be set up in cities of trailers where evacuees can live for up to five years. … In fairness to FEMA, it's not an easy process. Nothing on this scale has ever been attempted before."

Kolbe Seeks Appointment Of IG To Oversee Katrina Relief Funding Efforts. The Washington Times (9/15, McCaslin) reports in its "Inside The Beltway" column that Rep. Jim Kolbe has introduced the "Special Inspector General for Hurricane Katrina Recovery Act of 2005," seeking "to appoint an independent inspector general to oversee continued funding efforts. Rep. Jeb Hensarling, Texas Republican, agrees that Capitol Hill 'must do everything necessary' to help Katrina's victims, but stresses 'Congress must also use its head.' Which means, he says, that 'Congress cannot continue to fund projects like the $800,000 outhouse, $1.2 million for panda research or the $1 million rain forest in Iowa.'"

9/11 Panelists Criticize Federal Response To Katrina. ABC World News Tonight (9/14, story 8, :25, Vargas) reported, "In Washington today, former members of the 9/11 Commission issued a report, saying the government is still not ready for a catastrophic event and failed to make reforms that could have saved lives during Katrina. The report says local emergency officials still can't reliably communicate with each other, the government has no clear system of command and control in a crisis, and that border controls have not been enacted."

The Wall Street Journal (9/15, Paltrow) reports that former New Jersey Gov. Tom Kean, who chaired the panel, "said many of the steps should have been taken immediately after the 2001 attacks. He also said quick implementation of certain commission recommendations issued more than a year ago 'could have saved peoples' lives' in New Orleans.'

The New York Times (9/15, Shenon) adds, "John F. Lehman, a Republican on the panel who was a Navy secretary in the Reagan administration, said he feared that the 'unconscionable' failures of the rescue effort along the Gulf Coast would embolden terrorist groups to attack again on American soil, making quick adoption of the commission's year-old recommendations all the more important."

The Christian Science Monitor (9/15, Cook) reports on a recent "Monitor Breakfast" with Kean and 9/11 Commission Vice Chairman Lee Hamilton. The Monitor says Katrina "has altered Mr. Hamilton's assessment of overall security. 'We often said during...the 9/11 hearings that we were safer but not safe,' he said. 'What struck me after Katrina was that we were not as safe as I thought we were.' Two reforms are vital in the post-Katrina world, they argue. One is to make clear who is in charge at the federal level during emergencies. The other, they say, is to require every state to adopt a detailed command-and-control plan for disasters - and link it to receiving funding from the US Department of Homeland Security. 'It was obvious that nobody knew who was in charge when Katrina struck. We had the same problem on 9/11,' Kean said. 'If you don't have a unified command structure with somebody in charge and somebody following through ... it is going to cost lives.'"

DOJ_NMG_ 0147753

Officials Announce Plan To Repopulate New Orleans. Thousands of New Orleans residents could return to their homes as early as Monday. The Washington Post (9/15, A14, Whoriskey) reports that "city and federal authorities have set out an accelerated plan to repopulate the city, reversing earlier estimates that the metropolis could be closed for months. The plan would reopen a portion of New Orleans that was home to about 170,000 people, or one-third of the city's population, federal officials said, and be rolled out over the next two weeks." The Post adds, "The reentry plan would unfold by Zip code, depending on which section gets power and water utilities online, and how quickly hospital and emergency services can be restored. It involves portions of New Orleans that largely were unflooded: downtown, the French Quarter, Uptown and Algiers."

The Washington Post (9/15, A14, Vedantam) reports on New Orleans evacuees, noting that their stories "illustrate the game of chance that the resettlement effort is for so many victims of Katrina. Evacuees enter the relief roulette wheel with little idea whether they will emerge in a dreary shelter or in the cool air of the Ozark Mountains."

CNN's Anderson Cooper 360 Degrees (9/14, Lavendera) reported, "New Orleans Mayor Ray Nagin has seen the signs that his wish, to get his city up and running, is one step closer to coming true. Three of the city's suburbs, Westwego, Lafitte and Gretna reopened for business today."

EPA Says New Orleans Cleanup Will Require Razing Neighborhoods. The Washington Times (9/15, Price) reports, "Environmental Protection Agency officials and environmental specialists said yesterday that the cleanup of flood-soaked New Orleans will require razing neighborhoods, comprehensive disinfection, and extensive removal of soil and sediment infused with chemicals and bacteria. … EPA Administrator Stephen L. Johnson said tests continue to show high, unsafe levels of sewage and lead in New Orleans' water and evidence of other chemicals, such as chromium, copper, iron and sodium. He characterized Hurricane Katrina as the 'largest natural disaster the EPA and the nation have ever faced.'"

Rescue Effort Scaled Back. Fox News' Special Report (9/14, Hume) reported, "The rescue portion of the search and rescue effort is being scaled back." Fox (Keeting) added, "Essentially in New Orleans as well as the surrounding parishes they are as evacuated at this point as they are going to be. No more helicopter search and rescue operations. Only 30 people rescued yesterday, so those helicopters now can be better used."

New Orleans Could Be Ready For Tourists By New Year. USA Today (9/15, Sloan) says Stephen Perry, president of the New Orleans Metropolitan Convention & Visitors Bureau said that while "it could be years before some residential areas bounce back from Hurricane Katrina… tourist areas will be ready for visitors far, far sooner. … Half a dozen hotels, including the Sheraton, Hyatt, Hilton and W, already have reopened, and an additional 35 to 40 will be open by the end of next week, Perry says. For now, they house relief workers, government officials and journalists. But the city's power brokers hope to have them ready for tourists by New Year's. Already there are plans for a scaled-down version of Mardi Gras in February."

Real Estate Speculators Buying New Orleans Properties On The Cheap. Hurricane Katrina has made New Orleans' "vibrant" real estate market "hotter," reports the Los Angeles Times (9/15, Streitfeld). The Times adds, "Large sections of the city are under water, but that's only increasing the demand for dry houses. And in flooded areas, speculators are trying to buy properties on the cheap, hoping that the redevelopment of New Orleans will start a boom. This land rush has long-term implications in a city where many of the poorest residents were flooded out. It raises the question of what sort of housing -- if any -- will be available to those without a six-figure salary. If New Orleans ends up a high-priced enclave, without a mix of cultures, races and incomes, something vital may be lost."

Scam Artists May Try To Cash In On Relief Efforts. CNN's Lou Dobbs Tonight (9/14, Dobbs) reported, "Rising concerns tonight that scam artists are trying to cash in on the huge relief effort for victims of Hurricane Katrina. Criminals are using fake web sites to steal money that millions of Americans want to send to the survivors of the victims. And prosecutors are concerned about possible fraud in reconstruction contracts, as well." CNN (Sylvester) added, "Federal investigators are looking at 2,100 questionable web sites, seeking Katrina relief services. About 60 percent of them are from overseas, a possible red flag. … Donors should check out charities before giving or stick with reputable agencies. … But charity scams are not the only type of fraud the government is worried about. When the hurricanes hit Florida last year, dozens of residents and businesses filed false government claims. Rent paid for those who didn't need it, funerals covered by the government,

unrelated to the hurricanes. … Democrats are asking for an oversight commission to review how FEMA spends $60 billion in hurricane relief aid. The Department of Justice is establishing a task force of law enforcement officials to investigate Katrina related crimes, including Internet fraud, identity theft and false government claims."

Mail Service Resumes At 80% Of Affected Post Offices. NBC Nightly News (9/14, story 4, 0:10, Williams) reported, "Then there is the mail service. The Postmaster General said today at more than 80% of the post offices affected by the storm, service has resumed."

German Government Team Helping With Cleanup. The Washington Times (9/15, Doolittle) reports on the "90 men and women sent by the German government to drain flood water from" New Orleans. The team of Germans, "volunteers with Technisches Hilfswerk, a German disaster-relief organization, arrived Friday at Belle Chasse Naval Air Base with 15 pumps that can move almost 6 million gallons of water a day." The Times adds, "The German team is just one of many on hand to clean up and to protect those doing the work. The special-response teams of the D.C.-based Immigration Customs Enforcement patrol outside the Superdome, which was a major evacuation center for tens of thousands, while crews inside clear broken bottles, water-soaked plaster, rotting trash and other messes."

Death Toll In Louisiana Rises To 423. NBC Nightly News (9/14, lead story, 3:00, Savidge) reported, "The death toll in Louisiana, 423 at last report, is nowhere near the 10,000 predicted, but all day recovery teams have been pulling bodies out of attics, basements, and mud. It's slow work, too slow, says state coroner, Dr. Louis Cataldie." Some "recovery sites are also potential crime scenes. 34 patients died in this nursing home, the husband and wife owners charged with homicide for not evacuating them." Authorities are "investigating other cases, like the more than 40 bodies left behind in New Orleans' Memorial Medical Center. The question for weeks ahead, was the disaster that killed the ones left behind natural or manmade? The couple that owns that nursing home, in their defense, said that it would have been too dangerous to move their elderly patients before the storm and that they rode out the storm with them, saving two dozen, even though 34 others died."

ABC World News Tonight (9/14, story 7, :20, Vargas) reported, "The owners of that nursing home were 35 people drowned said they were afraid if they moved their patients, some would die. According to their lawyer, they stayed during the hurricane and tried to rescue as many as they could. They've been charged with negligent homicide in the first attempt to hold people criminally responsible for what happened during the hurricane."

More Nursing Home Deaths Reported. The New York Times (9/15, Rohde, Dewan) reports that "a day after Louisiana officials charged the owners of a nursing home in the deaths of 34 patients there, the owners of two other nursing homes confirmed yesterday that an additional 13 patients died in their homes in the aftermath of Hurricane Katrina. State officials also said they were investigating the deaths of 14 patients at yet another nursing home in New Orleans. The new reports suggest that at least 61 patients died in four New Orleans-area nursing homes after their operators ignored a mandatory evacuation order a day before Hurricane Katrina hit."

911 Tapes Provide "Harrowing Window" Into Katrina Flooding. ABC World News Tonight (9/14, story 5, 2:20, Vargas) reported the "911 tapes of people seeking rescue from the flood waters provide a harrowing window into the disaster. A glimpse of what it was like for the victims and the police."

Louisiana AG Examining Evacuation Procedures Of Hospitals, Nursing Homes. CNN's Lou Dobbs Tonight (9/14, Feyerick) reported, "The attorney general for Louisiana investigating whether hospitals and nursing homes followed evacuation procedures and did everything they could to get patients to safety before the hurricane hit. 45 people were found dead at Memorial Hospital in New Orleans. Staff there without power, food, or water during the entire storm and days after. Yesterday, the owners of a nursing home were charged with 34 counts of negligent homicide after residents there were left to drown."

Military, Law Enforcement Describe Chaos In New Orleans Convention Center. The Washington Post (9/15, Haygood, Tyson) reports, "For five eternal-seeming days, as many as 20,000 people, most of them black, waited to be rescued, not just from the floodwaters of Hurricane Katrina but from the nightmarish place where they had sought refuge," the Ernest N. Morial Convention Center in New Orleans. The Post adds that "what happened in the convention center stands as a harsh indictment of government's failure to help its citizens when

they needed it most. That futility was symbolized by the presence in the convention center for three of the most chaotic days of at least 250 armed troops from the Louisiana National Guard. … In more than 70 interviews, with both military and law enforcement officials -- who were themselves sometimes inside the center -- and with many of the survivors who suffered over the course of several nights, a chilling portrait emerges of anarchy and violence, exacerbated by young men from rival housing projects."

Number Of Katrina Evacuees In Houston Astrodome Down To 1,000. NBC Nightly News (9/14, story 3, 0:30, Williams) reported, "At the Houston Astrodome, 10 days ago, there were more than 17,000 evacuees getting shelter there. Today, just over 1,000 people remain. Officials say the rest have now moved on to more permanent shelters or housing. Those still at the Astrodome are getting assistance to do the same."

Utah Proves Great Contrast For Many New Orleans Evacuees. ABC World News Tonight (9/14, story 10, 2:25, Avila) reported, "More than 600 displaced Katrina victims were flown to Utah, a state so very different than Louisiana." One evacuee "said it's like being a fly in a bowl of milk. New Orleans is 67% African American, here it is less than 2%. Beyond the culture shock there is a difference between as Salt Lake City and New Orleans that is to the advantage of the evacuees. And that is opportunity. Black unemployment is half that of New Orleans. There has already been a job fair for the evacuees."

Officials Will Make Flu Vaccines Available To Hurricane Evacuees. The Wall Street Journal/AP (9/15) reports, "Federal health officials are pressing forward with plans to ensure flu vaccinations for hurricane evacuees in shelters as well as all people in nursing homes, populations they say are particularly at risk for catching the illness while living in tight quarters. Julie L. Gerberding, director of the Centers for Disease Control and Prevention, said Wednesday that elderly evacuees, as well as those of all ages at shelters, will be among the first to receive flu shots this fall. Manufacturer Sanofi-Pasteur is making 200,000 of the first flu shots available to those evacuees. … Federal stocks of all vaccines are being made available to children who are evacuees, Dr. Gerberding said."

USA Today (9/15, Szabo) reports, "Although the vaccine supply should be ample this year, with 71 million to 97 million doses, the Centers for Disease Control and Prevention expects some shots to be delayed."

USED Officials Visit Districts Schooling Evacuees. The Dallas Morning News (9/15, Hobbs) reports, "One thing is obvious at Madison High School in South Dallas. Students who evacuated here because of Hurricane Katrina appreciate Texas. U.S. Department of Education Assistant Secretary Tom Luce, Texas Education Commissioner Shirley Neeley, Dallas Superintendent Michael Hinojosa and Dallas trustee Ron Price toured the school on Wednesday and were thanked profusely by some students."

The San Antonio Express-News (TX) (9/15, LaCoste-Caputo) reports, "San Antonio school leaders concerned about the ramifications of taking in nearly 1,400 new students escaping the aftermath of Hurricane Katrina will have the chance to voice their worries and ask for help today. Ray Simon, deputy secretary for the U.S. Education Department, will visit San Antonio today to meet with superintendents and visit schools."

Louisiana Officials Postpone Local Elections. Local elections in Louisiana scheduled for October 15 have been postponed. The Washington Times (9/15, Hudson) reports that officials made the decision "citing a lack of equipment and manpower." The cancellation "affects judicial candidates, a school board race and one council seat in the parishes of Orleans and Jefferson, special propositions for tax increases for security patrols in two neighborhoods, and a 'beautification, security and overall betterment' tax increase in eastern New Orleans. According to Louisiana law, an office holder remains at his or her post until a successor is sworn into office."

Lloyd's Says Its Katrina Claims Could Reach $2.55 Billion. Lloyd's of London has estimated that claims stemming from Hurricane Katrina could cost it a net $2.55 billion. The Wall Street Journal (9/15, Fleming) says, "Lloyd's estimate of its losses makes Katrina the second-most-expensive single disaster ever in nominal terms for the Lloyd's insurance market, whose members paid out about $3.5 billion for the World Trade Center terrorist attacks in New York in 2001. It also tops all other insurance groups' estimates of their individual exposure to Katrina claims so far.

DOJ_NMG_ 0147756

Lloyd's functions as a marketplace for syndicates that underwrite insurance policies."

Many Gulf Coast Homeowners Did Not Have Flood Insurance. The CBS Evening News (9/14, story 4, 2:20, Schieffer) reported, "Insurance companies are expected to pay tens of billions of dollars in claims, but some homeowners are having their claims denied." CBS (Whitaker) added, People here on the Gulf Coast are facing an ugly surprise: When it comes to hurricanes, most homeowner policies cover damage from wind only, not water. So most of this, caused by Katrina's unprecedented tidal surge -- not covered. In fact, almost 80% of homeowners in Mississippi and Alabama don't have the separate Federal flood insurance that would have covered losses like this." Katrina "certainly will trigger the biggest insurance payout in US history by far, as much as $60 billion, three times more than Hurricane Andrew."

Mississippi AG May Sue Insurers. Mississippi Attorney General Jim Hood is considering filing suit against insurers to force them to pay flood damage from Hurricane Katrina, seeking to override exclusions in standard homeowners' policies. The Wall Street Journal (9/15, Francis) reports that damage "could total billions of dollars." Hood's examination of legal moves "comes as tens of thousands of Mississippi homeowners are grappling with the cost of rebuilding homes that in many cases were badly damaged by the huge storm surge that accompanied the category-four hurricane's strong winds. Mr. Hood and a spokesman for his office couldn't be reached for comment late yesterday."

North Carolina Braces For Hurricane Ophelia. USA Today (9/15, Brook) reports that Hurricane Ophelia was about 20 miles south-southeast of Cape Lookout, North Carolina at 11:00 p.m. Wednesday evening. Ophelia "had maximum sustained winds of 85 mph, making it a Category 1 hurricane on the five-stage scale." USA adds, "North Carolina Gov. Mike Easley warned people not to be complacent. Tourists were told to leave the popular beaches of the Outer Banks. Residents of some low-lying areas were evacuated." FEMA "said it was doing nothing different than normal."

The Los Angeles Times/AP (9/15) reports that Ophelia "lashed the North Carolina coast with high winds and heavy rains Wednesday, beginning an anticipated two-day assault that threatened serious flooding and an 11-foot storm surge. … Ophelia was moving so slowly -- just 7 mph Wednesday night -- that authorities expected the storm's passage through North Carolina to take 48 hours from the start of rainfall on the southeastern coast Tuesday afternoon to the storm's anticipated exit into the Atlantic late Thursday."

The New York Times (9/15, Desantis) adds, "Officials said that voluntary evacuations went smoothly and that by 3 p.m. Wednesday, 519 people had taken refuge in shelters. Residents and officials alike said the cataclysmic effects of Hurricane Katrina on New Orleans and the Gulf Coast had made little difference in how they responded to the storm.'

However, a front page story in the Washington Post (9/15, A1, Cooperman) says "federal, state and local officials were taking no chances of a repeat of the sluggish response to Hurricane Katrina. Here on Hatteras Island, which was expected to bear the worst of the storm, emergency officials stockpiled enough water and military rations to last 3,000 people for three days. The National Guard was standing by with all-terrain vehicles and four-wheel-drive ambulances. The National Forest Service had 10 chain-saw teams ready to remove fallen trees. Gov. Mike Easley (D) urged residents of low-lying coastal areas to evacuate. … But despite a 'mandatory' evacuation order -- which state officials acknowledged was not really mandatory at all -- many residents stayed behind on Hatteras and neighboring islands along the Outer Banks."

ABC World News Tonight (9/14, story 6, 1:25, Vargas) said, "Emergency management officials are taking no chances this time." Among those "in the area are victims of the Hurricane Katrina. They are now living through their second hurricane in a month."

The CBS Evening News (9/14, story 2, 2:00, Schieffer) reported, "Officials are determined to get this one right." CBS (Bowers) added, "Anxious to avoid another disastrous response like with Katrina, the National Guard and FEMA have already been called out." NBC Nightly News (9/14, story 5, 1:15, Kosinski) reported, "The biggest problem you get with a storm that just won't go away like this is significant flooding. Already we're seeing several feet of standing water in this area." NBC Nightly News (9/14, story 12, 2:00, Potter) reported on Geraldine Sanders, who with "most of her extended family fled New Orleans and Hurricane Katrina and headed for North Carolina, only to run into Ophelia."

Katrina Renews Scrutiny Of Superfund. The Christian Science Monitor (9/15, Knickerbocker) reports that

DOJ_NMG_ 0147757

as floodwaters in New Orleans and other parts of the Gulf Coast recede, they "are exposing hazardous chemicals and other dangerous waste. But they're also revealing the accomplishments - and the limits - of government programs designed to clean up such pollution. Among the concerns: That natural disasters such as earthquakes and hurricanes haven't been adequately considered in fashioning safe and secure remedies; that areas tainted by toxic waste, such as rivers in the East and old mines in the West, are becoming larger and more complex; that many newly closed military bases will require considerable cleanup before they're ready for private or local government use; and that federal funding is falling behind the need. The main program here is a bureaucratic mouthful: the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund. … Congress and the Bush administration are sure to address hazardous waste cleanup as part of the massive federal response to Katrina. But they're also faced with renewed scrutiny of the whole Superfund program. The industry tax fund ran out of money when Congress refused to renew it in 1995."

The New York Times (9/15, Barringer, Janofsky) says the EPA "is struggling to determine what the worst hazards are, where they are and what can be done about them, the agency's administrator said Wednesday. The difficulties could cast doubt on plans of the New Orleans mayor and other city officials to reopen drier neighborhoods within days. … At a Congressional briefing and at a separate news conference, the E.P.A. administrator, Stephen L. Johnson, described for the first time the wide variety of problems the agency was confronting, including the difficulty of determining the extent and toxicity of the sludge left by the floodwaters. Mr. Johnson said the agency was using aircraft to test for air pollution and taking daily samples of floodwaters and the sludge. The sampling is concentrated in residential areas. The agency has not completed or released details about specific strategies and the scientific protocols it is using as it tries to analyze the hazards posed by what Mr. Johnson called 'the largest national disaster that we at E.P.A., or we believe, that the nation has faced.'"

Officials Say Pollutants In Floodwater Are Fairly Typical. CNN's Anderson Cooper 360 Degrees (9/14, Cooper) reported, "The Army Corps of Engineers says about nine million gallons of water is being pumped out of the New Orleans area every day. If all goes well, New Orleans could be pumped dry by the end of October."

The Washington Post (9/15, A15, Brown) says that early tests on the floodwater "do not suggest it will leave a permanent toxic residue or render residential areas uninhabitable for more than a short time, officials of both state and federal environmental agencies said yesterday. The pollution consists primarily of fecal matter and slightly elevated concentrations of metals such as lead and chromium that were in the city's soil before Hurricane Katrina. There are also trace amounts of many petroleum-based chemicals and some pesticides. Despite descriptions of the floodwater as a 'toxic soup' and a 'witch's brew' of contaminants, the preliminary tests reveal it contains little that is different from what has been seen after past floods in other cities and here."

However, USA Today (9/15, Frank, Kenworthy) notes that "Louisiana's top environmental official warned Wednesday that many houses will have to be bulldozed because of contamination." Mike McDaniel, secretary of the Louisiana Department of Environmental Quality, "said residents of those areas will be allowed to return to their homes briefly to retrieve personal items but will be told about the health risks and given protective gear. McDaniel said many houses in flooded parts of the New Orleans area 'will have to be disposed of.'"

Katrina Has Negative Effect On Consumer Spending, Gasoline Consumption. The Wall Street Journal (9/15, Gerena-Morales) reports, "Consumer spending showed some signs of cooling during the weeks leading up to Hurricane Katrina, and the storm could further damp consumption in the weeks ahead if gasoline prices don't retreat. In addition, Katrina affected industrial production in August." Retail sales in August "fell 2.1% from the month before to $350 billion on a seasonally adjusted basis, following a 1.8% increase in July." It was "the largest monthly sales decline since demand tumbled 2.9% in November 2001."

Meanwhile, anther Wall Street Journal story (9/15, Herrick) adds "Americans used considerably less gasoline in the final weeks of the summer driving season than a year earlier as Hurricane Katrina limited fuel supplies and distribution and drove up prices." Data released by the US Department of Energy's Energy Information Administration "could indicate that US drivers are responding to soaring gasoline prices by conserving fuel, though the supply disruptions and gasoline lines that followed could also be a

DOJ_NMG_ 0147758

factor." Gasoline demand for the week ended Sept. 9 "dropped 4.3% to 8.64 million barrels a day from 9.03 million barrels the previous week." The New York Times (9/15, Bajaj) runs a similar story in which it mentions "some anecdotal evidence that fewer consumers drove over the Labor Day holiday and that more people are taking mass transit when possible, but there is little hard data."

In addition, the New York Times/AP (9/15) adds Katrina "is eating into the economy, leading to concern that consumers will lose confidence and curtail spending. … Analysts said they still believed that Katrina would amount to only a temporary blow to the economy and that strong growth would follow as rebuilding begins."

Rice Says Pressuring OPEC To Lower Prices Will Not Work. Secretary of State Condoleezza Rice in an interview on The O'Reilly Factor (9/14) was asked whether there was anything she could do to stop OPEC from "price gouging." Rice said, "Well, we talked to OPEC and they have every reason in the world not to sink the world economy. As you know, we have an energy problem because we don't have diversified energy sources. And that's what we have to concentrate on."

Stocks Down. The Wall Street Journal (9/15, Gaffen) reports, "Major stock indexes wilted Wednesday as crude oil jumped nearly $2 a barrel and traders fretted over tepid economic reports. A profit warning from Walt Disney sank the Dow industrials in the last hour of trading." The Dow Jones Industrial Average "fell 52.54 points to 10544.90, hurt by Disney's 2.8% drop, which led decliners on the average. The Nasdaq Composite Index fell 22.42 points, or 1.03%, to 2149.33, just off the day's low. The Standard & Poor's 500-stock index fell 4.15 to 1226.51."

Georgia Chief Justice Tries To Help Katrina-Displaced Attorneys. The Fulton County (GA) Daily Report (9/15, Hobbs) reports, "Georgia's top judge is trying to make things easier for hurricane-displaced lawyers who want to start a practice in Georgia." The Report continues, "Chief Justice Leah Ward Sears of the Georgia Supreme Court has asked her counterparts in Louisiana, Mississippi and Alabama to change their rules so that lawyers from those states could get a State Bar of Georgia license in as little as eight weeks. … Right now, those lawyers can practice in Georgia temporarily but must pass the state's bar exam to set up shop permanently -- a process that would take at least nine months. The next bar exam is not offered until February, and results do not arrive until late May." The Report adds, "The problem is that Louisiana, Mississippi and Alabama do not allow reciprocity with other states. For states that do, lawyers licensed in one state can join another state's bar without having to take its bar exam. … Currently 33 states, including Georgia, allow this kind of reciprocity, said Hulett H. 'Bucky' Askew, the director of the Georgia Office of Bar Admissions. … If the top judges in those states agree, then lawyers from the Gulf Coast states would need only to pass a certification of fitness to practice in Georgia, a process that ordinarily takes eight to 12 weeks, said Askew, who added that his office would try to speed things up for displaced lawyers."

Lawmakers Remain At Odds With Bush Over Spending Bill. The Wall Street Journal (9/15, Rogers) in an article on Senate debate over the Commerce, Justice and Science appropriations bill reports, "To date, the House and Senate have sidestepped confrontation with the president by quietly borrowing from defense and foreign-aid accounts to fill gaps in Mr. Bush's domestic budget. But as the Oct. 1 deadline approaches, some reckoning will soon be required." Only two of the annual spending bills have been completed and "there is an estimated $7 billion gap between the House and Senate over the remaining measures. Republican lawmakers must reconcile these differences and then try to reach some agreement with the president." As the deadline approaches, "some stopgap measure will be needed again to keep agencies funded for the first few months. The House Appropriations Committee leadership is considering a very restrictive funding formula to give itself more leverage in talks with the Senate. But this strategy could backfire if it leaves agencies such as the Army Corps of Engineers at a disadvantage, just when they are trying to cope with Katrina relief."

OTHER NEWS:

Labor Split Deepens As Fourth Union Quits AFL-CIO. The New York Times (9/15, Greenhouse) reports, "Deepening the split in organized labor, Unite Here, a union that represents" 450,000 "apparel, hotel, casino and restaurant workers, announced yesterday that it was quitting the A.F.L.-C.I.O., becoming the fourth union to do so this summer." Unite Here leaders "said the dissident unions would focus on large-scale organizing drives to try to unionize

DOJ_NMG_ 0147759

thousands of workers at the same time." The Times notes, "Immigrants will be a particular focus, they said, because the breakaway unions cover industries with millions of immigrant workers, like restaurants, nursing homes, supermarkets, hotels and janitorial companies."

Delta, Northwest Airlines Declare Bankruptcy. ABC World News Tonight (9/14, story 9, 1:55, Vargas) reported, "This has been an extraordinary day for the airline industry. Delta and Northwest both filed for bankruptcy. This means that four of the seven largest airlines will be operating under bankruptcy protection." ABC (B. Stark) added, "The third and fourth largest airlines in the country were brought to their knees today, crippled by stiff competition from discount carriers and by the exorbitant price of jet fuel after Katrina." That "will surely mean more cuts in wages, pensions, and benefits for employees of those airlines, but both Delta and Northwest tried to reassure the flying public today that for them, it would be business as usual. Planes will keep flying, tickets will be honored. Frequent flier programs will continue." Bankruptcy protection "hasn't hurt the safety records of US Airways or United, but the FAA increases the safety inspections of airlines in bankruptcy."

NBC Nightly News (9/14, story 11, 2:10, Williams) reported, "Now to the business news headlines of the day: Two of this nation's major airlines, Northwest and Delta, along with Delta's low-cost carriers, Comair and Song, all declared bankruptcy today, becoming the latest of the brand-name carriers to take that step." NBC (Thompson) added, "Already burdened by high labor costs and fierce competition from discount carriers that has snapped them of pricing power, the final blow, analysts say, proved to be jet fuel prices that rose as much as 50 cents a gallon in the aftermath of the hurricane." The two "are losing money rapidly. Northwest, in the midst of a mechanics' strike, is nearly $18 billion in the red, Delta $28 billion." The CBS Evening News (9/14, story 9, 0:40, Schieffer) also said both airlines "were expected to fly their normal schedules while they reorganize."

This morning, stories about the bankruptcies run in USA Today (9/15, Adams, Reed), New York Times (9/15, Maynard), Wall Street Journal (9/15, Perez, Carey), Financial Times (9/15, Cameron, Daniel), Los Angeles Times (9/15, Peltz), Washington Post (9/15, Goo) and Washington Times (9/15, Glanz), among other sources.

In an analysis piece, USA Today (9/15, Adams, Reed) says, "The slide into bankruptcy protection of two of the USA's largest airlines is more a result of the carriers' bad assumptions and slowness to act than the recent rise in fuel prices or the devastating terror attacks four years ago." The Delta and Northwest bankruptcies "are different in key respects from that of No. 2 United and No. 7 US Airways. Both United and US Airways were directly affected by the 9/11 attacks. Two of United's planes were hijacked that day, and Washington Reagan National Airport, where US Airways has a major operation, was shut down for weeks." Neither Delta nor Northwest "was similarly affected by the attacks, and four years have passed. Industry experts say that in the case of Delta, and to some extent Northwest, these filings are more a reflection of how traditional, hub-and-spoke airlines failed to adapt in the face of aggressive low-cost carriers, falling fares and rising oil prices."

Bankruptcy Filing Complicates Delta's Legal Fight With Employees, Retirees. The Fulton County (GA) Daily Report (9/15, Peters) reports, Now that Delta Air Lines Inc. has filed for Chapter 11 bankruptcy protection, the carrier will have a legal fight on its hands from employees and retirees seeking to protect their benefits, legal experts said." The Report continues, "Delta, the third-largest U.S. airline, filed late Wednesday for reorganization under Chapter 11 of the federal bankruptcy code, No. 1-05-bk-17923. (U.S. Bankruptcy Court for the Southern District of New York, filed Sept. 14, 2005). … The filing comes after repeated warnings from Delta CEO Gerald Grinstein that higher fuel costs and lower demand have crippled the airline. Delta also has faced stiff competition from carriers such as AirTran Airways that have lower labor and operating costs." The Report adds, "Delta has been in talks with Stamford, Conn.-based GE Commercial Finance to provide the airline with $2 billion in debtor-in-possession financing, which would allow the airline to continue operating after a bankruptcy filing. Details of the loan had not been released early Wednesday, but industry analysts said they expect Delta to pledge virtually all of its remaining unencumbered assets, such as aircraft, as collateral for the loan. … Bankruptcy protection will allow Delta to change the terms of its agreements with other creditors. The airline is expected to sell many assets and slash costs, the latter by renegotiating pilot salaries and perhaps cutting back its workforce. … Delta also could cut or even abandon its pension plan and health care benefits for retirees and employees. Such a move likely would lead to a legal fight from employee groups."

DOJ_NMG_ 0147760

Weiner Concedes Mayoral Primary; Ferrer To Face Bloomberg. The New York Times (9/15, A1, Healy) reports in a front page story that Rep. Anthony D. Weiner "conceded the 2005 Democratic mayoral nomination yesterday to Fernando Ferrer, the top vote-getter in the race, in hopes of averting a potentially destructive runoff election and strengthening Mr. Ferrer's hand as he begins the final eight-week campaign against Mayor Michael R. Bloomberg." Weiner's decision, "made after a long night of strategizing with aides and his mentor, Senator Charles E. Schumer, came as a surprise to New York Democrats, not least Mr. Ferrer, who was said to be ecstatic. Mr. Ferrer lost a bruising mayoral runoff to Mark Green in 2001, and faced an uncertain bout against the scrappy Mr. Weiner; yesterday, he embraced a nomination that had eluded him in two previous runs for mayor." But in a "surprising development, however, city elections officials announced that they were required under state law to hold a runoff despite Mr. Weiner's withdrawal - at a cost to taxpayers of at least $10 million." But even among Democrats "supporting Mr. Ferrer, beating Mr. Bloomberg is seen as an awesome and perhaps impossible challenge, given his money and approval ratings of about 60 percent. Even one of Mr. Ferrer's most prominent supporters, who is also a New York officeholder, offered a grim prediction yesterday that the mayor would beat Mr. Ferrer, 53 percent to 47 percent, if Mr. Ferrer did not invigorate his Democratic campaign."

The Christian Science Monitor (9/15, Marks) reports Ferrer's avoidance of a run-off campaign "is very good news for the Democrats, who despite their 5-to-1 edge over Republicans in voter registration, haven't controlled City Hall for more than a decade, in part because of past divisive and expensive internecine contests." Some analysts "contend that Mr. Weiner's expected decision to concede is a testament to the Democrats' determination to take back City Hall. But Ferrer still faces a daunting, uphill battle against Bloomberg, whose popularity has been steadily increasing."

The Washington Post (9/15, A2, Powell) reports political strategists "say the prospects for Ferrer, who could become the city's first mayor of Puerto Rican descent, are not terribly encouraging. Bloomberg, who can project a CEO's disdain for the symbols and ceremonies of politics, has rebounded from low poll numbers of 2002 and now rides well ahead of Ferrer. The city's economy is no longer reeling as it was in 2001. And Bloomberg, if rarely loved, is regarded by many residents as an able manager."

Schwarzenegger Hints He Will Seek Second Term. The Los Angeles Times (9/15, Salladay) reports Gov. Arnold Schwarzenegger "all but declared today that he would run for a second term next year, saying, 'Let me tell you, I am not in this for the short run.'" At a "special election campaign event," Schwarzenegger was "asked by an audience member if Californians would get 'a chance to vote for you again," and he "then revealed what his campaign staff had been hinting for several days: 'I'm going to make an official announcement on Friday, this Friday. I believe very strongly in follow-through. Follow-through is the most important thing. If you start something, you've got to finish it."

Reuters (9/15, Tanner) reports Schwarzenegger "signaled on Wednesday that he would seek a second term as governor in what would already be his fifth major campaign since seeking the office in 2003." The Governor "kicked off a series of campaign events this week ahead of a special election he has called for November on teacher pay, redistricting and the state budget. In an appearance before an invited audience in Clovis, California, he said he would announce on Friday whether he will seek a second term for governor starting in 2006."

Legislator Says Mississippi Has Benefited From Tort Reform. Charlie Ross, a Mississippi state senator and chairman of the Senate Judiciary A Committee, writes in the Wall Street Journal (9/15, A21) that the Mississippi Legislature in 2004 approved a comprehensive Tort Reform Bill that included "venue reform (so trial lawyers cannot shop around for favorable courts) and caps on subjective noneconomic damages (such as pain and suffering)." Ross adds, "Prior to the legislation, Mississippi was known as the 'jackpot justice capital of America.' … Insurance companies were fleeing the state. Others were refusing to write new policies. .. One year later, the story is very different. Mass Mutual Insurance Group, St. Paul Travelers, World Insurance Co. and Equitable Life Insurance Co. are returning to Mississippi. … The Medical Assurance Company of Mississippi, which writes 60% of the medical malpractice coverage for doctors in the state, had raised its rates 20% the year prior to the tort reform legislation. After its passage, MACM did not raise its rates at all. … Insurance was becoming less available and less affordable prior to the passage of the tort reform legislation. Now, the opposite is true." Ross notes, "Since only a year has passed, the long-term consequences of tort reform cannot be known. …

DOJ_NMG_ 0147761

There is enough information, however, to state unequivocally that tort reform has made the Mississippi legal environment more fair, more predictable and less expensive."

North Korea Demands Reactor In Exchange For Ending Arms Program. The New York Times (9/15, Kahn) reports, "North Korea demanded on Wednesday that the United States and other nations give it money to build a new light-water nuclear reactor before it will end its nuclear weapons program, a condition that appeared to undermine prospects for a breakthrough in the talks here" and "suggested that North Korea was coming up with fresh obstacles to signing a broadly worded commitment to denuclearize." While the Americans "recently signaled a softening of" the positions that the North cannot be trusted with any nuclear technology, "saying they would be willing to leave aside the issue of civilian uses of nuclear technology for now," they "drew a sharp line at building new reactors for North Korea."

The Wall Street Journal (9/15, Fairclough) adds that this is a "replay of demands made during negotiations in the early 1990s," and that "any such deal would be an extremely tough sell for the conservative U.S. Congress."

The Washington Post (9/15, A28, Cody) adds that chief U.S. negotiator, Assistant Secretary of State Christopher Hill said, "It's very clear they wanted to make this light-water reactor day ... I hope they don't want to make it light-water reactor week. I don't know how many ways I can say no."

Rice Predicts Regional Changes Will Help Isolate Iran. Secretary of State Condoleezza Rice in an interview on The O'Reilly Factor (9/14) was asked whether Iran was "America's biggest enemy next to North Korea." Rice said, "Iran is a state that is moving in the wrong direction. I would say 180 degrees in the wrong direction. But on one order, they have now an Afghanistan that is a democratic state and an ally of the United States in the war on terror, military ally of the United States. On the other hand, they have a not-yet-finished project in Iraq but one that when it is will be a nontheocratic majority state that is the center now of a nontheocratic Islamic-related democracy."

French Pushing Referral Of Iranian Nuclear Program To Security Council. The Washington Times (9/15, Pisik) reports, "French Prime Minister Dominique de Villepin yesterday threatened to refer Iran's nuclear program to the U.N. Security Council ... For months, France had resisted U.S. pressure to send a dispute over Iran's nuclear program to the United Nations for possible sanctions."

Indian Hesitation At Confronting Iran Straining Ties With US. The New York Times (9/15, Weisman) reports, "A few months after the United States and India elevated their relationship to a new level with a broad accord, a fresh irritant has disrupted the friendship - the Bush administration's insistence that a reluctant India join in the confrontation over Iran's suspected nuclear weapons program. India, with a longstanding friendship with Tehran, is demurring," Indian officials say that "bringing the issue to the Security Council will backfire, especially by provoking Iran's new president, Mahmoud Ahmadinejad."

Hundreds Of Arms Smuggled Over Egypt-Gaza Border. The New York Times/AP (9/15, Press) reports, "Palestinian gunrunners smuggled hundreds of assault rifles and pistols across the Egyptian frontier into Gaza," confirming "Israeli fears about giving up border control and could further destabilize Gaza ... Egypt had assured Israel that it would prevent weapons smuggling once its troops took over from Israel along the Gaza frontier, and Cairo and the Palestinian Authority pledged to seal the border by Wednesday evening," but "Palestinian security forces in Gaza appeared to be doing little to stop infiltrators."

The Washington Times/AP (9/15, Barzak) reports, "Scores of Palestinians crossed from the Gaza Strip into Egypt yesterday evening before Egyptian security forces moved to close the border in an attempt to restore order ... Hundreds of Egyptian border guards were expected this morning to enforce the closure in earnest." Yesterday "Hamas militants -- unhindered by Palestinian police -- blew a hole in the Gaza barrier ... Mr. Abbas' security forces largely have displayed weakness since the Israeli withdrawal." Even though "imposing security in unruly Gaza is seen as the key test of Palestinian Authority President Mahmoud Abbas' government," Palestinian officials said that they "will not risk civil war," by trying to disarm Hamas, "despite intense international pressure to confront militants."

Gaza "On Brink Of Lawlessness" In Absence Of Israelis. The Wall Street Journal (9/15, A1 Leggett) reports, "With the Israelis gone, Gaza teeters on the brink of lawlessness as armed groups fight each other and the official Palestinian quasi-government, the Palestinian Authority. The Palestinian Authority remains weak and plagued by corruption." Palestinians worry "some officials may seek

DOJ_NMG_ 0147762

kickbacks in return for releasing aid funds" and are concerned about "Gaza's rampant lawlessness."

Commenting on the situation in Gaza, the Washington Post (9/15) editorializes, "Unless Palestinian and Egyptian leaders take immediate steps to fulfill their commitments in Gaza, they will bear the responsibility for a new stalemate -- or worse -- in the Middle East." The Gaza withdrawal "could become a leap away from" an Israeli-Palestinian settlement. "The Gaza Strip is on the verge of anarchy," and "the Palestinian Authority has allowed mobs of looters and armed extremists to rampage through former Jewish settlements" and "the valuable greenhouses…have been stripped of equipment as police stood by and watched." Egypt "allowed thousands of Palestinians to illegally cross its border, including rifle-brandishing militants." If it is not quickly checked, "he disorder will destroy Palestinian hopes that the Gaza transfer will become a step toward statehood."

US-EU Trade Talk Efforts Hindered By Farm Tariffs. The New York Times (9/15, Andrews) reports, "American and European officials are trying to breathe new life into the so-called Doha Round of trade talks," with a crucial deadline only three months away. However, it has become "bogged down in large part because of the reluctance by the United States and the European Union to reduce tariffs on imported crops and subsidies for domestic farmers," which have "spurred a rebellion of sorts by many large developing countries."

"Untested" Merkel Expected To Win German Election. The Wall Street Journal (9/15, A1, Walker, Champion) reports, "Merkel is favored to become leader of the world's third-largest economy." Her party, "which maintains a narrowing lead in the polls, has promised to end Germany's economic malaise by shaking up longstanding labor, tax and social policies," and "could also shift the balance of European politics, drawing Germany closer to the flexible markets of countries like Britain and isolating its longtime ally, France." Still, "her ability to drive profound political change is untested. She has been uncomfortable and distant on the campaign trail, and even Germans in her own party oppose many of her economic proposals … Even if Ms. Merkel wins an outright majority, she may find it difficult to push through her reform agenda."

In an op-ed in the Wall Street Journal (9/15) Gabor Steingart, the Berlin bureau chief for Der Spiegel and author of "Der Abstieg eines Superstars," argues, "Angela Merkel has a chance if she succeeds in mobilizing" willpower, "society's most underestimated productive force," behind "her policies." She "knows the forces at work here. They are pulling the country, as well as its chancellor, down -- down to the place where the wellspring of eternal fear flows. No nation likes to lose a piece of its power and prosperity each day. German assertiveness is thus Ms. Merkel's natural coalition partner. She must ally herself with it, promote it and let it grow into a mighty political force." The "Fear of reform, fear of stagnation, fear of a failure of democracy and now -- as the frantic climax of this collective neurosis -- the fear of a further growth of fear," have resulted in "political exhaustion on all sides" that such force of will must counteract.

Father's Choices Put Merkel In East Germany, Shaped Her Life. The New York Times (9/15, Dempsey) reports that Merkel was "just 3 months old when the family moved" to East Germany, her father, a Reverend, looking to teach Christianity. When he was asked by the Stasi, the secret police, to become an informer, he refused. As a result, "his daughter ran into difficulty … She had wanted to train to become a teacher and translator, but was not allowed to because of her father's profession."

German MP Says Close European-US Relationships Key To Future. In an op-ed in the Wall Street Journal (9/15) Wolfgang Schauble, a member of the German parliament and Angela Merkel's foreign and security advisor, "To preserve peace, freedom and security in Europe, the success of the European unification process and a functioning trans-Atlantic partnership are of paramount importance." The Christian Democratic Union will "avoid everything that could weaken trust," unlike "the wrong maneuvers of Gerhard Schröder's government, which have contributed greatly to the fact that Europe and the trans-Atlantic relationship are today experiencing their deepest crisis … If we succeed in strengthening Europe's cohesion, achieving common Euro-Atlantic positions, and binding Russia, China and others into a system of cooperative international responsibility, then we will also face down the greatest challenge for our future: to credibly convince the non-Western world that the West does not stand against them."

Protestant Anger Dashes Ulster Reconciliation, Fuels Violence. The New York Times (9/15, Lavery) reports, "Deep-seated anger among

DOJ_NMG_ 0147763

Protestants has dashed hopes of a reconciliation with Roman Catholics anytime soon … The police have blamed Protestant paramilitaries for organizing the recent violence." Many say the riots are due to a "rift between the British government and Protestants … No prominent unionists, who are largely Protestant and want the province to remain part of Britain, condemned the violence … Protestants continue to feel slighted" as their "privileged position in Northern Ireland" has "gradually eroded since the 1960's." They "are also infuriated that Britain has rewarded the I.R.A.…before the terrorist group fulfills its promise to disarm."

Family Of Man Killed By IRA Suffers Violence, Intimidation. The Washington Post (9/15, A21, Sullivan) reports, "The family of Robert McCartney, a Catholic whose death at the hands of Irish Republican Army members in January caused international outrage and brought White House condemnation, said Wednesday it was being subjected to a campaign of violence and intimidation for speaking out forcefully against the IRA." Teenaged cousins and Jeff Commander, a friend, have been beaten, and "at least 50 people, mostly women, demonstrated outside the home of Bridgeen Hagans, McCartney's fiancee, vowing to return every night until she moves out of the neighborhood." Sinn Fein issued a statement Wednesday "denying any link to the beating."

Factory Seizure Fans Corruption Claims In Ukraine. The New York Times (9/15, Myers) reports that on Sept. 2, camouflaged men "seized the headquarters of…the Severodonetsk Azot Association," accompanied by officials of a new government carrying an order signed by a minister under" Ukrainian President Yushchenko, "based on a court case filed by a fictitious company, on behalf of a politician who stood to gain from the seizure." This has raised "questions about the true success of what came to be known as the Orange Revolution, as members of Mr. Yushchenko's team volley accusations of abuse of power, bribery and other forms of corruption." "Reports of bribery and corruption have swirled around" Yushchenko's circle "from the time of his inauguration in January," and the resignation of Oleksandr O. Zinchenko, Mr. Yushchenko's chief of staff, "provoked a political firestorm here that shows little sign of subsiding."

Ortega Has "Fighting Chance" Of Returning To Power. The Christian Science Monitor (9/15, Harman) reports, "Fifteen years after unexpectedly being voted out of power, and with two unsuccessful runs for the presidency since," Daniel Ortega, "the iconic head of the Marxist Sandinista National Liberation Front (FSLN) is back on the campaign trail" and "has a fighting chance of returning to power … Even his critics say divisions within the ruling party, coupled with Ortega's grip on the electoral machine, make his resurrection possible." Roger Noriega, the Bush administration's outgoing top envoy to Latin America said "that if the Sandinistas returned to power, Nicaragua would 'sink like a stone and reach depths such as those of Cuba.'" However, Carlos Fernando Chamorro, a former editor of the Sandinista newspaper Barricada, says "too much US interference in the lead up to the election could actually help Ortega."

Former USTR Urges US To See China As Tough Competitor. In an op-ed in the Wall Street Journal (9/15), Charlene Barshefsky, U.S. Trade Representative from 1997 to 2001, and Edward Gresser, director of trade and global markets at the Progressive Policy Institute, "The plain fact is that our competition has gotten tougher, and we need to match it." China's economic "emergence is reshaping not only trade, but also world finances, global manufacturing and the entire East Asian economy. This should naturally give rise to searching debate. But the debate we are actually having is limited to a series of complaints about currency rates, intellectual property piracy and Chinese investment intentions in the U.S. … The U.S. must develop an integrated policy to address this emerging challenge in all its aspects, by reducing "the risk of global trade and financial imbalances," raising "its game at home to remain the world's technological leader," maintaining our "central place in the Pacific economy," and restructuring our "economic relationship with China." The first step is "recognition by the administration, Congress, businesses and the public that we face a powerful competitive challenge, one that cannot be attributed to undervalued currencies or unfair trade."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

DOJ_NMG_ 0147764

PRESIDENT BUSH — Departs Andrews Air Force Base for Louisiana and Mississippi; 9 p.m. Addresses the nation on Hurricane Katrina aftermath.

VICE PRESIDENT CHENEY — No public schedule.

LAURA BUSH — Speaks at the opening ceremony of the General Assembly of the Organization of African First Ladies Aainst HIV/AIDS. Rockefeller University, New York.

US Senate: FLOOR SCHEDULE _ Highlights: 9:30 a.m. Meets for legislative business.

9:30 a.m. JUDICIARY _ Full Committee. Hearing on the nomination of John Roberts as Chief Justice of the U.S. Supreme Court. Steve Tober, chairman, Standing Committee on the Federal Judiciary, American Bar Association; Tom Hayward, past-chairman, Standing Committee, American Bar Association; Pamela Bresnahan, D.C. Circuit representative/investigator, American Bar Association; Richard Thornburgh, former attorney general; Rep. John Lewis; Jennifer Braceras, commissioner, U.S. Commission on Civil Rights; Carol M. Browner, former administrator, EPA; Bruce Botelho, mayor, Juneau, Alaska; Nathaniel Jones, retired U.S. Circuit judge; Elsa Cole - general counsel, NAACP; Reginald Turner, president, National Bar Association; others. Location: Room 216, Hart.

10 a.m. BANKING, HOUSING AND URBAN AFFAIRS _ Full Committee. Confirmation hearing on pending nominations. Location: Room 538, Dirksen.

10 a.m. VETERANS AFFAIRS _ Full Committee. Markup of pending legislation. Location: Room 418, Russell Senate Office Building.

10:30 a.m. APPROPRIATIONS _ Legislative Branch Subcommittee. Hearing on the Capitol Visitor Center project. Architect of the Capitol Alan Hantman; Bernard Ungar, GAO; Terrell Dorn, GAO. Location: Room 138, Dirksen.

10:30 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full Committee. Confirmation hearing on pending nominations. Location: Room 342, Dirksen.

2 p.m. FOREIGN RELATIONS _ Subcommittee on East Asian and Pacific Affairs. Hearing on the current status of U.S.-Indonesia relations. Eric John, deputy assistant secretary of State, Bureau of East Asian and Pacific Affairs; James Kunder, assistant administrator, Bureau for Asia and the Near East, U.S. Agency for International Development; Paul Cleveland, president, U.S.-Indonesia Society and former ambassador to Malaysia; Hadi Soesastro, executive director, Centre for Strategic and International Studies, Jakarta, Indonesia; Randy Martin, director, Global Emergency Operations, Mercy Corps. Location: Room 419, Dirksen.

2 p.m. JUDICIARY _ Full Committee. Continuation of the hearing on the nomination of John Roberts to be Chief Justice of the Supreme Court. Denise Lindberg, judge, Third District, Utah State Court; Wade Henderson, executive director, Leadership Conference on Civil Rights; Peter Kirsanow, commissioner, U.S. Commission on Civil Rights; Marcia Greenberger, president, National Women's Law Center; Diana Furchtgott-Roth, senior fellow, Hudson Institute; Charles Fried, professor, Harvard Law School; Judith Resnik, professor, Yale Law School; Christopher Yoo, professor, Vanderbilt Law School; David Strauss, professor, Chicago Law School; Patricia Bellia, professor, Notre Dame Law School; Peter Edelman, professor, Georgetown Law School; Henrietta Wright., chairman of the board, Dallas Children's Advocacy; Karen Pearl, interim president, Planned Parenthood; Dale Polakoff, president, Rabbinical Council of America; Susan Thistlethwaite, president, Chicago Theological Seminary; John Engler, president, National Association of Manufacturers; Anne Marie Tallman, president and general counsel, Mexican American Legal Defense and Education Fund. Location: Room 226, Dirksen.

2:30 p.m. SELECT INTELLIGENCE _ Full committee. Closed meeting to mark up pending legislation. Location: Room 219, Hart.

US House: FLOOR SCHEDULE _ 10 a.m. FLOOR SCHEDULE _ Meets for legislative business. Highlights: H.R. ___ - Katrina Emergency Tax Relief Act of 2005. H.R. 889 - Coast Guard and Maritime Transportation Act of 2005.

9:30 a.m. RESOURCES _ Subcommittee on Rural Enterprises, Agriculture and Technology. Hearing to examine ``The Need for Improvements and Maybe More Incentives in the Endangered Species Act." Mike Wells, chief of water resources, Missouri Department of Natural Resources, Jefferson City, Mo.; Nancy Macan McNally, executive director, National Endangered Species Act Reform Coalition; Bob Peterson, president, Ohio Farm Bureau Federation; Larry Wiseman, American Forest and Paper Association; John Kostyack, director, Wildlife Conservation Campaigns and senior counsel, National Wildlife Federation. Location: Room 2360, Rayburn.

10 a.m. AGRICULTURE _ Full Committee. Hearing to review Canada and Australia's experience with implementing national animal identification systems. Location: Room 1300, Longworth.

DOJ_NMG_ 0147765

10 a.m. FINANCIAL SERVICES _ Subcommittee on Housing and Community Opportunity. Hearing to spotlight the critical housing needs in the aftermath of Hurricane Katrina. Henry A. Alvarez III, president and CEO, San Antonio Housing Authority, San Antonio, Texas; Sharon Daly, senior policy adviser, Catholic Charities USA; Kay Miller, president, The Miller Group, Shreveport, La., representing Council for Affordable and Rural Housing; Michael F. Petri, chairman, Mortgage Bankers Association; Nan P. Roman, president, National Alliance to End Homelessness; Barbara Thompson, executive director, National Council of State Housing Agencies; David F. Wilson; president, National Association of Home Builders; Clanton Beamon, executive director, Delta Housing Development Corporation, Indianola, Miss.; Jeff Brodsky, president, National Multi Housing Council and National Leased Housing Association; Ellen Lee, deputy executive assistant for neighborhood development, City of New Orleans; Judith Kennedy, president and CEO, National Association of Affordable Housing Lenders; Michelle Norris, senior vice president, American Association of Homes and Services for the Aging. Location: Room 2128, Rayburn.

10 a.m. GOVEMENT REFORM _ Full Committee. Oversight hearing on hurricane response. Marc Morial, president and CEO, National Urban League Inc. and former mayor of New Orleans, La.; Constance Perett, administrator, Office of Emergency Management, County of Los Angeles; Ellis Stanley, manager, Emergency Preparedness Department, City of Los Angeles; David J. Robertson, executive director, Metropolitan Washington Council of Governments; Robert C. Bobb, city administrator, District of Columbia; Tony Carper, director, Broward Emergency Management Agency, Broward County, Fla.; Carlos Castillo, director, Miami-Dade County Office of Emergency Management, Fla.; John R. Harrald; professor, Engineering Management, George Washington University and director, Institute for Crisis, Disaster and Risk Management; James J. Carafano, senior fellow, National Security and Homeland Security, Heritage Foundation. Location: Room 2154, Rayburn.

10 a.m. JUDICIARY _ Subcommittee on Courts, the Internet and Intellectual Property. Hearing on amending ``The Patent Act of 2005." Location: Room 2141, Rayburn.

10 a.m. - 12 p.m. SCIENCE _ Full Committee. Hearing on cybersecurity and how government can address vulnerabilities in critical industries. David Kepler, Dow Chemical Co.; Gerald Freese, American Electric Power; Donald Purdy, DHS, John Leggate, Chief, CIO, British Petroleum; Andrew Giesse, CIO, SBC Services. Location: Room 2318, Rayburn.

10:30 a.m. INTERNATIONAL RELATIONS _ Full Committee. Markup of pending legislation. Location: Room 2172, Rayburn.

1 p.m. JUDICIARY _ Subcommittee on Immigration, Border Security and Claims. Oversight hearing on ``Sources and Methods of Foreign Nationals Engaged in Economic and Military Espionage." Michelle Van Cleave, National Counterintelligence Executive, Office of the Director of National Intelligence; Larry Wortzel, Visiting Fellow, The Heritage Foundation; Maynard Anderson, former Deputy Under Secretary of Defense for Security Policy; William A. Wulf, President, National Academy of Engineering. Location: Room 2141, Rayburn. Notes: Closed/classified portion of meeting begins at 1:00 p.m. Open to public once classified portion is completed, approximately 1:20.

1 p.m. SELECT INTELLIGENCE _ Full Committee. Mark up pending legislation. Likely closed. Location: Room H-405, Capitol.

Other: PRESIDENT URIBE OF COLOMBIA _ Highlights: 9:30 a.m. Meets with House Speaker Rep. Dennis Hastert. Note: Crews set up off carpet by balcony doors, Hastert's office, on the speaker's balcony. 10:30 a.m. Meets with Rep. Jim Kolbe. Room H-144, Capitol. Note: Photo opportunity at the top and stakeout in the Hall of Columns. 11 a.m. Holds media availability. Room HC-7, Capitol. 3:15 p.m. Meets with the Congressional Black Caucus. Room HC-9, Capitol. Note: Photo opportunity and Q and A in the top 5 minutes of the meeting.

ROBERTS-PROTEST _ A coalition of groups join in protest of the confirmation hearings for Judge John Roberts to be chief justice. Groups include: National Organization for Women, Feminist Majority, People for the American Way, Human Rights Campaign, Rainbow PUSH/Coalition, and others. Highlights: 7 a.m. Protest behind Hart Senate Office Building on C Street. 12 p.m. Lunchtime Rally, Upper Senate Park. 12 p.m. Protest behind Hart Senate Office Building on C Street. Location: Capitol Hill, various locations.

HEALTH CARE _ CNBC cable network holds a summit with business leaders and problems and issues facing them. Highlights: 9:30 a.m. Panel on health care, with CEOs Joe Hogan of GE Healthcare, James Mazzo of Advanced Medical Optics and Scott Serota of the Blue Cross and Blue Shield Association. 10:15 a.m. Session on energy, with David Crane

DOJ_NMG_ 0147766

of NRG Energy, Andrey Gaidamaka of Lukoil, others. 12 p.m. Commerce Secretary Gutierrez. 12:30 p.m. Luncheon speaker - Mel Carmazin, CEO, SIRUS Satellite Radio. 2:15 p.m. Session on the budget and the economy, with Sen. Judd Gregg, CBO Director Douglas Holtz-Eakin, others. 3:15 p.m. Session on technology, with CEOs Brian Halla of National Semiconductor and Michel Mayer of Freescale Semiconductor. Location: Mellon Auditorium, 13th St. and Constitution Ave. NW.

US TRADE REPRESENTATIVE ROB PORTMAN _ Highlights: 8 a.m. Delivers remarks to Society of Plastics Industry, Capitol Hilton, 16th and K Streets NW. 9 a.m. Meets with president of Peru, 60017th St. NW. 2 p.m. Meets with Japanese Trade Minister Scoichi Nakagawa, 600 17th St. NW.

BUSINESS-HEALTH _ 8:30 a.m. - 3 p.m. The US Chamber of Commerce holds a business and health information technology summit. Highlights: 9:05 a.m. Rep. Patrick Kennedy. 12:30 p.m. Session on transforming health and health care for this century, with former House Speaker Newt Gingrich. Location: 1615 H St. NW.

CHINA-MILITARY _ U.S.-China Economic and Security Review Commission's public hearing on ``China's Military Modernization and the Cross-Strait Balance." Highlights: 10:30 a.m. - 12 p.m. China's Military Modernization and Force Deployments, with Rear Adm. Eric McVadon, US Navy (Retired), Dir., Asia-Pacific Studies, Institute for Foreign Policy Analysis, and Laurent Murawice, Sr. Fellow, Hudson Institute. 1 p.m. - 2:30 p.m. Taiwan's Self-Defense Needs and Risks to the United States, with Dan Blumenthal, Resident Fellow, American Enterprise Institute, and Thomas Christensen, Prof. of Politics and International Affairs, Princeton University. Location: Room 385, Russell Senate Office Building, Delaware and Constitution Aves., NE, Washington, DC 20510.

DEMOCRATS-HISPANICS _ 9:30 a.m. House and Senate Democrats hold the 6th Annual Democratic Hispanic Leadership Summit. Highlights: 9:30 a.m. Opening discussion with Sens. Harry Reid, Hillary Rodham Clinton, Jeff Bingaman and Joseph Lieberman, and Rep. Grace Flores Napolitano. 12:45 p.m. Panel discussion and luncheon with Sens. Byron Dorgan and Ken Salazar, and Rep. Nancy Pelosi. Discussion presentation with Marion Solis Marich of L.A. Chatroom, Jenny Alonzo of Lifetime TV, Larry Gonzalez of NALEO, and Paul Rivera of the Coronado Project. Location: Mansfield Room, Capitol.

HOMELAND SECURITY _ Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment will host an ``Open-Source Intelligence Technology and Policy Fair," featuring cutting-edge technologies and techniques that process publicly available information to help secure the homeland. Location: Rayburn foyer.

PUBLIC TRUST _ 10 a.m. - 4 p.m. The National Association of State Boards of Accountancy holds a session on revitalizing public trust, with New Mexico Gov. Bill Richardson, Rep. K. Michael Conaway, and PCAOB Chair William McDonough. Location: Grand Hyatt Hotel, 1000 H St. NW.

FLU OUTBREAKS _ 9 a.m. The Center for Strategic and International Studies holds a symnposium on management of annual and possible global pandemic influenza outbreaks, with Stephen Harrison of Harvard Medical School, Dominick Iacuzio of Hoffman-LaRoche, Inc., Robert Lamb of Northwestern University Medical School, others. Location: Room 485, Russell.

GERRY ADAMS _ 9 a.m. Sinn Fein President Gerry Adams briefs members of Congress on the current status of the Northern Ireland peace process. Location: Office of Rep. Richard E. Neal, Room 2266, Rayburn.

US AIRWAYS BANKRUPTCY _ 9:30 a.m. Hearing in the US Airways bankruptcy case before Judge Stephen Mitchell. Location: Federal courthouse, Alexandria.

ENERGY BUSINESS PLATFORM _ 10 a.m. Two national energy corporations hold a news conference to announce a joint venture that will create a new business model to design, build, license and operate new power plants in the United States. Location: National Press Club, 14th and F Sts. NW -- 13th floor.

NEW ORLEANS _ 10 a.m. The Center for American Progress holds a panel discussion on visions for renewing New Orleans and the Gulf Coast, with Rep. Artur Davis, ACORN Executive Director Steven Kest, National Urban League President Marc Morial, others. Location: 10th floor, 1333 H St. NW.

OBAMA _ 10 a.m. Resources for the Future holds a forum, with an address by Sen. Barack Obama on ``Securing Our Energy Future." Location: RFF Conference Center, 1616 P St. NW.

IRAQ _ 10 a.m. - 1 p.m. Rep. Lynn Woolsey, D-Calif., holds an informal hearing on the future of Iraq, with witnesses including former Sen. Max Cleland; Gen. Joseph Hoar (Ret.

DOJ_NMG_ 0147767

USMC), former commander in chief of U.S. Central Command; Ambassador David Mack, former deputy assistant secretary of state for the Near East; Ken Katzman, Congressional Research Service; Tom Hayden, former California state senator; Anas Shallal, founder of ``Iraqi-Americans for Peaceful Alternatives." Location: West Front, U.S. Capitol (tentative).

LANDRIEU-KATRINA _ 10:30 a.m. Sens. Mary Landrieu and David Vitter and the Louisiana House delegateion hold a news conference on Hurricane Katrina relief efforts. Location: Senate Radio-TV Gallery.

PELOSI NEWS CONFERENCE _ 10:45 a.m. House Democratic leader Nancy Pelosi holds her weekly news conference. Location: Capitol. Room H-206.

CFJ NEWS CONFERENCE _ 11 a.m. Committee for Justice holds news conference to discuss the importance of constitutionalist judges. Sen. Mel Martinez (R-Fla.); Hon. Ronald A. Cass, former dean of Boston University Law School; Others. Location: Upper Senate Park.

NEW ORLEANS PRESERVATION _ 1 p.m. Richard Moe, president of the National Historic Trust, discusses efforts to preserve, restore and rebuild historic treasures and communities in the gulf region. Location: National Press Club.

PHARMACEUTIAL COMPANIES _ 12 p.m. The AFL-CIO sponsors a program on the pharmaceutical industry and reform proposals, with Marcia Angell, former Editor-in-Chief of the New England Journal of Medicine. Location: Gompers Room, 815 16th St. NW.

R&D CREDIT _ 12 p.m. R&D Credit Coalition holds a briefing on the need for a permanent, strengthened R&D incentive, with representatives of Microsoft, Lockheed Martin, others. Location: Room 2325, Rayburn.

HISPANIC REACTION TO ROBERTS TESTIMONY _ 1 p.m. Members of Hispanics for a Fair Judiciary will discuss thoughts and concerns of the Hispanic community regarding the views of John Roberts on civil rights issues. Location: Outside Hearing Room, Hart 216.

KATRINA RELIEF CONFERENCE CALL _ 2 p.m. The Center on Budget and Policy Priorities holds a conference call on emerging gaps and promising solutions in the Katrina relief effort. Contacts: Michelle Bazie, 202-408-1080. Notes: Register by e-mailing baziecbpp.org or calling the media team at 202-408-1080.

NATIONAL SECURITY-DEMOCRTS _ 2 p.m. House Democratic Whip Steny Hoyer and other Democrats hold a news conference to discuss the comprehensive national security vision. Location: House Radio-TV Gallery.

DEMOCRATS-KATRINA _ 3 p.m. House Democratic Leader Nancy Pelosi, Senate Democratic Leader Harry Reid and Reps. Bennie Thompson and Gene Taylor hold a news conference on Hurricane Katrina relief and rebuilding efforts. Location: Capitol, S-211.

IRAQ _ 5 p.m. Rally calling for an exit strategy from Iraq, with Maryland Democratic senatorial hopeful Kevin Zeese, Gold Star Families for Peace, Military Families Speak Out, Code Pink others. Location: Lafayette Park.

IRAQ _ 5 p.m. The Speaker of the Iraqi Parliament, Jajim Al-Hasani, speaks about governance, constitution building and political development, sponsored by the National Democratic Institute and the Iraqi Women's Caucus. Location: Room 121, Cannon.

RUBIN _ 5:30 p.m. Former Treasury Secretary Robert Rubin presents a lecture, ``The Global Economy: Opportunities and Challenges," sponsored by Georgetown University. Location: Gaston Hall, 3rd floor, Healy Hall, Georgetown University.

HISPANIC JOURNALISTS' GALA _ 6 p.m. The National Association of Hispanic Journalists hosts evening devoted to honoring Latino journalists and exemplary coverage of the Latino community, with Geraldo Rivera, Carl Quintatnilla, and Teresa Rodriguez. Location: Mandarin Oriental Hotel, 1330 Maryland Ave. SW.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Gov. All But Vows To Run."

"He Reels In The Big Deals."

"Speculators Rushing In As The Water Recedes."

"Iraqi Brothers Go Home In Coffins; 2 Days Of Attacks Claim 180 Lives."

"Rising Premiums Threaten Job-Based Health Coverage."

"Newport's War On Sea Lions."

"Roberts Appears Open To New Interpretations."

USA Today:

"The Town That Vanished."

"Bush's Vow: To Rebuild Better."

"Help Is On The Way, But It's Unclear Where."

DOJ_NMG_ 0147768

New York Times:
"Multiple Attacks Kill Nearly 150 In Iraqi Capital."
"Weiner Concedes Race For Mayor To Avert Runoff."
"Roberts Parries Queries On Roe And End Of Life."
"Ex-FEMA Chief Tells Of Frustration And Chaos."
"The Court V. Congress."
"Vatican To Check U.S. Seminaries On Gay Presence."

Washington Post:
"Insurgents Kill 160 In Baghdad."
"'It Was As If All Of Us Were Already Pronounced Dead.'"
"Bush To Request More Aid Funding."
"Roberts Frustrates Committee Democrats."
"Officials Rush To Prepare Coastal N.C. For Ophelia."
"Northwest, Delta File For Bankruptcy Protection."

Washington Times:
"Roberts Backs Eminent Domain Limits."
"Airlines File For Chapter 11 Haven."
"Blanco Takes Blame For State Response."
"Judge Rules Against Pledge In Schools."
"Toads But No Cats Make This A Real Gas."

Detroit Free Press:
"NWA's Bankruptcy New Jolt To State."
"Car Guys Keep La. Rescuer Going."
"Man Charged With Trying To Swindle Homeowners By Using Storm Scam."
"Iraqi Official: Terror Will Fail."

Atlanta Journal-Constitution:
"Delta Gives In."
"181 Killed In Iraq."

Dallas Morning News:
"Katrina Leaves A Toxic Nightmare."
"Roberts' Confirmation Likely."
"Deadly Day In Iraq; 160 Killed."
"Holding Out Hope For Missing Kids."
"Nursing Home Owners Charged."

Houston Chronicle:
"Northwest, Delta Seek Bankruptcy Protection."
"Newton Is Executed For Slaying Her Family."
"Ambushes And Bombs Kill At Least 160 Iraqis."
"Nagin Ready To Open Parts Of City; Hospitals Still A Question."
"Seafood, Sugar, Coffee Getting Harder To Come By."
"Report Offers 'Grave' View Of Impact on Environment."

Story Lineup From Last Night's Network News:
ABC: CA-Pledge Unconstitutional; Roberts Confirmation Hearing; Baghdad Violence; Bush-UN Reform; Katrina-911 Tapes; Hurricane Ophelia; Katrina-Deadly Nursing Home; Disaster Preparation; Delta, Northwest Bankruptcy; UT - Katrina Victims.
CBS: Baghdad Violence; Hurricane Ophelia; FEMA-Personnel Changes; Katrina-Flood Insurance; CA-Pledge Unconstitutional; Katrina-Missing Children; Roberts-Opinion Poll; Roberts Confirmation Hearing; Delta, Northwest Bankruptcy; Katrina-FEMA Trailers; Bionic Limbs.
NBC: Katrina-Death Toll; Levee Board-Wasteful Spending; Katrina Evacuees-Astrodome; Hurricane Zone-Post Offices; Hurricane Ophelia; Baghdad Violence; Bush-United Nations; Bush-Approval Ratings; CA-Pledge Unconstitutional; Roberts Confirmation Hearing; Delta, Northwest Bankruptcy; Katrina Survivors-Ophelia.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Hurricane Ophelia; Hurricane Katrina-Blanco; Baghdad-Bombing; Pledge Of Allegiance Ruling; Roberts Hearings; Vatican-Seminary Homosexuality; Spears Baby.
CBS: Hurricane Ophelia; Bush-Hurricane Speech; Roberts Hearings; Wise Obit.; Delta, Northwest Bankruptcies.
NPR: Baghdad-Bombing; Hurricane Ophelia; Hurricane-Wetlands Destruction; Roberts Hearings; Wise Obit.; US-Africa-Anti-Malaria Plan; Delta, Northwest-Bankruptcies; Hurricane-Displaced Mississippians; Hurricane Katrina-Blanco.

Copyright 2005 by the Bulletin News Network, Inc. Reproduction without permission prohibited. Editorial content is drawn from thousands of newspapers, national magazines, national and local television programs, and radio broadcasts. The Attorney General's News Briefing is published five days a week for the Office of Public Affairs by BulletinNews, which creates custom news briefings for government and corporate leaders and also publishes the White House Bulletin, Frontrunner and Washington Morning Update. We can be found on the Web at BulletinNews.com, or called at (703) 749-0040.

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: **THE ATTORNEY GENERAL AND SENIOR STAFF**

DATE: **THURSDAY, SEPTEMBER 15, 2005 7:45 AM EDT**

TODAY'S EDITION

Terrorism News:

Former 9/11 Commissioners Flatly Dismiss Weldon Able Danger Claims. 3
Judge Rules Alleged Mall Bomb Plotter's Statements Admissible. 3
Philippine Government Willing To Turn Over Espionage Suspects. 3

Patriot Act:

Former AG Ashcroft Defends Patriot Act. 3

Homeland Response:

Chertoff Orders Completion Of Border Fence Near San Diego. ... 4
Internal Disputes Hinder Goss Efforts To Reform CIA. 4
Suspect In Ricin Threat Remains At Large 4
King Chosen To Chair House Homeland Security Panel. 4
9th Circuit Troubled By US Border Search Requests 4
Romney Calls For Increased US Surveillance Of Mosques, International Students. 5
Flight 93 Memorial Draws Criticism For Including Crescent In Design. 5

War News:

Al Qaeda Stages Series Of Car Bombings In Baghdad. 5
Rice Says More Allied Forces In Iraq Unnecessary. 6
CBS Questions Detention Of Iraqi Cameraman. 7
Diverse Field Of Candidates Seek Office In Afghan Elections. 7
Afghan Commanders Said To Have Helped Bin Laden Escape To Pakistan. 7

Corporate Scandals:

Merrill Lynch To Change Forecasting Of Stock Option Earnings.. 8
Former Marsh Executives Expect New York Fraud Indictments... 8
Former NYSE Regulator Testifies Before SEC On E-Mail Policies. 8
Risks Of Credit Derivatives Are Focus Of New York Meeting. 8
Greenspan Warns Congress Against Lack Of Control Over Fannie, Freddie. 9

Criminal Law:

House Passes Child Safety Bill With Gay Hate Crime Protection Provision. 9
House GOP Blocks Democratic Resolutions Forcing Release Of Plame Documents. 9
USAT Endorses .xxx Domain Concept For Pornography. 9
Texas Executes Black Woman For 1987 Killing Of Family. 10
Ohio County Commissioner Seeks FBI Probe Of Equipment Lease. 10
Massachusetts GOP Official Resigns After Drug Money Laundering Arrest. 10
Tennessee Lawmakers Weigh Ethics Legislation In Wake Of Corruption Charges. 10
FBI Raids Denver Law Firm. 11
Louisiana Teamsters President Claims FBI Illegally Recorded Contract Negotiations. 11
Florida Pair Arrested On Real Estate Fraud Charges. 11
Three High School Students Held In Michigan Bank Robbery.... 11
Rep. Jefferson Fights More Allegations Of Wrongdoing. 11

Civil Rights:

Senate Approves New DOJ Cold-Case Unit For Civil Rights Crimes. 12
Federal Judge Rules "Under God" In Pledge Unconstitutional.... 12
Massachusetts Legislature Defeats Amendment To Ban Gay Marriage. 13

Antitrust:

Realtors' Study Finds Robust Real Estate Brokerage Competition. 13
House Democrats Launch Attack On High Gas Prices. 13
Gillette Launches New Shaving System Amid Merger Concerns.14
RIAA Urges File-Sharing Firms To Protect Music Industry Rights. 14
Merger Specialist Joins JP Morgan Chase. 14
EU Fines Thread-Makers For Fixing Prices. 15
South Korea Fines Fixed-Line Telecom Firms For Price-Fixing.. 15
European Bank Head Warns Against Removal Of Governor. 15

Environment/Indian Affairs:

Mirant Corp To Request Reopening Of Virginia Plant. 15
Controversial Judge In Indian Trust Fund Case Profiled. 16

FBI/DEA/ATF/USMS:

Report Finds FBI Turnover Hampers Cooperation. 16
Appellate Court Rules FBI Whistleblower May Seek Damages, Jury Trial. 16
Mayor Of LA Meets With Gonzales Over Gang Intervention Programs. 17

Guru Of Ganja" Challenges Drug Convictions. ... 17
Venezuela May Lose 'Certification' As Collaborating In The War On Drugs. ... 17
New Hampshire Drug Raids Yield 100 Indictments. ... 17
Texas Man Gets 55-Year Prison Sentence In Drug Case. ... 17
Mississippi Teen Convicted In Bomb Case. ... 17
US Targets Alabama Gun Crime. ... 17
US Plan To Blow Up Rudolph Truck Upsets Bomb Victims' Families. ... 18
Marshals Reverse Ban On Releasing Mug Shots. ... 18

Immigration:

Arizona Bosnian Serbs Charged With Lying On Immigration Applications. ... 18
Rove Discusses Immigration Reform With Lawmakers. ... 19
Kilgore Pledges Crackdown On Firms Hiring Illegal Aliens. ... 19

Tax:

Anti-Tax Advocate Schiff Stands Trial In Nevada. ... 19

Congress-Administration:

Roberts Jousts With Senators On Second Day Of Confirmation Hearing. ... 19
Bush Thanks Nations For Katrina Help, Links Terror Fight To Reducing Poverty. ... 23
In Prime Time Speech From New Orleans, Bush Will Vow To Rebuild Gulf Coast. ... 24
Gonzales Appoints Katrina Internet Fraud Task Force. ... 26
Senate GOP Leaders Seek "Marshall Plan" For Region. ... 27
Fight Looming Over Control Of Gulf Coast Rebuilding Effort. ... 27
Documents Suggest Chertoff Had Authority To Authorize Early Response. ... 28
Brown Says He Stressed Katrina Urgency, Blames Blanco For Delays. ... 28
Senate Opens Hearings On Future Role Of FEMA. ... 29
Senate Rejects Independent Katrina Investigation. ... 29
Katrina Survivors Now Negotiating Maze Of Federal Assistance Bureaucracy. ... 30
9/11 Panelists Criticize Federal Response To Katrina. ... 30
Officials Announce Plan To Repopulate New Orleans. ... 31
Death Toll In Louisiana Rises To 423. ... 32
Louisiana AG Examining Evacuation Procedures Of Hospitals, Nursing Homes. ... 32
Military, Law Enforcement Describe Chaos In New Orleans Convention Center. ... 32
Number Of Katrina Evacuees In Houston Astrodome Down To 1,000. ... 33
USED Officials Visit Districts Schooling Evacuees. ... 33
Louisiana Officials Postpone Local Elections. ... 33
Lloyd's Says Its Katrina Claims Could Reach $2.55 Billion. ... 33
North Carolina Braces For Hurricane Ophelia. ... 34
Katrina Renews Scrutiny Of Superfund. ... 34
Katrina Has Negative Effect On Consumer Spending, Gasoline Consumption. ... 35
Georgia Chief Justice Tries To Help Katrina-Displaced Attorneys. ... 35
Lawmakers Remain At Odds With Bush Over Spending Bill. ... 36

Other News:

Labor Split Deepens As Fourth Union Quits AFL-CIO. ... 36
Delta, Northwest Airlines Declare Bankruptcy. ... 36
Weiner Concedes Mayoral Primary; Ferrer To Face Bloomberg. 37
Schwarzenegger Hints He Will Seek Second Term. ... 37
Legislator Says Mississippi Has Benefited From Tort Reform. ... 38
North Korea Demands Reactor In Exchange For Ending Arms Program. ... 38
Rice Predicts Regional Changes Will Help Isolate Iran. ... 38
Hundreds Of Arms Smuggled Over Egypt-Gaza Border. ... 38
US-EU Trade Talk Efforts Hindered By Farm Tariffs. ... 39
"Untested" Merkel Expected To Win German Election. ... 39
Protestant Anger Dashes Ulster Reconciliation, Fuels Violence. 39
Factory Seizure Fans Corruption Claims In Ukraine. ... 40
Ortega Has "Fighting Chance" Of Returning To Power. ... 40
Former USTR Urges US To See China As Tough Competitor. ... 40

Washington's Schedule:

Today's Events In Washington. ... 40

The Big Picture:

Headlines From Today's Front Pages. ... 44

DOJ_NMG_ 0147771

TERRORISM NEWS:

Former 9/11 Commissioners Flatly Dismiss Weldon Able Danger Claims. The AP (9/15, Barrett) reports former 9/11 commissioners "on Wednesday dismissed assertions that…Pentagon intelligence unit" Able Danger "identified lead hijacker Mohamed Atta as an member of al-Qaida long before the 2001 attacks. The ex-commissioners also criticized the government for not putting in place changes recommended last year in homeland security and emergency response." The AP notes that Rep. Curt Weldon "had accused the commission of ignoring intelligence about Atta while it investigated the attacks," but former commission chairman Thomas Kean "said there was no evidence anyone in the government knew about Atta before Sept. 11, 2001." Former commissioner and US Sen. Slade Gorton said, "Bluntly, it just didn't happen and that's the conclusion of all 10 of us."

Judge Rules Alleged Mall Bomb Plotter's Statements Admissible. The AP (9/14) reports US District Judge Algenon Marbley on Tuesday ruled federal prosecutors can use statements made by alleged mall bomb plotter Nuradin Abdi at trial. Abdi lawyers "had sought to bar statements he made to authorities in which he admitted to falsifying immigration documents and planning to blow up an undetermined Columbus-area mall." Marbley said "that the statements were admissible because Abdi made them in the presence of his lawyer," despite the fact that "Abdi's arrest in November 2003 was illegal because government agents appeared to act only so they could interrogate him."

Philippine Government Willing To Turn Over Espionage Suspects. The Manila Sun Star (9/15) reports, "The Philippine Government is willing to turn over three public officials tagged by the US Federal Bureau of Investigation…in connection with the espionage case filed against former police official Michael Ray Aquino in the US, Justice Secretary Raul Gonzalez Sr. said. Gonzalez met with US legal attaché to the Philippines Jeff Cole, who furnished him confidential notes on the arrest of Aquino in Queens, New York and his friend, FBI analyst Leandro Aragoncillo, a Filipino-American, in New Jersey. … In a press briefing, Gonzalez said among those who are allegedly involved in Aquino's espionage activities include a former official and two incumbent officials." The Sun Star adds, "Once the names of the three Philippine officials are revealed and it is proven that they are Aquino's cohorts, they will be named as co-conspirators for violation of US laws." The Philippine Star (9/15) also reports the Philippine government is ready to turn over the officials to the US.

FBI To Identify Philippine Officials Who Allegedly Received Documents. Manila-based news Web site ABS-CBN Interactive (9/15) reports the FBI "will reveal next week the names of former and current Philippine government officials who allegedly received classified US government documents sent by Michael Ray Aquino, the National Bureau of Investigation…said Thursday." NBI International Police division chief Ricardo Diaz "said two of the officials identified by the FBI are on active government service. He said the FBI will unseal the documents on the case on September 21 and 22. Diaz said the names in the FBI files pertain to former and current government officials who received classified information stolen by Aragoncillo while working as an intelligence analyst at the US Army's Fort Monmouth facility in New Jersey."

PATRIOT ACT:

Former AG Ashcroft Defends Patriot Act. The South Bend Tribune (9/14, Draeger) reports, "Former Attorney General John Ashcroft is well aware his name is nearly synonymous with the 2001 Patriot Act that gave the FBI and Justice Department broad powers." The Tribune continues, "As its chief enforcer and defender, Ashcroft has been a target of librarians and civil rights activists who say the Patriot Act brings Big Brother into the private lives of ordinary citizens by allowing investigators to detain terrorism suspects. … 'I'm probably a poster boy for the ACLU (American Civil Liberties Union),' Ashcroft told members of the Economic Club of SW Michigan Tuesday at the Mendel Center for the Arts and Technology at Lake Michigan College (in Benton Harbor, MI). … 'They've built their membership against me,' he added." The Tribune adds, "But he told the audience of mostly like-minded Republicans why the act is necessary in a post-9/11 country. … The act's measures give federal investigators more tools to prevent future terrorist attacks, such as 'bringing down the wall' of silence that prevented the CIA, FBI and local enforcement agencies from sharing information that could've stopped the planners of the Sept. 11, 2001, attacks. … Measures like 'roving wiretaps,' he said, sound alarmist, but they extend to terrorists what law officers have used to fight drug dealers for years. … 'We needed the authority to extend that to terrorists,' he said." The Tribune notes, "Another provision that angered librarians at the time about the federal government being allowed to inquire about reading materials of patrons was also highlighted by a bookstore owner in the audience. … She told Ashcroft she has no safeguards against her records being seized. … Ashcroft said during the first two years of

DOJ_NMG_ 0147772

the Patriot Act, no library records were seized to hunt for terrorists."

HOMELAND RESPONSE:

Chertoff Orders Completion Of Border Fence Near San Diego. The Washington Times (9/15, Seper) reports, "Homeland Security Secretary Michael Chertoff yesterday exercised his legal authority to bypass regulatory obstacles that had long delayed completion of a 14-mile border 'enforcement zone' near San Diego." Chertoff said, "Completing the border infrastructure system will strengthen our efforts to reduce illegal entry to the United States. Congress provided us the authority to ensure this project is completed, and I intend to use it." The border fence "has been delayed since 1996 by litigation and environmental challenges." And Rep. James Sensenbrenner "said the project would improve the security of the American public, especially those in the San Diego area; allow CBP to use its resources in a more effective manner; and clean up the environmental destruction that has resulted from illegal border crossings."

Internal Disputes Hinder Goss Efforts To Reform CIA. Highlighting the CIA's lack of progress in improving its intelligence capabilities after the 9/11 attacks, the Washington Times (9/15, Gertz) reports CIA associate deputy director of operations Robert Richer "will leave earlier than announced because of a dispute with CIA Director Porter J. Goss on reforms within the agency's spying branch." Richer's "scheduled departure highlights an ongoing and largely secret political struggle inside the CIA over efforts by Mr. Goss to reform the agency in the aftermath of intelligence failures related to September 11 and Iraq's weapons programs." While the exact nature of Richer's dispute is unclear, "Goss and four close aides have been working behind the scenes to try to improve the agency's spying operations and have encountered resistance from officials who oppose some of the changes." The Times notes, "In particular, Mr. Goss is pressing hard for agency spies to do better in Iraq."

Suspect In Ricin Threat Remains At Large. The Hill (9/15, Kucinich) reports, "It has been nearly 18 months since" a threatening message "was sent with a vile of ricin to the Department of Transportation (DoT). A similar letter was mailed to the White House, and traces of the deadly substance were found on a mail-opening machine in Majority Leader Bill Frist's…mailroom." Although "no one has been implicated yet," Browning See president Lee Browning "said he suspects that the FBI knows where the letters came from and who sent them because of extensive research on the DNA of castor beans, from which ricin is derived." FBI spokeswoman Debbie Wireman "said there are currently no updates on the case but 'it is still being looked at.'" After the attacks funding was "increased for projects that genetically engineer castor beans without ricin"

King Chosen To Chair House Homeland Security Panel. Rep. Peter King has been selected to be the next chairman of the House Homeland Security Committee. Roll Call (9/15, Pershing) reports that the House Republican Steering Committee selected King "at a time when the panel's turf is under heavy scrutiny." Roll Call notes, "The Steering choice is still subject to ratification by the full Republican Conference, but it is highly doubtful that the larger GOP group wouldn't approve the choice." Republican aides said that the choice of King "just days after the fourth anniversary of 9/11 would be important symbolically. The fact that King is a moderate with good relationships across the aisle is also considered helpful, given the nature of the post."

The New York Times (9/15, Hernandez) adds that King is a "moderate" who is "known for his independent streak." The selection of King "provides New York a potentially more prominent voice in a critical area at a time when the state's heavily Democratic delegation in the House finds itself largely sidelined by conservatives from other parts of the country. His appointment is expected to be ratified by House Republicans."

The Hill (9/15, Tiron) notes the for Rep. Curt Weldon, "the vice chairman of the committee, who waged an aggressive campaign based on his two decades of experience on homeland-security issues, the defeat is a stinging blow. The Steering Committee has passed him over for two other chairmanships in the past, including the homeland-security panel when it was first created."

9th Circuit Troubled By US Border Search Requests. The California Recorder (9/15, Scheck) reports, "Judge Betty Fletcher gave the federal government what it wanted Wednesday. But she didn't feel too good about it. And her colleague, Judge Raymond Fisher, wasn't really happy, either." The Recorder continues, "Fletcher, a senior judge on the 9th U.S. Circuit U.S. Court of Appeals, authored two opinions Wednesday, and sat on the panel that offered a third, per curiam opinion. They said that border agents searching for contraband may disembowel gas tanks, drill holes in truck beds and disassemble car doors without reasonable cause for suspicion. … Fletcher made her feelings known in a concurrence to her own opinion in U.S.A. v. Chaudhry, 05 C.D.O.S. 8344, that, she wrote, is intended 'to express my distaste for the government's game-playing.'" The Recorder adds, "The game-playing involved the government's goal of getting an appeals court to agree that

DOJ_NMG_ 0147773

border agents could take apart an automobile without apparent suspicion. … But in all three cases, there were clear reasons for suspicion that the government chose not to enter into evidence -- from drug-sniffing dogs to visibly nervous drivers. … 'But the government wanted confirmation that no suspicion is required for extensive, intrusive searches at the border,' Fletcher wrote. 'This would have an ancillary benefit for the government -- it would not have to prove the reliability of its drug-sniffing dogs.' … The question of whether the government may conduct such extensive searches without suspicion, she added, 'is an entirely fictional construct. Suspicion existed in each case, and in my view, review of cases at the appellate level is a waste of judicial resources. The only possible purposes are the government's desire to push the envelope to its limits: to find out how much destruction it can do without any suspicion, and to avoid proving it uses reliable dogs.'"

Romney Calls For Increased US Surveillance Of Mosques, International Students. The Boston Globe (9/15, Helman) reports that in a speech to the Heritage Foundation on Wednesday, Massachusetts Gov. Mitt Romney "raised the prospect of wiretapping mosques and conducting surveillance of foreign students in Massachusetts, as he issued a broad call…for the federal government to devote far more money and attention to domestic intelligence gathering. In remarks that caused alarm among civil libertarians and advocates for immigrants rights, Romney said…that the United States needs to radically rethink how it guards itself against terrorism." The Globe notes, "Ali Noorani, executive director of the Massachusetts Immigrants and Refugee Advocacy Coalition, called the methods Romney suggested misguided and ineffective. Tracking people based on their ethnicity, he said, will only sow resentment among immigrant communities and prevent their cooperation with authorities."

Flight 93 Memorial Draws Criticism For Including Crescent In Design. The Washington Times (9/15, Harper) reports, "It is unbuilt, but already under fire. The proposed memorial to United Flight 93 has a chorus of critics, irked by a single design element that ultimately might be reconfigured." The Times continues, "The 'Crescent of Embrace,' a double arc of maple trees that will turn red in the fall, has drawn the ire of some, who say it will resemble the red crescent -- a symbol of Islam dear to the hearts of the September 11 hijackers on the flight that crashed into a Pennsylvania field." Rep. Tom Tancredo called on the National Park Service "to reject the design as 'a flash point for controversy and criticism.'"

WAR NEWS:

Al Qaeda Stages Series Of Car Bombings In Baghdad. Eleven suicide bombers struck in Baghdad yesterday, killing at least 160 people and wounding an additional 500. The violence was directed against Shiite Muslims, and al Qaeda in Iraq claimed responsibility for the attack, saying it was intended as retaliation for the joint US/Iraqi offensive in Tal Afar. CBS led with the story, while ABC reported it third in its newscast and NBC reported it sixth.

NBC Nightly News (9/14, story 6, 2:20, Engel) reported, "A senior US Commander told NBC News the attacks were timed to embarrass the Iraqi government while both President Talibani and Prime Minister Al Jaafari are in the United States, and to put Zarquawi back in the media spotlight after almost nonstop coverage of Hurricane Katrina. And Zarquawi used that spotlight to declare war on all Shiites in Iraq, his clearest call yet for a civil war."

The CBS Evening News (9/14, lead story , 2:35, Schieffer) reported, "A series of car bombings began early this morning in Baghdad went on until mid-afternoon and by the time it ended it had become the deadliest day in the capital since the war began." A "militant Website then followed up with an al Qaeda declaration of war on all Iraqi Shiites."

ABC World News Tonight (9/14, story 3, 2:35, Vargas) reported it was "a terrible day, the most violence since the US invaded and took control of the country." ABC (Berman) added, "Nearly all of the victims were Shiite Muslims. In a recording released today, a man claiming to be the Sunni terrorist Abu Musab al Zarqawi declared a holy war on all Shiite Muslims in Iraq. He also claimed credit for today's attacks, calling them revenge for the US and Iraqi offensive in the northern city of Tal Afar near the Syrian border." ABC (Vargas) added, "Attacks by insurgents in Iraq have been on the rise. From about 60 attack as day before September to an average of nearly 80 a day this month."

USA Today (9/15, Jervis, Mahmoud) adds that in its Web posting, "al-Qaeda in Iraq linked the attacks to an offensive by Iraqi and U.S. forces in Tal Afar, near the Syrian border. The offensive began Saturday and evicted most insurgents from the city. The U.S. military estimated 200 militants were killed. No Americans were killed." Abu Musab al-Zarqawi, "al-Qaeda's leader in Iraq, purportedly declared 'all-out war' on Shiite Muslims, Iraqi troops and the country's government in an audio recording released on the Internet."

The Los Angeles Times (9/15, Daragahi) reports, "A senior US military official, speaking on condition of anonymity, said the attacks were evidence of insurgents' weakness against Iraq's nascent security forces. '(The

DOJ_NMG_ 0147774

insurgents) failed to stand up to the assault up north, so they slink away and kill civilians in Baghdad,' he said. 'It is astonishing that they can try to claim some victory from pure murder.'"

The Financial Times (9/15, Negus) reports "witnesses said that no US or Iraqi military or police targets were in the vicinity, suggesting that the attacker had aimed to cause as much civilian carnage as possible." The blast "comes two weeks after a stampede at a Shia religious commemoration sparked by fears of a suicide bomber killed over 1,000 people in the same area."

The Wall Street Journal (9/15, Fassihi) says "the scale and scope of the attacks, with Sunni Arab militants targeting and killing groups of Shiites, shows the increasingly sectarian nature of the conflict, and is reviving doubts about whether the newly trained Iraqi forces can properly secure it." The Journal adds, "Many analysts believe the buffer keeping Iraq's Sunni and Shiites from a full-fledge civil war has been the Shiite religious and political leaders' restraint from accusing the Sunnis outright and calling for Shiites to retaliate." But "no one is sure how much longer the Shiite community will be willing to heed their advice."

The New York Times (9/15, Worth) notes Iraq's "National Assembly and Iraqi government, led by Mr. Jaafari, who had given approval for the Tal Afar offensive, are both dominated by Shiites." Iraqi and American officials have been "anticipating a rise in violence in reaction to Iraq's new constitution, which has provoked angry opposition from many Sunni leaders and demonstrations in several cities since it was presented in the National Assembly last month."

The Washington Post (9/15, Knickmeyer, Nouri) reports, "The attacks appeared calculated to undermine public faith in the ability of the fledgling government to protect its people, by showing that insurgents could strike in Baghdad despite the US and Iraqi military efforts to stop them."

The Washington Times (9/15, Hurst) runs a similar AP story on the bombings.

Insurgents Avoid US-Iraqi Efforts To Limit Mobility. The latest bombings in Iraq are a sign the insurgent's strategy to avoid being captured by US and Iraqi forces by abandoning cities until coalition forces leave is having some success. The Christian Science Monitor (9/15, Carroll, Murphy) says the "contrast between what are being described as largely successful operations against insurgent hotbeds in Tal Afar, Qaim, and Haditha…and ongoing violence across the country, demonstrates the fluidity of Iraq's insurgency against thinly spread US and Iraqi forces." For example, the coalition attack on Tal Afar "was aimed at limiting the mobility of Sunni insurgents." Approximately "200 militants were killed and hundreds captured. But as forces moved on the city, the US military said many insurgents simply fled, using a network of tunnels they'd created in advance of the assault. That pattern has become increasingly common since the April assault on Fallujah, where hundreds of insurgents died in the most sustained combat of the war."

WSJournal Sees Iraqi Forces As Key To Stabilizing Border. The Wall Street Journal (9/15) editorializes, "There are good reasons to believe the…operation in Tal Afar…will be a model of things to come." Unlike previous operations when US forces would eventually leave the area, "Iraqis are leading the fight and, most important, many will stay so the people of Tal Afar can begin to believe they can live free of terrorist intimidation." It also "calls into question the contention of war critics like Senator Joe Biden that there are only a handful of Iraqi troops capable of meaningful operations. … U.S. commanders classify about 40 battalions -- roughly 750 soldiers in each -- as 'fully independent' or able to fight 'in the lead.'" The Journal concludes, "Whether those Iraqi troops are competently led and deployed will depend on a political process that includes a constitutional referendum and another parliamentary election before the year is out. But" it "is the best sign of anti-insurgent progress since the Marine sweep through Fallujah."

Iraqi Families Rush To Retrieve Bodies Of Attack Victims. The Washington Post (9/15, A25, Knickmeyer) describes the efforts by local Iraqis to retrieve the bodies of the victims of the latest insurgent attacks, reporting "Bedlam was bubbling up in Iraq's capital all day Wednesday, bursting through the thin surface of what passes for routine. Families rushed to find loved ones and ambulances sped to aid survivors, even as new bombings sent more waves of frantic searchers into the chaos. Towers of black smoke rose into the sky as police turned away cars from hospitals, fearing secondary attacks that might target medical centers treating the bombing victims."

Rice Says More Allied Forces In Iraq Unnecessary. Secretary of State Condoleezza Rice in an interview on The O'Reilly Factor (9/14) was asked why NATO was not playing a larger role in Iraq. Rice said, "Well, NATO is doing some work in Iraq." Asked why NATO couldn't help increase security along Iraq's borders, Rice replied, "Actually, at this point now we don't need more foreign forces in Iraq. What we need is Iraqi forces to be trained up." Asked whether the US might need "more boots on the ground," Rice maintained, "We need Iraqi forces to be trained up, and that's what's happening. This fight has got to become the Iraqis' fight."

Rice Says Media Not Covering Long-Term Progress In Iraq. Rice, also on The O'Reilly Factor (9/14), was asked whether negative coverage by the press was responsible for public opposition to the war in Iraq. Rice said, "Quite apart from what the press may or may not like, there's also the problem that the press reports on a daily basis headlines every day when, in fact, this is a somewhat longer-term

DOJ_NMG_ 0147775

process in Iraq. And where the political process has been moving just inexorably along, that's harder to see. That's harder to report on. But there are times when people see it. When 8.5 million Iraqis vote out and voted, people knew we were in Iraq for the right reasons."

CBS Questions Detention Of Iraqi Cameraman. Iraqi officials and Western media have raised questions about the continued detention of Iraqis helping US reporters. The dispute over the detention of freelance cameraman Abdul Amir Younes Hussein is the latest flashpoint. The Wall Street Journal (9/15, Dreazen) reports the US military's explanation that Hussein had been "detained for alleged insurgent activity" has "sparked a bitter legal and political dispute with Viacom Inc.'s CBS, which has lobbied senior military and civilian officials to try to win the cameraman's release. Mr. Hussein, who has been unable to see his family or his lawyer since being detained, faces a hearing today in Baghdad that will determine whether he will be released."

The New York Times (9/15, Worth) notes, "Iraqi criminal authorities have reviewed his case and declined to prosecute him. Colleagues who were with him that day have produced affidavits supporting his innocence. The American military has not released any evidence against him, despite repeated requests for information by CBS producers, lawyers and even the network's president, Andrew Heyward." And recently "Iraq's justice minister, Abdul Hussein Shandal, criticized the detentions of Iraqi journalists in an interview with Reuters, saying he wanted to change a United Nations resolution that gives American troops immunity from Iraqi law."

Diverse Field Of Candidates Seek Office In Afghan Elections. The Christian Science Monitor (9/15, Baldauf) reports the diversity of the approximately 5,700 candidates running for office in Afghanistan "is both an endorsement of democracy, and a challenge to its very existence." Afghanis "will be selecting from candidates who hold conflicting views over concepts as fundamental as the very definition of democracy itself." The Monitor notes, "Many, perhaps the majority, pose as opponents of President Hamid Karzai, and some demand the removal of US troops as a sign that Afghanistan can now run itself."

Former Taliban Foes See Chance For Return To Power. The Washington Post (9/15, A20, Aizenman) reports, "As leading members of a coalition of northern ethnic militias that joined forces with the United States to topple the Taliban rulers after the Sept. 11 attacks, Massoud's Panjshiri successors were a dominant force in Afghanistan's first post-Taliban government. But over the last year and a half, the ethnic Tajiks of the Panjshir Valley have watched with dismay as President Hamid Karzai, a member of Afghanistan's majority Pashtun ethnic group, has replaced some of their most prominent leaders with Pashtuns and welcomed former Taliban officials back into the country as part of a reconciliation program." Now they "see Afghanistan's parliamentary elections, to be held Sunday, as their chance at a comeback."

Young Afghans Strive To Make Voices Heard. The New York Times (9/15, Gall) reports, "The young people of Afghanistan stand out in this already industrious nation as particularly motivated and politically aware and are seen by some here as an important constituency in the coming parliamentary elections, on Sunday." Similar to their parents "younger adults want security, good educational systems and a good health system, in that order," according to National Youth Solidarity Party leader Jamil Karzai, who is "a second cousin of President Hamid Karzai."

Female Candidate Sees Hope In Election. The Washington Times (9/15, Gentile) reports, "Jamilah Mujahid, who hopes to win one of 68 seats set aside for women in Afghanistan's parliament, view's Sunday's election as a turning point for her war-ravaged nation." Among her "priorities if elected would be education for women, especially those who are behind the learning curve because they grew up under the Taliban regime." She "called Sunday's scheduled parliamentary and provincial elections 'a new beginning for Afghanistan.'"

First Female Governor Provides Inspiration For Afghan Women. USA Today (9/15, Wiseman) reports describes the success of Afghani provincial governor Habiba Sarabi who is "the first woman to run a province in Afghan history." In her province of Bamiya women "are leaping into the political space created by the U.S.-led overthrow of the Islamic fundamentalist Taliban militia four years ago. They are more likely to run for office and to vote than other Afghan women." She "was appointed six months ago by Afghan President Hamid Karzai. She has emerged as a role model for Bamiyan's aspiring female politicians."

Afghan Commanders Said To Have Helped Bin Laden Escape To Pakistan. The Los Angeles Times/Reuters (9/15) reports that according to Afghan Interior Ministry spokesman Lutfullah Mashal "Osama bin Laden was given safe passage to Pakistan in 2001 by Afghan commanders paid by Al Qaeda and sympathetic to the terrorist network's cause." Mashal said, "Osama, along with other Al Qaeda people, managed to go to Parachinar at the time, and then Pakistani forces battled the Al Qaeda runaways, killing around 70 of them." He "told private Pakistani television channel Geo on Tuesday that U.S. forces had made a mistake in entrusting the capture of Bin Laden to Afghan commanders." He "said Bin Laden later recrossed the border to Khowst, where the leader of the Taliban there gave him refuge. He then returned to Pakistan, this time

DOJ_NMG_ 0147776

heading for Miranshah, the main town in another tribal area, North Waziristan."

CORPORATE SCANDALS:

Merrill Lynch To Change Forecasting Of Stock Option Earnings. USA Today/Reuters (9/15) reports, "Merrill Lynch on Wednesday said it will require all U.S. equity research analysts to include options and other stock-based compensation in their earnings forecasts for U.S. companies." Reuters continues, "The changes by the largest U.S. full-service brokerage, which covers more than 1,000 U.S. companies in 50 industries, are intended to reflect a controversial new accounting rule. That rule requires public companies in fiscal years beginning after June 15 to treat stock options as routine business expenses, such as salaries. … Many technology companies, including Cisco Systems, opposed the new rule, fearing it might increase operating costs and reduce profits. … But the Financial Accounting Standards Board and Securities and Exchange Commission backed the change, and companies such as Wal-Mart began implementing it before the deadline. Meanwhile, some companies, including Microsoft, have stopped granting stock options."

Former Marsh Executives Expect New York Fraud Indictments. The Wall Street Journal (9/15, McDonald) reports, "As many as eight former Marsh Inc. executives are expected to be indicted on criminal-fraud charges Thursday, according to two people close to the situation." The Journal continues, "As reported last month in The Wall Street Journal, a grand jury impaneled in Manhattan has been weighing criminal charges against the former executives. The probe is an outgrowth of a fraud investigation last year by New York Attorney General Eliot Spitzer that resulted in a $850 million settlement by Marsh & McLennan Cos. of bid-rigging charges early this year. Marsh Inc. is the New York company's insurance-brokerage unit. … In settling, Marsh apologized to clients for the 'shameful' conduct of some employees who 'unlawfully deceived their customers.'" The Journal adds, "Mr. Spitzer is expected to unseal indictments charging the former Marsh employees with scheming to defraud, according to the two people, barring any last-minute guilty-pleas hammered out with prosecutors. … In the civil suit settled by Marsh, state authorities alleged that some Marsh brokers cheated institutional clients by rigging bids for large insurance contracts and steering business to insurers who paid Marsh large commission payments. All told, more than 15 insurance managers and executives have pleaded guilty to criminal charges stemming from the probe, including other former Marsh brokers and former employees of large insurers American International Group Inc.; Zurich American Insurance Co., a unit of Zurich Financial Services AG; and ACE Ltd."

Former NYSE Regulator Testifies Before SEC On E-Mail Policies. The Wall Street Journal (9/15, Hughes) reports, "The Securities and Exchange Commission asked the New York Stock Exchange in 2001 to drop enforcement cases against a dozen Wall Street firms whose email retention and storage policies were deficient, according to a former NYSE regulator." The Journal continues, "Annette Nazareth, then-director of the SEC's market regulation and now an SEC commissioner, called the NYSE in the spring of 2001 and asked that the exchange's regulatory arm stop reporting email-retention violations to the NYSE's enforcement division and withdraw referrals that had already been made, according to testimony by Salvatore Pallante, former NYSE executive vice president for member-firm regulation." The Journal adds, "At the time, the SEC was in discussions with Wall Street over changes to its email rules, which the industry had criticized as being too broad. Because of those discussions, Ms. Nazareth believed it would be 'unreasonable' to bring enforcement actions, according to Mr. Pallante's testimony. … Mr. Pallante testified on behalf of Raymond James Financial Services Inc., which is fighting civil fraud charges filed by the SEC last year. The SEC sued Raymond James for failing to supervise a broker who allegedly bilked investors out of millions of dollars and also accused the firm of failing to fully preserve email records. The testimony was available through the SEC's public records office."

Risks Of Credit Derivatives Are Focus Of New York Meeting. The Wall Street Journal (9/15, Sender) reports, "The New York Federal Reserve Bank is gathering the big Wall Street players today. The topic: rising concerns about risk in what is known as the credit-derivatives markets." The Journal continues, "The talks come amid frustration about the failure of the structure of the market to keep pace with the explosive growth in the trading of these complex securities. … 'People have the best intentions, but there are resource issues,' says Donna Parisi, head of the derivatives practice at the law firm of Shearman & Sterling. Credit derivatives, which allow investors to take positions on the risk of default of both companies and countries, have been one of the most rapidly growing financial products on Wall Street." The Journal adds, "Infrastructure issues that have bedeviled the market involve processing and settling trades, or what some experts such as Thomas Russo, vice chairman of Lehman Brothers Holdings Inc., refer to as the 'plumbing of the market.' Such descriptions sound boring and technical. But the credit-derivatives arena has become increasingly

DOJ_NMG_ 0147777

important in terms of managing investment risk, which means regulators are eager to ensure that these complex and often opaque markets operate smoothly. … Thus far, their proddings have largely gone unheeded, leading to the unusual summit at the New York Fed." The Journal notes, "The love-hate relationship between Wall Street firms and their hedge-fund clients has grown more acrimonious when it comes to credit derivatives. Hedge funds claim that Wall Street firms are reluctant to move to more efficient electronic trading and processing systems, because such a move would crimp the Street's margins. The dealers in turn say that hedge funds have been reluctant to invest sufficient funds in their back offices, and that it is the hedge funds, not Wall Street firms, that are the problem. … In any case, the result is stacks of paper at both hedge funds and at Wall Street firms. And the paper load is growing, as the labor-intensive review of documents and agreements confirming trades falls increasingly behind the growing volume of new trades."

Greenspan Warns Congress Against Lack Of Control Over Fannie, Freddie. The Wall Street Journal (9/15, McKinnon, Kopecki) reports, "Federal Reserve Chairman Alan Greenspan, in his strongest warning yet, said in a recent letter that Wall Street investment firms eventually could be incapable of hedging all the financial risk posed by mortgage giants Fannie Mae and Freddie Mac, if Congress doesn't impose meaningful limits on them." Greenspan wrote Sen. Robert Bennett, "As Fannie and Freddie increase in size relative to the counterparties for their hedging transactions, the ability of these [companies] to quickly correct the inevitable misjudgments inherent in their complex hedging strategies becomes more difficult." The House is expected to vote on its version of GSE reform next week and its supporters "sought to improve chances for their bill by amending it to steer more of the companies' profits into affordable housing in the stricken Gulf Coast region." But "it isn't clear that the changes will be enough to overcome objections to the House measure among conservative critics" and Greenspan.

CRIMINAL LAW:

House Passes Child Safety Bill With Gay Hate Crime Protection Provision. The House passed the Children's Safety Act by an overwhelming 371-52 vote. The bill is focused on protecting children from child molesters but in an unexpected move lawmakers also approved expanding hate crime laws to protect homosexuals. USA Today (9/15) reports, "Sex offenders who abuse children would be subject to stringent monitoring requirements and face new mandatory penalties under" the bill which "would create a national website on pedophile sex offenders and stipulate that sex felons face up to 20-year sentences for not complying with registration requirements."

The Washington Post/AP (9/15, A2) notes, "Unexpectedly, the House voted 223 to 199 in favor of an amendment by Rep. John Conyers Jr. (D-Mich.) that expands current hate crime law to include some crimes involving sexual orientation, gender and disability." The AP adds, "The House has been the chief obstacle in numerous previous attempts to expand hate crimes law, and Joe Solmonese, president of the Human Rights Campaign, the nation's largest gay rights group, said it was an 'incredibly historic vote' that could give momentum to similar action in the Senate."

House GOP Blocks Democratic Resolutions Forcing Release Of Plame Documents. The AP (9/15, Sidoti) reports, "House Republicans derailed Democratic attempts on Wednesday to force the Bush administration to surrender documents on prewar intelligence and the disclosure of the identity of…CIA operative" Valerie Plame. "Largely along party lines, the House International Relations Committee unfavorably reported two of the resolutions on Iraq and one resolution on the Plame matter. Earlier, the House Judiciary Committee 'unfavorably' reported a similar Plame resolution." The AP adds that "the votes Wednesday against the measures all but prevented them from ever being taken up by the House."

Reuters (9/15) notes that Republicans "said Congress should await the outcome of a federal investigation by special counsel Patrick Fitzgerald. Democrats countered that Republicans were trying to protect President George W. Bush and his top political adviser, Karl Rove. 'We know that this is a political decision because there is potential embarrassment to the administration,' said Massachusetts Democratic Rep. William Delahunt."

USAT Endorses .xxx Domain Concept For Pornography. USA Today (9/15) editorializes, "The Internet has transformed the pornography business. In little more than a decade, online 'adult entertainment' has become a booming multibillion dollar industry, enabled by the World Wide Web's easy, impersonal accessibility. … Avoiding or blocking the X-rated onslaught can be nearly impossible. Internet content moves with no respect for borders and at such slippery speed that tracking it is like trying to grab hold of mercury. … For those who want porn, that may be fine. But for others, it can be deeply offensive. And for children, it can be damaging." USA continues, "A blanket ban is not a useful option because foreign sites are beyond the reach of U.S. law, which is why one fresh approach deserves encouragement. … It's a proposal for a virtual red-light district in the form of a new Internet domain. Instead of .com or one of the other familiar Web address suffixes, porn would

DOJ_NMG_ 0147778

have .xxx. People would know what they're getting. Parents could more easily filter it out." USA adds, "The idea is no cure-all. For one, it would be voluntary. Critics point out, correctly, that pornographers could still keep their .com addresses, and many probably would. Nor would it stop those deceptive e-mails. But that's not the point. … Its value is as an experiment, particularly for protecting children. Why not? … But the .xxx idea is running into opposition. Some critics say it would encourage online porn. Hello? Do they have computers? … Other opponents fear that the new domain would legitimize porn. Their protests — including more than 6,000 letters, many part of a campaign by the conservative Family Research Council — forced a delay in implementing .xxx. The regulatory board, the Internet Corporation for Assigned Names and Numbers, is to meet today on the issue. … The board shouldn't bow to the pressure. Internet porn is big business driven by big demand. It can't be eradicated. But trying to improve the protections for parents is a good idea — including a .xxx domain experiment."

More Commentary. In an op-ed in USA Today (9/15), Patrick Trueman, senior legal counsel at the Family Research Council, writes, "For years there has been near unanimous condemnation of the notion that (pornographers) should be rewarded with even more space on the Internet. Yet, the Internet Corporation for Assigned Names and Numbers (ICANN), the Internet's governing agency, is moving ahead on this seductive idea." Trueman continues, "Most who advocate for a .xxx domain for porn sites say children would be the chief beneficiaries because filtering pornography would become a simple matter — just block .xxx sites. That assumes that pornographers would give up their .com sites, the cash cow of the porn industry, and move to .xxx. … Pornographers may be sleazy, but that hasn't affected their sound business sense. They have been making millions on the .com domain since long before Michael Dell sold his first computer over the Internet, and they would keep all their current .com locations. … Nor would they be evicted. Indeed, any law attempting to force all pornographers to relocate to .xxx would likely be challenged in court. Although it is a myth that all pornography is protected by the First Amendment, the U.S. Supreme Court has said that it is "presumptively protected" unless and until it is ruled obscenity or child porn in a court." Trueman adds, "A relatively small number of U.S. pornographers own the vast majority of Web sites selling illegal material. That is why the Family Research Council supports the efforts of Attorney General Alberto Gonzales to establish an obscenity prosecution task force to prosecute violators of the obscenity law — rather than making them masters of a new domain."

Texas Executes Black Woman For 1987 Killing Of Family. The New York Times (9/15, Barnes) reports, "Frances Newton, convicted of murdering her husband and their two children in 1987, was executed last night in Huntsville, Tex." The Times continues, "The Supreme Court declined to review Ms. Newton's case earlier, and Gov. Rick Perry declined to intervene." The times add,s "The Texas Board of Pardons and Paroles unanimously refused on Monday to recommend that Mr. Perry, a Republican, commute her sentence to life in prison. … Ms. Newton, 40, was the third woman put to death in Texas since capital punishment resumed in 1982."

Ohio County Commissioner Seeks FBI Probe Of Equipment Lease. The Cincinnati Enquirer (9/15, Morse) reports, "Butler County Commissioner Chuck Furmon on Wednesday asked the FBI in Cincinnati to investigate a multimillion-dollar equipment lease that included the county's name without the commissioners' approval. FBI spokesman Michael Brooks confirmed that Furmon contacted the office. 'We'll look into the information that he provided and see if an investigation should be opened,' Brooks said, declining further comment." The Enquirer notes that Dynus Technologies "is a party to the disputed contract involving the lease of at least $5.3 million in telecommunications equipment used to transmit data via fiber-optic lines. The lease was signed before Dynus and Butler County commissioners finalized a contract in which Dynus is supposed to sign up customers for the county's fiber-optic loop." Dynus spokesman Tom Rowe said, "Based upon what we've looked into thus far, we haven't seen anything that would appear to warrant that type of action or an FBI investigation."

Massachusetts GOP Official Resigns After Drug Money Laundering Arrest. The AP (9/15) reports Massachusetts GOP vice chairman Lawrence Novak "resigned after a federal sting led to money-laundering charges accusing him of offering to 'cleanse' drug proceeds for a legal client," Scott Holyoke. "Novak resigned his party position on Tuesday after his release on bond. Holyoke is awaiting trial on federal drug trafficking charges and agreed to be a cooperating witness against Novak for the FBI." The AP notes state GOP chairman Darrell Crate "said in a statement the charges are strictly related to Novak's private business dealings and 'have absolutely no connection to the Republican Party.'" The Boston Globe (9/15, Lewis) also reports on Novak's resignation.

Tennessee Lawmakers Weigh Ethics Legislation In Wake Of Corruption Charges. The Tennessean (9/15, Seibert) reports, "Ethics legislation began to take shape yesterday as a panel of legislators unveiled proposals to prevent some of the problems revealed by the

DOJ_NMG_ 0147779

FBI's Operation Tennessee Waltz sting. But to some, the movement toward tougher laws for lawmakers is creeping along. At yesterday's meeting…the discussion revolved not around ethics, but largely around how lawmakers can efficiently use the state's electronic filing system for disclosures of their campaign contributions. … It was only in the last few minutes of the hours-long meeting that its leaders said they had plans for tougher ethics legislation. They put off discussion of those proposals until Oct. 10.

FBI Raids Denver Law Firm. The Rocky Mountain News (9/15, Accola) reports, "Federal agents raided the downtown offices of a Denver law firm Tuesday, seizing computers and records for evidence in an undisclosed FBI probe. Witnesses said as many as 20 agents from the Federal Bureau of Investigation searched the 11th-floor offices of Futro & Associates PC." The News notes, "The small law firm is headed by Denver attorney Peter Futro, who until last May was chairman of U.S. MedSys Corp., a one-time Denver company that is now the subject of a Securities and Exchange Commission investigation. … 'It's a confidential client-related matter,' he said of the FBI search that lasted most of Tuesday."

Louisiana Teamsters President Claims FBI Illegally Recorded Contract Negotiations. The Baton Rouge Advocate (9/15, Roberts) reports Baton Rouge Teamsters president Byron Keith Partin "claims the FBI illegally recorded his contract negotiations with Formosa Plastics Corp. In new court documents filed in federal court last month…Partin contends the FBI convinced Formosa Human Resources Manager Tim LeBlanc to record as many as eight conversations in 2001. Partin's lawyer…argues in two separate motions that secretly recording labor contract negotiations is a violation of the National Labor Relations Act. The motions seek to have the tapes thrown out and the case dismissed." The Advocate notes, "Federal authorities say Partin threatened to report the company for illegally discharging ethylene dicloride into the Mississippi River if it didn't pay the wages of eight union members for hours of work they missed during the negotiations."

Florida Pair Arrested On Real Estate Fraud Charges. The South Florida Sun Sentinel (9/14) reports, "Federal authorities arrested two Fort Lauderdale residents Tuesday on more than a dozen charges involving real estate and bankruptcy fraud, the U.S. Attorney's Office said. Edward Garnett, 62, and Shirley Akey, 69, lied on loan applications about income, assets, and tax information, a U.S. Attorney's Office news release says. According to the release, the two racked up $1.4 million in loans, which Akey laundered through different bank accounts. Garnett also hid money and assets from a bankruptcy proceeding." The Sun Sentinel notes, "Penalties for the charges could total more than 100 years in prison and $6 million in fines."

Three High School Students Held In Michigan Bank Robbery. The Detroit News (9/15, Shepardson) reports from Ann Arbor, MI, "On Monday, three 17-year-old Pioneer High School students were worrying about keeping up their grades and where to go to college next fall. … Today, they're spending their third day in the county jail, facing a lengthy prison sentence if convicted in the Aug. 22 robbery of an Ann Arbor bank." The News continues, "On Wednesday, the mothers of two of the students put their arms around each other as they watched grainy black and white closed-circuit video of their sons' brief arraignment on three felony charges. All three are charged as adults." The News adds, "Prosecutors contend that in the waning days of a quiet Ann Arbor summer, two of the students, Charles Spencer Heath and Brian Keith Jackson, robbed the Bank One branch on West Stadium and made off with about $19,000 -- after they had demanded $50,000 and access to the vault while brandishing a toy gun. … They apparently spent some of the money on clothes and music equipment and the alleged motive, lawyers say, was simply to get money. None of the three has any prior criminal record, and none has been in any serious disciplinary trouble at school. … The third student, Brian Christopher White, the son of a former teacher and a Big Three auto executive, told police he allowed his friends to use his car, but didn't know they planned to rob the bank, according to a written statement he gave police. He is charged with conspiracy and bank robbery -- even though police say he didn't enter the bank Aug. 22." The News notes that the magistrate "set bond at $100,000 cash for each of them. Their parents might be required to put up their homes as collateral. … The three students will have a chance to get a reduced bond Wednesday, when they face a preliminary examination in Ann Arbor District Court. All three likely will remain in the Washtenaw County Jail until then."

Rep. Jefferson Fights More Allegations Of Wrongdoing. Roll Call (9/15, Billings, Whittington) reports, "Rep. William Jefferson (D-La.), under investigation by the FBI, went on the defensive Wednesday in the wake of a damaging ABC News report that the Congressman allegedly used National Guard resources to gather personal belongings from his New Orleans home amid the Hurricane Katrina rescue operation." Roll Call continues, "Jefferson is apparently gearing up for a tough legal fight. He recently retained defense attorney Robert Trout of the Washington, D.C., law firm Trout Cacheris, in addition to his New Orleans-based attorney, Michael Fawer. Trout is a former federal prosecutor. Jefferson also recently set up a legal defense fund." Roll Call adds, "Jefferson, according to sources, spoke

DOJ_NMG_ 0147780

to his colleagues at the Congressional Black Caucus meeting Wednesday. During the session, the Louisiana Democrat defended his tour of his damaged district on Sept. 2 and insisted that the ABC story that aired Tuesday night distorted the facts and misrepresented his actions. … In an interview, Melanie Rouffell, a Jefferson spokeswoman, reiterated her boss's belief that the story was unfair, noting that National Guard officials refused to let the Congressman tour the devastated area without the presence of armed guards. … She said that Jefferson was only doing his job by trying to assess the damage in his district and that he was concerned about his neighbors, whom he knew had not evacuated their homes." Roll Call notes, "But even as some of Jefferson's colleagues defended their friend, some Democrats wonder about the broader implications that the FBI investigation could have for their party. The Congressman had his homes in New Orleans and Washington, D.C., searched last month as part of an ongoing FBI investigation. … Authorities are investigating whether Jefferson illegally pocketed hundreds of thousands of dollars from a start-up technology firm during an FBI-authorized sting, according to published reports."

CNN's Anderson Cooper 360 Degrees (9/14, Cooper) reported on "questions on whether a congressman by the name of William Jefferson in New Orleans abused his power by getting National Guard troops to take him to his home when the city was under lockdown after Katrina hit. Congressman Jefferson was reportedly in the house for an hour, gathering his laptop computer, three suitcases and other items, while the troops waited for him outside. This was on Friday when there were still many people to be evacuated from this city." CNN's Paula Zahn Now (9/14, Griffin) reported, "Jefferson maintains he wanted an up-close look at the devastation in his district and only accepted the offer of an escort when National Guard officials urged it upon him for safety reasons."

CIVIL RIGHTS:

Senate Approves New DOJ Cold-Case Unit For Civil Rights Crimes. The AP (9/15, Hananel) reports, "A new Justice Department office would investigate and prosecute 'cold case' murders from the civil rights era, under a measure approved by the Senate on Wednesday." The AP continues, "The Unsolved Crimes Section would target pre-1970 homicides motivated by racial hatred that remain unsolved, often because of lax state and federal prosecution at the time they occurred. … The bill was inspired by efforts to reopen the case of Emmett Till, a 14-year old black boy who was murdered in 1955 after being accused of whistling at a white woman in Mississippi, said Sen. Jim Talent, R-Mo., who sponsored the legislation with Sen. Christopher Dodd, D-Conn. … 'We want the murderers and their accomplices who are still living to know there's an entire section of the Department of Justice that is going after them,' Talent said in a statement. 'We need to unearth the truth and do justice because there cannot be healing without the truth.'" The AP adds, "The Senate voted by unanimous consent to add the measure to the massive Commerce, Justice and Science appropriations bill, expected to pass the Senate this week. … A House-passed version of the bill does not include the civil rights measure, but lawmakers will try to include it in legislation that emerges from a conference committee."

Federal Judge Rules "Under God" In Pledge Unconstitutional. US District Judge Lawrence Karlton of Sacramento, California, yesterday ruled that the phrase "under God" in the Pledge of Allegiance is an unconstitutional introduction of prayer into public schools. Michael Newdow, the atheist whose case was dismissed by the Supreme Court for a technicality, filed the case on behalf of the parents of two children. The new case means it is likely that the Supreme Court will have to rule on the merits of the case.

The CBS Evening News (9/14, story 5, 1:50, Andrews) reported, "The case, which is almost identical to the one argued at the Supreme Court last year was brought, again, by Michael Newdow, a California atheist who says his school-aged daughter should not be forced to recite 'under God.'" ABC World News Tonight (9/14, lead story, 2:45, Woodruff) reported that for now, the case "just impacts three school districts in California. But here is the bigger issue. It is already unconstitutional for the government to introduce prayer into the schools. So the question is, is the Pledge of Allegiance like a prayer? The District court in California said it was." Michael Newdow, the "acknowledged atheist who brought the case, called it justice." The school district "and a group representing parents in favor of the pledge today vowed to appeal. They said school children have always had the right to stand silently during the pledge." NBC Nightly News (9/14, story 9, 0:25, Williams) ran a similar report on the case.

Most major newspapers run articles on the pledge decision. USA Today (9/15, Willing) reports, "The phrase "under God" was added to the Pledge of Allegiance by Congress in 1954 after a campaign by the Knights of Columbus, a Catholic men's group." The Supreme Court "has never ruled on the constitutionality of reciting the pledge in public schools and has a mixed record in other cases involving the public invocation of the deity."

The Los Angeles Times (9/15, Dolan) adds "the Becket Fund, a religious rights group that is a party to the case, said it would immediately appeal the case to the San Francisco-based US 9th Circuit Court of Appeals." If the court "does not change its precedent, the group would go to the Supreme Court." The Washington Post (9/15, Pomfret), New York

DOJ_NMG_ 0147781

Times (9/15, Murphy), the AP (9/15, Kravets) Bloomberg News (9/15) and the Washington Times (9/15, Duin), among other sources, run similar stories.

Massachusetts Legislature Defeats Amendment To Ban Gay Marriage. The New York Times (9/15, Belluck) reports that in a "sign that the legalization of same-sex marriage has changed the political landscape in Massachusetts, the legislature soundly defeated a proposed constitutional amendment on Wednesday to ban gay marriage and create civil unions, an amendment that lawmakers gave preliminary approval to in a raucous constitutional convention last year." The 157-to-39 vote "by a joint session of the House and Senate partly reflected the fact that some legislators now consider same-sex marriage more politically acceptable, after a largely conflict-free year in which some 6,600 same-sex couples got married and lawmakers who supported it got re-elected." The vote also "reflected some lawmakers' reluctance to pass a bill that could either withdraw rights from already married couples or create a class of married gay men and lesbians and a class of those unable to marry."

The Washington Post (9/15, A3, Fahrenthold) reports that amid "a pep-rally atmosphere, Massachusetts legislators on Wednesday overwhelmingly rejected an attempt to halt same-sex marriages here -- showing how quickly gay nuptials have moved from being a court-ordered imposition to a powerful political cause." The vote "leaves same-sex marriage as the status quo in Massachusetts, and it now seems likely to remain so until at least 2008. But, in a broader sense, the vote also illuminated how widely Massachusetts has diverged from much of the nation, where several dozen states have passed laws limiting marriage to heterosexual couples." Politicians in Massachusetts "credit the weddings themselves with shifting the political momentum, saying their growing ordinariness has defused some of the opposition."

The Washington Times (9/15, Wetzstein) reports Massachusetts lawmakers "yesterday rejected a marriage constitutional amendment, guaranteeing that same-sex 'marriage' will continue in that state for at least three more years." The amendment was "approved last year, 105-92, and lawmakers had to pass it a second time to place it on the 2006 ballot. However, yesterday's 157-39 rejection showed how little support the amendment had after a year." Many lawmakers said they "rejected the measure because they no longer wanted to undo the Massachusetts Supreme Judicial Court's 2004 ruling legalizing same-sex 'marriage.'" With "yesterday's defeat, the battle shifts to a petition drive for a marriage constitutional amendment aimed at the 2008 ballot. The amendment, sponsored by VoteOnMarriage.org and supported by Massachusetts Gov. Mitt Romney, a Republican, would outlaw same-sex 'marriage' in Massachusetts upon passage."

ANTITRUST:

Realtors' Study Finds Robust Real Estate Brokerage Competition. The Inman News (9/14, Swesey) reports, "A new study funded by the National Association of Realtors concludes that competition for customers among real estate brokerage firms in local housing markets across the nation is strong." Inman continues, "The study, compiled by researchers at Pennsylvania State University, looks at 12 local real estate markets and draws data from multiple listing services, interviews and secondary sources. … 'The central finding is the intense competition in local real estate markets,' Professor Steve Sawyer of Penn State's School of Information Sciences & Technology writes." Inman adds, "The report is timely in the continuing battle between the U.S. Justice Department and organized real estate. Competition in the real estate industry has come under fire after the DOJ filed an antitrust lawsuit last week against the National Association of Realtors over its policies for online listings. The DOJ charges that the powerful trade group's policies restrain competition by obstructing real estate brokers who use Web-based systems to offer consumers lower costs."

House Democrats Launch Attack On High Gas Prices. Knight Ridder (9/15, Recio) reports, "House Democratic leaders unveiled a plan Wednesday to combat what they said was price gouging at the pump, as some Republican lawmakers worried about the lackluster Bush administration response to high gasoline prices. … 'Many of America's families are experiencing a middle-class squeeze, and the price at the pump is becoming oppressive,' said House Democratic Leader Nancy Pelosi, D-Calif, adding that prices were high even before Hurricane Katrina knocked out 20 percent of the nation's supply lines. … 'Something must be done about this,' Pelosi told reporters after House Democrats signed off on the plan at their weekly meeting. 'There must be a federal law to investigate and prosecute price gouging, and to receive damages from those in violation of the law' that would be directed to the federal home heating oil assistance program." Knight Ridder adds, "The nationwide average price of regular gasoline was $2.93 per gallon Wednesday, according to the AAA, down from the Sept. 5 high of $3.05, but still 49 cents higher than a month ago and $1.10 a gallon more expensive than a year ago. The average price in Texas was $2.83 per gallon Wednesday. … House Democratic Caucus Chairman Robert Menendez of New Jersey faulted the Bush administration for not having 'sensitivity' on the issue. 'Maybe it's because we have two

DOJ_NMG_ 0147782

oilmen in the White House,' Menendez said. … President Bush is a former Texas oilman and Vice President Dick Cheney ran the oil services giant Halliburton Co. Bush has said he will not tolerate gouging and White House spokesman Scott McClellan said last week that gasoline prices were too high and the administration's sales from the Strategic Petroleum Reserve would ease supplies - and prices."

Gillette Launches New Shaving System Amid Merger Concerns. The New York Times (9/15, Deutsch) reports, "Let regulators worry whether Gillette's proposed merger with Procter & Gamble poses antitrust problems. Let investors worry about how that merger will affect the fused companies' stocks. The people at Gillette have a far more immediate challenge: persuading men that they need to buy yet another new shaving system." The Times continues, "Yesterday, Gillette unveiled Fusion (manual) and Fusion Power (battery operated), a wet-shaving system with a lot more bells and whistles than the company's Mach3Turbo and M3Power, currently the top-selling shavers. It also announced a line of shaving creams and gels to go with the new razors. … Gillette Fusion is 'the future of shaving,' James M. Kilts, Gillette's chairman and chief executive, told analysts and reporters who had gathered in a Manhattan auditorium to hear the latest news. Not to be outdone in hyperbole, Peter K. Hoffman, president of Gillette's blades and razors unit, defined fusion for the crowd – 'a nuclear reaction in which nuclei combine to create power' - and intimated that the Fusion system's 'breakthrough technology' lives up to the analogy." The Times adds, "Much is at stake. According to Gillette, American men spent about $1.7 billion on blades and razors last year, and another $300 million on shaving creams and gels. Globally, shaving products accounted for more than $10.4 billion in sales. … Gillette has already filed 70 patents on the Fusion razors, and it expects to be able to command prices about 30 percent higher than for the Mach3. The manual razor and two cartridges will sell for about $9.99, with a 4-pack of refill cartridges going for about $11.99. Fusion Power, with one cartridge and a battery - Duracell, of course, since Gillette owns that brand - will retail for about $11.99, with refill 4-packs going for $13 or $14. … The elephant in the room, though, is the merger with Procter, which, barring regulatory holdups, should be completed this fall. Procter is already doing pre-emptive divestitures to ward off the antitrust cops - for example, it is selling its SpinBrush electric toothbrush business to Church & Dwight to avoid becoming too dominant in that area when it joins forces with Gillette's formidable Oral-B line."

P&G To Sell SpinBrush To Church & Dwight. The New York Times/Reuters (9/15) reports, "Church & Dwight Co. Inc. on Wednesday said it has agreed to buy the SpinBrush toothbrush business from Procter & Gamble Co., a sale P&G hopes will help lead to antitrust approval of its multibillion dollar acquisition of Gillette Co." Reuters continues, "P&G had agreed to divest the business, which had $110 million in sales in the fiscal year that ended June 30, as part of its negotiations over the Gillette deal with the European Commission. … SpinBrush competes with some of Gillette's Oral-B toothbrushes." Reuters adds, "Church & Dwight would pay an initial $75 million in cash at the closing of the deal, which would unite the battery-powered toothbrush with its Arm & Hammer and Mentadent toothpaste brands. An additional inventory settlement would be paid following the transfer of the business and Church & Dwight would also pay up to another $30 million based on near-term performance, Church & Dwight said. … The price would be sharply lower than the $475 million P&G paid for SpinBrush between 2000 and 2002. But while battery powered toothbrushes were a hot item in the oral care industry for a while, sales have waned in the category lately."

RIAA Urges File-Sharing Firms To Protect Music Industry Rights. The Wall Street Journal (9/15, Mcbride) reports, "The Recording Industry Association of America has sent cease-and-desist letters to several file-sharing companies, including BearShare, LimeWire and WinMX, asking that they stop activities that allow users to download copyrighted music." The Journal continues, "The letters ask the companies to 'immediately cease and desist from enabling and inducing the infringement of RIAA member sound recordings,' according to a copy of the letter reviewed by The Wall Street Journal." The Journal adds, "The letters are an attempt by the music industry to build on the favorable ruling it received from the U.S. Supreme Court in June in the so-called Grokster case, involving a file-sharing company that was accused by the industry of facilitating copyright violations. In that ruling, the court found that copyright holders could sue file-sharing companies for encouraging people to violate copyrights. Now, the industry is taking the first step toward enforcing the ruling against other file-sharing companies. … 'Companies similar to Grokster have been given ample opportunity to do the right thing,' said the RIAA, which confirmed sending the letters to seven file-sharing companies. … The RIAA has long said it supports legal uses of file sharing. It wants file-sharing firms to alter their software -- for example, by creating filters to strip out copyrighted material or creating mechanisms to pay copyright holders. In recent months, it has been working with several file-sharing firms, including iMesh and Mashboxx, to create services that wouldn't violate copyrights."

Merger Specialist Joins JP Morgan Chase. The New York Times (9/15, Creswell) reports, "J. P. Morgan

DOJ_NMG_ 0147783

Chase said yesterday that Robert I. Lipp, a longtime financial services executive who has played a role in some of the biggest bank and insurance mergers in recent decades, is joining the bank as a senior adviser." The Times continues, "In his new role, Mr. Lipp, 67, will work closely with J. P. Morgan's chairman, William B. Harrison Jr., and its president, James Dimon, in strategic planning as the bank continues to integrate operations after last year's merger between J. P. Morgan Chase and Bank One." The Times adds, "While Morgan has been hampered from deal making by its low-valued stock, Mr. Dimon alluded in remarks this summer to analysts that the bank could be on the hunt for acquisitions as early as next year. … Mr. Lipp has a long personal and professional history with both Mr. Harrison and Mr. Dimon. He spent 23 years at Chemical Bank, where he worked with Mr. Harrison before leaving in the mid-1980's to join Sanford I. Weill at Commercial Credit, which is based in Baltimore. There, he worked alongside Mr. Dimon in turning the sleepy consumer finance company into the nation's largest financial services giant, Citigroup, through a series of acquisitions."

EU Fines Thread-Makers For Fixing Prices. Bloomberg News (9/15) reports, "European Union regulators fined manufacturers of industrial thread including Coats Ltd., the world's biggest, 43.5 million euros ($53 million) for operating a price-fixing cartel." Bloomberg continues, "The makers of thread used in products such as clothes, shoes, furniture and car seats held meetings starting in the 1990s to agree on prices, exchange information and allocate customers, the Brussels-based European Commission said today. The fine ends a probe that began with raids in the U.K. and Germany in 2001. … 'Cartel behavior is illegal, unjustified and unjustifiable, and will be punished severely no matter how large or small the companies involved,' Competition Commissioner Neelie Kroes said in a statement. 'I will not allow consumers to be denied the benefits of the single market by companies carving up markets between themselves.'" Bloomberg adds, "Under EU law, the commission, the EU's antitrust regulator, can fine companies accused of operating a cartel as much as 10 percent of their annual sales. It typically opts for about 2-3 percent of sales. The largest EU cartel fine was 462 million euros levied against Hoffmann-La Roche AG in 2001 for fixing the price of vitamins."

South Korea Fines Fixed-Line Telecom Firms For Price-Fixing. Asia Pulse (9/15) reports, "South Korea's antitrust regulator decided Thursday to slap fines on four local fixed-line telecommunication service providers for illegal cartel activities." Asia Pulse continues, "The nine-person committee of the Fair Trade Commission (FTC) ruled to levy a combined 25.74 billion won (US$25.1 million) in fines against the country's four fixed-line companies - KT Corp., Hanarotelecom Inc., Onse Telecom Co. and Dacom Corp.. … KT, the country's largest fixed-line telephone and broadband Internet operator, has been ordered to pay 23.87 billion won in fines for rigging the prices of both its long distance domestic services and international telephone services. … Dacom, the nation's second-largest long-distance telephone company, was slapped with a total 1.6 billion won in fines, with Onse being ordered to pay 2.1 billion won for its involvement in illegally fixing long distance and international telephone services. … Hanarotelecom was fined 60 million won for irregularities in its domestic long distance line operations."

Reuters (9/15) reports, "The commission also found evidences of collusion in the high-speed Internet service charges, but only issued orders to improve business practices without imposing fines, the spokesman said. … The punishment comes as local operators struggle with stalled growth and cut-throat competition. In a separate case in May, the FTC slapped a record $120 million fine on KT, hanarotelecom and Dacom over collusion in local calls and network connection charges."

European Bank Head Warns Against Removal Of Governor. The Financial Times (9/15, Atkins, Barber) reports, "Jean-Claude Trichet, the European Central Bank president, made clear on Wednesday he would oppose unwarranted political attempts to remove Antonio Fazio, the Bank of Italy governor engulfed in controversy over his handling of bank takeover bids." The Times continues, "Using national legislation to eject a central bank governor would set 'a catastrophic precedent for the independence of all central banks', Mr Trichet told the European parliament's monetary affairs committee." The Times adds, "He was speaking as Domenico Siniscalco, Italy's finance minister, put more pressure on Mr Fazio by saying Italy risked isolation in international financial markets unless its central bank and regulatory systems were profoundly reformed. … Mr Siniscalco and several other government ministers are demanding Mr Fazio's resignation for alleged improper conduct in two takeover battles for Italian banks. Critics accuse Mr Fazio of favouring domestic bidders over foreign ones. The central banker denies wrongdoing and has benefited from divisions in Italy's centre-right government over how, or even whether, to remove him."

ENVIRONMENT/INDIAN AFFAIRS:

Mirant Corp To Request Reopening Of Virginia Plant. The Washington Post (9/15, Markon) reports, "Mirant Corp. plans to propose that its Alexandria power plant, which provides electricity to homes in the District and Maryland, be allowed to reopen on a limited basis. The plant was closed

DOJ_NMG_ 0147784

last month because of environmental problems." The Post continues, "Under a tentative plan Mirant outlined last week in documents filed with federal regulators, the Potomac River plant would operate at a level 'significantly reduced from full capacity' that does not violate national air quality standards. At the same time, Mirant would continue studying long-term fixes such as burning cleaner coal or raising the height of the plant's smokestacks to disperse pollutants." The Post adds, "The plan must pass muster with the Virginia Department of Environmental Quality (DEQ), which has ordered Mirant to take immediate steps to reduce pollution. DEQ spokesman Bill Hayden said the department has not seen a proposal from Mirant but 'will take a look at what they do propose. The main thing we're looking for is, if they are continuing to operate, it must be in a way that does not violate air quality standards.' … Federal regulators, meanwhile, are also evaluating a petition, filed by the D.C. Public Service Commission, that asks them to order the plant to reopen. Mirant revealed that it will probably propose the partial reopening in documents the company filed last week with the Federal Energy Regulatory Commission." The Post notes, "Amid the blitz of regulatory activity, it remains unclear when the plant might reopen, even temporarily. And Mirant acknowledges that a full-scale resumption of operations could be more than a year away. Although the plant is in Alexandria, it does not serve Virginia."

Controversial Judge In Indian Trust Fund Case Profiled. The Washington Post (9/15, A31, Leonnig) reports, "The fans of U.S. District Judge Royce Lamberth praise his straight-talking ways, his defense of the wronged, and his stinging rebukes of lawyers and officials who try to fudge the facts. … So many decades after he left his beloved Texas and cowboy roots for a legal career in government service, fellow judges and former colleagues say, old Royce still gets riled up when he smells a bunch of bull." The Post continues, "When Lamberth theorized in a July ruling that the Interior Department's failure, over many decades, to account for potentially billions of dollars owed to Native Americans could only be explained by outright evil, apathy, cowardice or -- more likely -- crushing bureaucratic incompetence, the Justice Department decided to go after the judge. … In one of the rarest legal moves Justice has ever taken, the government asked that a higher court remove Lamberth from a case he has overseen for the past nine years." The Post adds, "In the escalating and unparalleled war between the judge and Interior, Justice lawyers said privately they saw no other option. They argued to the U.S. Court of Appeals for the District of Columbia Circuit that Lamberth has gone overboard in a string of verbal harangues in recent years, accused agency officials of racism and lost the appearance of impartiality in the case. Already, he has found two secretaries of Interior in contempt of court and ordered sanctions against numerous government lawyers for improper conduct in the case. … When they stand before a different bench tomorrow, government lawyers are expected to try to shift the discussion from the acknowledged failure of Interior to properly account for money held in trust and due 50,000 Indians, to the often assaulting words and actions of a powerful Reagan appointee who has made no secret of his disgust. Only three times before has this appeals court disqualified a trial judge from a case."

FBI/DEA/ATF/USMS:

Report Finds FBI Turnover Hampers Cooperation. The AP (9/15, Sherman) reports, "The FBI has experienced excessive turnover among senior officials, hampering cooperation with state and local authorities since the Sept. 11 attacks, a new report released Wednesday said." The AP continues, "The senior agents who run the 56 FBI field offices average just 15 months in their jobs before moving on to new assignments or leaving the bureau altogether, according to a report by the congressionally chartered National Academy of Public Administration. At FBI headquarters in Washington, the average posting for high-ranking officials is 13 months, the report said." The AP adds, "The short tenures of Special Agents in Charge of the field offices, or SACs in FBI parlance, make "it difficult for them to perform one of their most important functions, developing effective relationships with state and local officials," said former Attorney General Richard Thornburgh, chairman of the panel that produced the report. It was released at a House Appropriations subcommittee hearing on changes at the FBI following the Sept. 11, 2001 attacks. … Thornburgh told lawmakers at the hearing that he was 'astonished to see the short tenures of SACs.'" The AP notes, "No senior executive in Washington and only four SACs have been in their jobs longer than FBI Director Robert Mueller, who started work 10 days before the attacks."

Appellate Court Rules FBI Whistleblower May Seek Damages, Jury Trial. The AP (9/15, Jalonick) reports the 8th US Circuit "has ruled that Jane Turner, an FBI whistleblower who accused the agency of discrimination and retaliation, may seek monetary damages and a jury trial. Turner accused male FBI agents of mishandling several cases of sexual abuse in Indian country and alleged her superiors transferred her from Minot, N.D., to Minneapolis in retaliation for complaints about sexual discrimination." The 8th Circuit "said Turner had sufficient evidence to justify at trial over whether the transfer was in retaliation for her complaints. But the judges dismissed Turner's claims that she worked in a hostile environment and was a victim of

DOJ_NMG_ 0147785

discrimination because of her gender. An FBI spokeswoman said the agency would not comment on the case because the litigation is ongoing."

Mayor Of LA Meets With Gonzales Over Gang Intervention Programs. KCAL-TV Los Angeles (9/14, 12:13 p.m.) reported that mayor "Villaraigosa, is meeting with…Alberto Gonzales. Villaraigosa hopes to encourage Washington to develop gang intervention programs."

KABC-TV Los Angeles (9/14, 11:14 a.m.) also covered this story.

Guru Of Ganja" Challenges Drug Convictions. The AP (9/15, Kravets) reports, "Attorneys for a man who has written books on how to grow marijuana and avoid getting caught asked a federal appeals court Tuesday to overturn his drug convictions." The AP continues, "Ed Rosenthal, the self-described 'Guru of Ganja,' was convicted two years ago of growing and distributing hundreds of marijuana plants. He says he was authorized to do so by the city of Oakland under a 1996 California medical marijuana law." The AP adds, After U.S. District Judge Charles Breyer refused to allow a jury to hear that defense, Rosenthal was convicted of being a major drug supplier. … Breyer sentenced him to one day in prison on grounds that Rosenthal reasonably believed he was immune from prosecution because he was acting on behalf of Oakland city officials. The government and Rosenthal both appealed." The AP notes, "The government maintained Rosenthal, now 60, should have gotten at least 24 months. Amber Rosen, an assistant United States attorney, told a three-judge panel of the 9th U.S. Circuit Court of Appeals that Breyer abused his discretion by issuing a sentence that fell outside sentencing guidelines."

Venezuela May Lose 'Certification' As Collaborating In The War On Drugs. The Financial Times (9/15, Webb-vidal) profiles Pedro Salcedo of Venezuela writing, "Fishing, however, is just an occasional pastime for Mr Salcedo. He makes better money transporting drugs to far-flung islands in the Caribbean, for a couple of thousand dollars a journey." The Times continues, "Mr Salcedo, and others like him, used to avoid soldiers from Venezuela's National Guard, the body charged with combating drugs-trafficking in the country, through which up to one-third of the cocaine smuggled from Colombia passes. But increasingly, US officials say, the fishermen are in competition with the National Guard, rogue elements of which also take part in drug-running. This may be one reason why the US...could remove Venezuela from its annual list of countries 'certified' as adequately collaborating in the war on drugs."

New Hampshire Drug Raids Yield 100 Indictments. New Hampshire's Union Leader (9/15) reports, "Operation Summer Sizzle" drug raids yielded more than 100 indictments against 41 people. The raids took place on Aug. 31 and involved 15 state and local law enforcement agencies, as well as the federal Drug Enforcement Administration. "The indictments were handed up on Monday by the Sullivan County grand jury. The raids took place mostly in Newport and Claremont, although arrests were made in Charlestown and Sunapee as well."

Texas Man Gets 55-Year Prison Sentence In Drug Case. The San Antonio (TX) Express (9/15) reports, "A federal judge on Wednesday sentenced a Texas Mexican Mafia member to 60 years in prison for his role in a violent drug-dealing conspiracy. Johnny "Gira" Garcia-Esparza, 45, was the last of four Mexican Mafia members awaiting punishment on charges stemming from their April conviction on drug-related charges." Garcia-Esparza was sentenced to 55 years in prison on the conspiracy and drug charges, plus five years on the gun charges. "Between 1999 and 2004, as many as 28 gang members were accused of delivering more than 150 kilos of cocaine and more than 30 kilos of heroin."

Mississippi Teen Convicted In Bomb Case. The Jackson Clarion-Ledger (9/15, Gates) reports, "A Brandon (MS) teenager who made a bomb powerful enough to blow up half of a car was convicted Tuesday of federal charges." The Clarion-Ledger continues, "U.S. District Judge William Barbour Jr. set James Vaughn Rankin, 19, sentencing for Dec. 1. He faces a maximum 30 years in prison. … Rankin was convicted of possession of an unregistered firearm, transfer of an unregistered firearm and the manufacture of an unregistered firearm." The Clarion-Ledger adds, "U.S. Assistant Attorney David Fulcher said Rankin intended for the bomb to kill. 'He said on the videotape it will destroy half of a car,' Fulcher said." The Clarion-Ledger notes, "During the two-day trial, jurors watched a videotape of Rankin selling the bomb to an undercover agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives. … Rankin's attorney, Federal Assistant Public Defender Kathy Nester, argued her client may have possessed the bomb, but the government didn't prove beyond a reasonable doubt that he intended to harm anyone. … Nester said ATF agent Connie Wilson testified on cross-examination that she didn't mention anything about wanting the bomb to kill an ex-husband until after Rankin had placed the device in her car. Also, Nester said the government didn't prove her client transported across state lines gunpowder used in making the bomb."

US Targets Alabama Gun Crime. The Fort Payne (AL) Times-Journal (9/13, Townsend) reports, "DeKalb

DOJ_NMG_ 0147786

County was one of five counties in Alabama that had indictments handed down Sept. 2 in federal court for various federal firearm violations. … The others were Cullman, Madison, Shelby and Jefferson counties." The Times-Journal continues, "U.S. Attorney Alice Martin would not release the names of those indicted. … 'The names of theses individuals are being withheld pending service of outstanding warrants,' Martin said. 'We cannot release any of this information, including how many were indicted in each county, until all the warrants have been served.'" The Times-Journal adds, "DeKalb County Drug Task Force Agent Darrell Collins said he couldn't recall the number of gun cases worked in the past couple of months. But he did say that normally, three-fourths of the methamphetamine cases they do work involve some type of firearm. … 'That is why we work with the ATF on a daily basis, in an effort to enforce the reduction of illegal gun use,' Collins said. … Martin, along with James M. Cavanaugh, Special Agent in Charge of the Bureau of Alcohol, Tobacco, Firearms and Explosives, said a grand jury returned indictments against 12 people in unrelated cases."

US Plan To Blow Up Rudolph Truck Upsets Bomb Victims' Families. The AP (9/15, Reeves) reports, "The government wants to blow up the truck Eric Rudolph was driving when he bombed an Alabama abortion clinic, a plan that has upset some of Rudolph's victims." The AP continues, "Authorities said they want to use the pickup truck in a training drill to prevent it from ending up in the hands of Rudolph's admirers. … 'It was done partly out of concern that it would show up on eBay,' said Assistant U.S. Attorney James Ingram, referring to the Internet auction site. 'Somebody would plunk down some money for it.' … But nurse Emily Lyons, who was badly wounded in the clinic bombing, believes the truck should go to Rudolph's victims, who are unlikely to get any other compensation, according to her husband, Jeff Lyons." The AP adds, "In 2003, a state court judge awarded the couple $115 million in a lawsuit against Rudolph, who was declared indigent in federal court and has not paid anything. Trucks similar to Rudolph's 1989 Nissan have a retail value of about $1,700, according to Kelley Blue Book, a pricing guide for used vehicles. … 'We had the judgment before they did the seizure,' Jeff Lyons said Wednesday. … Shortly after the clinic bombing, a witness recorded the truck's license plate number and reported it to police, who used the information to identify Rudolph as a suspect in the explosion. He was later tied to the 1996 Olympic park bombing and two other bombings in Atlanta in 1997."

Marshals Reverse Ban On Releasing Mug Shots. The Detroit News (9/15, Shepardson) reports, "The U.S. Marshals Service has reversed a ban on releasing mug shots in response to a pair of federal lawsuits." The News continues, "In an Aug. 10 memorandum made public Friday, the service's Office of General Counsel told officials in Michigan, Kentucky, Ohio and Tennessee -- the states covered by the U.S. Sixth Circuit Court of Appeals -- that they must release the photographs." The News adds, "The memo rescinded an Aug. 19, 2004, order that said officials would no longer release the mug shots, citing a March U.S. Supreme Court decision. … In that unanimous decision, the court said the government wasn't required to release four photographs of former White House lawyer Vincent Foster's dead body, saying it would violate the family's privacy." The News notes, "Two newspapers filed separate lawsuits this spring seeking to overturn an August 2004 decision by the U.S. Marshal Service to stop releasing the booking photos of prisoners to news media outlets and others under the Freedom of Information Act. … The Justice Department reversed itself and agreed to release the mugshots."

IMMIGRATION:

Arizona Bosnian Serbs Charged With Lying On Immigration Applications. The AP (9/15, DeFalco) reports, "Thirteen Bosnian Serbs living here were indicted on charges of lying to American authorities about their service in the Serbian Army and seven others were being detained for similar reasons, federal authorities said Wednesday." The AP notes, "This week's apprehensions left many in Phoenix's Bosnian Serbian community confounded as to why their friends and family members were taken away after living in this country peacefully for so many years." Goran Spiric, whose father and brother were among those arrested, "said he came to America 11 years ago from a concentration camp where he was kept by Bosnian Muslims, wondered if he would also be apprehended. 'Every single morning I go to work, I carefully watch on both sides and wonder if the FBI or someone is watching me,' Spiric said."

Defense Lawyer Seeks Dismissal Of Charges Against Bosnian Serb In Massachusetts. The Boston Globe (9/15) reports, "Charges against a Peabody construction worker accused of hiding his role in a Bosnian Muslim massacre should be thrown out because Marko Boskic was forced under threat of death to participate in the Srebrenica killings, his lawyer said yesterday." Defense attorney Max Stern told a US District Judge Douglas Woodlock "that Boskic was not deceptive on immigration forms when he entered the United States in 2000 and that he was never motivated by the fact that the victims were Muslim." The Globe notes, "Boskic faces a five-count indictment of fraudulently entering the US as a refugee, as well as concealing his past in a Bosnian Serb Army unit accused of killing some 7,000 Muslim men and boys."

DOJ_NMG_ 0147787

Rove Discusses Immigration Reform With Lawmakers. With the capitol's focus on hurricane Katrina relief threatening to crowd the legislative agenda, White House Deputy Chief of Staff Karl Rove met with Reps. Jeff Flake and Jim Kolbe to discuss immigration reform. The key issue splitting the GOP seems to be whether an immigration reform bill registering illegal immigrants currently employed in the US should require immigrants to return to their countries of origin. The Hill (9/15, O'Connor) reports that while immigration reform is a difficult issue for GOP lawmakers because it "divides supporters of the business community from those social conservatives," with "the political climate favoring "a strong border-security measure, the business lobby could be essential in creating the political momentum to pass a broader bill through the Senate." Sens. Jon Kyl and John Cornyn support requiring immigrants to return while Kolbe, Flake and Sens. Edward Kennedy and John McCain support legislation without the requirement.

Kilgore Pledges Crackdown On Firms Hiring Illegal Aliens. The Washington Times (9/15, Bellantoni) reports Republican candidate Jerry W. Kilgore said "if elected he will go after businesses that knowingly hire illegal aliens." Kilgore said, "They are supposed to check for legal status. If they are knowingly violating the law they shouldn't be getting state contracts and they should not be getting state credits and benefits." The Times adds that Kilgore's "comments come one day after he debated" Democrat Timothy M. Kaine "over a host of topics, including the establishment of a day laborer center in Herndon that will provide services for legal immigrants and illegal aliens." Kilgore has said "officials in Northern Virginia are giving incentives to illegals by allowing such centers. One way to address the problem would be to revoke any tax credits or benefits companies receive from the state if they knowingly hire illegal aliens, he said."

TAX:

Anti-Tax Advocate Schiff Stands Trial In Nevada. The Las Vegas Sun (9/14, Kihara) reports, "The defendant in a tax evasion trial that began on Tuesday said he is innocent of the charges against him because there is essentially no law that requires people to pay income tax." The Sun continues, "In a rambling opening statement that brought at least seven objections from a Justice Department lawyer and just as many admonitions from U.S. District Judge Kent Dawson, Irwin Schiff also tried to discount his alleged influence, saying that doctors, lawyers and others wouldn't stop paying income taxes just because he told them to. … 'In my view, there is no law requiring people to pay income tax,' said Schiff, who is representing himself in the criminal case against him. … The trial is expected to last five weeks."

The Las Vegas Review-Journal (9/14, Thevenot) reports, "Prosecutors began presenting evidence Tuesday against Schiff and two of his followers, Cynthia Neun and Lawrence Cohen, who are accused of conspiring to defraud the federal government. … 'Nobody likes to pay taxes, but that's not what this case is about,' Justice Department attorney Jeffrey Neiman told the jury." The Review-Journal adds, "Schiff, the 77-year-old owner of Freedom Books in Las Vegas, has made a career of teaching his customers how to avoid paying federal income tax. … He claims no law requires Americans to pay the tax, and he has written several books advocating his position. … Neiman said the main issue in the criminal case is: 'What were the defendants aware of, and what were they told?' … The prosecutor said evidence will prove that the defendants knew the law and chose to violate it."

The AP (9/14) reports, "Schiff is accused of failing to report income on federal tax returns from 1987 to 2002, and of evading payment of $1.3 million in taxes, penalties and interest between 1979 and 1985. If convicted, he faces a maximum sentence of 43 years in prison and $3.25 million in fines. … Attorneys for co-defendants Cynthia Neun and Lawrence Cohen, who worked for Schiff, said their clients believed their conduct was legal." The AP adds, "Neun's lawyer, Michael Cristalli, said Neun followed Schiff's tax advice partly because of his powerful personality but also because she did not believe she was violating the law."

CONGRESS-ADMINISTRATION:

Roberts Jousts With Senators On Second Day Of Confirmation Hearing. Chief Justice nominee John Roberts yesterday appeared before the Senate Judiciary Committee for a second day. He again received praise from observers for his intellect and wit, but Democrats were "frustrated" by some Roberts' answers, which some Democrats found evasive. Despite the Democrats' complaints, the media consensus continues to be that Roberts will easily be confirmed. CBS' Bob Schieffer summed up what most observers are predicting when he said it "sounds like it is going to be a slam dunk right now." Likewise, Dana Milbak writes in today's Washington Post (9/15) that by yesterday "the confirmation hearing had lost much of what little suspense it had in the first place. The only speculation in the halls outside the hearing was how many, if any, Democrats on the committee would vote for Roberts en route to his all-but-certain confirmation."

ABC World News Tonight (9/14, story 2, 2:10, Douglass) reported, "Senators were frustrated as they tried to pin Roberts down on some of the country's most emotional

DOJ_NMG_ 0147788

issues." Without "mentioning Terri Schiavo by name, Democrats demanded to know if families have the right to remove a loved one from life support." Some Republicans "pushed him on abortion, pushing him to say a fetus is a person with rights." Democrats "tried to shake Roberts by suggesting that he's been deceptive. He told them firmly that he's answered more questions than any other nominee."

The CBS Evening News (9/14, story 8, 2:55, Schieffer) reported, "Roberts said little on key issues, but that didn't stop senators from asking." CBS (Borger) added, "Today, the confirmation hearing of Judge John Roberts moved between the controversies of when life begins to when it ends." Roberts "did give some hints on issues, such as his approval of Justice Sandra Day O'Connor's view of affirmative action, which she considered acceptable in some cases." Yet Roberts "didn't miss the chance to defend his view of both the confirmation process and the job of a judge." Judge Roberts: "It is not a process under which senators get to say, 'I want you to rule this way, and if you tell me that you'll rule this way, I'll vote for you.' Judges are not politicians. They cannot promise to do certain things in exchange for votes. I think I've been much more forthcoming than other nominees." After the hearing, Sen. Biden "said that Judge Roberts is one of the best witnesses they had had before the committee in 30 years. And he was a great witness, but he didn't answer the questions the Democrats wanted answered." Schieffer: "It sounds like it's going to be a slam dunk right now." Borger: "Sure does."

NBC Nightly News (9/14, story 10, 1:10, Williams) reported, "There were more tough questions today, although the reviews are high for his intellect and ability."

The Washington Post (9/15, C1, Davis) reports, "Things are going pretty much like the day before: Democrats are pressing Roberts on voting rights and issues of privacy (translation: Roe v. Wade), and Roberts is looking a little bit like a young Muhammad Ali dancing his way around the hearing room."

The New York Times (9/15, Liptak, Toner) says Roberts "faced increasingly contentious questions from Democrats on Wednesday as he outlined his views on an array of legal issues," but "repeatedly declined to address some of the most ideologically charged matters, including whether the Constitution establishes a right to abortion and a right to die. 'I'm not standing for election,' Judge Roberts said in one testy exchange on end-of-life issues on the third day of his confirmation hearings for chief justice of the United States." His "refusal to elaborate on his statement that there is a constitutionally protected right to privacy drew criticism from Senator Joseph R. Biden Jr. of Delaware, one of several Democrats on the Judiciary Committee who challenged him with growing frustration on Wednesday. 'Without any knowledge of your understanding of the law, because you will not share it with us,' Mr. Biden said, 'we are rolling the dice with you, Judge.'" But Roberts, "by the end of a second long day of careful, unflappable testimony, appeared in comfortable position for a confirmation vote next Thursday ." A second New York Times (9/15, Stolberg) story reports "the nominee is not talking nearly enough to satisfy Democrats, and how he is interpreting his standard has become a major flashpoint in the hearings."

The Baltimore Sun (9/15, Shaw) also says that "barring a major surprise, the Senate will confirm him as the nation's 17th chief justice this month." The Wall Street Journal (9/15, Cummings, Bravin), however, says "White House hopes for Judge John Roberts to be confirmed as chief justice by a wide margin in the Senate grew dimmer yesterday, as Democrats complained that the nominee gave narrowly crafted responses or declined to answer questions about civil rights, privacy and other issues." Roberts "is likely to be confirmed," but "Democrats on the Senate Judiciary Committee have stepped up their accusations that he is being evasive, and will use that claim to lobby their colleagues to withhold their votes."

USA Today (9/15, Biskupic, Kiely) says Roberts "suggested Wednesday that his views on civil rights were more moderate than those he expressed during his days as a Reagan administration lawyer," and he "hinted at a concern for gay men and lesbians who might face discrimination." Roberts also "described several principles that seemed to separate his legal views from those of Justices Antonin Scalia and Clarence Thomas, the high court's most conservative members." The Los Angeles Times (9/15, Savage) headlines its story "Roberts Distances Himself From Court Originalists," reporting Roberts "went out of his way at his Senate confirmation hearing to put some distance between himself and Justices Antonin Scalia and Clarence Thomas."

In an analysis piece, Charles Lane writes in the Washington Post (9/15) that "a new image of President Bush's nominee for chief justice of the United States is coming into focus. Still blurry at the edges, thanks to Roberts's refusal to declare how he would rule on abortion rights and other specific issues, it is nevertheless a picture of a conservative different in important respects from the two members of the Supreme Court whom Bush has said he most admires," Scalia and Thomas.

The Legal Times (9/15, Goldman, Mauro) reports, "John Roberts Jr. moved into the second day of questioning before the Senate Judiciary Committee on Wednesday, with Democrats still complaining that the likely future chief justice remains too much of a cipher, and with GOP committee members stressing that Roberts has answered more questions than any other nominee. … 'I do think I've been more expansive than most nominees, and those justices were confirmed,' Roberts told Sen. Jon Kyl, R-Ariz." The Times continues, "The committee will wrap up questioning of Roberts on Thursday morning, then proceed directly to six

DOJ_NMG_ 0147789

panels of witnesses, who will speak for and against the nominee. … Committee Chairman Arlen Specter, R-Pa., said late Wednesday that he would conclude the Roberts hearings on Thursday and set a committee vote on the nominee for Sept. 22." The Times adds, "As in his testimony on the previous day, Roberts was probed about his views on the Voting Rights Act, privacy and the judiciary's proper role in interpreting congressional statutes. … And as in Tuesday's performance, Roberts was loath to do more than outline in the broadest terms his view of how he would adjudicate certain issues … " The Times notes, "One chief counsel for a committee Republican noted the reams of paperwork being passed between staff and the panel's 18 members and remarked, 'Roberts has just got all this stuff in his head.' … Indeed, by the end of the day, the most interesting question was not whether Roberts would win confirmation, but whether he would secure any Democratic votes in the process."

The Los Angeles Times (9/15, Schmitt, Reynolds) describes the Democrats' questioning as "relentless and occasionally sharp," and adds "his new comments leaned toward a more moderate position than some of his writings as a Justice Department lawyer in the Reagan administration." However, "they were so sparse and cautiously phrased that they sparked protests from Democrats about his refusal to be more forthcoming."

A similar Reuters dispatch (9/15, Ferraro) reports Roberts said that if confirmed "he would seek consensus on the often bitterly divided Supreme Court that has spawned frustration with a series of 5-4 rulings." Roberts "calmly countered the complaint as he appeared headed toward confirmation by the Republican-led Senate before the court begins its new term on October 3."

The Democrats' frustration is also the major topic in the Washington Post (9/15, Babington, Becker), which says Democratic senators "angrily accused" the nominee "of hiding his views on end-of-life questions, privacy and other contentious issues." Roberts "Republican supporters," adds the Post, "said his confirmation is virtually assured." Sen. Charles E. Schumer "accused Roberts of treating the hearing room as a 'cone of silence.' 'It seems strange, I think, to the American people that you can't talk about decided cases -- past cases, not future cases -- when you've been nominated to the most important job in the federal judiciary,' the senator said."

The Christian Science Monitor (9/15, Richey) says Roberts' plan is to "reveal just enough information about his approach to judging to convince the senators of his integrity and constitutional expertise -0 but not enough to permit someone to forecast how he might vote once on the high court." Roberts "isn't just fighting for himself. If he is successful in holding that line he will help set the stage for the president's next high court nominee -- the pick that will replace centrist Justice Sandra Day O'Connor and potentially swing the court to the right." So far, "Roberts has fended off, dodged, and sidestepped his way through a gauntlet of Senate Judiciary Committee questions." But he "bottom line" is "Senators -- and the American public -- are learning precious little about which way Roberts is likely rule as the nation's most powerful judge."

The Hill (9/15, Allen) says the nominee "sailed through a second day of inquiries from the Senate Judiciary Committee yesterday, leaving some lawmakers and analysts to wonder whether President Bush's pick to fill a second Supreme Court vacancy will be able to measure up." Roberts "fielded and at times sidestepped questions with poise and humor, even as Democratic Senate heavyweights Joseph Biden (Del.) and Edward Kennedy (Mass.) pressed him repeatedly on civil rights and whether people have a right to determine when they die." Some "wondered if Roberts's composure and ability to establish his own framework for which questions to answer and which to avoid will set an artificially high bar for the next nominee."

The Washington Post (9/15, Goldstein) reports, "As Democrats on the Senate Judiciary Committee try to cast doubt on whether…Roberts deserves to become chief justice of the United States, the main club they are wielding are his own words -- as glimpsed in memos he wrote, as a young but well-positioned legal adviser inside the Reagan revolution, on the most polarizing civil rights issues of a generation ago." For two days, "the Democrats have read excerpts -- and at times even handed the nominee copies of his own work -- on voting rights, sex discrimination, affirmative action, racial bias, and the possibility of stripping the Supreme Court of jurisdiction over certain kinds of rights cases." The Post adds, "To try to blunt the impact of this document assault, Roberts has employed a two-pronged strategy: He has asserted that his words and legal reasoning were merely those of a staff lawyer. And he has largely refused to embrace or disavow the views his memos espouse."

The Washington Times (9/15, Hurt) focuses on Roberts' comments on eminent domain, reporting Roberts "told senators yesterday that laws restricting the government's power of eminent domain are legitimate, despite a landmark Supreme Court decision earlier this year that broadly expanded that authority." Roberts, adds the Times, "finished a second day of testimony yesterday with a few flare-ups, but no major upsets." The hearings "have been so devoid of fireworks that Senate staffers are having a hard time keeping the limited public seating area filled."

A second Washington Times (9/15, Hurt) adds that with Roberts' confirmation "appearing more likely, members of the Senate Judiciary Committee have resorted to using the hearings to lobby the nominee about their own favorite issues." Senators "have pressed their views on the prospective chief justice about televising Supreme Court

DOJ_NMG_ 0147790

proceedings, the right to die and abortion, among other issues."

The Washington Times (9/15, Taylor) also focuses on Roberts' "management of the Supreme Court," and how it "could differ starkly from his predecessor and mentor William H. Rehnquist: The number of cases the court takes on is likely to increase." Under Rehnquist, "the average high court caseload dropped from about 150 to 80 cases a year -- a trend Judge Roberts appeared intent on reversing during exchanges yesterday."

54% Paying "Close Attention" To Roberts Hearing. The CBS Evening News (9/14, story 7, 0:20, Schieffer) reported, "Even with so much attention on Hurricane Katrina, more Americans now say they are paying attention to the nomination of Judge John Roberts to be the next chief justice of the United States. In a new CBS News/'New York Times' poll, 54% said they were paying close attention. But 63% felt they didn't know enough to say whether Roberts should be confirmed."

Conservatives Seek Memos Detailing Contacts Between Democrats, Interest Groups. The Hill (9/15, Bolton) reports, "Conservative strategists are drafting a letter to Democratic members of the Senate Judiciary Committee demanding the release of hundreds of internal memos detailing contacts between the lawmakers and liberal interest groups opposing John Roberts's nomination to the Supreme Court." By "planning to press Democrats on the sensitive subject, conservatives seem to be pulling a page from the Democrats' own political playbook. In the weeks leading up to the confirmation hearings, Senate Democrats have repeatedly called on the White House to give them memos Roberts penned while he was deputy solicitor general in President George H.W. Bush's administration." In their letter, "conservatives quote [Sen. Pat] Leahy's argument that the Senate should have access to the withheld documents. In the letter, they assert that the public is equally entitled to know what is motivating and directing Senate Democratic scrutiny of Roberts, according to a verbal summary given to The Hill."

"Testy" Specter Questioning Seen As Sign Of Estrangement Between Congress, Court. The New York Times (9/15, Greenhouse) reports, "Senator Arlen Specter's testy interrogation of Judge John G. Roberts Jr. on the Supreme Court's treatment of Congress may well have left viewers scratching their heads on Wednesday morning, with cryptic references to the 'congruence and proportionality test' and to unfamiliar case names like 'Lane and Hibbs.'" But "the line of questioning that Mr. Specter, the Pennsylvania Republican who is Judiciary Committee chairman, chose to pursue offered a window on the increasingly troubled relationship between the court and Congress, as well as on one of the most consequential developments of the Rehnquist court's later years." In a series of decisions, "many written by Chief Justice William H. Rehnquist himself, the court declared unconstitutional acts of Congress that had been passed by broad bipartisan majorities. … From 1995 to 2003, the Supreme Court overturned all or parts of 33 federal statutes, 10 of them on the ground that Congress had exceeded its authority either to regulate interstate commerce or to enforce the constitutional guarantees of due process and equal protection."

Meanwhile, The Hill (9/15, Savodnik) reports this morning "the anti-abortion-rights group Concerned Women for America (CWA) is applying pressure on…Specter…to back Supreme Court Chief Justice nominee John Roberts. 'When it comes time for the committee to vote, Chairman Specter's promise of fairness should lead him to the inescapable conclusion that it couldn't possibly be fair not to vote for this exceptionally qualified nominee,' said the CWA chief counsel, Jan LaRue."

Brownback Hopes Next High Court Nominee Will Have Track Record Of Opposition To Roe. Roll Call (9/15, Kane) reports, "Sen. Sam Brownback (R-Kan.) said Wednesday that he would like the next Supreme Court nominee to have a detailed track record opposing the Roe v. Wade decision, as opposed to the relatively limited record on abortion issues held by Judge John Roberts." While Brownback "expects to support Roberts as President Bush's pick for chief justice of the United States, he warned that he and many in the conservative movement would like the nominee to replace retiring Associate Justice Sandra Day O'Connor to have a clearer record of opposing abortion rights than Roberts."

More Commentary On Roberts Hearings. The New York Times (9/15) writes in an editorial, "Roberts's record, on the bench and off, puts him well to the right end of the ideological spectrum." The Times adds that "there's reason for concern. He did not say he agrees with Roe, for instance, only that it is entitled to deference. That is a truism: all of the court's decisions are entitled to such deference, but some are reversed anyway." Senate Democrats "have two goals. Before Mr. Roberts…becomes chief justice for life, they want to try to determine that he does not hold far-right views on important issues. … No less important, Senate Democrats are putting down markers for the next judicial battle. … By subjecting Judge Roberts to tough questioning, they are sending a message that if President Bush chooses a far-right nominee, he can expect a major fight."

Meanwhile, the Washington Post (9/15) editorializes, "The cumulative impression is of a cautious, incremental conservative, unlikely to unmask himself as a liberal once on the bench but unlikely as well to try to impose his own political agenda."

Morton Kondracke writes in Roll Call (9/15), "It's about as certain as anything that John Roberts will be the next chief justice of the United States, but it's anything but certain where

DOJ_NMG_ 0147791

he'll come out ideologically." Roberts "may be a conservative, but he's not a rigid, big-C conservative ideologue. And, assuming he's being honest, he's not going to be the activist hoped for by the right and feared by the left."

The Wall Street Journal (9/15) runs an editorial titled "Dean Of The Democrats," but "not Howard. The Dean whom Democrats have tapped to represent them at John Roberts's confirmation hearings this week is John W. Dean III, White House Counsel to President Nixon and one of the architects of the Watergate coverup. … This paragon of the law is now a columnist for FindLaw.com, where he has been writing articles opposing Mr. Roberts's confirmation. … In other words, the Democrats are using a man who will go down in history for facilitating a Presidential coverup to make the case for open government." Meanwhile, "they ignore six Solicitors General from several administrations, Democrat and Republican, who have said publicly that the Roberts documents are covered by attorney-client privilege and should be kept confidential. So: a bipartisan group of law-abiding SGs vs. a convicted felon and Watergate enabler? You make the call."

Bush Thanks Nations For Katrina Help, Links Terror Fight To Reducing Poverty. President Bush yesterday spoke to the UN General Assembly, calling for reform of the international body, particularly its handling of human rights, and a stepped up effort to end poverty and defeat terrorism. The speech received coverage in major newspapers, local TV stations across the country and the network's evening newscasts. The most notable exception was CBS, which offered no coverage of Bush's remarks on the CBS Evening News.

With the speech covering a variety of topics, TV reports have no overarching theme. Most print stories, meanwhile, focus on what they describe as the President's "conciliatory" tone in addressing the UN. Most newspaper articles also note Bush's words linking the reduction of trade barriers to eliminating poverty and defeating terrorism. That theme was largely ignored by network news and local TV stations.

For example, ABC World News Tonight (9/14, story 4, 1:05, Vargas) reported, "Bush addressed the UN General Assembly and thanked the international community for helping victims of Katrina. Then he said the UN must work to reform itself, especially when it comes to human rights." Bush was shown saying, "When this great institution's member states choose notorious abusers of human rights to sit on the UN Human Rights Commission, they discredit a noble effort and undermine the credibility of the whole organization." Vargas: "These meetings bring together all sorts of strange bedfellows. The new President of Iran, Mahmoud Ahmadinejad, was there for President Bush's speech. And he addressed the assembly later in the day. The US accuses his country of trying to build nuclear weapons, and right after the Iranian president began speaking, the US delegation walked out."

Meanwhile, NBC Nightly News (9/14, story 7, 0:50, Williams) reported, "Bush called on world leaders at the United Nations to step up the global war on terrorism." Bush was shown saying, "The terrorists must know that wherever they go, they cannot escape justice. We must send a clear message to the rulers of outlaw regimes that sponsor terror and pursue weapons of mass murder -- you will not be allowed to threaten the peace and stability of the world." NBC also noted the President today "thanked the more than 100 nations -- including Iraq and North Korea -- that have offered help to the victims of Hurricane Katrina."

Likewise, local TV stations chose to emphasize different aspects of the President's remarks. However, the subject most mentioned by local news was terrorism. Typical of that kind of story was WTSP-TV Tampa (9/14, 12:13 p.m.), which reported, "The global war on terror is the main issue" in the speech. WCCO-TV Minneapolis (9/14, 12:06 p.m.) said, "Once again he called on the nations to put the terrorists on notice." WOIO-TV Cleveland (9/14, 12:09 p.m.) added Bush was addressing "a skeptical and silent audience"

A few stations mentioned that the President signed an agreement to suppress nuclear terrorism. KING-TV Seattle (9/14, 12:21 p.m.) reported, "President Bush signed a United Nations resolution to formally strengthen international steps to combat terrorism. It would mandate a global commitment to prosecute and extradite those who are not in accordance."

WEWS-TV Cleveland (9/14, 5:15 p.m.) and KATU-TV Portland, OR (9/14, 11:10 p.m.) also reported on the resolution.

Coverage of the President's thanking the world for its help with the aftermath of Hurricane Katrina did not receive quite as much coverage as the terrorism issue. A typical example is KPHO-TV Phoenix (9/14, 5:13 p.m.) which reported, "President Bush thanked all who had offered help to victims of Katrina. Then he got down to other business: terrorism." KPRC-TV Houston (9/14, 5:17 p.m.) also said, "Addressing the United Nations, President Bush thanks the countries around the world that sent help for victims of Hurricane Katrina. The president says that just as Americans have seen the awesome power of nature, they have also witnessed the greater power of human compassion."

The third most commonly mentioned issue was the President's call for support in Iraq. KMGH-TV Denver (9/14, 5:13 p.m.) said Bush "focused most of the speech on Iraq and warned of the problems they could face if the blueprint for a free Iraq fails." WAGA-TV Atlanta (9/14, 12:23 p.m.), WJW-TV Cleveland (9/14, 10:13 p.m.), and WFOR-TV Miami (9/14, 5:12 p.m.) ran almost identical reports.

Bush's call for lowering trade barriers received a lot less attention than the topics covered above. KING-TV Seattle

DOJ_NMG_ 0147792

(9/14, 12:20 p.m.), for example, reported, "Bush challenged the countries of the United Nations to eliminate trade barriers saying if they do, the United States would also." WAGA-TV Atlanta (9/14, 12:23 p.m.) said that he "made a major pitch for scrapping agricultural tariffs saying more open trade would be a boost to nations."

The Los Angeles Times (9/15, Farley, Vieth) says Bush "surprised delegates by reversing US stances on trade and development that had nearly scuttled weeks of negotiation on the reforms. 'To spread a vision of hope, the United States is determined to help nations that are struggling with poverty,' Bush said. 'We are committed to the Millennium Development Goals.'" Those goals "include cutting poverty and hunger in half, ensuring universal education and stemming the spread of AIDS by 2015." Reuters (9/15, Bohan) adds trade "experts saw little chance of the pledge becoming a reality."

Under the headline "At UN, Bush Links War On Terrorism To Anti-Poverty Efforts," the Washington Post (9/15, Baker, Lynch) reports, "Bush's two-day visit here focused his attention back on world affairs at a time of domestic crisis along the Gulf Coast. Many of his counterparts expressed their sympathy following the death and devastation caused by Hurricane Katrina; more than 115 countries have offered assistance. " Bush's "rhetorical nod to international harmony contrasted with past visits by Bush to the United Nations that were marked by bitter disagreement over the war in Iraq. Since his reelection last year, Bush has worked to heal those wounds and has adopted a more multilateral approach to sensitive issues such as Iran's nuclear program." A second Washington Post story (9/15, Kessler) reports, "Bush's speech Wednesday lacked the confrontational tone of his previous addresses here, and he reached out for common goals and objectives." Bush "even lingered to participate for the first time in a session of the UN Security Council and then joined other world leaders for a meal."

A similar theme runs though a New York Times story (9/15, Sanger, Hoge) headlined "Bush Thanks World Leaders And Takes Conciliatory Tone." The Times reports Bush described himself as "the grateful leader of a superpower that in recent days has received emergency aid from nations around the world." The President "balanced his discussion of the need to chase down terrorists with his endorsement of a set of antipoverty objectives called the millennium development goals. … Rather than declare, as he had in the past, that countries had to choose to be 'with us or against us' in battling terrorists, Mr. Bush cast himself as the leader of one of many nations fighting the same plague."

Print media emphasizes that the President suggested a link between lowering trade barriers and ending terrorism. USA Today (9/15) reports, "Declaring that poverty breeds despair and terrorism, Bush challenged world leaders to abolish trade tariffs and subsidies to promote prosperity and opportunity in poor nations, a move that would be worth billions of dollars." The President is quoted saying, "There can be no safety in looking away or seeking the quiet life by ignoring the hardship and oppression of others. Either hope will spread, or violence will."

The Wall Street Journal (9/15, King Jr.) reports, "Bush traveled here with several aims. The US hopes to build support from China, Russia and other nations to bring Iran's nuclear program before the Security Council, and to keep up pressure on North Korea through the six-party talks under way in Beijing." Bush "and his aides also have used the gathering to push for other goals, such as health programs and trade."

Meanwhile, the Washington Times (9/15, Sammon) runs a story titled "Bush Hits UN Corruption," reporting the President "implored the United Nations to rid itself of corruption and scolded the global body for squandering the world's respect and making a mockery of human rights."

More Commentary On Bush's Speech. In an editorial, the Los Angeles Times (9/15) says that Bush "deserves credit for making foreign aid a priority in a country where African poverty seldom shows up on the political radar screen. Yet this has the effect of making the administration's truculence on the Millennium Development Goals all the more frustrating. The administration has not met its commitments, and the president has failed to live up to his own inspirational rhetoric. Until it has and he does, speeches like the one Bush delivered on Wednesday will continue to be seen as cynical political ploys."

The New York Times (9/15) writes in an editorial, "Yesterday, Mr. Bush declared: 'The United States is ready to eliminate all tariffs, subsidies and other barriers to free flow of goods and services as other nations do the same. This is key to overcoming poverty in the world's poorest nations.' These were exactly the right words, and we applaud them. Now, let's get to it. The world is waiting."

USA Today (9/15) editorializes, "Bush is following the path of many second-term presidents who show a better understanding of the way the world works after a steep foreign-policy learning curve. In the short run, the legacy of the administration's in-your-face approach during Bush's first term is that the United States faces an increasingly lonely task trying to extricate itself from Iraq during his second." However, "over time…Bush's new attitude toward international cooperation might help turn global opinion around."

In Prime Time Speech From New Orleans, Bush Will Vow To Rebuild Gulf Coast. President Bush will address the nation tonight from New Orleans. In his remarks, the President is expected to pledge additional Federal help to

DOJ_NMG_ 0147793

rebuilt the areas ravaged by Katrina. Moreover, Bush will outline steps to incorporate what the Wall Street Journal (9/15, Wilke, Mullins) calls "a broad range of conservative economic and social policies" into the government's rebuilding effort. Some of those measures, adds the Journal, "are already taking shape. In the past week, the Bush administration has suspended some union-friendly rules that require federal contractors pay prevailing wages, moved to ease tariffs on Canadian lumber, and allowed more foreign sugar imports to calm rising sugar prices. Just yesterday, it waived some affirmative-action rules for employers with federal contracts in the Gulf region. Now, Republicans are working on legislation that would limit victims' right to sue, offer vouchers for displaced school children, lift some environment restrictions on new refineries and create tax-advantaged enterprise zones to maximize private-sector participation in recovery and reconstruction."

The Los Angeles Times (9/15, Hart, Hook) adds, "White House aides said President Bush's address to the nation tonight would call for reconstructing the Gulf Coast using conservative blueprints and private-sector initiatives. In preparing for his speech to be delivered from New Orleans, the president consulted widely with Republican leaders and conservative thinkers."

USA Today (9/15, Keen) reports that in his prime-time address tonight, President Bush "will tell the nation…that he's committed to rebuilding New Orleans and the Gulf Coast, while eliminating the poverty and joblessness that were exposed in the wake of Hurricane Katrina. Dan Bartlett, Bush's counselor, said the president will reflect on 'the horrific suffering' in the region and 'outline the beginnings of a vision of the future.'" Bush will speak from New Orleans and "pledge more federal help providing housing, health care and education to evacuees." The speech "is part of a White House plan to show the president's concern and commitment to the devastated region after criticism about initial slow responses by Bush and federal agencies. Bush's statement Tuesday that he takes responsibility for those problems was part of the plan."

The Washington Post (9/15, A1, Weisman, VandeHei) also reports Bush "will call tonight for an unprecedented federal commitment to rebuild New Orleans and other areas obliterated by Hurricane Katrina, putting the United States on pace to spend more in the next year on the storm's aftermath than it has over three years on the Iraq war, according to White House and congressional officials. With the federal tab for Katrina already nearly quadruple the cost of the country's previous most expensive natural disaster cleanup, Bush plans to offer federal assistance to help flood victims find jobs, get housing and health care, and attend school."

USA Today (9/15, Hall) writes, "More than 100 tractor-trailers packed with water, ice and other critical hurricane-relief supplies have been sitting at an Air Force base in Montgomery, Ala., for nearly a week while the federal government pays $600 a day for each truck." The "idle trucks," called up by FEMA "to deliver supplies, are just the latest example of the waste, bureaucratic errors and miscommunication that continue to foul Hurricane Katrina relief efforts." Rep. Mike Pence said Congress "should create a special inspector general for hurricane relief, similar to the position overseeing spending on Iraq reconstruction. 'It is imperative that those most in need receive assistance and that no resources are wasted,' Pence said."

Labor Department Earmarks $12 Million To Train Recovery Workers. CNN's The Situation Room (9/14, Blitzer) reported, "The Labor Department says it's earmarking $12 million for training Katrina recovery workers. The money is going on, going to continue in grants to Alabama, Mississippi, Louisiana and Texas. It will fund training in fields including construction, energy, transportation, and security."

Katrina Response Drives Down Bush Approval In Two New Polls. The Wall Street Journal (9/15, Harwood) reports that Hurricane Katrina "has accelerated the erosion in public support for the Iraq war as President Bush's core of supporters dwindles and economic pessimism turns Americans' attention inward. A new Wall Street Journal/NBC News Poll shows that cutting spending on Iraq is Americans' top choice for financing the recovery from Katrina. Shaken by high gas prices and bracing for further jolts, Americans have turned negative about Mr. Bush across the board -- on handling the economy, foreign policy, and even the war on terrorism." Bush's overall approval "has fallen to a record-low for Mr. Bush of 40%, reflecting a shrunken core of base supporters. That promises to have repercussions for his domestic agenda on issues like Social Security, taxes and immigration, and leaves Mr. Bush with a steeper challenge on his most significant second-term priority: using American power and resources to transform Iraq and the broader Middle East."

On the NBC Nightly News (9/14, story 8, 2:20, Williams), Washington bureau chief Tim Russert discussed the new NBC/WSJ poll, saying it showed "the lowest favorable rating in the five-year presidency of George Bush, 40% approval. And this haunting question: If the victims were white, would there have been a faster response? Two-thirds of whites disagree with that, but seven out of 10 blacks think that is the case -- a huge racial divide confronting this President and this country." Williams: "That's a worrisome number for the White House."

The New York Times (9/15, Purdum, Connelly) reports that a "summer of bad news from Iraq, high gasoline prices, economic unease and now the devastation" of Katrina has left Bush with "overall approval ratings for his job performance and handling of Iraq, foreign policy and the economy at or near the lowest levels of his presidency, according to the latest New York Times/CBS News Poll. For

DOJ_NMG_ 0147794

the first time, just half of Americans approve of Mr. Bush's handling of terrorism, which has been his most consistent strength since he scored 90 percent approval ratings in the aftermath of the Sept. 11 attacks. More than 6 in 10 now say that he does not share their priorities for the country, 10 percentage points worse than on the eve of his re-election last fall, while barely half say he has strong qualities of leadership, about the same as said so at the early low-ebb of his presidency in the summer of 2001." In the Times/CBS poll, "41 percent of respondents approved of Mr. Bush's performance in office, while 53 percent disapproved."

The AP (9/15, Press) reports that the Times/CBS poll also found that most Americans "say rebuilding New Orleans is more important to them than cutting taxes or changing Social Security. … Cutting taxes and changing Social Security were both priorities of the Bush administration before the storm."

Rice Touts Bush Efforts For Minorities. Secretary of State Condoleezza Rice in an interview on The O'Reilly Factor (9/14) was asked about President Bush's low public support from African Americans, particularly in Katrina's wake. Rice said, "Let me just say right here that this is a President who has not only cared about minority empowerment, not only cared about equal opportunity for minorities, but he's done more than any other president I can think of in recent memory." For example, "the standards for -- so that school children are actually reading at the grade level they're supposed to be at, No Child Left Behind."

More Commentary On Bush's Speech, Declaration Of Responsibility. In his Washington Post (9/15, A33) column, Richard Cohen writes, "As if in the grand tradition of presidents affirming that the buck stops where Truman said it did -- the Oval Office -- George Bush has taken responsibility for the shortcomings in the federal effort regarding Hurricane Katrina. I f he means what he said, then Katrina washed up a whole new George Bush. But a little skepticism is in order here. After all, the George Bush we have come to know sorely lacks a rearview mirror. … For Bush there is only today and tomorrow. Yesterday is someone else's responsibility."

The New York Times (9/15) editorializes, "When President Bush addresses the country from New Orleans tonight, he will have the opportunity to build on the good beginning he made earlier this week, when he took responsibility for the federal government's failures in responding to Hurricane Katrina. In an administration that has hated to acknowledge that it ever does anything wrong, it was refreshing to hear Mr. Bush freely admit that Katrina demonstrated that there is a question about whether the nation is really prepared to respond to a terrorist attack or another natural disaster. It is only by squarely acknowledging past failure that the country will be able to do better in the future."

The Wall Street Journal (9/15) editorializes, "President Bush addresses the nation on Hurricane Katrina tonight, and after keeping too quiet for too long there's a lot for him to say. We hope he tells Americans that such a demonstrable failure at all levels of government is a rare opportunity to change that government, not another excuse to expand it willy-nilly. … The political trauma that has followed Katrina is almost entirely a result of the slow, haphazard government response in the first days after the storm hit. Mayor Nagin had an evacuation plan sitting in a drawer but never got the buses in place to implement it. He then blamed everyone else. Louisiana Governor Kathleen Blanco froze amid the crisis and failed to deploy the National Guard properly to protect those stranded at the Convention Center and Superdome. She is still blaming everyone else. FEMA was overwhelmed by the magnitude of the storm, and former director Michael Brown showed he was clueless about events that he could see merely by turning on his TV set. Notably, he is the only public official so far to lose his job, just as Mr. Bush is the only elected official who has so far accepted any public 'responsibility.' Alas, tonight the President isn't likely to assail the Department of Homeland Security that he helped to create, but he at least ought to admit that federal and state disaster duties and communication need to be better sorted out. He could also praise the Pentagon's relief success."

Gonzales Appoints Katrina Internet Fraud Task Force.

WHBQ-TV Memphis (9/14, 11:13 p.m.) reported, "Attorney general Alberto Gonzales has appointed a task force specifically to deal with on-line fraud from Hurricane Katrina."

WOWT-TV Omaha (9/14, 5:23 p.m.) also covered this story.

Kentucky Women Charged With Katrina Aid Fraud. The Louisville Courier Journal (9/15, Davis) reports, "Three Louisville women have been charged with felony fraud, accused of trying to cheat the American Red Cross in Jeffersonville, Ind., out of hundreds of dollars in Hurricane Katrina aid. Red Cross officials said yesterday that they believe that the case is part of a pattern of deceit in Clark County, Ind., that may include at least seven other individuals and families. Some people who received Red Cross debit cards in Jeffersonville over the last two weeks have used them to shop at Victoria's Secret, Circuit City and other stores that are 'not typical' destinations for disaster victims, said Phyllis Wilkins, executive director of the agency's Clark County chapter." The Courier Journal notes, "Several measures are now being taken to combat thefts in Clark County. Police began stationing a uniformed officer at the chapter's disaster resource center yesterday, and Capt. Bruce Wilkerson of the Jeffersonville Police Department said

DOJ_NMG_ 0147795

names of applicants were being entered into a national crime database run by the FBI."

Scam Artists May Try To Cash In On Relief Efforts. CNN's Lou Dobbs Tonight (9/14, Dobbs) reported, "Rising concerns tonight that scam artists are trying to cash in on the huge relief effort for victims of Hurricane Katrina. Criminals are using fake web sites to steal money that millions of Americans want to send to the survivors of the victims. And prosecutors are concerned about possible fraud in reconstruction contracts, as well." CNN (Sylvester) added, "Federal investigators are looking at 2,100 questionable web sites, seeking Katrina relief services. About 60 percent of them are from overseas, a possible red flag. … Donors should check out charities before giving or stick with reputable agencies. … But charity scams are not the only type of fraud the government is worried about. When the hurricanes hit Florida last year, dozens of residents and businesses filed false government claims. Rent paid for those who didn't need it, funerals covered by the government, unrelated to the hurricanes. … Democrats are asking for an oversight commission to review how FEMA spends $60 billion in hurricane relief aid. The Department of Justice is establishing a task force of law enforcement officials to investigate Katrina related crimes, including Internet fraud, identity theft and false government claims."

Senate GOP Leaders Seek "Marshall Plan" For Region. Reuters (9/15, Kenen) reports that Senate Republican leaders urged Bush to "establish a 'Marshall Plan' for the recovery after Hurricane Katrina, similar to the massive post-World War II effort to rebuild western Europe. In a letter to Bush, Majority Leader Bill Frist and the rest of the Senate Republican leadership called for a 'Marshall Plan' to establish a 'coordinated and comprehensive plan to help the Gulf Coast region.' They did not spell out precisely what such a plan would entail, but lawmakers are beginning to consider ways of assembling a public-private partnership to redevelop the shattered region in the coming years."

Novak Says Coburn's Calls For Post-Katrina Government Sacrifice Fall On Deaf Ears. Syndicated columnist Robert Novak (9/15) writes this morning that Oklahoma Sen. Tom Coburn "is arguing that massive federal spending in the wake of Hurricane Katrina must entail some sacrifice. By that he meant the pork so dear to his colleagues." Coburn called OMB Director Joshua Bolten "to ask support for $15.3 billion in offsets based on the administration's own proposed terminations and spending reductions," but Bolten told Coburn "that the administration's hands were full dealing with Katrina's aftermath. Coburn told me he did not blame Bolten but his superiors. The superior he meant was George W. Bush." But Coburn's "problem is less Bolten or even Bush and more his Senate colleagues," whom threaten "to run wild with new earmarks and additional spending." Meanwhile, Novak notes, "In the House, one liberal Democrat after another has taken the floor to demand higher taxes in upper income brackets." Coburn "contends any government worker could find room to cut back spending in his own department before the federal leviathan demands more funds from any individual taxpayers. … As Coburn asserts, 'It is inexcusable for the White House and Congress to not even make the effort to find any offsets.'"

Fight Looming Over Control Of Gulf Coast Rebuilding Effort. The Wall Street Journal (9/15, A1, Calmes, Carrns, Opdyke) reports in a front page story that with "as much as $200 billion beginning to gush out of Washington for the Hurricane Katrina disaster zone, the fight already has begun over who will control the spending and make critical decisions about the future of New Orleans and the Gulf Coast." The battle is "shaping up around three key questions: Will state, local or federal officials have the final say about the shape of redevelopment? Will existing government bodies spend the reconstruction bonanza, or will some new agency be created for the job? And finally, will New Orleans be rebuilt as it was, or will some low-lying areas -- often poor, working class or predominantly African-American -- be sacrificed to improve flood protection?" Washington officials "from both parties are concluding the reconstruction job is so immense that it demands an entirely new government entity, perhaps similar to the Depression-era Tennessee Valley Authority." Deputy White House Chief of Staff Karl Rove "and other administration officials have begun soliciting names for the new organization's czar. Former General Electric Co. chief Jack Welch has been mentioned as a possible candidate, as have former Secretary of State Colin Powell and former New York Mayor Rudy Giuliani, though those two have detractors within the White House." But the "prospect of a big federal role is arousing suspicion and anger along the Gulf Coast, an area with long memories of a painful post-Civil War reconstruction and powerful suspicions of intrusions on states' rights and local autonomy."

Firms Awarded No-Bid Contracts Have Checkered Pasts. USA Today (9/15, McCoy) reports two of "the first companies that got emergency no-bid federal contracts for Hurricane Katrina recovery work have faced questions over past business practices, court and government records show." A division of Fluor, "a California firm awarded a housing contract worth up to $100 million, has paid millions of dollars to settle federal government lawsuits — including one that accused it of overbilling for 1989 hurricane cleanup work." The Shaw Group, a Louisiana firm "that won housing and engineering contracts worth up to $200 million, has disclosed that it is being investigated by the Securities and Exchange Commission. The firm is also a defendant in federal securities class-action cases." The contracts "were

DOJ_NMG_ 0147796

awarded by the U.S. Army Corps of Engineers and Federal Emergency Management Agency as part of a relief effort expected to top $100 billion."

Union Officials Resisting Suspension Of Davis-Bacon Act. The Hill (9/15, Schor) reports that among the "litany of regulations in line to be eased or suspended during the daunting rebuilding process on the Gulf Coast are several that have greatly alarmed labor unions, whose furious lobbying efforts are hitting a brick wall of conservative might." Union officials are "concerned that President Bush's Sept. 8 suspension of the Davis-Bacon Act, which requires federal contractors to pay construction workers a prevailing wage, was only the beginning. Further hurting the union cause is GOP lawmakers' support for broad bureaucratic relaxation in the Labor Department, a push rooted in the long-standing bad blood between unions and Republican think tanks." The "presidents of LIUNA, the carpenters union and the engineers union wrote to Senate Majority Leader Bill Frist (R-Tenn.) and House Speaker Dennis Hastert (R-Ill.) yesterday decrying the Davis-Bacon suspension."

Officials Urged To Reshape New Orleans. In a USA Today (9/15), Alcestis "Cooky" Oberg says, "We have a historic opportunity to rebuild New Orleans better, safer — to change its shape, the location of its neighborhoods, even its topography. It's all been done before." The "greatest natural disaster to hit the USA — and the only one comparable to Katrina in the scope of its destruction — was the 1900 storm that devastated Galveston, Texas. Between 6,000 and 12,000 people died and, afterward, 75 looters had to be shot dead before law and order could be restored. Every Galvestonian knew that some places never come back from a storm like that." The project "took eight years and was financed by bonds underwritten by Galveston itself, along with tax relief from the state. When another monster hurricane came, in 1915, the city was ready: Only eight people died, and damage was relatively limited. The 1900 storm was a historic opportunity to change Galveston's vulnerability to hurricanes forever with an engineering project so vast, it was breathtaking. Such an opportunity now exists for New Orleans."

Documents Suggest Chertoff Had Authority To Authorize Early Response. Knight Ridder (9/15, Landay, Young, McCaffrey) reports, "The federal official with the power to mobilize a massive federal response to Hurricane Katrina was Homeland Security Secretary Michael Chertoff, not the former FEMA chief who was relieved of his duties and resigned earlier this week, federal documents reviewed by Knight Ridder show. Even before the storm struck the Gulf Coast, Chertoff could have ordered federal agencies into action without any request from state or local officials." Brown "had only limited authority to do so until about 36 hours after the storm hit, when Chertoff designated him as the 'principal federal official' in charge of the storm." As "thousands of hurricane victims went without food, water and shelter in the days after Katrina's early morning Aug. 29 landfall, critics assailed Brown for being responsible for delays that might have cost hundreds of lives. But Chertoff -- not Brown -- was in charge of managing the national response to a catastrophic disaster, according to the National Response Plan, the federal government's blueprint for how agencies will handle major natural disasters or terrorist incidents."

Chertoff "Right In The Middle" As FEMA Scrutinized. CNN's The Situation Room (9/14, Blitzer) reported, "The finger-pointing continuing even after FEMA Director Mike Brown took the fall a few days ago. Homeland Security Secretary Michael Chertoff was Brown's boss, and now is coming under fire for his scrutiny and for his involvement." CNN (Foreman) added, "They are very unhappy at Homeland Security today. That's what's going on right now. … Chertoff is the head of Homeland Security. They are in charge of FEMA. The President has now said he takes the blame for what went wrong. Michael Brown at FEMA has now lost his job for what went wrong. And right in the middle is Michael Chertoff."

Brown Says He Stressed Katrina Urgency, Blames Blanco For Delays. The New York Times (9/15, A1, Kirkpatrick, Shane) reports," Hours after Hurricane Katrina passed New Orleans on Aug. 29, as the scale of the catastrophe became clear, Michael D. Brown recalls, he placed frantic calls to his boss," DHS Secretary Michael Chertoff, "and to the office of the White House chief of staff, Andrew H. Card Jr." Brown, then head of FEMA, "said he told the officials in Washington that the Louisiana governor, Kathleen Babineaux Blanco, and her staff were proving incapable of organizing a coherent state effort and that his field officers in the city were reporting an 'out of control' situation. 'I am having a horrible time,' Mr. Brown said he told Mr. Chertoff and a White House official - either Mr. Card or his deputy, Joe Hagin -- in a status report that evening. 'I can't get a unified command established.'" In his "first extensive interview since resigning as FEMA director on Monday under intense criticism, Mr. Brown declined to blame President Bush or the White House for his removal or for the flawed response." Instead, he "focused much of his criticism on Governor Blanco, contrasting what he described as her confused response with far more agile mobilizations in Mississippi and Alabama, as well as in Florida during last year's hurricanes. But Mr. Brown's account, in which he described making 'a blur of calls' all week to Mr. Chertoff, Mr. Card and Mr. Hagin, suggested that Mr. Bush, or at least his top aides, were informed early and repeatedly by the top

DOJ_NMG_ 0147797

federal official at the scene that state and local authorities were overwhelmed and that the overall response was going badly." However, a "senior administration official said Wednesday night that White House officials recalled the conversations with Mr. Brown but did not believe they had the urgency or desperation he described in the interview."

CNN's Lou Dobbs Tonight (9/14, Henry) reported, "Democrats have acted surprised and outraged that the President's FEMA director had next to no experience. … But Democrats were running the Senate when Brown was easily confirmed as FEMA's deputy director in June 2002. The Democrat in charge of the confirmation hearing, Joe Lieberman, declared he would support Brown because of his, quote, 'extensive management experience.'"

Blanco Accepts "Full Responsibility." USA Today (9/15, 3A) reports Blanco "admitted 'failures at every level of government" in the response to Hurricane Katrina on Wednesday. New Orleans Mayor Ray Nagin also conceded missteps." In an "evening address to a special meeting of the state Legislature in Baton Rouge, Blanco said she shouldered blame for her state's situation." Blanco said, "The buck stops here, and as your governor, I take full responsibility." Nagin "also struck a more conciliatory note. 'We could have all done things better,' Nagin said."

The Washington Times/AP (9/15, Deslatte) reports Blanco "took responsibility for failures and missteps in the immediate response to Hurricane Katrina and pledged a united effort to rebuild areas ravaged by the storm." Her statement "came a day after President Bush said he would 'take responsibility' for federal failures in dealing with Katrina."

Senate Opens Hearings On Future Role Of FEMA. The Wall Street Journal (9/15, Block) reports that Congress "opened hearings yesterday to figure out what went wrong in the immediate response to Hurricane Katrina and resolve the question of what is to become" of FEMA, an agency that "has become synonymous with the government's bungled response to the hurricane, with a number of politicians saying part of the problem is that the agency is no longer cabinet-level but rather a small cog in the mammoth Department of Homeland Security." Prominent Democrats including Sen. Hillary Clinton "have proposed bills that would make FEMA an independent agency -- a move enthusiastically endorsed by several state emergency managers, who are effectively FEMA's 'clients.'" But the hearings "showed that such a move has far from unanimous backing in the Senate." Senate Homeland Security Chairwoman Susan Collins said she "would explore the idea but cautioned her colleagues against making any hasty moves." Collins said, "My inclination is that FEMA should be part of the Department of Homeland Security."

Paulison Shaking Up FEMA Personnel. The CBS Evening News (9/14, story 3, 0:20, Schieffer) reported, "More heads will apparently roll at FEMA. Administration sources say the new director, David Paulison, plans a series of changes and reassignments in the coming days."

Economist Says Congress Should "Sharpen" FEMA Mission. In a New York Times (9/15) "Economic Scene" column, Princeton economist Alan B. Krueger writes, "Although declaring a disaster should be clear-cut and above politics, the legislation that governs FEMA gives the president much discretion to decide whether an event is a disaster that qualifies for assistance. Upon receiving a request by a state's governor, the president may declare a 'major disaster' if a natural catastrophe 'causes damage of sufficient severity and magnitude to warrant major disaster assistance.' … When Congress turns to evaluating the Hurricane Katrina disaster, it should also consider sharpening FEMA's mission. One helpful step would be to define more precisely the requirements necessary for the president to declare a disaster."

Lawmakers To Visit Gulf Coast Friday. CNN's Anderson Cooper 360 Degrees (9/14, Cooper) reported, "Congressional lawmakers are planning to get their own firsthand look at the devastation. Today Senate Majority Leader Bill Frist and Democratic Leader Harry Reid announced they will lead a 14-member congressional delegation to the Gulf coast on Friday."

Columnist Sees Methodist Hospital Debacle As Example Of FEMA Failures. In his New York Times (9/15) column, Bob Herbert writes that the patients and staff at Methodist Hospital in New Orleans "could have been evacuated before Hurricane Katrina hit. But instead they were condemned to several days of fear and agony by bad decision-making in Louisiana and the chaotic ineptitude of the Federal Emergency Management Agency. Some of the patients died. Incredibly, when the out-of-state corporate owners of the hospital responded to the flooding by sending emergency relief supplies, they were confiscated at the airport by FEMA and sent elsewhere. … Everybody's suffering would have been eased if the emergency relief effort mounted by the hospital's owner…had not been interfered with by FEMA. … When you consider that the Methodist Hospital experience was just one small part of the New Orleans catastrophe, you get a sense of the size of the societal failure that we allowed to happen. Welcome to the United States in 2005."

Senate Rejects Independent Katrina Investigation. The Washington Post (9/15, A15, Hsu, White) reports the Senate "voted along party lines yesterday to reject creation of an independent panel to investigate the government's fumbling response to Hurricane Katrina." The proposal, from Sen. Hillary Rodham Clinton (D-N.Y.), "would

DOJ_NMG_ 0147798

have established a panel similar to the one that examined the Sept. 11, 2001, terrorist attacks. The partisan wrangling came amid rising calls from members of both parties to change how the nation manages major disasters." The House and Senate GOP leadership plan "to form a joint congressional investigative committee with a Republican majority. A House vote is scheduled for today. Democrats oppose the move." The stalemate "over the makeup of the panel muted the first hearing in Congress into the Katrina response led by the Senate Committee for Homeland Security and Governmental Affairs."

The Hill (9/15, Hearn, O'Connor) reports Republicans and Democrats "remained in a partisan deadlock yesterday as they prepared for a floor vote to determine how to investigate the bungled response to Hurricane Katrina." Republican House leaders "plan to bring their proposal to the floor today, despite Democratic opposition, and pass it in a largely party-line vote." The proposal "would set up a 20-member committee consisting of 11 Republicans and nine Democrats on the House side, according to a draft of the resolution. The minority will be extended the ability to call for extra witnesses at hearings. A budget of $500,000 will be provided through the House Administration Committee." Both parties "face potential political fallout from the bitter standoff. Democrats could face charges of partisanship for failing to go along with the Republicans' joint panel, a type of committee that has been used dozens of times in recent decades to investigate different administrations, including the Iran-Contra scandal, Republicans argue." Democrats "counter that the circumstances were different during the 1980s because Democrats controlled Congress and were investigating a Republican administration."

The Washington Times/AP (9/15) reports Sen. Clinton's "bid to establish the panel -- which also would have made recommendations on how to improve the government's disaster-response apparatus -- failed to win the two-thirds majority needed to overcome procedural hurdles." But the Senate vote "likely won't be the last word on whether to create an independent commission or, as an alternative, a special congressional committee to investigate the Katrina response. A CNN/USA Today/Gallup poll taken last Thursday through Sunday found that 70 percent of those surveyed supported an independent panel to investigate the government's response to Katrina."

Katrina Survivors Now Negotiating Maze Of Federal Assistance Bureaucracy. The Washington Post (9/15, D1, Alexander, Henderson) reports, "First they had to ride out a howling storm. Then find shelter. Then food and water. Now, the thousands of families driven from their homes by Hurricane Katrina face the daunting challenge of applying for financial assistance under a dizzying mix of government programs." The Congressional Budget Office "has estimated that the storm wiped out about as many as 400,000 jobs in Louisiana, Mississippi and Alabama, prompting a surge in new claims for unemployment insurance benefits." Many of those impacted are "newly eligible for food stamps, Medicaid, housing assistance, subsidized school lunches, emergency cash assistance" from FEMA, "and other programs. But many have never received such benefits and will have to navigate through multiple government agencies to find out if they qualify and how to apply."

FEMA Organizing Trailer Complexes For Katrina Evacuees. The CBS Evening News (9/14, story 10, 2:50, Schieffer) reported, "FEMA estimated today that the number of people living in shelters after Hurricane Katrina is 112,000. Many of them may be moved to trailers FEMA is setting up with your tax dollars." CBS (Attkisson) added, "As many as 300,000 trailers will eventually be set up in cities of trailers where evacuees can live for up to five years. … In fairness to FEMA, it's not an easy process. Nothing on this scale has ever been attempted before."

Kolbe Seeks Appointment Of IG To Oversee Katrina Relief Funding Efforts. The Washington Times (9/15, McCaslin) reports in its "Inside The Beltway" column that Rep. Jim Kolbe has introduced the "Special Inspector General for Hurricane Katrina Recovery Act of 2005," seeking "to appoint an independent inspector general to oversee continued funding efforts. Rep. Jeb Hensarling, Texas Republican, agrees that Capitol Hill 'must do everything necessary' to help Katrina's victims, but stresses 'Congress must also use its head.' Which means, he says, that 'Congress cannot continue to fund projects like the $800,000 outhouse, $1.2 million for panda research or the $1 million rain forest in Iowa.'"

9/11 Panelists Criticize Federal Response To Katrina. ABC World News Tonight (9/14, story 8, :25, Vargas) reported, "In Washington today, former members of the 9/11 Commission issued a report, saying the government is still not ready for a catastrophic event and failed to make reforms that could have saved lives during Katrina. The report says local emergency officials still can't reliably communicate with each other, the government has no clear system of command and control in a crisis, and that border controls have not been enacted."

The Wall Street Journal (9/15, Paltrow) reports that former New Jersey Gov. Tom Kean, who chaired the panel, "said many of the steps should have been taken immediately after the 2001 attacks. He also said quick implementation of certain commission recommendations issued more than a year ago 'could have saved peoples' lives' in New Orleans.'

The New York Times (9/15, Shenon) adds, "John F. Lehman, a Republican on the panel who was a Navy secretary in the Reagan administration, said he feared that

DOJ_NMG_ 0147799

the 'unconscionable' failures of the rescue effort along the Gulf Coast would embolden terrorist groups to attack again on American soil, making quick adoption of the commission's year-old recommendations all the more important."

The Christian Science Monitor (9/15, Cook) reports on a recent "Monitor Breakfast" with Kean and 9/11 Commission Vice Chairman Lee Hamilton. The Monitor says Katrina "has altered Mr. Hamilton's assessment of overall security. 'We often said during...the 9/11 hearings that we were safer but not safe,' he said. 'What struck me after Katrina was that we were not as safe as I thought we were.' Two reforms are vital in the post-Katrina world, they argue. One is to make clear who is in charge at the federal level during emergencies. The other, they say, is to require every state to adopt a detailed command-and-control plan for disasters - and link it to receiving funding from the US Department of Homeland Security. 'It was obvious that nobody knew who was in charge when Katrina struck. We had the same problem on 9/11,' Kean said. 'If you don't have a unified command structure with somebody in charge and somebody following through ... it is going to cost lives.'"

Officials Announce Plan To Repopulate New Orleans. Thousands of New Orleans residents could return to their homes as early as Monday. The Washington Post (9/15, A14, Whoriskey) reports that "city and federal authorities have set out an accelerated plan to repopulate the city, reversing earlier estimates that the metropolis could be closed for months. The plan would reopen a portion of New Orleans that was home to about 170,000 people, or one-third of the city's population, federal officials said, and be rolled out over the next two weeks." The Post adds, "The reentry plan would unfold by Zip code, depending on which section gets power and water utilities online, and how quickly hospital and emergency services can be restored. It involves portions of New Orleans that largely were unflooded: downtown, the French Quarter, Uptown and Algiers."

The Washington Post (9/15, A14, Vedantam) reports on New Orleans evacuees, noting that their stories "illustrate the game of chance that the resettlement effort is for so many victims of Katrina. Evacuees enter the relief roulette wheel with little idea whether they will emerge in a dreary shelter or in the cool air of the Ozark Mountains."

CNN's Anderson Cooper 360 Degrees (9/14, Lavendera) reported, "New Orleans Mayor Ray Nagin has seen the signs that his wish, to get his city up and running, is one step closer to coming true. Three of the city's suburbs, Westwego, Lafitte and Gretna reopened for business today."

EPA Says New Orleans Cleanup Will Require Razing Neighborhoods. The Washington Times (9/15, Price) reports, "Environmental Protection Agency officials and environmental specialists said yesterday that the cleanup of flood-soaked New Orleans will require razing neighborhoods, comprehensive disinfection, and extensive removal of soil and sediment infused with chemicals and bacteria. … EPA Administrator Stephen L. Johnson said tests continue to show high, unsafe levels of sewage and lead in New Orleans' water and evidence of other chemicals, such as chromium, copper, iron and sodium. He characterized Hurricane Katrina as the 'largest natural disaster the EPA and the nation have ever faced.'"

Rescue Effort Scaled Back. Fox News' Special Report (9/14, Hume) reported, "The rescue portion of the search and rescue effort is being scaled back." Fox (Keeting) added, "Essentially in New Orleans as well as the surrounding parishes they are as evacuated at this point as they are going to be. No more helicopter search and rescue operations. Only 30 people rescued yesterday, so those helicopters now can be better used."

New Orleans Could Be Ready For Tourists By New Year. USA Today (9/15, Sloan) says Stephen Perry, president of the New Orleans Metropolitan Convention & Visitors Bureau said that while "it could be years before some residential areas bounce back from Hurricane Katrina… tourist areas will be ready for visitors far, far sooner. … Half a dozen hotels, including the Sheraton, Hyatt, Hilton and W, already have reopened, and an additional 35 to 40 will be open by the end of next week, Perry says. For now, they house relief workers, government officials and journalists. But the city's power brokers hope to have them ready for tourists by New Year's. Already there are plans for a scaled-down version of Mardi Gras in February."

Real Estate Speculators Buying New Orleans Properties On The Cheap. Hurricane Katrina has made New Orleans' "vibrant" real estate market "hotter," reports the Los Angeles Times (9/15, Streitfeld). The Times adds, "Large sections of the city are under water, but that's only increasing the demand for dry houses. And in flooded areas, speculators are trying to buy properties on the cheap, hoping that the redevelopment of New Orleans will start a boom. This land rush has long-term implications in a city where many of the poorest residents were flooded out. It raises the question of what sort of housing -- if any -- will be available to those without a six-figure salary. If New Orleans ends up a high-priced enclave, without a mix of cultures, races and incomes, something vital may be lost."

Scam Artists May Try To Cash In On Relief Efforts. CNN's Lou Dobbs Tonight (9/14, Dobbs) reported, "Rising concerns tonight that scam artists are trying to cash in on the huge relief effort for victims of Hurricane Katrina. Criminals are using fake web sites to steal money that millions of Americans want to send to the survivors of the victims. And prosecutors are concerned about possible fraud in reconstruction contracts, as well." CNN (Sylvester) added, "Federal investigators are looking at 2,100 questionable web

DOJ_NMG_ 0147800

sites, seeking Katrina relief services. About 60 percent of them are from overseas, a possible red flag. … Donors should check out charities before giving or stick with reputable agencies. … But charity scams are not the only type of fraud the government is worried about. When the hurricanes hit Florida last year, dozens of residents and businesses filed false government claims. Rent paid for those who didn't need it, funerals covered by the government, unrelated to the hurricanes. … Democrats are asking for an oversight commission to review how FEMA spends $60 billion in hurricane relief aid. The Department of Justice is establishing a task force of law enforcement officials to investigate Katrina related crimes, including Internet fraud, identity theft and false government claims."

Mail Service Resumes At 80% Of Affected Post Offices. NBC Nightly News (9/14, story 4, 0:10, Williams) reported, "Then there is the mail service. The Postmaster General said today at more than 80% of the post offices affected by the storm, service has resumed."

German Government Team Helping With Cleanup. The Washington Times (9/15, Doolittle) reports on the "90 men and women sent by the German government to drain flood water from" New Orleans. The team of Germans, "volunteers with Technisches Hilfswerk, a German disaster-relief organization, arrived Friday at Belle Chasse Naval Air Base with 15 pumps that can move almost 6 million gallons of water a day." The Times adds, "The German team is just one of many on hand to clean up and to protect those doing the work. The special-response teams of the D.C.-based Immigration Customs Enforcement patrol outside the Superdome, which was a major evacuation center for tens of thousands, while crews inside clear broken bottles, water-soaked plaster, rotting trash and other messes."

Death Toll In Louisiana Rises To 423. NBC Nightly News (9/14, lead story, 3:00, Savidge) reported, "The death toll in Louisiana, 423 at last report, is nowhere near the 10,000 predicted, but all day recovery teams have been pulling bodies out of attics, basements, and mud. It's slow work, too slow, says state coroner, Dr. Louis Cataldie." Some "recovery sites are also potential crime scenes. 34 patients died in this nursing home, the husband and wife owners charged with homicide for not evacuating them." Authorities are "investigating other cases, like the more than 40 bodies left behind in New Orleans' Memorial Medical Center. The question for weeks ahead, was the disaster that killed the ones left behind natural or manmade? The couple that owns that nursing home, in their defense, said that it would have been too dangerous to move their elderly patients before the storm and that they rode out the storm with them, saving two dozen, even though 34 others died."

ABC World News Tonight (9/14, story 7, :20, Vargas) reported, "The owners of that nursing home were 35 people drowned said they were afraid if they moved their patients, some would die. According to their lawyer, they stayed during the hurricane and tried to rescue as many as they could. They've been charged with negligent homicide in the first attempt to hold people criminally responsible for what happened during the hurricane."

More Nursing Home Deaths Reported. The New York Times (9/15, Rohde, Dewan) reports that "a day after Louisiana officials charged the owners of a nursing home in the deaths of 34 patients there, the owners of two other nursing homes confirmed yesterday that an additional 13 patients died in their homes in the aftermath of Hurricane Katrina. State officials also said they were investigating the deaths of 14 patients at yet another nursing home in New Orleans. The new reports suggest that at least 61 patients died in four New Orleans-area nursing homes after their operators ignored a mandatory evacuation order a day before Hurricane Katrina hit."

911 Tapes Provide "Harrowing Window" Into Katrina Flooding. ABC World News Tonight (9/14, story 5, 2:20, Vargas) reported the "911 tapes of people seeking rescue from the flood waters provide a harrowing window into the disaster. A glimpse of what it was like for the victims and the police."

Louisiana AG Examining Evacuation Procedures Of Hospitals, Nursing Homes. CNN's Lou Dobbs Tonight (9/14, Feyerick) reported, "The attorney general for Louisiana investigating whether hospitals and nursing homes followed evacuation procedures and did everything they could to get patients to safety before the hurricane hit. 45 people were found dead at Memorial Hospital in New Orleans. Staff there without power, food, or water during the entire storm and days after. Yesterday, the owners of a nursing home were charged with 34 counts of negligent homicide after residents there were left to drown."

Military, Law Enforcement Describe Chaos In New Orleans Convention Center. The Washington Post (9/15, Haygood, Tyson) reports, "For five eternal-seeming days, as many as 20,000 people, most of them black, waited to be rescued, not just from the floodwaters of Hurricane Katrina but from the nightmarish place where they had sought refuge," the Ernest N. Morial Convention Center in New Orleans. The Post adds that "what happened in the convention center stands as a harsh indictment of government's failure to help its citizens when they needed it most. That futility was symbolized by the presence in the convention center for three of the most chaotic days of at least 250 armed troops from the Louisiana National Guard. … In more than 70 interviews, with both military and law enforcement officials -- who were themselves sometimes

DOJ_NMG_ 0147801

inside the center -- and with many of the survivors who suffered over the course of several nights, a chilling portrait emerges of anarchy and violence, exacerbated by young men from rival housing projects."

Number Of Katrina Evacuees In Houston Astrodome Down To 1,000. NBC Nightly News (9/14, story 3, 0:30, Williams) reported, "At the Houston Astrodome, 10 days ago, there were more than 17,000 evacuees getting shelter there. Today, just over 1,000 people remain. Officials say the rest have now moved on to more permanent shelters or housing. Those still at the Astrodome are getting assistance to do the same."

Utah Proves Great Contrast For Many New Orleans Evacuees. ABC World News Tonight (9/14, story 10, 2:25, Avila) reported, "More than 600 displaced Katrina victims were flown to Utah, a state so very different than Louisiana." One evacuee "said it's like being a fly in a bowl of milk. New Orleans is 67% African American, here it is less than 2%. Beyond the culture shock there is a difference between as Salt Lake City and New Orleans that is to the advantage of the evacuees. And that is opportunity. Black unemployment is half that of New Orleans. There has already been a job fair for the evacuees."

Officials Will Make Flu Vaccines Available To Hurricane Evacuees. The Wall Street Journal/AP (9/15) reports, "Federal health officials are pressing forward with plans to ensure flu vaccinations for hurricane evacuees in shelters as well as all people in nursing homes, populations they say are particularly at risk for catching the illness while living in tight quarters. Julie L. Gerberding, director of the Centers for Disease Control and Prevention, said Wednesday that elderly evacuees, as well as those of all ages at shelters, will be among the first to receive flu shots this fall. Manufacturer Sanofi-Pasteur is making 200,000 of the first flu shots available to those evacuees. … Federal stocks of all vaccines are being made available to children who are evacuees, Dr. Gerberding said."

USA Today (9/15, Szabo) reports, "Although the vaccine supply should be ample this year, with 71 million to 97 million doses, the Centers for Disease Control and Prevention expects some shots to be delayed."

USED Officials Visit Districts Schooling Evacuees. The Dallas Morning News (9/15, Hobbs) reports, "One thing is obvious at Madison High School in South Dallas. Students who evacuated here because of Hurricane Katrina appreciate Texas. U.S. Department of Education Assistant Secretary Tom Luce, Texas Education Commissioner Shirley Neeley, Dallas Superintendent Michael Hinojosa and Dallas trustee Ron Price toured the school on Wednesday and were thanked profusely by some students."

The San Antonio Express-News (TX) (9/15, LaCoste-Caputo) reports, "San Antonio school leaders concerned about the ramifications of taking in nearly 1,400 new students escaping the aftermath of Hurricane Katrina will have the chance to voice their worries and ask for help today. Ray Simon, deputy secretary for the U.S. Education Department, will visit San Antonio today to meet with superintendents and visit schools."

Louisiana Officials Postpone Local Elections. Local elections in Louisiana scheduled for October 15 have been postponed. The Washington Times (9/15, Hudson) reports that officials made the decision "citing a lack of equipment and manpower." The cancellation "affects judicial candidates, a school board race and one council seat in the parishes of Orleans and Jefferson, special propositions for tax increases for security patrols in two neighborhoods, and a 'beautification, security and overall betterment' tax increase in eastern New Orleans. According to Louisiana law, an office holder remains at his or her post until a successor is sworn into office."

Lloyd's Says Its Katrina Claims Could Reach $2.55 Billion. Lloyd's of London has estimated that claims stemming from Hurricane Katrina could cost it a net $2.55 billion. The Wall Street Journal (9/15, Fleming) says, "Lloyd's estimate of its losses makes Katrina the second-most-expensive single disaster ever in nominal terms for the Lloyd's insurance market, whose members paid out about $3.5 billion for the World Trade Center terrorist attacks in New York in 2001. It also tops all other insurance groups' estimates of their individual exposure to Katrina claims so far. Lloyd's functions as a marketplace for syndicates that underwrite insurance policies."

Many Gulf Coast Homeowners Did Not Have Flood Insurance. The CBS Evening News (9/14, story 4, 2:20, Schieffer) reported, "Insurance companies are expected to pay tens of billions of dollars in claims, but some homeowners are having their claims denied." CBS (Whitaker) added, People here on the Gulf Coast are facing an ugly surprise: When it comes to hurricanes, most homeowner policies cover damage from wind only, not water. So most of this, caused by Katrina's unprecedented tidal surge -- not covered. In fact, almost 80% of homeowners in Mississippi and Alabama don't have the separate Federal flood insurance that would have covered losses like this." Katrina "certainly will trigger the biggest insurance payout in US history by far, as much as $60 billion, three times more than Hurricane Andrew."

Mississippi AG May Sue Insurers. Mississippi Attorney General Jim Hood is considering filing suit against insurers to force them to pay flood damage from Hurricane Katrina, seeking to override exclusions in standard

DOJ_NMG_ 0147802

homeowners' policies. The Wall Street Journal (9/15, Francis) reports that damage "could total billions of dollars." Hood's examination of legal moves "comes as tens of thousands of Mississippi homeowners are grappling with the cost of rebuilding homes that in many cases were badly damaged by the huge storm surge that accompanied the category-four hurricane's strong winds. Mr. Hood and a spokesman for his office couldn't be reached for comment late yesterday."

North Carolina Braces For Hurricane Ophelia. USA Today (9/15, Brook) reports that Hurricane Ophelia was about 20 miles south-southeast of Cape Lookout, North Carolina at 11:00 p.m. Wednesday evening. Ophelia "had maximum sustained winds of 85 mph, making it a Category 1 hurricane on the five-stage scale." USA adds, "North Carolina Gov. Mike Easley warned people not to be complacent. Tourists were told to leave the popular beaches of the Outer Banks. Residents of some low-lying areas were evacuated." FEMA "said it was doing nothing different than normal."

The Los Angeles Times/AP (9/15) reports that Ophelia "lashed the North Carolina coast with high winds and heavy rains Wednesday, beginning an anticipated two-day assault that threatened serious flooding and an 11-foot storm surge. … Ophelia was moving so slowly -- just 7 mph Wednesday night -- that authorities expected the storm's passage through North Carolina to take 48 hours from the start of rainfall on the southeastern coast Tuesday afternoon to the storm's anticipated exit into the Atlantic late Thursday."

The New York Times (9/15, Desantis) adds, "Officials said that voluntary evacuations went smoothly and that by 3 p.m. Wednesday, 519 people had taken refuge in shelters. Residents and officials alike said the cataclysmic effects of Hurricane Katrina on New Orleans and the Gulf Coast had made little difference in how they responded to the storm.'

However, a front page story in the Washington Post (9/15, A1, Cooperman) says "federal, state and local officials were taking no chances of a repeat of the sluggish response to Hurricane Katrina. Here on Hatteras Island, which was expected to bear the worst of the storm, emergency officials stockpiled enough water and military rations to last 3,000 people for three days. The National Guard was standing by with all-terrain vehicles and four-wheel-drive ambulances. The National Forest Service had 10 chain-saw teams ready to remove fallen trees. Gov. Mike Easley (D) urged residents of low-lying coastal areas to evacuate. … But despite a 'mandatory' evacuation order -- which state officials acknowledged was not really mandatory at all -- many residents stayed behind on Hatteras and neighboring islands along the Outer Banks."

ABC World News Tonight (9/14, story 6, 1:25, Vargas) said, "Emergency management officials are taking no chances this time." Among those "in the area are victims of the Hurricane Katrina. They are now living through their second hurricane in a month."

The CBS Evening News (9/14, story 2, 2:00, Schieffer) reported, "Officials are determined to get this one right." CBS (Bowers) added, "Anxious to avoid another disastrous response like with Katrina, the National Guard and FEMA have already been called out." NBC Nightly News (9/14, story 5, 1:15, Kosinski) reported, "The biggest problem you get with a storm that just won't go away like this is significant flooding. Already we're seeing several feet of standing water in this area." NBC Nightly News (9/14, story 12, 2:00, Potter) reported on Geraldine Sanders, who with "most of her extended family fled New Orleans and Hurricane Katrina and headed for North Carolina, only to run into Ophelia."

Katrina Renews Scrutiny Of Superfund. The Christian Science Monitor (9/15, Knickerbocker) reports that as floodwaters in New Orleans and other parts of the Gulf Coast recede, they "are exposing hazardous chemicals and other dangerous waste. But they're also revealing the accomplishments - and the limits - of government programs designed to clean up such pollution. Among the concerns: That natural disasters such as earthquakes and hurricanes haven't been adequately considered in fashioning safe and secure remedies; that areas tainted by toxic waste, such as rivers in the East and old mines in the West, are becoming larger and more complex; that many newly closed military bases will require considerable cleanup before they're ready for private or local government use; and that federal funding is falling behind the need. The main program here is a bureaucratic mouthful: the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund. … Congress and the Bush administration are sure to address hazardous waste cleanup as part of the massive federal response to Katrina. But they're also faced with renewed scrutiny of the whole Superfund program. The industry tax fund ran out of money when Congress refused to renew it in 1995."

The New York Times (9/15, Barringer, Janofsky) says the EPA "is struggling to determine what the worst hazards are, where they are and what can be done about them, the agency's administrator said Wednesday. The difficulties could cast doubt on plans of the New Orleans mayor and other city officials to reopen drier neighborhoods within days. … At a Congressional briefing and at a separate news conference, the E.P.A. administrator, Stephen L. Johnson, described for the first time the wide variety of problems the agency was confronting, including the difficulty of determining the extent and toxicity of the sludge left by the floodwaters. Mr. Johnson said the agency was using aircraft to test for air pollution and taking daily samples of floodwaters and the sludge. The sampling is concentrated in residential areas.

DOJ_NMG_ 0147803

The agency has not completed or released details about specific strategies and the scientific protocols it is using as it tries to analyze the hazards posed by what Mr. Johnson called 'the largest national disaster that we at E.P.A., or we believe, that the nation has faced.'"

Officials Say Pollutants In Floodwater Are Fairly Typical. CNN's Anderson Cooper 360 Degrees (9/14, Cooper) reported, "The Army Corps of Engineers says about nine million gallons of water is being pumped out of the New Orleans area every day. If all goes well, New Orleans could be pumped dry by the end of October."

The Washington Post (9/15, A15, Brown) says that early tests on the floodwater "do not suggest it will leave a permanent toxic residue or render residential areas uninhabitable for more than a short time, officials of both state and federal environmental agencies said yesterday. The pollution consists primarily of fecal matter and slightly elevated concentrations of metals such as lead and chromium that were in the city's soil before Hurricane Katrina. There are also trace amounts of many petroleum-based chemicals and some pesticides. Despite descriptions of the floodwater as a 'toxic soup' and a 'witch's brew' of contaminants, the preliminary tests reveal it contains little that is different from what has been seen after past floods in other cities and here."

However, USA Today (9/15, Frank, Kenworthy) notes that "Louisiana's top environmental official warned Wednesday that many houses will have to be bulldozed because of contamination." Mike McDaniel, secretary of the Louisiana Department of Environmental Quality, "said residents of those areas will be allowed to return to their homes briefly to retrieve personal items but will be told about the health risks and given protective gear. McDaniel said many houses in flooded parts of the New Orleans area 'will have to be disposed of.'"

Katrina Has Negative Effect On Consumer Spending, Gasoline Consumption. The Wall Street Journal (9/15, Gerena-Morales) reports, "Consumer spending showed some signs of cooling during the weeks leading up to Hurricane Katrina, and the storm could further damp consumption in the weeks ahead if gasoline prices don't retreat. In addition, Katrina affected industrial production in August." Retail sales in August "fell 2.1% from the month before to $350 billion on a seasonally adjusted basis, following a 1.8% increase in July." It was "the largest monthly sales decline since demand tumbled 2.9% in November 2001."

Meanwhile, anther Wall Street Journal story (9/15, Herrick) adds "Americans used considerably less gasoline in the final weeks of the summer driving season than a year earlier as Hurricane Katrina limited fuel supplies and distribution and drove up prices." Data released by the US Department of Energy's Energy Information Administration "could indicate that US drivers are responding to soaring gasoline prices by conserving fuel, though the supply disruptions and gasoline lines that followed could also be a factor." Gasoline demand for the week ended Sept. 9 "dropped 4.3% to 8.64 million barrels a day from 9.03 million barrels the previous week." The New York Times (9/15, Bajaj) runs a similar story in which it mentions "some anecdotal evidence that fewer consumers drove over the Labor Day holiday and that more people are taking mass transit when possible, but there is little hard data."

In addition, the New York Times/AP (9/15) adds Katrina "is eating into the economy, leading to concern that consumers will lose confidence and curtail spending. … Analysts said they still believed that Katrina would amount to only a temporary blow to the economy and that strong growth would follow as rebuilding begins."

Rice Says Pressuring OPEC To Lower Prices Will Not Work. Secretary of State Condoleezza Rice in an interview on The O'Reilly Factor (9/14) was asked whether there was anything she could do to stop OPEC from "price gouging." Rice said, "Well, we talked to OPEC and they have every reason in the world not to sink the world economy. As you know, we have an energy problem because we don't have diversified energy sources. And that's what we have to concentrate on."

Stocks Down. The Wall Street Journal (9/15, Gaffen) reports, "Major stock indexes wilted Wednesday as crude oil jumped nearly $2 a barrel and traders fretted over tepid economic reports. A profit warning from Walt Disney sank the Dow industrials in the last hour of trading." The Dow Jones Industrial Average "fell 52.54 points to 10544.90, hurt by Disney's 2.8% drop, which led decliners on the average. The Nasdaq Composite Index fell 22.42 points, or 1.03%, to 2149.33, just off the day's low. The Standard & Poor's 500-stock index fell 4.15 to 1226.51."

Georgia Chief Justice Tries To Help Katrina-Displaced Attorneys. The Fulton County (GA) Daily Report (9/15, Hobbs) reports, "Georgia's top judge is trying to make things easier for hurricane-displaced lawyers who want to start a practice in Georgia." The Report continues, "Chief Justice Leah Ward Sears of the Georgia Supreme Court has asked her counterparts in Louisiana, Mississippi and Alabama to change their rules so that lawyers from those states could get a State Bar of Georgia license in as little as eight weeks. … Right now, those lawyers can practice in Georgia temporarily but must pass the state's bar exam to set up shop permanently -- a process that would take at least nine months. The next bar exam is not offered until February, and results do not arrive until late May." The Report adds,

DOJ_NMG_ 0147804

"The problem is that Louisiana, Mississippi and Alabama do not allow reciprocity with other states. For states that do, lawyers licensed in one state can join another state's bar without having to take its bar exam. … Currently 33 states, including Georgia, allow this kind of reciprocity, said Hulett H. 'Bucky' Askew, the director of the Georgia Office of Bar Admissions. … If the top judges in those states agree, then lawyers from the Gulf Coast states would need only to pass a certification of fitness to practice in Georgia, a process that ordinarily takes eight to 12 weeks, said Askew, who added that his office would try to speed things up for displaced lawyers."

Lawmakers Remain At Odds With Bush Over Spending Bill. The Wall Street Journal (9/15, Rogers) in an article on Senate debate over the Commerce, Justice and Science appropriations bill reports, "To date, the House and Senate have sidestepped confrontation with the president by quietly borrowing from defense and foreign-aid accounts to fill gaps in Mr. Bush's domestic budget. But as the Oct. 1 deadline approaches, some reckoning will soon be required." Only two of the annual spending bills have been completed and "there is an estimated $7 billion gap between the House and Senate over the remaining measures. Republican lawmakers must reconcile these differences and then try to reach some agreement with the president." As the deadline approaches, "some stopgap measure will be needed again to keep agencies funded for the first few months. The House Appropriations Committee leadership is considering a very restrictive funding formula to give itself more leverage in talks with the Senate. But this strategy could backfire if it leaves agencies such as the Army Corps of Engineers at a disadvantage, just when they are trying to cope with Katrina relief."

OTHER NEWS:

Labor Split Deepens As Fourth Union Quits AFL-CIO. The New York Times (9/15, Greenhouse) reports, "Deepening the split in organized labor, Unite Here, a union that represents" 450,000 "apparel, hotel, casino and restaurant workers, announced yesterday that it was quitting the A.F.L.-C.I.O., becoming the fourth union to do so this summer." Unite Here leaders "said the dissident unions would focus on large-scale organizing drives to try to unionize thousands of workers at the same time." The Times notes, "Immigrants will be a particular focus, they said, because the breakaway unions cover industries with millions of immigrant workers, like restaurants, nursing homes, supermarkets, hotels and janitorial companies."

Delta, Northwest Airlines Declare Bankruptcy. ABC World News Tonight (9/14, story 9, 1:55, Vargas) reported, "This has been an extraordinary day for the airline industry. Delta and Northwest both filed for bankruptcy. This means that four of the seven largest airlines will be operating under bankruptcy protection." ABC (B. Stark) added, "The third and fourth largest airlines in the country were brought to their knees today, crippled by stiff competition from discount carriers and by the exorbitant price of jet fuel after Katrina." That "will surely mean more cuts in wages, pensions, and benefits for employees of those airlines, but both Delta and Northwest tried to reassure the flying public today that for them, it would be business as usual. Planes will keep flying, tickets will be honored. Frequent flier programs will continue." Bankruptcy protection "hasn't hurt the safety records of US Airways or United, but the FAA increases the safety inspections of airlines in bankruptcy."

NBC Nightly News (9/14, story 11, 2:10, Williams) reported, "Now to the business news headlines of the day: Two of this nation's major airlines, Northwest and Delta, along with Delta's low-cost carriers, Comair and Song, all declared bankruptcy today, becoming the latest of the brand-name carriers to take that step." NBC (Thompson) added, "Already burdened by high labor costs and fierce competition from discount carriers that has snapped them of pricing power, the final blow, analysts say, proved to be jet fuel prices that rose as much as 50 cents a gallon in the aftermath of the hurricane." The two "are losing money rapidly. Northwest, in the midst of a mechanics' strike, is nearly $18 billion in the red, Delta $28 billion." The CBS Evening News (9/14, story 9, 0:40, Schieffer) also said both airlines "were expected to fly their normal schedules while they reorganize."

This morning, stories about the bankruptcies run in USA Today (9/15, Adams, Reed), New York Times (9/15, Maynard), Wall Street Journal (9/15, Perez, Carey), Financial Times (9/15, Cameron, Daniel), Los Angeles Times (9/15, Peltz), Washington Post (9/15, Goo) and Washington Times (9/15, Glanz), among other sources.

In an analysis piece, USA Today (9/15, Adams, Reed) says, "The slide into bankruptcy protection of two of the USA's largest airlines is more a result of the carriers' bad assumptions and slowness to act than the recent rise in fuel prices or the devastating terror attacks four years ago." The Delta and Northwest bankruptcies "are different in key respects from that of No. 2 United and No. 7 US Airways. Both United and US Airways were directly affected by the 9/11 attacks. Two of United's planes were hijacked that day, and Washington Reagan National Airport, where US Airways has a major operation, was shut down for weeks." Neither Delta nor Northwest "was similarly affected by the attacks, and four years have passed. Industry experts say that in the case of Delta, and to some extent Northwest, these filings are

DOJ_NMG_ 0147805

more a reflection of how traditional, hub-and-spoke airlines failed to adapt in the face of aggressive low-cost carriers, falling fares and rising oil prices."

Bankruptcy Filing Complicates Delta's Legal Fight With Employees, Retirees. The Fulton County (GA) Daily Report (9/15, Peters) reports, Now that Delta Air Lines Inc. has filed for Chapter 11 bankruptcy protection, the carrier will have a legal fight on its hands from employees and retirees seeking to protect their benefits, legal experts said." The Report continues, "Delta, the third-largest U.S. airline, filed late Wednesday for reorganization under Chapter 11 of the federal bankruptcy code, No. 1-05-bk-17923. (U.S. Bankruptcy Court for the Southern District of New York, filed Sept. 14, 2005). … The filing comes after repeated warnings from Delta CEO Gerald Grinstein that higher fuel costs and lower demand have crippled the airline. Delta also has faced stiff competition from carriers such as AirTran Airways that have lower labor and operating costs." The Report adds, "Delta has been in talks with Stamford, Conn.-based GE Commercial Finance to provide the airline with $2 billion in debtor-in-possession financing, which would allow the airline to continue operating after a bankruptcy filing. Details of the loan had not been released early Wednesday, but industry analysts said they expect Delta to pledge virtually all of its remaining unencumbered assets, such as aircraft, as collateral for the loan. … Bankruptcy protection will allow Delta to change the terms of its agreements with other creditors. The airline is expected to sell many assets and slash costs, the latter by renegotiating pilot salaries and perhaps cutting back its workforce. … Delta also could cut or even abandon its pension plan and health care benefits for retirees and employees. Such a move likely would lead to a legal fight from employee groups."

Weiner Concedes Mayoral Primary; Ferrer To Face Bloomberg. The New York Times (9/15, A1, Healy) reports in a front page story that Rep. Anthony D. Weiner "conceded the 2005 Democratic mayoral nomination yesterday to Fernando Ferrer, the top vote-getter in the race, in hopes of averting a potentially destructive runoff election and strengthening Mr. Ferrer's hand as he begins the final eight-week campaign against Mayor Michael R. Bloomberg." Weiner's decision, "made after a long night of strategizing with aides and his mentor, Senator Charles E. Schumer, came as a surprise to New York Democrats, not least Mr. Ferrer, who was said to be ecstatic. Mr. Ferrer lost a bruising mayoral runoff to Mark Green in 2001, and faced an uncertain bout against the scrappy Mr. Weiner; yesterday, he embraced a nomination that had eluded him in two previous runs for mayor." But in a "surprising development, however, city elections officials announced that they were required under state law to hold a runoff despite Mr. Weiner's withdrawal - at a cost to taxpayers of at least $10 million." But even among Democrats "supporting Mr. Ferrer, beating Mr. Bloomberg is seen as an awesome and perhaps impossible challenge, given his money and approval ratings of about 60 percent. Even one of Mr. Ferrer's most prominent supporters, who is also a New York officeholder, offered a grim prediction yesterday that the mayor would beat Mr. Ferrer, 53 percent to 47 percent, if Mr. Ferrer did not invigorate his Democratic campaign."

The Christian Science Monitor (9/15, Marks) reports Ferrer's avoidance of a run-off campaign "is very good news for the Democrats, who despite their 5-to-1 edge over Republicans in voter registration, haven't controlled City Hall for more than a decade, in part because of past divisive and expensive internecine contests." Some analysts "contend that Mr. Weiner's expected decision to concede is a testament to the Democrats' determination to take back City Hall. But Ferrer still faces a daunting, uphill battle against Bloomberg, whose popularity has been steadily increasing."

The Washington Post (9/15, A2, Powell) reports political strategists "say the prospects for Ferrer, who could become the city's first mayor of Puerto Rican descent, are not terribly encouraging. Bloomberg, who can project a CEO's disdain for the symbols and ceremonies of politics, has rebounded from low poll numbers of 2002 and now rides well ahead of Ferrer. The city's economy is no longer reeling as it was in 2001. And Bloomberg, if rarely loved, is regarded by many residents as an able manager."

Schwarzenegger Hints He Will Seek Second Term. The Los Angeles Times (9/15, Salladay) reports Gov. Arnold Schwarzenegger "all but declared today that he would run for a second term next year, saying, 'Let me tell you, I am not in this for the short run.'" At a "special election campaign event," Schwarzenegger was "asked by an audience member if Californians would get 'a chance to vote for you again," and he "then revealed what his campaign staff had been hinting for several days: 'I'm going to make an official announcement on Friday, this Friday. I believe very strongly in follow-through. Follow-through is the most important thing. If you start something, you've got to finish it."

Reuters (9/15, Tanner) reports Schwarzenegger "signaled on Wednesday that he would seek a second term as governor in what would already be his fifth major campaign since seeking the office in 2003." The Governor "kicked off a series of campaign events this week ahead of a special election he has called for November on teacher pay, redistricting and the state budget. In an appearance before an invited audience in Clovis, California, he said he would announce on Friday whether he will seek a second term for governor starting in 2006."

DOJ_NMG_ 0147806

Legislator Says Mississippi Has Benefited From Tort Reform. Charlie Ross, a Mississippi state senator and chairman of the Senate Judiciary A Committee, writes in the Wall Street Journal (9/15, A21) that the Mississippi Legislature in 2004 approved a comprehensive Tort Reform Bill that included "venue reform (so trial lawyers cannot shop around for favorable courts) and caps on subjective noneconomic damages (such as pain and suffering)." Ross adds, "Prior to the legislation, Mississippi was known as the 'jackpot justice capital of America.' … Insurance companies were fleeing the state. Others were refusing to write new policies. .. One year later, the story is very different. Mass Mutual Insurance Group, St. Paul Travelers, World Insurance Co. and Equitable Life Insurance Co. are returning to Mississippi. … The Medical Assurance Company of Mississippi, which writes 60% of the medical malpractice coverage for doctors in the state, had raised its rates 20% the year prior to the tort reform legislation. After its passage, MACM did not raise its rates at all. … Insurance was becoming less available and less affordable prior to the passage of the tort reform legislation. Now, the opposite is true." Ross notes, "Since only a year has passed, the long-term consequences of tort reform cannot be known. … There is enough information, however, to state unequivocally that tort reform has made the Mississippi legal environment more fair, more predictable and less expensive."

North Korea Demands Reactor In Exchange For Ending Arms Program. The New York Times (9/15, Kahn) reports, "North Korea demanded on Wednesday that the United States and other nations give it money to build a new light-water nuclear reactor before it will end its nuclear weapons program, a condition that appeared to undermine prospects for a breakthrough in the talks here" and "suggested that North Korea was coming up with fresh obstacles to signing a broadly worded commitment to denuclearize." While the Americans "recently signaled a softening of" the positions that the North cannot be trusted with any nuclear technology, "saying they would be willing to leave aside the issue of civilian uses of nuclear technology for now," they "drew a sharp line at building new reactors for North Korea."

The Wall Street Journal (9/15, Fairclough) adds that this is a "replay of demands made during negotiations in the early 1990s," and that "any such deal would be an extremely tough sell for the conservative U.S. Congress."

The Washington Post (9/15, A28, Cody) adds that chief U.S. negotiator, Assistant Secretary of State Christopher Hill said, "It's very clear they wanted to make this light-water reactor day … I hope they don't want to make it light-water reactor week. I don't know how many ways I can say no."

Rice Predicts Regional Changes Will Help Isolate Iran. Secretary of State Condoleezza Rice in an interview on The O'Reilly Factor (9/14) was asked whether Iran was "America's biggest enemy next to North Korea." Rice said, "Iran is a state that is moving in the wrong direction. I would say 180 degrees in the wrong direction. But on one order, they have now an Afghanistan that is a democratic state and an ally of the United States in the war on terror, military ally of the United States. On the other hand, they have a not-yet-finished project in Iraq but one that when it is will be a nontheocratic majority state that is the center now of a nontheocratic Islamic-related democracy."

French Pushing Referral Of Iranian Nuclear Program To Security Council. The Washington Times (9/15, Pisik) reports, "French Prime Minister Dominique de Villepin yesterday threatened to refer Iran's nuclear program to the U.N. Security Council … For months, France had resisted U.S. pressure to send a dispute over Iran's nuclear program to the United Nations for possible sanctions."

Indian Hesitation At Confronting Iran Straining Ties With US. The New York Times (9/15, Weisman) reports, "A few months after the United States and India elevated their relationship to a new level with a broad accord, a fresh irritant has disrupted the friendship - the Bush administration's insistence that a reluctant India join in the confrontation over Iran's suspected nuclear weapons program. India, with a longstanding friendship with Tehran, is demurring," Indian officials say that "bringing the issue to the Security Council will backfire, especially by provoking Iran's new president, Mahmoud Ahmadinejad."

Hundreds Of Arms Smuggled Over Egypt-Gaza Border. The New York Times/AP (9/15, Press) reports, "Palestinian gunrunners smuggled hundreds of assault rifles and pistols across the Egyptian frontier into Gaza," confirming "Israeli fears about giving up border control and could further destabilize Gaza … Egypt had assured Israel that it would prevent weapons smuggling once its troops took over from Israel along the Gaza frontier, and Cairo and the Palestinian Authority pledged to seal the border by Wednesday evening," but "Palestinian security forces in Gaza appeared to be doing little to stop infiltrators."

The Washington Times/AP (9/15, Barzak) reports, "Scores of Palestinians crossed from the Gaza Strip into Egypt yesterday evening before Egyptian security forces moved to close the border in an attempt to restore order … Hundreds of Egyptian border guards were expected this morning to enforce the closure in earnest." Yesterday "Hamas militants -- unhindered by Palestinian police -- blew a hole in the Gaza barrier … Mr. Abbas' security forces largely have displayed weakness since the Israeli withdrawal." Even though "imposing security in unruly Gaza is seen as the key

DOJ_NMG_ 0147807

test of Palestinian Authority President Mahmoud Abbas' government," Palestinian officials said that they "will not risk civil war," by trying to disarm Hamas, "despite intense international pressure to confront militants."

Gaza "On Brink Of Lawlessness" In Absence Of Israelis. The Wall Street Journal (9/15, A1 Leggett) reports, "With the Israelis gone, Gaza teeters on the brink of lawlessness as armed groups fight each other and the official Palestinian quasi-government, the Palestinian Authority. The Palestinian Authority remains weak and plagued by corruption." Palestinians worry "some officials may seek kickbacks in return for releasing aid funds" and are concerned about "Gaza's rampant lawlessness."

Commenting on the situation in Gaza, the Washington Post (9/15) editorializes, "Unless Palestinian and Egyptian leaders take immediate steps to fulfill their commitments in Gaza, they will bear the responsibility for a new stalemate -- or worse -- in the Middle East." The Gaza withdrawal "could become a leap away from" an Israeli-Palestinian settlement. "The Gaza Strip is on the verge of anarchy," and "the Palestinian Authority has allowed mobs of looters and armed extremists to rampage through former Jewish settlements" and "the valuable greenhouses…have been stripped of equipment as police stood by and watched." Egypt "allowed thousands of Palestinians to illegally cross its border, including rifle-brandishing militants." If it is not quickly checked, "he disorder will destroy Palestinian hopes that the Gaza transfer will become a step toward statehood."

US-EU Trade Talk Efforts Hindered By Farm Tariffs. The New York Times (9/15, Andrews) reports, "American and European officials are trying to breathe new life into the so-called Doha Round of trade talks," with a crucial deadline only three months away. However, it has become "bogged down in large part because of the reluctance by the United States and the European Union to reduce tariffs on imported crops and subsidies for domestic farmers," which have "spurred a rebellion of sorts by many large developing countries."

"Untested" Merkel Expected To Win German Election. The Wall Street Journal (9/15, A1, Walker, Champion) reports, "Merkel is favored to become leader of the world's third-largest economy." Her party, "which maintains a narrowing lead in the polls, has promised to end Germany's economic malaise by shaking up longstanding labor, tax and social policies," and "could also shift the balance of European politics, drawing Germany closer to the flexible markets of countries like Britain and isolating its longtime ally, France." Still, "her ability to drive profound political change is untested. She has been uncomfortable and distant on the campaign trail, and even Germans in her own party oppose many of her economic proposals … Even if Ms. Merkel wins an outright majority, she may find it difficult to push through her reform agenda."

In an op-ed in the Wall Street Journal (9/15) Gabor Steingart, the Berlin bureau chief for Der Spiegel and author of "Der Abstieg eines Superstars," argues, "Angela Merkel has a chance if she succeeds in mobilizing" willpower, "society's most underestimated productive force," behind "her policies." She "knows the forces at work here. They are pulling the country, as well as its chancellor, down -- down to the place where the wellspring of eternal fear flows. No nation likes to lose a piece of its power and prosperity each day. German assertiveness is thus Ms. Merkel's natural coalition partner. She must ally herself with it, promote it and let it grow into a mighty political force." The "Fear of reform, fear of stagnation, fear of a failure of democracy and now -- as the frantic climax of this collective neurosis -- the fear of a further growth of fear," have resulted in "political exhaustion on all sides" that such force of will must counteract.

Father's Choices Put Merkel In East Germany, Shaped Her Life. The New York Times (9/15, Dempsey) reports that Merkel was "just 3 months old when the family moved" to East Germany, her father, a Reverend, looking to teach Christianity. When he was asked by the Stasi, the secret police, to become an informer, he refused. As a result, "his daughter ran into difficulty … She had wanted to train to become a teacher and translator, but was not allowed to because of her father's profession."

German MP Says Close European-US Relationships Key To Future. In an op-ed in the Wall Street Journal (9/15) Wolfgang Schauble, a member of the German parliament and Angela Merkel's foreign and security advisor, "To preserve peace, freedom and security in Europe, the success of the European unification process and a functioning trans-Atlantic partnership are of paramount importance." The Christian Democratic Union will "avoid everything that could weaken trust," unlike "the wrong maneuvers of Gerhard Schröder's government, which have contributed greatly to the fact that Europe and the trans-Atlantic relationship are today experiencing their deepest crisis … If we succeed in strengthening Europe's cohesion, achieving common Euro-Atlantic positions, and binding Russia, China and others into a system of cooperative international responsibility, then we will also face down the greatest challenge for our future: to credibly convince the non-Western world that the West does not stand against them."

Protestant Anger Dashes Ulster Reconciliation, Fuels Violence. The New York Times (9/15, Lavery) reports, "Deep-seated anger among Protestants has dashed hopes of a reconciliation with Roman Catholics anytime soon … The police have blamed Protestant paramilitaries for organizing the recent violence." Many say the riots are due to

DOJ_NMG_ 0147808

a "rift between the British government and Protestants … No prominent unionists, who are largely Protestant and want the province to remain part of Britain, condemned the violence … Protestants continue to feel slighted" as their "privileged position in Northern Ireland" has "gradually eroded since the 1960's." They "are also infuriated that Britain has rewarded the I.R.A.…before the terrorist group fulfills its promise to disarm."

Family Of Man Killed By IRA Suffers Violence, Intimidation. The Washington Post (9/15, A21, Sullivan) reports, "The family of Robert McCartney, a Catholic whose death at the hands of Irish Republican Army members in January caused international outrage and brought White House condemnation, said Wednesday it was being subjected to a campaign of violence and intimidation for speaking out forcefully against the IRA." Teenaged cousins and Jeff Commander, a friend, have been beaten, and "at least 50 people, mostly women, demonstrated outside the home of Bridgeen Hagans, McCartney's fiancee, vowing to return every night until she moves out of the neighborhood." Sinn Fein issued a statement Wednesday "denying any link to the beating."

Factory Seizure Fans Corruption Claims In Ukraine. The New York Times (9/15, Myers) reports that on Sept. 2, camouflaged men "seized the headquarters of…the Severodonetsk Azot Association," accompanied by officials of a new government carrying an order signed by a minister under" Ukrainian President Yushchenko, "based on a court case filed by a fictitious company, on behalf of a politician who stood to gain from the seizure." This has raised "questions about the true success of what came to be known as the Orange Revolution, as members of Mr. Yushchenko's team volley accusations of abuse of power, bribery and other forms of corruption." "Reports of bribery and corruption have swirled around" Yushchenko's circle "from the time of his inauguration in January," and the resignation of Oleksandr O. Zinchenko, Mr. Yushchenko's chief of staff, "provoked a political firestorm here that shows little sign of subsiding."

Ortega Has "Fighting Chance" Of Returning To Power. The Christian Science Monitor (9/15, Harman) reports, "Fifteen years after unexpectedly being voted out of power, and with two unsuccessful runs for the presidency since," Daniel Ortega, "the iconic head of the Marxist Sandinista National Liberation Front (FSLN) is back on the campaign trail" and "has a fighting chance of returning to power … Even his critics say divisions within the ruling party, coupled with Ortega's grip on the electoral machine, make his resurrection possible." Roger Noriega, the Bush administration's outgoing top envoy to Latin America said "that if the Sandinistas returned to power, Nicaragua would 'sink like a stone and reach depths such as those of Cuba.'" However, Carlos Fernando Chamorro, a former editor of the Sandinista newspaper Barricada, says "too much US interference in the lead up to the election could actually help Ortega."

Former USTR Urges US To See China As Tough Competitor. In an op-ed in the Wall Street Journal (9/15), Charlene Barshefsky, U.S. Trade Representative from 1997 to 2001, and Edward Gresser, director of trade and global markets at the Progressive Policy Institute, "The plain fact is that our competition has gotten tougher, and we need to match it." China's economic "emergence is reshaping not only trade, but also world finances, global manufacturing and the entire East Asian economy. This should naturally give rise to searching debate. But the debate we are actually having is limited to a series of complaints about currency rates, intellectual property piracy and Chinese investment intentions in the U.S. … The U.S. must develop an integrated policy to address this emerging challenge in all its aspects, by reducing "the risk of global trade and financial imbalances," raising "its game at home to remain the world's technological leader," maintaining our "central place in the Pacific economy," and restructuring our "economic relationship with China." The first step is "recognition by the administration, Congress, businesses and the public that we face a powerful competitive challenge, one that cannot be attributed to undervalued currencies or unfair trade."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Departs Andrews Air Force Base for Louisiana and Mississippi; 9 p.m. Addresses the nation on Hurricane Katrina aftermath.

VICE PRESIDENT CHENEY — No public schedule.

LAURA BUSH — Speaks at the opening ceremony of the General Assembly of the Organization of African First Ladies Aainst HIV/AIDS. Rockefeller University, New York.

US Senate: FLOOR SCHEDULE _ Highlights: 9:30 a.m. Meets for legislative business.

9:30 a.m. JUDICIARY _ Full Committee. Hearing on the nomination of John Roberts as Chief Justice of the U.S. Supreme Court. Steve Tober, chairman, Standing Committee on the Federal Judiciary, American Bar Association; Tom Hayward, past-chairman, Standing Committee, American Bar Association; Pamela Bresnahan, D.C. Circuit

DOJ_NMG_ 0147809

representative/investigator, American Bar Association; Richard Thornburgh, former attorney general; Rep. John Lewis; Jennifer Braceras, commissioner, U.S. Commission on Civil Rights; Carol M. Browner, former administrator, EPA; Bruce Botelho, mayor, Juneau, Alaska; Nathaniel Jones, retired U.S. Circuit judge; Elsa Cole - general counsel, NAACP; Reginald Turner, president, National Bar Association; others. Location: Room 216, Hart.

10 a.m. BANKING, HOUSING AND URBAN AFFAIRS _ Full Committee. Confirmation hearing on pending nominations. Location: Room 538, Dirksen.

10 a.m. VETERANS AFFAIRS _ Full Committee. Markup of pending legislation. Location: Room 418, Russell Senate Office Building.

10:30 a.m. APPROPRIATIONS _ Legislative Branch Subcommittee. Hearing on the Capitol Visitor Center project. Architect of the Capitol Alan Hantman; Bernard Ungar, GAO; Terrell Dorn, GAO. Location: Room 138, Dirksen.

10:30 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full Committee. Confirmation hearing on pending nominations. Location: Room 342, Dirksen.

2 p.m. FOREIGN RELATIONS _ Subcommittee on East Asian and Pacific Affairs. Hearing on the current status of U.S.-Indonesia relations. Eric John, deputy assistant secretary of State, Bureau of East Asian and Pacific Affairs; James Kunder, assistant administrator, Bureau for Asia and the Near East, U.S. Agency for International Development; Paul Cleveland, president, U.S.-Indonesia Society and former ambassador to Malaysia; Hadi Soesastro, executive director, Centre for Strategic and International Studies, Jakarta, Indonesia; Randy Martin, director, Global Emergency Operations, Mercy Corps. Location: Room 419, Dirksen.

2 p.m. JUDICIARY _ Full Committee. Continuation of the hearing on the nomination of John Roberts to be Chief Justice of the Supreme Court. Denise Lindberg, judge, Third District, Utah State Court; Wade Henderson, executive director, Leadership Conference on Civil Rights; Peter Kirsanow, commissioner, U.S. Commission on Civil Rights; Marcia Greenberger, president, National Women's Law Center; Diana Furchtgott-Roth, senior fellow, Hudson Institute; Charles Fried, professor, Harvard Law School; Judith Resnik, professor, Yale Law School; Christopher Yoo, professor, Vanderbilt Law School; David Strauss, professor, Chicago Law School; Patricia Bellia, professor, Notre Dame Law School; Peter Edelman, professor, Georgetown Law School; Henrietta Wright., chairman of the board, Dallas Children's Advocacy; Karen Pearl, interim president, Planned Parenthood; Dale Polakoff, president, Rabbinical Council of America; Susan Thistlethwaite, president, Chicago Theological Seminary; John Engler, president, National Association of Manufacturers; Anne Marie Tallman, president and general counsel, Mexican American Legal Defense and Education Fund. Location: Room 226, Dirksen.

2:30 p.m. SELECT INTELLIGENCE _ Full committee. Closed meeting to mark up pending legislation. Location: Room 219, Hart.

US House: FLOOR SCHEDULE _ 10 a.m. FLOOR SCHEDULE _ Meets for legislative business. Highlights: H.R. ___ - Katrina Emergency Tax Relief Act of 2005. H.R. 889 - Coast Guard and Maritime Transportation Act of 2005.

9:30 a.m. RESOURCES _ Subcommittee on Rural Enterprises, Agriculture and Technology. Hearing to examine ``The Need for Improvements and Maybe More Incentives in the Endangered Species Act.'' Mike Wells, chief of water resources, Missouri Department of Natural Resources, Jefferson City, Mo.; Nancy Macan McNally, executive director, National Endangered Species Act Reform Coalition; Bob Peterson, president, Ohio Farm Bureau Federation; Larry Wiseman, American Forest and Paper Association; John Kostyack, director, Wildlife Conservation Campaigns and senior counsel, National Wildlife Federation. Location: Room 2360, Rayburn.

10 a.m. AGRICULTURE _ Full Committee. Hearing to review Canada and Australia's experience with implementing national animal identification systems. Location: Room 1300, Longworth.

10 a.m. FINANCIAL SERVICES _ Subcommittee on Housing and Community Opportunity. Hearing to spotlight the critical housing needs in the aftermath of Hurricane Katrina. Henry A. Alvarez III, president and CEO, San Antonio Housing Authority, San Antonio, Texas; Sharon Daly, senior policy adviser, Catholic Charities USA; Kay Miller, president, The Miller Group, Shreveport, La., representing Council for Affordable and Rural Housing; Michael F. Petri, chairman, Mortgage Bankers Association; Nan P. Roman, president, National Alliance to End Homelessness; Barbara Thompson, executive director, National Council of State Housing Agencies; David F. Wilson; president, National Association of Home Builders; Clanton Beamon, executive director, Delta Housing Development Corporation, Indianola, Miss.; Jeff Brodsky, president, National Multi Housing Council and National Leased Housing Association; Ellen Lee, deputy executive assistant for neighborhood development, City of New Orleans; Judith Kennedy, president and CEO, National Association of Affordable Housing Lenders; Michelle Norris, senior vice president, American Association of Homes and Services for the Aging. Location: Room 2128, Rayburn.

10 a.m. GOVEMENT REFORM _ Full Committee. Oversight hearing on hurricane response. Marc Morial, president and CEO, National Urban League Inc. and former mayor of New Orleans, La.; Constance Perett, administrator, Office of Emergency Management, County of Los Angeles; Ellis Stanley, manager, Emergency Preparedness

DOJ_NMG_ 0147810

Department, City of Los Angeles; David J. Robertson, executive director, Metropolitan Washington Council of Governments; Robert C. Bobb, city administrator, District of Columbia; Tony Carper, director, Broward Emergency Management Agency, Broward County, Fla.; Carlos Castillo, director, Miami-Dade County Office of Emergency Management, Fla.; John R. Harrald; professor, Engineering Management, George Washington University and director, Institute for Crisis, Disaster and Risk Management; James J. Carafano, senior fellow, National Security and Homeland Security, Heritage Foundation. Location: Room 2154, Rayburn.

10 a.m. JUDICIARY _ Subcommittee on Courts, the Internet and Intellectual Property. Hearing on amending ``The Patent Act of 2005.'' Location: Room 2141, Rayburn.

10 a.m. - 12 p.m. SCIENCE _ Full Committee. Hearing on cybersecurity and how government can address vulnerabilities in critical industries. David Kepler, Dow Chemical Co.; Gerald Freese, American Electric Power; Donald Purdy, DHS, John Leggate, Chief, CIO, British Petroleum; Andrew Giesse, CIO, SBC Services. Location: Room 2318, Rayburn.

10:30 a.m. INTERNATIONAL RELATIONS _ Full Committee. Markup of pending legislation. Location: Room 2172, Rayburn.

1 p.m. JUDICIARY _ Subcommittee on Immigration, Border Security and Claims. Oversight hearing on ``Sources and Methods of Foreign Nationals Engaged in Economic and Military Espionage.'' Michelle Van Cleave, National Counterintelligence Executive, Office of the Director of National Intelligence; Larry Wortzel, Visiting Fellow, The Heritage Foundation; Maynard Anderson, former Deputy Under Secretary of Defense for Security Policy; William A. Wulf, President, National Academy of Engineering. Location: Room 2141, Rayburn. Notes: Closed/classified portion of meeting begins at 1:00 p.m. Open to public once classified portion is completed, approximately 1:20.

1 p.m. SELECT INTELLIGENCE _ Full Committee. Mark up pending legislation. Likely closed. Location: Room H-405, Capitol.

Other: PRESIDENT URIBE OF COLOMBIA _ Highlights: 9:30 a.m. Meets with House Speaker Rep. Dennis Hastert. Note: Crews set up off carpet by balcony doors, Hastert's office, on the speaker's balcony. 10:30 a.m. Meets with Rep. Jim Kolbe. Room H-144, Capitol. Note: Photo opportunity at the top and stakeout in the Hall of Columns. 11 a.m. Holds media availability. Room HC-7, Capitol. 3:15 p.m. Meets with the Congressional Black Caucus. Room HC-9, Capitol. Note: Photo opportunity and Q and A in the top 5 minutes of the meeting.

ROBERTS-PROTEST _ A coalition of groups join in protest of the confirmation hearings for Judge John Roberts to be chief justice. Groups include: National Organization for Women, Feminist Majority, People for the American Way, Human Rights Campaign, Rainbow PUSH/Coalition, and others. Highlights: 7 a.m. Protest behind Hart Senate Office Building on C Street. 12 p.m. Lunchtime Rally, Upper Senate Park. 12 p.m. Protest behind Hart Senate Office Building on C Street. Location: Capitol Hill, various locations.

HEALTH CARE _ CNBC cable network holds a summit with business leaders and problems and issues facing them. Highlights: 9:30 a.m. Panel on health care, with CEOs Joe Hogan of GE Healthcare, James Mazzo of Advanced Medical Optics and Scott Serota of the Blue Cross and Blue Shield Association. 10:15 a.m. Session on energy, with David Crane of NRG Energy, Andrey Gaidamaka of Lukoil, others. 12 p.m. Commerce Secretary Gutierrez. 12:30 p.m. Luncheon speaker - Mel Carmazin, CEO, SIRUS Satellite Radio. 2:15 p.m. Session on the budget and the economy, with Sen. Judd Gregg, CBO Director Douglas Holtz-Eakin, others. 3:15 p.m. Session on technology, with CEOs Brian Halla of National Semiconductor and Michel Mayer of Freescale Semiconductor. Location: Mellon Auditorium, 13th St. and Constitution Ave. NW.

US TRADE REPRESENTATIVE ROB PORTMAN _ Highlights: 8 a.m. Delivers remarks to Society of Plastics Industry, Capitol Hilton, 16th and K Streets NW. 9 a.m. Meets with president of Peru, 60017th St. NW. 2 p.m. Meets with Japanese Trade Minister Scoichi Nakagawa, 600 17th St. NW.

BUSINESS-HEALTH _ 8:30 a.m. - 3 p.m. The US Chamber of Commerce holds a business and health information technology summit. Highlights: 9:05 a.m. Rep. Patrick Kennedy. 12:30 p.m. Session on transforming health and health care for this century, with former House Speaker Newt Gingrich. Location: 1615 H St. NW.

CHINA-MILITARY _ U.S.-China Economic and Security Review Commission's public hearing on ``China's Military Modernization and the Cross-Strait Balance.'' Highlights: 10:30 a.m. - 12 p.m. China's Military Modernization and Force Deployments, with Rear Adm. Eric McVadon, US Navy (Retired), Dir., Asia-Pacific Studies, Institute for Foreign Policy Analysis, and Laurent Murawice, Sr. Fellow, Hudson Institute. 1 p.m. - 2:30 p.m. Taiwan's Self-Defense Needs and Risks to the United States, with Dan Blumenthal, Resident Fellow, American Enterprise Institute, and Thomas Christensen, Prof. of Politics and International Affairs, Princeton University. Location: Room 385, Russell Senate Office Building, Delaware and Constitution Aves., NE, Washington, DC 20510.

DEMOCRATS-HISPANICS _ 9:30 a.m. House and Senate Democrats hold the 6th Annual Democratic Hispanic Leadership Summit. Highlights: 9:30 a.m. Opening discussion with Sens. Harry Reid, Hillary Rodham Clinton, Jeff Bingaman and Joseph Lieberman, and Rep. Grace

DOJ_NMG_ 0147811

Flores Napolitano. 12:45 p.m. Panel discussion and luncheon with Sens. Byron Dorgan and Ken Salazar, and Rep. Nancy Pelosi. Discussion presentation with Marion Solis Marich of L.A. Chatroom, Jenny Alonzo of Lifetime TV, Larry Gonzalez of NALEO, and Paul Rivera of the Coronado Project. Location: Mansfield Room, Capitol.

HOMELAND SECURITY _ Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment will host an ``Open-Source Intelligence Technology and Policy Fair,'' featuring cutting-edge technologies and techniques that process publicly available information to help secure the homeland. Location: Rayburn foyer.

PUBLIC TRUST _ 10 a.m. - 4 p.m. The National Association of State Boards of Accountancy holds a session on revitalizing public trust, with New Mexico Gov. Bill Richardson, Rep. K. Michael Conaway, and PCAOB Chair William McDonough. Location: Grand Hyatt Hotel, 1000 H St. NW.

FLU OUTBREAKS _ 9 a.m. The Center for Strategic and International Studies holds a symnposium on management of annual and possible global pandemic influenza outbreaks, with Stephen Harrison of Harvard Medical School, Dominick Iacuzio of Hoffman-LaRoche, Inc., Robert Lamb of Northwestern University Medical School, others. Location: Room 485, Russell.

GERRY ADAMS _ 9 a.m. Sinn Fein President Gerry Adams briefs members of Congress on the current status of the Northern Ireland peace process. Location: Office of Rep. Richard E. Neal, Room 2266, Rayburn.

US AIRWAYS BANKRUPTCY _ 9:30 a.m. Hearing in the US Airways bankruptcy case before Judge Stephen Mitchell. Location: Federal courthouse, Alexandria.

ENERGY BUSINESS PLATFORM _ 10 a.m. Two national energy corporations hold a news conference to announce a joint venture that will create a new business model to design, build, license and operate new power plants in the United States. Location: National Press Club, 14th and F Sts. NW -- 13th floor.

NEW ORLEANS _ 10 a.m. The Center for American Progress holds a panel discussion on visions for renewing New Orleans and the Gulf Coast, with Rep. Artur Davis, ACORN Executive Director Steven Kest, National Urban League President Marc Morial, others. Location: 10th floor, 1333 H St. NW.

OBAMA _ 10 a.m. Resources for the Future holds a forum, with an address by Sen. Barack Obama on ``Securing Our Energy Future.'' Location: RFF Conference Center, 1616 P St. NW.

IRAQ _ 10 a.m. - 1 p.m. Rep. Lynn Woolsey, D-Calif., holds an informal hearing on the future of Iraq, with witnesses including former Sen. Max Cleland; Gen. Joseph Hoar (Ret. USMC), former commander in chief of U.S. Central Command; Ambassador David Mack, former deputy assistant secretary of state for the Near East; Ken Katzman, Congressional Research Service; Tom Hayden, former California state senator; Anas Shallal, founder of ``Iraqi-Americans for Peaceful Alternatives.'' Location: West Front, U.S. Capitol (tentative).

LANDRIEU-KATRINA _ 10:30 a.m. Sens. Mary Landrieu and David Vitter and the Louisiana House delegateion hold a news conference on Hurricane Katrina relief efforts. Location: Senate Radio-TV Gallery.

PELOSI NEWS CONFERENCE _ 10:45 a.m. House Democratic leader Nancy Pelosi holds her weekly news conference. Location: Capitol. Room H-206.

CFJ NEWS CONFERENCE _ 11 a.m. Committee for Justice holds news conference to discuss the importance of constitutionalist judges. Sen. Mel Martinez (R-Fla.); Hon. Ronald A. Cass, former dean of Boston University Law School; Others. Location: Upper Senate Park.

NEW ORLEANS PRESERVATION _ 1 p.m. Richard Moe, president of the National Historic Trust, discusses efforts to preserve, restore and rebuild historic treasures and communities in the gulf region. Location: National Press Club.

PHARMACEUTIAL COMPANIES _ 12 p.m. The AFL-CIO sponsors a program on the pharmaceutical industry and reform proposals, with Marcia Angell, former Editor-in-Chief of the New England Journal of Medicine. Location: Gompers Room, 815 16th St. NW.

R&D CREDIT _ 12 p.m. R&D Credit Coalition holds a briefing on the need for a permanent, strengthened R&D incentive, with representatives of Microsoft, Lockheed Martin, others. Location: Room 2325, Rayburn.

HISPANIC REACTION TO ROBERTS TESTIMONY _ 1 p.m. Members of Hispanics for a Fair Judiciary will discuss thoughts and concerns of the Hispanic community regarding the views of John Roberts on civil rights issues. Location: Outside Hearing Room, Hart 216.

KATRINA RELIEF CONFERENCE CALL _ 2 p.m. The Center on Budget and Policy Priorities holds a conference call on emerging gaps and promising solutions in the Katrina relief effort. Contacts: Michelle Bazie, 202-408-1080. Notes: Register by e-mailing baziecbpp.org or calling the media team at 202-408-1080.

NATIONAL SECURITY-DEMOCRTS _ 2 p.m. House Democratic Whip Steny Hoyer and other Democrats hold a news conference to discuss the comprehensive national security vision. Location: House Radio-TV Gallery.

DEMOCRATS-KATRINA _ 3 p.m. House Democratic Leader Nancy Pelosi, Senate Democratic Leader Harry Reid and Reps. Bennie Thompson and Gene Taylor hold a news conference on Hurricane Katrina relief and rebuilding efforts. Location: Capitol, S-211.

DOJ_NMG_ 0147812

IRAQ _ 5 p.m. Rally calling for an exit strategy from Iraq, with Maryland Democratic senatorial hopeful Kevin Zeese, Gold Star Families for Peace, Military Families Speak Out, Code Pink others. Location: Lafayette Park.

IRAQ _ 5 p.m. The Speaker of the Iraqi Parliament, Jajim Al-Hasani, speaks about governance, constitution building and political development, sponsored by the National Democratic Institute and the Iraqi Women's Caucus. Location: Room 121, Cannon.

RUBIN _ 5:30 p.m. Former Treasury Secretary Robert Rubin presents a lecture, ``The Global Economy: Opportunities and Challenges,'' sponsored by Georgetown University. Location: Gaston Hall, 3rd floor, Healy Hall, Georgetown University.

HISPANIC JOURNALISTS' GALA _ 6 p.m. The National Association of Hispanic Journalists hosts evening devoted to honoring Latino journalists and exemplary coverage of the Latino community, with Geraldo Rivera, Carl Quintatnilla, and Teresa Rodriguez. Location: Mandarin Oriental Hotel, 1330 Maryland Ave. SW.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Gov. All But Vows To Run."
"He Reels In The Big Deals."
"Speculators Rushing In As The Water Recedes."
"Iraqi Brothers Go Home In Coffins; 2 Days Of Attacks Claim 180 Lives."
"Rising Premiums Threaten Job-Based Health Coverage."
"Newport's War On Sea Lions."
"Roberts Appears Open To New Interpretations."

USA Today:
"The Town That Vanished."
"Bush's Vow: To Rebuild Better."
"Help Is On The Way, But It's Unclear Where."

New York Times:
"Multiple Attacks Kill Nearly 150 In Iraqi Capital."
"Weiner Concedes Race For Mayor To Avert Runoff."
"Roberts Parries Queries On Roe And End Of Life."
"Ex-FEMA Chief Tells Of Frustration And Chaos."
"The Court V. Congress."
"Vatican To Check U.S. Seminaries On Gay Presence."

Washington Post:
"Insurgents Kill 160 In Baghdad."
"'It Was As If All Of Us Were Already Pronounced Dead.'"
"Bush To Request More Aid Funding."
"Roberts Frustrates Committee Democrats."
"Officials Rush To Prepare Coastal N.C. For Ophelia."
"Northwest, Delta File For Bankruptcy Protection."

Washington Times:
"Roberts Backs Eminent Domain Limits."
"Airlines File For Chapter 11 Haven."
"Blanco Takes Blame For State Response."
"Judge Rules Against Pledge In Schools."
"Toads But No Cats Make This A Real Gas."

Detroit Free Press:
"NWA's Bankruptcy New Jolt To State."
"Car Guys Keep La. Rescuer Going."
"Man Charged With Trying To Swindle Homeowners By Using Storm Scam."
"Iraqi Official: Terror Will Fail."

Atlanta Journal-Constitution:
"Delta Gives In."
"181 Killed In Iraq."

Dallas Morning News:
"Katrina Leaves A Toxic Nightmare."
"Roberts' Confirmation Likely."
"Deadly Day In Iraq; 160 Killed."
"Holding Out Hope For Missing Kids."
"Nursing Home Owners Charged."

Houston Chronicle:
"Northwest, Delta Seek Bankruptcy Protection."
"Newton Is Executed For Slaying Her Family."
"Ambushes And Bombs Kill At Least 160 Iraqis."
"Nagin Ready To Open Parts Of City; Hospitals Still A Question."
"Seafood, Sugar, Coffee Getting Harder To Come By."
"Report Offers 'Grave' View Of Impact on Environment."

Story Lineup From Last Night's Network News:
ABC: CA-Pledge Unconstitutional; Roberts Confirmation Hearing; Baghdad Violence; Bush-UN Reform; Katrina-911 Tapes; Hurricane Ophelia; Katrina-Deadly Nursing Home; Disaster Preparation; Delta, Northwest Bankruptcy; UT-Katrina Victims.
CBS: Baghdad Violence; Hurricane Ophelia; FEMA-Personnel Changes; Katrina-Flood Insurance; CA-Pledge Unconstitutional; Katrina-Missing Children; Roberts-Opinion Poll; Roberts Confirmation Hearing; Delta, Northwest Bankruptcy; Katrina-FEMA Trailers; Bionic Limbs.
NBC: Katrina-Death Toll; Levee Board-Wasteful Spending; Katrina Evacuees-Astrodome; Hurricane Zone-Post Offices; Hurricane Ophelia; Baghdad Violence; Bush-United Nations; Bush-Approval Ratings; CA-Pledge Unconstitutional; Roberts Confirmation Hearing; Delta, Northwest Bankruptcy; Katrina Survivors-Ophelia.

DOJ_NMG_ 0147813

Story Lineup From This Morning's Radio News Broadcasts:

ABC: Hurricane Ophelia; Hurricane Katrina-Blanco; Baghdad-Bombing; Pledge Of Allegiance Ruling; Roberts Hearings; Vatican-Seminary Homosexuality; Spears Baby.
CBS: Hurricane Ophelia; Bush-Hurricane Speech; Roberts Hearings; Wise Obit.; Delta, Northwest Bankruptcies.
NPR: Baghdad-Bombing; Hurricane Ophelia; Hurricane-Wetlands Destruction; Roberts Hearings; Wise Obit.; US-Africa-Anti-Malaria Plan; Delta, Northwest-Bankruptcies; Hurricane-Displaced Mississippians; Hurricane Katrina-Blanco.

Copyright 2005 by the Bulletin News Network, Inc. Reproduction without permission prohibited. Editorial content is drawn from thousands of newspapers, national magazines, national and local television programs, and radio broadcasts. The Attorney General's News Briefing is published five days a week for the Office of Public Affairs by BulletinNews, which creates custom news briefings for government and corporate leaders and also publishes the White House Bulletin, Frontrunner and Washington Morning Update. We can be found on the Web at BulletinNews.com, or called at (703) 749-0040.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, September 15, 2005 8:56 AM
To: Gorsuch, Neil M
Cc: Gunn, Currie (SMO)
Subject: RE: You have a package in the Command Center from Pat Rowan for pick up.

I went up and was unable to get the document because, according to their records, I do not have a security clearance with the Associates office. I'll ask Currie to start the process.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 7:58 AM
To: Shaw, Aloma A
Subject: FW: You have a package in the Command Center from Pat Rowan for pick up.

are you able to get this while I'm in the morning mtg?
-----Original Message-----
From: Delp, Leslie
Sent: Wednesday, September 14, 2005 7:17 PM
To: Nichols, Carl (CIV); Gorsuch, Neil M; Marshall, C. Kevin; Monheim, Thomas
Cc: Brown, Angela
Subject: You have a package in the Command Center from Pat Rowan for pick up.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 9:11 AM
To: Moschella, William; Allyson Ho (E-mail); Marc_Kesselman (E-mail)
Cc: Bucholtz, Jeffrey (CIV); Clinger, James H
Subject: Disaster Volunteer Liability

Where do we stand? Would it be a good idea to get our bill introduced in the Senate (or House) at this stage?

Seidel, Rebecca

Subject:	Accepted: FW: conf call with Cornyn staff re VPA / Katrina / civil justice reform issues
Location:	OLA conference room 1139
Start:	Thursday, September 15, 2005 10:00 AM
End:	Thursday, September 15, 2005 11:00 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Seidel, Rebecca

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 9:27 AM
To: Moschella, William; Seidel, Rebecca
Subject: Detainee Legislation

OAG asked that we prepare -- internally -- comments on the various detainee bills being discussed on the Hill. The thought being that we should be prepared if/when this breaks.

Toward that end, could you send me copies of whatever draft bills are out there, in their current form? I received a draft of bills by Specter and Graham some time ago, but don't know if they've changed, or whether others have gotten into the fray. I will then coordinate with you to share the bills with various folks internally to get their thoughts and comments.

Many thanks,

NMG

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Thursday, September 15, 2005 9:39 AM
To: Gorsuch, Neil M
Subject: FW: Language

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto: [redacted]@judiciary-rep.senate.gov]
Sent: Thursday, September 15, 2005 9:34 AM
To: Clinger, James H
Cc: Moschella, William; Hertling, Richard; Seidel, Rebecca; Bucholtz, Jeffrey (CIV)
Subject: RE: Language

Having had a chance to review, would like opportunity to discuss at convenient time. Rebecca, I know you had thrown out 10:30 as a possibility. Let me know.

And, I will get PSN scrubbed this morning! :)

[redacted]

[redacted]
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

-----Original Message-----
From: James.H.Clinger@usdoj.gov [mailto:James.H.Clinger@usdoj.gov]
Sent: Thursday, September 15, 2005 8:19 AM
To: [redacted] (Judiciary)
Cc: Jeffrey.Bucholtz@usdoj.gov; Richard.Hertling@usdoj.gov; William.Moschella@usdoj.gov; Rebecca.Seidel@usdoj.gov
Subject: FW: Language

[redacted]

Will asked me to send over to you our draft legislation protecting disaster relief volunteers from civil

Will asked me to send over to you our draft legislation protecting disaster relief volunteers from civil liability, which I understand you have been discussing with Rebecca. As you can see, our draft differs significantly from the bill that passed the House yesterday. Feel free to call Rebecca or me with any questions.

Thanks,

Jim Clinger
353-4920

> > <<Disaster relief bill (9-13-05) .wpd>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 9:40 AM
To: Reyes, Luis (SMO); Henke, Tracy (SMO)
Cc: Gunn, Currie (SMO); McCallum, Robert (SMO); Shaw, Aloma A
Subject: Meetings

Lu, Neither Robt nor I will be able to attend the tax mtg at 10. I will be down in OLA talking with Cornyn's folks about the volunteer legislation we drafted. Please can you go ahead and run the tax meeting? I should be back for the 11 CRT meeting.

Tracy, I know you need a conf room this morning too. Please could you coordinate with Lu on the various mtgs this am? I am sure we can hold TAX and CRT in the small conf room if you need the larger one.

Thanks, NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 9:41 AM
To: Bucholtz, Jeffrey (CIV)
Subject: RE: Language

I see an email from Rebecca saying we're meeting at 10. Are we still gathering then? (10 works better than 1030 for me, but i can do either)

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Thursday, September 15, 2005 9:39 AM
To: Gorsuch, Neil M
Subject: FW: Language

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto[redacted]@judiciary-rep.senate.gov]
Sent: Thursday, September 15, 2005 9:34 AM
To: Clinger, James H
Cc: Moschella, William; Hertling, Richard; Seidel, Rebecca; Bucholtz, Jeffrey (CIV)
Subject: RE: Language

Having had a chance to review, would like opportunity to discuss at convenient time. Rebecca, I know you had thrown out 10:30 as a possibility. Let me know.

And, I will get PSN scrubbed this morning! :)

[redacted]

[redacted]
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

-----Original Message-----

-----Original Message-----
From: James.H.Clinger@usdoj.gov [mailto:James.H.Clinger@usdoj.gov]
Sent: Thursday, September 15, 2005 8:19 AM
To: [redacted] (Judiciary)
Cc: Jeffrey.Bucholtz@usdoj.gov; Richard.Hertling@usdoj.gov;
William.Moschella@usdoj.gov; Rebecca.Seidel@usdoj.gov
Subject: FW: Language

[redacted]

Will asked me to send over to you our draft legislation protecting disaster relief volunteers from civil liability, which I understand you have been discussing with Rebecca. As you can see, our draft differs significantly from the bill that passed the House yesterday. Feel free to call Rebecca or me with any questions.

Thanks,

Jim Clinger
353-4920

> > <<Disaster relief bill (9-13-05) .wpd>>

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Thursday, September 15, 2005 9:48 AM
To: Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Cc: Clinger, James H; Hertling, Richard
Subject: Re: Language

10:30 with [redacted]s confirmed. Pre meet doesn't have to happen till 10:20 unless you think we need more time?

-----Original Message-----
From: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
Sent: Thu Sep 15 09:42:56 2005
Subject: RE: Language

I think the idea was 10 for a pre-mtg and 1030 for the call to [redacted]but Will was unsure of either when I spoke to him around 9.

Rebecca?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 9:41 AM
To: Bucholtz, Jeffrey (CIV)
Subject: RE: Language

I see an email from Rebecca saying we're meeting at 10. Are we still gathering then? (10 works better than 1030 for me, but i can do either)

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Thursday, September 15, 2005 9:39 AM
To: Gorsuch, Neil M
Subject: FW: Language

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto[redacted]@judiciary-rep.senate.gov]

Sent: Thursday, September 15, 2005 9:34 AM
To: Clinger, James H
Cc: Moschella, William; Hertling, Richard; Seidel, Rebecca; Bucholtz, Jeffrey (CIV)
Subject: RE: Language

Having had a chance to review, would like opportunity to discuss at convenient time. Rebecca, I know you had thrown out 10:30 as a possibility. Let me know.

And, I will get PSN scrubbed this morning! :)

[redacted]

[redacted]
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

-----Original Message-----
From: James.H.Clinger@usdoj.gov [mailto:James.H.Clinger@usdoj.gov]
Sent: Thursday, September 15, 2005 8:19 AM
To: [redacted] (Judiciary)
Cc: Jeffrey.Bucholtz@usdoj.gov; Richard.Hertling@usdoj.gov; William.Moschella@usdoj.gov; Rebecca.Seidel@usdoj.gov
Subject: FW: Language

[redacted]

Will asked me to send over to you our draft legislation protecting disaster relief volunteers from civil liability, which I understand you have been discussing with Rebecca. As you can see, our draft differs significantly from the bill that passed the House yesterday. Feel free to call Rebecca or me with any questions.

Thanks,

Jim Clinger
353-4920

> > <<Disaster relief bill (9-13-05) .wpd>>

Williams, Jan

From: Williams, Jan
Sent: Thursday, September 15, 2005 9:49 AM
To: Washington, Tracy T
Cc: Gunn, Currie (SMO); Potter, Janet
Subject: More Details about the National Day of Prayer and Remembrance

Tickets to the National Cathedral event will be available today at 12:00 noon in Room 5114. Please arrange for your ticket to be picked up sometime today.

Tomorrow, doors at the Cathedral will open at 9:00 a.m.; everyone must arrive by 10:00 a.m. We have two vans leaving 9th gate at 9:30 a.m. en route to the National Cathedral. Please bring your ticket to the event as everyone will need a ticket to enter the service.

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Thursday, September 15, 2005 9:53 AM
To: Seidel, Rebecca; Gorsuch, Neil M
Cc: Clinger, James H; Hertling, Richard
Subject: RE: Language

1020 sounds good.

-----Original Message-----
From: Seidel, Rebecca
Sent: Thursday, September 15, 2005 9:48 AM
To: Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Cc: Clinger, James H; Hertling, Richard
Subject: Re: Language

10:30 with [redacted]s confirmed. Pre meet doesn't have to happen till 10:20 unless you think we need more time?

-----Original Message-----
From: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
Sent: Thu Sep 15 09:42:56 2005
Subject: RE: Language

I think the idea was 10 for a pre-mtg and 1030 for the call to [redacted] but Will was unsure of either when I spoke to him around 9.

Rebecca?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 9:41 AM
To: Bucholtz, Jeffrey (CIV)
Subject: RE: Language

I see an email from Rebecca saying we're meeting at 10. Are we still gathering then? (10 works better than 1030 for me, but i can do either)

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)

Sent: Thursday, September 15, 2005 9:39 AM
To: Gorsuch, Neil M
Subject: FW: Language

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Thursday, September 15, 2005 9:34 AM
To: Clinger, James H
Cc: Moschella, William; Hertling, Richard; Seidel, Rebecca; Bucholtz, Jeffrey (CIV)
Subject: RE: Language

Having had a chance to review, would like opportunity to discuss at convenient time. Rebecca, I know you had thrown out 10:30 as a possibility. Let me know.

And, I will get PSN scrubbed this morning! :)

[redacted]

[redacted]
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

-----Original Message-----
From: James.H.Clinger@usdoj.gov [mailto:James.H.Clinger@usdoj.gov]
Sent: Thursday, September 15, 2005 8:19 AM
To: [redacted](Judiciary)
Cc: Jeffrey.Bucholtz@usdoj.gov; Richard.Hertling@usdoj.gov; William.Moschella@usdoj.gov; Rebecca.Seidel@usdoj.gov
Subject: FW: Language

[redacted]

Will asked me to send over to you our draft legislation protecting disaster relief volunteers from civil liability, which I understand you have been discussing with Rebecca. As you can see, our draft differs significantly from the bill that passed the House yesterday. Feel free to call Rebecca or me with any questions.

Thanks,

Jim Clinger
353-4920

> > <<Disaster relief bill (9-13-05) .wpd>>

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, September 15, 2005 11:37 AM
To:	'Allyson_N._Ho@who.eop.gov'; Moschella, William; Marc_Kesselman@omb.eop.gov
Cc:	Bucholtz, Jeffrey (CIV); Clinger, James H
Subject:	RE: Disaster Volunteer Liability

My email passed in the ether with news about Cornyn's interest. We just had a call with Chip and he and his boss seem very interested in our bill.

-----Original Message-----
From: Allyson_N._Ho@who.eop.gov [mailto:Allyson_N._Ho@who.eop.gov]
Sent: Thursday, September 15, 2005 10:25 AM
To: Moschella, William; Gorsuch, Neil M; Marc_Kesselman@omb.eop.gov
Cc: Bucholtz, Jeffrey (CIV); Clinger, James H
Subject: RE: Disaster Volunteer Liability

I understand that Will has a call scheduled in a few minutes with Cornyn staff to discuss the volunteer liability bill. Cornyn staff is putting together a package of reforms and is interested in including the liability bill, among other provisions (such as liability protection for respirator manufacturers).

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, September 15, 2005 9:11 AM
To: William.Moschella@usdoj.gov; Kesselman, Marc; Ho, Allyson N.
Cc: Jeffrey.Bucholtz@usdoj.gov; James.H.Clinger@usdoj.gov
Subject: Disaster Volunteer Liability

Where do we stand? Would it be a good idea to get our bill introduced in the Senate (or House) at this stage?

Todd, Gordon (CRT)

From:	Todd, Gordon (CRT)
Sent:	Thursday, September 15, 2005 11:38 AM
To:	Gorsuch, Neil M; Schlozman, Brad (CRT)
Subject:	HHS Guidance
Attachments:	ML042205.doc; born.alive.infants.protection.act.PI1.doc; Born Alive 4.doc; 9-14-05 ltr to Hospital.pdf

Here is what HHS put out on Born Alive, and also the letter we sent Morristown yesterday. You should know, when this came in we first tried to get the Criminal Division to take it, but they represented that they had no applicable statute. That's why we had to think creatively to come up with the disability theory.

Gordon

-----Original Message-----
From: Treene, Eric (CRT)
Sent: Friday, April 22, 2005 1:42 PM
To: Todd, Gordon (CRT); McKnight, Cynthia M (CRT); Cantos, Ollie (CRT)
Subject: FW: Great News

Here is HHS's response to Born Alive issues.:

Enclosed is information regarding new instructions to implement the Born-Alive Infants Protection Act of 2002.

[redacted]
Office of Public Affairs
Administration for Children and Families
[redacted]

U.S. Department of Justice

Civil Rights Division

Disability Rights Section
950 Pennsylvania Ave., NW
NYA Building
Washington, DC 20530

September 14, 2005

BY FIRST CLASS MAIL

[redacted]
Assistant General Counsel
Atlantic Health System
Morristown Memorial Hospital
325 Columbia Turnpike
P.O. Box 959
Florham Park, New Jersey 07932-0959

Re: Morristown Memorial Hospital

Dear [redacted]

On February 3, 2005, the Department of Justice informed you that it was conducting an investigation, pursuant to Title III of the Americans with Disabilities Act, into the treatment of disabled children who are born alive after early inducement procedures at Morristown Memorial Hospital. We received your March 11 letter declining to provide the requested information. We have since engaged in interviews and reviewed various materials in conjunction with our investigation. We would like to offer you an additional opportunity to respond to our requests voluntarily prior to litigation.

Your March 11 letter expressed concern that release of the requested information may violate the privacy provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). However, the Department's February 3, 2005 request for information sought only general information regarding written and unwritten policies regarding how the hospital treats newborn children in various situations and conditions, policies regarding early inducement abortion procedures, and polices regarding disposal of infant and fetal remains. It did *not* request

any information about individual cases or other individually identifiable health information. In other words, the requested information about hospital policies simply is not protected by HIPAA. Moreover, even if HIPAA-protected health information had been requested, such information may be produced to the Justice Department where, as here, the information is sought to determine if a violation of the ADA has occurred. The HIPAA regulations explicitly authorize covered entities to "disclose protected health information to a health oversight agency[1] for oversight activities[2] authorized by law, including . . . civil . . . investigations . . . proceedings or actions; or other activities necessary for appropriate oversight of . . . entities subject to civil rights laws for which health information is necessary for determining compliance." 45 C.F.R. §164.512(d)(1). Such information may be released "without the written authorization" of the individual and without the "opportunity for the individual to agree or object," 45 C.F.R. §164.512.

Your letter also stated that you had "attempted to gain additional information from [the Department of Justice] in order to further investigate but have been advised that further information from [the Department of Justice] would not be forthcoming." This recitation misstates the telephone communication between Kathleen Devine and [redacted] an attorney with Atlantic Health Systems. On February 22, 2005, [redacted] sought to determine the identity of the individual or entity that had complained to the Department. Ms. Devine advised [redacted] that such information could not be provided because it would inhibit the free flow of information between complainants and the federal agency vested with responsibility for enforcing the statute at issue. [redacted] also asked if we would narrow the scope of our information request–a request which already had been limited to five hospital policies–claiming that the United States' request was too broad. Ms. Devine informed her that such a request was premature where, as here, [redacted] did not yet know the volume of responsive information. Since that time, we did not hear from [redacted] nor from any other representative of Morristown until the United States received Morristown's letter refusing to provide the requested information.

You additionally have expressed concern that the hospital's polices and procedures are proprietary information, and that you cannot be required to produce such information without a subpoena. Please let us clarify the nature of our request. We are asking for your voluntary cooperation in this investigation into disability discrimination under the ADA. The Department

---

[1]Health oversight agency includes an agency, such as the Department of Justice, that is authorized by law to enforce civil rights laws for which health information is relevant. 45 C.F.R. §164.501.

[2]The Department of Health and Human Services' comments to the rule expressly provide that, "[i]n the final rule, we include the following as additional examples of health oversight activities: (1) the U.S. Department of Justice's civil rights enforcement activities, and in particular, enforcement of . . . the Americans with Disabilities Act." 65 Fed. Reg. 82462, 82492 (Dec. 28, 2000).

of Justice is vested with authority to investigate alleged violations of Title III of the Americans with Disabilities Act (ADA), including allegations such as those presented here. See 42 U.S.C. § 12188. The Department is also authorized to bring a civil suit to enforce the ADA, which would bring with it the full panoply of civil discovery tools. Id. We are asking for your cooperation to avert any necessity for litigation and exhaustive discovery of the hospital's procedures. To the extent that you are concerned with the hospital's business interest in protecting proprietary information, we believe that that interest is best served by your cooperation with this investigation rather than facing civil litigation, with the attendant publicly accessible filings.

The investigation of allegations of potential ADA violations at Morristown Hospital is continuing. Interviews[3] have indicated that several babies were born alive as a result of early inducement abortions because these babies were thought to have disabilities. These babies were put in a room with soiled and unsanitary equipment and left to die. They all showed signs of life, including gasping for air and/or movement. In certain instances, their Apgar scores were recorded as 0-0. In certain instances, their parents appeared to be unaware that their babies were born alive. While it appears that all of these babies were swaddled after birth, in one instance a head apparently was covered and, in another, the baby was unwrapped before death.

We understand from our investigation that Morristown itself has looked into the above-referenced allegations. We also have been informed that, in July, Morristown announced a change in policy regarding the care and treatment of newborn infants. As such, the United States' original request for information has assumed added significance and we now expand that request to include any additional policies that fall within the terms of the five original requests up to the present. We also make the following additional requests:

1. If not included within the list of previously requested policies, a copy of the policy announced in July 2005 regarding the care of babies born alive as a result of abortions or spontaneous labor, and any related documents. If this policy is not in written form, please provide a description of the policy.

2. We have attached a document entitled "Guidelines for Care of the Family Experiencing A Fetal Demise or Pregnancy Termination." Please identify this document, and indicate whether and to what extent it was distributed and used at Morristown Memorial Hospital.

---

[3]Federal law prohibits retaliating against any person for making a complaint or otherwise assisting in any way in an ADA investigation, or for encouraging others in doing so. 42 U.S.C. § 12203. The Department aggressively pursues violations of this provision.

If you have any questions or concerns, please contact Kathleen Devine at (202) 307-0480. We thank you for your cooperation in this matter.

Sincerely,

John L. Wodatch
Chief
Disability Rights Section

GUIDELINES FOR CARE OF THE FAMILY EXPERIENCING A FETAL DEMISE OR PREGNANCY TERMNATION

Purpose

Atlantic Health System provides humane, dignified and compassionate care to families experiencing a stillbirth or pregnancy termination. This is a difficult time for the patient and family and requires supportive care of both physical and emotional needs.

Definitions

1. **Fetal Death**: (Stillbirth) Death prior to complete expulsion or extraction from the mother of a product of human conception, fetus and placenta, irrespective of duration of pregnancy. The death is indicated by the fact that, after such expulsion or extraction, the fetus does not breathe or show any other evidence of life, such as heartbeat, pulsation of umbilical cord, or definite movement of voluntary muscles. Heartbeats are to be distinguished from transient cardiac contractions; respirations are to be distinguished from fleeting respiratory efforts or gasps. (ACOG, p.313)

2. **Termination of pregnancy**: A voluntary cessation of pregnancy performed by an MD/CNM. Pregnancy terminations are only performed on Labor & Delivery when there is a fetal demise, a fetal diagnosis incompatible with life or PPROM with oligohyramnios.
3. **Non viable live born infant**: An infant born with signs of life but that is not expected to survive for more than several hours. A plan of care for the infant must be discussed and agreed upon by the patient/family, physician and neonatologist before delivery.

Admission

1. All routine admission procedures, including but not limited to;
   a. Orientation to room and plan of care
   b. Vital signs
   c. Consent
   d. IV
   e. Blood work
   f. History/ review of prenatal record
2. Routine L&D orders or termination orders may be used at the discretion of the physician, depending on gestational age.
3. Initiate bereavement checklist and provide bereavement materials as appropriate.
4. Place bereavement door card on patient's door to alert other hospital staff as to the situation.
5. Discuss the desires of the parents for spiritual care and contact the Chaplain's office as appropriate.

Induction

1. Follow the routine orders or termination orders according to gestational age.
2. A physician will insert the first dose of medication (nurses may place subsequent doses if trained to do so).
3. Patient must remain in bed for 1 hour post insertion of medication.

Monitoring

1. Uterine tocometer may be placed at the discretion of the physician < 28 weeks and no history of uterine surgery but the tone of the uterus should be monitored by palpation hourly.

Vital Signs

Vital signs should be monitored closely

1. Blood pressure, pulse and respirations Q30 minutes x2 after

2. Temp Q2 hours and report > 100.4F. A cooling blanket may be used for temperatures between 100 and 104 F.

Pain Management

1. Assess the patient's wishes for pain medication/sedation.
2. Administer as ordered.
3. Continually assess the patient's level of comfort and remedicate as ordered.

Delivery

1. The physician will be notified when delivery is imminent (if possible) or immediately thereafter. It should be noted that dilatation is not progressive and may change suddenly leading to delivery without warning.
2. 20 units of pitocin should be added to the IV after delivery of the fetus.
3. The placenta may take up to 4 hours to deliver;
   g. Monitor patient closely for bleeding
   h. Monitor vital signs q 15 minutes

Recovery

1. Offer parents opportunity to view and/or hold the fetus.
2. Give parents memory box, which should include;
   a. Pictures
   b. ID bands
   c. Crib card
   d. Footprints
   e. Mementos
   f. Lock of hair
   g. Hat and/or clothing
   h. Blanket
   i. JR Bear
3. If the parents decline the memory box it should be stored carefully in the bereavement closet.
4. Pictures must be taken of every fetus regardless of gestational age or indication for termination.

5. Autopsy, genetic studies, pathology and disposition forms must be completed and explained to the parents;
    a. If genetic studies are ordered do not place the fetus in formalin.
    b. If placental cultures are ordered swab each side of the placenta and label correctly.
    c. Send all placentas to pathology.

Postpartum

1. Patient may be discharged home from Labor & Delivery 6-8 hours postpartum;
    a. If vital signs stable
    b. If bleeding stable, draw CBC as ordered
    c. Rubella and rhogam given as ordered
    d. Able to ambulate
    e. Able to void
    f. Able to tolerate diet and fluids
2. If the patient remains hospitalized after delivery then the option of transferring off of the OB floor should be offered.
3. Ensure patient/family have a copy of the bereavement discharge instructions.
4. Refer to Perinatal or NICU Social Worker if there a history of depression or any concerns.

Paperwork

1. Initiate Fetal Death Certificate worksheet. The original yellow copy can have no errors on it and must be signed by the physician. Fetal Death Certificate only required for deliveries less than 20 weeks if private disposition is requested.
2. Autopsy Disposition Form must be completed on all fetal demise deliveries and terminations. It is the responsibility of the physician to discuss autopsy and disposition options with the parents.

3. EBC must be completed on all fetal demise deliveries and terminations using the specific worksheet (copies in bereavement file).
4. Labor & Delivery record must be completed on all fetal demise deliveries and terminations.
5. If there are any signs of life at delivery a Notification of Death Form and then a Certificate of Death will be issued. The parents must select private disposition in this case.
6. Place a copy of the Bereavement Checklist on the patients chart as a record of bereavement care given.

Disposition

1. Fetus should be transported to the morgue with the appropriate completed paperwork, i.e. fetal death certificate and disposition form.
2. If private disposition is requested the family must contact a funeral home of their choice who will make all the necessary arrangements with the morgue.
3. If hospital disposition is requested the family must be aware that it is via incineration and there is no option for religious service or burial arrangements.

Follow Up

The nurse caring for the family and/or bereavement group nurses will contact the patient/family in 1-4 weeks as appropriate. The bereavement group telephone number is located throughout the bereavement materials to ensure the patient/family have a way of reaching out sooner if necessary.
Fetal Infant Mortality Review (FIMR) will be notified by the bereavement group nurse.



POSTPARTUM INSTRUCTIONS FOLLOWING PERINATAL LOSS

We would like to extend our deepest sympathy over your loss.

The following list is a guideline for your physical recovery you should also have received bereavement literature to help you in your grief.

Activity; Get as much rest as possible at home for the first few weeks. You may gradually resume normal activities but should refrain from heavy lifting. You can drive once you are pain free enough to be safe, usually a few weeks. Use common sense.

Diet; Eat a well balanced diet and drink plenty of liquids. Continue taking the vitamins and iron that your doctor had previously prescribed.

Breasts; Wear a good fitting bra or sports bra 24 hours a day for the first few days. Breast engorgement will usually only last 1 or 2 days. Use Tylenol or ibuprofen as per the package instructions. Apply ice packs (or bags of frozen peas) to uncomfortable breasts and/or underarms. Avoid hot showers and limit stimulation. Call your doctor for a fever with hot, red and tender localized areas.

Bleeding; Vaginal bleeding may last for several weeks. The color will change from red to brown to pink. You may notice an increase when you are overdoing any activity. An occasional small clot is not unusual. Do not use tampons or douches until you have been seen for your 6 week check up.

Personal Care; *You may shower and wash your hair but do not tub* bathe. Use the peri bottle filled with warm water to cleanse after using

pads and anusol cream/ointment. If you do not have a bowel movement within two days of leaving the hospital use a laxative such as milk of magnesia at bedtime.

- Episiotomy; Keep the area clean and dry. Keep your stools soft, one or two colace a day may help as well as eating a high fiber diet and drinking plenty of water. The stitches used do not need to be removed. Use a sitz bath for comfort.
- C/section wound; Keep the area clean and dry. Wear loose fitting clothing over the incision. The steri-strips may start to peel off after a week or so and may be removed as they do. Wash the incision with soapy water in the shower, rinse and pat dry carefully. Numbness, itching, pulling and firmness are all normal. Call if any localized hot red areas, bleeding, foul odor or separation of the incision.

Call your physician for;

1. very heavy bleeding
2. severe pain not controlled by the medications your doctor prescribed/recommended
3. foul smelling discharge/vaginal odor
4. fever greater than 100.4 F/38 C that persists

Please remember to call your doctor's office to schedule a 6 week check up.

Remember that if you need to talk with someone about your loss you can reach the Bereavement Support Group @ 973-971-5748.

ABORTIFACIENTS

	Cervidil	Cytotec	Laminaria	Prostin Suppository	Pitocin
	Prostaglandin E2 (kept frozen), stimulates smooth muscle to contract	Prostaglandin E1/ misoprostol (not FDA approved)	Sterilized seaweed, swells in the cervix	Prostaglandin E2 (kept frozen), stimulates smooth muscle to contract	Synthetic oxytocin produces uterine contractions
Relative contraindications	Bishops score> 6	Previous uterine scar	Chorioamnionitis	Previous uterine scar asthma, cardiac disease	Previous uterine sca
Route of administration	PV (posterior fornix)	PV or PO	Placed in the cervix by MD	PV (posterior fornix)	IV piggyback via pur
Dosage	10mg insitu for 12 hours	100-200 mcg Q 4 hours	As many will fit 2-20 of varying sizes. Left in place 6-24 hours	10-20mg Q 4 hours max 240mg/24hours	Titrated (pitocin receptors low early 2nd trimester)
Side effects	Increased risk of tachysystole or hyperstimulation if placed intracervically	Uterine rupture	Minor cramping	H/A, nausea, vomiting, diarrhea, fever, chills, hypotension, tachycardia	Hypertonus, water intoxication

DOJ_NMG_0147843

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-12-25
Baltimore, Maryland 21244-1850

CENTERS for MEDICARE & MEDICAID SERVICES

Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-05-26

DATE: **April 22, 2005**

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Interaction of the Emergency Medical Treatment and Labor Act (EMTALA) and the Born-Alive Infants Protection Act of 2002

Letter Summary

- The Born-Alive Infants Protection Act of 2002 (Pub. L. 107-207) adds to the United States Code a definition of the term "individual" to include every infant who is born alive, at any stage of development; it also adds a definition of the term "born alive."
- The Emergency Medical Treatment and Labor Act (EMTALA) provides certain rights to "any individual" who comes to an emergency department and "any individual" who comes to a hospital. In particular, hospitals must provide an appropriate medical screening examination to any individual who comes to an emergency department, and either stabilizing treatment or an appropriate transfer for an individual who comes to a hospital and who is determined to have an emergency medical condition.
- **Attachment:** The attached Guidance provides direction to regional office and state survey agency personnel on how to apply EMTALA in investigations when the Born-Alive Infants Protection Act is potentially implicated.

The purpose of this memorandum is to provide guidance to regional office (RO) and state survey agency (SA) personnel regarding the enforcement of the Emergency Medical Treatment and Labor Act (EMTALA) during investigations of hospitals where the Born-Alive Infants Protection Act could be potentially implicated. It has recently come to the agency's attention that there may be occasions where, in hospitals, an infant may be born alive within the meaning of the definition added to the U.S. Code by the Born-Alive Infants Protection Act, but where hospitals have failed to comply with the requirements of EMTALA.

Under the Born-Alive Infants Protection Act, such an infant is defined as an "individual." Since EMTALA provides protection to "individual[s]," RO and SA personnel conducting EMTALA investigations need to be aware of the interaction of both statutes in order to appropriately comply with their obligations to conduct EMTALA surveys. This memorandum provides guidance on the interaction of the two statutes.

Background

Congress enacted EMTALA to ensure public access to emergency services, regardless of ability to pay. Section 1867 of the Social Security Act imposes specific obligations on Medicare-participating hospitals that offer emergency services to provide a medical screening examination (MSE) when an individual comes to the emergency department and a request is made for examination or treatment for a medical condition, including active labor, regardless of an individual's ability to pay. In addition, when an individual comes to a hospital, and the hospital determines that the individual has an emergency medical condition, the hospital is required to provide either stabilizing treatment within its capabilities, or to effect an appropriate transfer. If a hospital is unable to stabilize an individual with an emergency medical condition within its capability, or if the individual requests, an appropriate transfer should be implemented.

To help promote consistent application of the regulations concerning the special responsibilities of Medicare-participating hospitals in emergency cases, the Centers for Medicare & Medicaid Services (CMS) has occasionally published regulations clarifying hospitals' responsibilities and obligations under EMTALA. Most recently, in September of 2003, CMS published such regulations. Shortly after those regulations became effective, we issued revised Interpretive Guidelines to implement those regulations. We also amended our State Operations Manual to incorporate the new regulations. From time to time, we also issue guidance to surveyors to use when conducting an investigation and assessing a hospital's compliance with EMTALA.

Effective Date: Immediately. Please orient surveyors and implement procedures to ensure that the information in this memorandum is operational within 60 days.

Training: This information should be distributed to all survey and certification staff, their managers, and the state/RO training coordinators.

/s/
[redacted]

cc: Survey and Certification Regional Office Management

Attachment

Attachment

GUIDANCE ON THE INTERACTION OF THE BORN-ALIVE INFANTS PROTECTION ACT AND EMTALA

Summary of the Born-Alive Infants Protection Act

The Born-Alive Infants Protection Act, Pub. L. 107-207, amended title 1 of the United States Code by defining the terms "person," "human being," "child," and "individual." In particular, the statute instructs that,

> [i]n determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words "person", "human being", "child", and "individual", shall include every infant member of the species homo sapiens who is born alive at any stage of development.
>
> 1 U.S.C. § 8(a).

The statute goes on to define the term "born alive" with respect to the species homo sapiens, as any member of that species expelled or extracted

> from his or her mother … at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section or induced abortion.
>
> 1 U.S.C. § 8(b).

Summary of the Emergency Medical Treatment and Labor Act (EMTALA)

The EMTALA statute is codified at section 1867 of the Social Security Act, 42 U.S.C. § 1395dd. Hospitals and physicians generally have three obligations under EMTALA. The first is commonly referred to as the screening requirement, and applies to any individual who comes to the emergency department of a hospital and for whom a request is made for examination or treatment for a medical condition. Such an individual is entitled to have a medical screening examination to determine whether or not an emergency medical condition exists. The second is commonly referred to as the stabilization requirement, and applies to any individual who comes to the hospital and whom the hospital determines has an emergency medical condition. Such an individual is entitled to stabilizing treatment within the capability of the hospital. The third obligation flows from the second, and also applies to any individual

in a hospital with an emergency medical condition. This obligation is sometimes known as the transfer requirement, and restricts the ability of the hospital to transfer that individual to another hospital unless the individual is stabilized. If the individual is not stabilized, they may only be transferred if the individual requests the transfer or if the medical benefits of the transfer outweigh the risks.

In addition to the basic requirements of EMTALA, the statute contains "whistleblower" protection. In particular, section 1867(i) of the Act prohibits a hospital from taking adverse action against an employee because the employee reports a violation of the section. EMTALA is enforced by penalties that can be imposed against the hospital in an amount up to $50,000 per violation ($25,000 per violation in the case of a hospital with less than 100 beds); hospitals that violate EMTALA also put their Medicare provider agreements at risk. A physician that violates EMTALA is subject to a penalty of $50,000 per violation and, if the violation is gross or flagrant, or repeated, to exclusion from the Medicare and Medicaid programs. In addition, EMTALA can be enforced by a private right of action brought in the U.S. District Courts by any individual harmed as a direct result of an EMTALA violation by a hospital.

The 2003 regulations included some modifications and clarifications to hospitals' responsibilities and obligations under EMTALA. For example, the regulations clarified the screening requirement and made clear that it applied to any individual who presented to an area of the hospital that met the definition of a "dedicated emergency department" and made a request for a medical screening examination. The regulation defined dedicated emergency department as the area of the hospital that met any one of three tests: that it is licensed by the state as an emergency department; that it held itself out to the public as providing emergency care; or that during the preceding calendar year, at least one-third of its outpatient visits were for the treatment of emergency medical conditions. The preamble to the regulation noted that it is possible that the labor and delivery department of a hospital could meet the definition of dedicated emergency department. (See 68 Fed. Reg. at 53229 (September 9, 2003)).

The regulation also clarified other circumstances in which the screening requirement may apply. For example, an individual who comes to certain locations on the hospital's campus, but not to the dedicated emergency department, is entitled to the protection of EMTALA in certain circumstances. In particular, if the individual comes to the hospital and makes request for examination or treatment for an emergency medical condition, then the screening requirement will apply. If the individual does not make a verbal request, but a prudent layperson observer would conclude, based on the person's appearance or behavior, that the person needed emergency examination or treatment, the screening requirement also applies.

In addition, the regulation also clarified the application of EMTALA with respect to inpatients. Prior to the issuance of the regulations, CMS had never made clear whether EMTALA applied to inpatients. With the new regulations, as codified at 42 C.F.R. § 489.24(d)(2), it is clear that EMTALA does not apply to inpatients, whether admitted after the individual has been admitted through the emergency department or whether the individual has been admitted for an elective procedure.

Notably, the regulations retained an earlier requirement that any individual (whether or not that individual

is a Medicare beneficiary) who comes to the hospital and who is determined to have an emergency medical condition is protected by both the stabilization requirement and the transfer requirement if the individual is not admitted. (See 42 C.F.R. § 489.24(d)(1)). The retention of this requirement meant that CMS continued to intend for hospitals to stabilize any individual (or to meet the applicable transfer requirements for any individual) who has not been admitted as an inpatient, but who is determined by the hospital to have an emergency medical condition. The preamble to the regulation also notes that it would be a violation of EMTALA to admit an individual to the hospital in a bad faith attempt to evade EMTALA obligations.

The preamble to the regulation also noted that even though EMTALA does not apply to inpatients, hospitals were still bound by the Medicare conditions of participation (CoPs) to provide appropriate care to inpatients. In particular, the preamble noted four CoPs that are potentially applicable when a hospital provides treatment for an admitted patient. For example, hospital governing bodies must ensure that the hospital medical staff has written policies and procedures for appraisal of inpatients who develop an acute medical condition while admitted. The preamble also notes the discharge planning CoP, which requires that hospitals have a discharge planning process that applies to all patients. Hospitals must also have an organized medical staff that is responsible to the hospital's governing body for the quality of medical care provided to patients. Finally, the hospital governing body must ensure that the hospital has an organization-wide quality assessment and performance improvement program to evaluate the provision of patient care. These CoPs are intended to protect patient health and safety, and to ensure that high quality medical care is provided to all patients. Failure to meet these CoPs could result in a finding of noncompliance at the condition level for the hospital and lead to termination of the hospital's Medicare provider agreement.

Interaction of the Born-Alive Infant Protection Act and EMTALA

With the definition of the terms "person" and "individual" codified at 1 U.S.C. § 8, it is clear that there may be some circumstances where EMTALA protections can attach to an infant who is born alive, as that term is defined in 1 U.S.C. § 8(b). For example, assume that a hospital's labor and delivery department meets the definition of a "dedicated emergency department" under the new regulations. If an infant were born alive (again, as that term is defined in 1 U.S.C. § 8(b)) in that dedicated emergency department, and a request were made on that infant's behalf for screening for a medical condition, (or if a prudent layperson would conclude, based on the infant's appearance or behavior, that the infant needed examination or treatment for an emergency medical condition and that a request would have been made for screening) the hospital and physician could be liable for violating EMTALA for failure to provide such a screening examination. This follows because the born-alive infant is a "person" and an "individual" under 1 U.S.C. § 8(a), and the screening requirement of EMTALA applies to "any individual" who comes to the emergency department.

Another example could occur were an infant to be born alive elsewhere on the hospital's campus (i.e.,

not in the hospital's dedicated emergency department) and a prudent layperson observer concluded, based on the born-alive infant's appearance or behavior, that the born-alive infant were suffering from an emergency medical condition. In such a circumstance, the hospital and its medical staff would be required to perform a medical screening examination on that born-alive infant to determine whether or not an emergency medical condition existed. If the hospital or its medical staff determined that the born-alive infant were suffering from an emergency medical condition, there would then arise an obligation to admit the infant, or to comply with either the stabilization requirement or the transfer requirement, or risk a finding of an EMTALA violation. This follows because the born-alive infant is a "person" and an "individual," as described above, and the stabilization and transfer requirements of EMTALA apply to "any individual" who comes to the hospital.

Finally, a third example could occur if the hospital were to admit a born-alive infant. As noted above, EMTALA does not apply to inpatients. Were an infant born alive and then admitted to the hospital, EMTALA would not apply to protect the infant in most circumstances. However, the CoPs described above clearly would apply to the infant once he or she was admitted to the hospital as an inpatient. If a hospital were to violate those CoPs, it would put at risk its Medicare provider agreement.

Conduct of Investigations

EMTALA is a complaint-driven statute. If you receive a complaint that suggests that a born-alive infant has been denied a screening examination, stabilizing treatment, or an appropriate transfer, you should treat that complaint as potentially triggering an EMTALA investigation of the hospital. Note that it is not necessary to determine that the hospital acted with an improper motive in any failure to provide a screening examination, stabilizing treatment, or an appropriate transfer in order to conclude that an EMTALA violation has occurred. The Supreme Court of the United States has held that a finding of improper motive is not required to conclude that an EMTALA violation has occurred.


CMS
CENTERS for MEDICARE & MEDICAID SERVICES

ACF Administration for Children and Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
	1. Log No: ACYF-CB-PI-05-01	**2. Issuance Date:** April 19, 2005
	3. Originating Office: Children's Bureau	
	4. Key Words: CAPTA and the Born-Alive Infants Protection Act of 2002	

PROGRAM INSTRUCTION

TO: State and Territorial Agencies Administering or Supervising the Administration of the Child Abuse Prevention and Treatment Act (CAPTA) Program.

SUBJECT: Child Abuse Prevention and Treatment Act requirements and the Born Alive Infants Protection Act of 2002.

LEGAL AND RELATED REFERENCES: The Born-Alive Infants Protection Act of 2002, Public Law 107-207; and the Child Abuse Prevention and Treatment Act.

PURPOSE: The purpose of this Program Instruction (PI) is to provide instruction to States about the requirements of the Born-Alive Infants Protection Act that are applicable to the CAPTA State grant program.

BACKGROUND: The Born-Alive Infants Protection Act, Public Law 107-207, was enacted on August 5, 2002, and amends the United States Code to provide that, in determining the meaning of any Act of Congress, or of any ruling, regulation or interpretation of a federal administrative bureau or agency, the words "person," "human being," "child," and "individual" "shall include every infant member of the species homo sapiens who is born alive at any stage of development." (1 U.S.C. 8(a)). The Act also defines the term "born alive" to mean the complete expulsion or extraction, at any stage of development, of a member of the homo sapiens species from his or her mother who – regardless of whether the umbilical cord has been cut, or whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion – after such expulsion or extraction, possesses certain indicia of life (1 U.S.C. 8 (b)). The text of the Act is attached.

The purpose of the Act was to reaffirm the legal principle that infants who are born alive, at any stage of development – including those born alive after failed abortions – are persons entitled to the protections of the law. See H.R. Rep. 107-186 at 3 and throughout (2001).

INSTRUCTION:

All references to a "child" or "children" in the definitions, provisions and assurances of the Child Abuse Prevention and Treatment Act, as amended, are to be read to include infants who are "born-alive" as that term is defined at 1 U.S.C. 8. States also must ensure that their State laws, procedures and practices with respect to child abuse and neglect conform to the requirements of CAPTA as its terms are interpreted in accordance with Public Law 107-207.

In particular, States must ensure that implementation of section 106(b)(2)(B) of CAPTA, which requires States to have procedures for responding to reports of medical neglect (including the withholding of medically indicated treatment from disabled infants with life-threatening conditions), applies to born-alive infants. This means that the State must provide the following with regard to born-alive infants:

X Coordination and consultation with individuals designated by and within health-care facilities with regard to responding to medical neglect (section 106(b)(2)(B)(i) of CAPTA);

X Prompt notification by the individuals designated within health-care facilities of cases of suspected medical neglect (including withholding of medically indicated treatment from disabled infants with life-threatening conditions) to child protective services (section 106(b)(2)(B)(ii) of CAPTA);

X At a minimum, *the authority* for State child protective services to pursue any legal remedies as may be necessary to provide medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child (sections 106(b)(2)(A)(vi), 106(b)(2)(B), and 113(b) of CAPTA); and,

X The authority for State Child Protective Services to pursue, and the *actual pursuit* of, any legal remedies that may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions (section 106(b)(2)(B) and section 113(b) of CAPTA).

INQUIRIES TO: ACF Regional Offices.

_____/s/_____

Wade F. Horn, Ph.D.
Assistant Secretary for Children and Families

Attachment

Born-Alive Infants Protection Act of 2002: Public Law 107-207

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Born-Alive Infants Protection Act of 2002''.

SEC. 2. DEFINITION OF BORN-ALIVE INFANT.

(a) In General.--Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

Sec. 8. `Person', `human being', `child', and `individual' as including born-alive infant.

(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words `person', `human being', `child', and `individual', shall include every infant member of the species homo sapiens who is born alive at any stage of development.

(b) As used in this section, the term `born alive', with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.

(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being born alive' as defined in this section.'

(b) Clerical Amendment.--The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

8. `Person', `human being', `child', and `individual' as including born-alive infant.'

HHS News
U.S. Department of Health and Human Services
www.hhs.gov/news

FOR IMMEDIATE RELEASE
Friday, April 22, 2005

Contact: HHS Press Office
(202) 690-6343

STATEMENT BY MIKE LEAVITT
Secretary of Health and Human Services
Regarding Born-Alive Infant Protection

Shortly after I was confirmed as Secretary, I received several inquiries on whether the Department of Health and Human Services was planning to issue regulations to implement the Born-Alive Infants Protection Act of 2002. The Born-Alive Act, passed with overwhelming bipartisan support in Congress and signed into law by President Bush in August 2002, is a law that defines the term "individual," "person," "human being," or "child" as any infant who is born alive, at any stage of development. While that definition seems so self-evident, Congress had received testimony that some infants who had been born alive after unsuccessful abortions were left to die. Because the Born-Alive Act is self-implementing and applies to all federal statutes, rulings, and regulations, no regulations are necessary.

The Act reaffirms the legal principle that all infants born alive are entitled to the full protection of the law. That is a principle I will vigorously uphold as Secretary. As a matter of law and policy, the U.S. Department of Health and Human Services will investigate all circumstances where individuals and entities are reported to be withholding medical care from an infant born alive in potential violation of federal statutes for which we are responsible. We will also take proactive steps to educate state officials, health care providers, hospitals and child protection agencies about their obligations to born-alive infants under federal law.

We took the first of these educational steps today by notifying relevant entities that we aggressively enforce federal laws that protect born-alive infants. We issued clear guidance that withholding medical care from an infant born alive may constitute a violation of the federal Emergency Medical Treatment and Labor Act and the Medicare Conditions of Participation. We also notified state agencies that receive grants under the Child Abuse Prevention and Treatment Act that they must have procedures in place to respond to reports of medical neglect as it applies to born-alive infants.

Ours is a society that values and defends life. The Department of Health and Human Services will continue to seek ways to revere and protect the dignity of life.

###

Note: All HHS press releases, fact sheets and other press materials are available at http://www.hhs.gov/news.

Beach, Andrew

Subject:	Updated: Senior Management Meeting
Start:	Friday, September 16, 2005 8:10 AM
End:	Friday, September 16, 2005 8:30 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Roehrkasse, Brian

When: Friday, September 16, 2005 8:10 AM-8:30 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Courtney Elwood, Bill Mercer, Neil Gorsuch, Brian Roehrkasse, Jeff Oldham, Martha Pacold

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 1:25 PM
To: McCallum, Robert (SMO)
Subject: RE: McNulty call

Just back from lunch with Cliff. Sorry to have missed you. Also have some intel to report from Mary Beth and Steve.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Thursday, September 15, 2005 12:36 PM
To: Gorsuch, Neil M
Subject: McNulty call

Pop in so I can brief you on a call from Paul. Robt.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Thursday, September 15, 2005 1:35 PM
To: Gorsuch, Neil M
Subject: Re: McNulty call

I told Paul that if the USAs feel that they need more time for process into next week, I can live with it. Robt.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Sep 15 13:24:32 2005
Subject: RE: McNulty call

Just back from lunch with Cliff. Sorry to have missed you. Also have some intel to report from Mary Beth and Steve.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Thursday, September 15, 2005 12:36 PM
To: Gorsuch, Neil M
Subject: McNulty call

Pop in so I can brief you on a call from Paul. Robt.

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Thursday, September 15, 2005 2:02 PM
To: Brett Gerry (E-mail)
Cc: Gorsuch, Neil M

Did the BRAC report/letter get transmitted?

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Thursday, September 15, 2005 2:10 PM
To: Brett_C._Gerry@who.eop.gov
Cc: Gorsuch, Neil M
Subject: RE:

thanks. didn't mean to bug -- just was curious

-----Original Message-----
From: Brett_C._Gerry@who.eop.gov [mailto:Brett_C._Gerry@who.eop.gov]
Sent: Thursday, September 15, 2005 2:07 PM
To: Nichols, Carl (CIV)
Cc: Gorsuch, Neil M
Subject: RE:

It will be sent in about a half-hour.

-----Original Message-----
From: Carl.Nichols@usdoj.gov [mailto:Carl.Nichols@usdoj.gov]
Sent: Thursday, September 15, 2005 2:03 PM
To: Gerry, Brett C.
Cc: Neil.Gorsuch@usdoj.gov
Subject:

Did the BRAC report/letter get transmitted?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 2:15 PM
To: Todd, Gordon (CRT)
Cc: Schlozman, Brad (CRT); Reyes, Luis (SMO)
Subject: RE: HHS Guidance

Gordon,

Thanks very much. As I understand from the attached, then, HHS has issued two guidance memos. The first, under CAPTA, requires, at a minimum, that hospitals self-report cases where all children, including those born alive after an unsuccessful abortion, are mistreated. Second, under EMTALA, HHS will pursue allegations of mistreatment or neglect by hospitals as it relates to such children, even if the mistreatment did not occur in the emergency room. Is my understanding accurate?

Also, is there anything more we can do through CRT or HHS on this issue? Eg, say Morristown didn't self report the problem under CAPTA, what sort of relief does that merit (independent from the underlying conduct)? Are there ways we can identify leads of similar cases and pursue them? Is there anything can we do (HHS and CRT) to coordinate efforts to ensure that hospitals have in place regulations that prevent this sort of killing?

I'd appreciate and be interested in your creative thinking on this.

NMG

-----Original Message-----
From: Todd, Gordon (CRT)
Sent: Thursday, September 15, 2005 11:38 AM
To: Gorsuch, Neil M; Schlozman, Brad (CRT)
Subject: HHS Guidance

Here is what HHS put out on Born Alive, and also the letter we sent Morristown yesterday. You should know, when this came in we first tried to get the Criminal Division to take it, but they represented that they had no applicable statute. That's why we had to think creatively to come up with the disability theory.

Gordon

-----Original Message-----
From: Treene, Eric (CRT)
Sent: Friday, April 22, 2005 1:42 PM

To: Todd, Gordon (CRT); McKnight, Cynthia M (CRT); Cantos, Ollie (CRT)
Subject: FW: Great News

Here is HHS's response to Born Alive issues.:

Enclosed is information regarding new instructions to implement the Born-Alive Infants Protection Act of 2002.

[redacted]

Office of Public Affairs
Administration for Children and Families

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 2:22 PM
To: Elwood, Courtney; Ullyot, Theodore
Cc: McCallum, Robert (SMO)
Subject: BRAC

FYI - We worked out the cover letter language with WH counsel's office and POTUS is likely to ship the BRAC report to the Hill this afternoon, over a week before the statutory deadline. NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 2:56 PM
To: Nichols, Carl (CIV)
Subject: could you give me a ring when you have a minute? thanks

Neomi_J._Rao@who.eop.gov

From: Neomi_J._Rao@who.eop.gov
Sent: Thursday, September 15, 2005 3:13 PM
To: Gorsuch, Neil M
Subject: FW: Theme name
Attachments: tmp.htm

Neil,
I would appreciate if you could put me in touch with someone at DOJ who can advise on the intellectual property issues that might arise from Mrs. Bush using the theme "All Things Bright and Beautiful" for the White House Christmas Visitor's Guide. The theme would be a part various White House Christmas materials. This phrase comes from a well-known hymn, but is also the title of a book by James Herriot that is currently in publication. I appreciate your assistance with this.
Regards,
Neomi

Neil,
I would appreciate if you could put me in touch with someone at DOJ who can advise on the intellectual property issues that might arise from Mrs. Bush using the theme "All Things Bright and Beautiful" for the White House Christmas Visitor's Guide. The theme would be a part various White House Christmas materials. This phrase comes from a well-known hymn, but is also the title of a book by James Herriot that is currently in publication. I appreciate your assistance with this.
Regards,
Neomi

McCallum, Robert (SMO)

From:	McCallum, Robert (SMO)
Sent:	Thursday, September 15, 2005 3:29 PM
To:	Ibrahim, Jeremy H
Cc:	Tamargo, Mauricio J; Williams, Jan; Mercer, Bill (ODAG); Gorsuch, Neil M; Reyes, Luis (SMO)
Subject:	RE: Term Ending

Jeremy: Thanks for the heads up and thanks for your service to DOJ and the FCSC. It was a pleasure to work with you. I certainly understand the need to return to the private sector given education responsibilities, but we will miss you and regret your departure. Godspeed and every continued success in your next adventure. Robt.

-----Original Message-----
From: Ibrahim, Jeremy H
Sent: Thursday, September 15, 2005 3:17 PM
To: McCallum, Robert (SMO)
Cc: Tamargo, Mauricio J
Subject: Term Ending

Robert:
Hola.
As you may know, my term concludes on September 30th of this year. I have previously advised presidential personnel of my desire not to be re-appointed. I felt the position offers a unique opportunity for service that should be made available to some else who is seeking to be part of the administration. Also, my two older kids are in prep school in PA, and the two younger ones are not far behind. I must return to the full time payment of tuition.

I have been advised by PPO that my successor is in process, but understandably, no timetable is set for their confirmation. I have agreed to remain at the FCSC to ensure qorum until circumstances dictate otherwise.

I know you are wearing many hats, but I wanted to keep you apprized of my status.

Paz.
Jeremy
Jeremy H.G. Ibrahim
Commissioner
United States Department of Justice
Foreign Claims Settlement Commission
600 E. Street, N.W.
Suite 6002
Washington, D.C. 20579
(202) 616-6975
(202) 616-6993 (fax)

Brett_C._Gerry@who.eop.gov

From: Brett_C._Gerry@who.eop.gov
Sent: Thursday, September 15, 2005 3:34 PM
To: Nichols, Carl (CIV)
Cc: Gorsuch, Neil M
Subject: RE:

Just went to Congress. Which means reading down that it only took three times longer than I told you that it would -- an improvement on my recent predictions about internal WH timing, I think.

-----Original Message-----
From: Carl.Nichols@usdoj.gov [mailto:Carl.Nichols@usdoj.gov]
Sent: Thursday, September 15, 2005 2:10 PM
To: Gerry, Brett C.
Cc: Neil.Gorsuch@usdoj.gov
Subject: RE:

thanks. didn't mean to bug -- just was curious

-----Original Message-----
From: Brett_C._Gerry@who.eop.gov [mailto:Brett_C._Gerry@who.eop.gov]
Sent: Thursday, September 15, 2005 2:07 PM
To: Nichols, Carl (CIV)
Cc: Gorsuch, Neil M
Subject: RE:

It will be sent in about a half-hour.

-----Original Message-----
From: Carl.Nichols@usdoj.gov [mailto:Carl.Nichols@usdoj.gov]
Sent: Thursday, September 15, 2005 2:03 PM
To: Gerry, Brett C.
Cc: Neil.Gorsuch@usdoj.gov
Subject:

Did the BRAC report/letter get transmitted?

Seidel, Rebecca

From:	Seidel, Rebecca
Sent:	Thursday, September 15, 2005 4:40 PM
To:	Bucholtz, Jeffrey (CIV); Hertling, Richard; Ansell, Frederick; Gorsuch, Neil M
Cc:	Clinger, James H
Subject:	FW: Language
Attachments:	Draft DVPA.pdf

[redacted] question re the criminal issue - he wants to know that even if it isn't necessary, should we include some disclaimer language clarifying that if someone acts in a criminal way, they aren't immune?

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Thursday, September 15, 2005 4:01 PM
To: Clinger, James H[redacted]@judiciary-rep.senate.gov
Cc: Moschella, William; Hertling, Richard; Seidel, Rebecca; Bucholtz, Jeffrey (CIV)
Subject: RE: Language

FYI - here's the draft.

Any additional thoughts to earlier issues, the one below or findings?

[redacted]

[redacted]

United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

-----Original Message-----
From [redacted] Judiciary)
Sent: Thursday, September 15, 2005 2:06 PM
To: 'James.H.Clinger@usdoj.gov'
Cc: 'Jeffrey.Bucholtz@usdoj.gov'; 'Richard.Hertling@usdoj.gov'; 'William.Moschella@usdoj.gov'; 'Rebecca.Seidel@usdoj.gov'
Subject: Re: Language

In addition to issues on the table... What about criminal misconduct in the standard for exceptions?

[redacted]
U.S. Senate Subcommittee on the Constitution, Civil Rights & Property Rights
U.S. Senator John Cornyn, Chairman
Dirksen Senate Office Building Room [redacted]
[redacted]

-----Original Message-----
From: James.H.Clinger@usdoj.gov <James.H.Clinger@usdoj.gov>
To: [redacted](Judiciary) [redacted]@judiciary-rep.senate.gov>
CC: Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>;
Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>;
William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>;
Rebecca.Seidel@usdoj.gov <Rebecca.Seidel@usdoj.gov>
Sent: Thu Sep 15 08:19:15 2005
Subject: FW: Language

[redacted]

Will asked me to send over to you our draft legislation protecting disaster relief volunteers from civil liability, which I understand you have been discussing with Rebecca. As you can see, our draft differs significantly from the bill that passed the House yesterday. Feel free to call Rebecca or me with any questions.

Thanks,

Jim Clinger
353-4920

> > <<Disaster relief bill (9-13-05) .wpd>>

109TH CONGRESS
1ST SESSION

S. _____

To limit liability for actions by volunteers providing disaster relief.

IN THE SENATE OF THE UNITED STATES

Mr. CORNYN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To limit liability for actions by volunteers providing disaster relief.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disaster Relief Volunteer Protection Act of 2005".

SEC. 2. FINDINGS.

[To be added: findings regarding need for the legislation and connection to interstate commerce.]

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term ''compensation'' means monetary or other compensation of any kind provided in exchange for an individual's services, but does not include reasonable reimbursement or allowance for expenses actually incurred by such individual;

(2) the term ''declared disaster'' means a public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Services Act (42 U.S.C. 247d), a determination by the Secretary of Homeland Security [Secretary of Health and Human Services?] in accordance with section 2811 of the Public Health Services Act (42 U.S.C. 300hh-11), or an emergency or disaster declaration under section 401 or 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170, 5191);

(3) the term ''disaster relief goods'' means either—

(A) those goods provided in preparation for, response to, or recovery from a declared disaster and reasonably necessary to such preparation, response, or recovery; or

(B) those goods defined by a supplemental declaration under this section;

(4) the term ''disaster relief services'' means services or assistance provided in preparation for, response to, or recovery from a declared disaster, including but not limited to health, medical, firefighting, rescue, reconstruction, and any other services or assistance specified by a supplemental declaration under this Act as necessary or desirable to prepare for, respond to, or recover from such declared disaster;

(5) the term ''disaster relief volunteer'' means an individual—

(A) who provides disaster relief services or assistance in connection with a declared disaster without expectation or receipt of compensation for such services or assistance; and

(B) who, to the extent required by the appropriate authorities of a State (even if such State is not the State in which the volunteer provides services or assistance) or [if and to the extent specified in a supplemental declaration under this section] a foreign country, is licensed, certified, or authorized to provide the relevant services or assistance;

(6) the term ''employer or business partner'' means [define?];

(7) the term ''non-economic loss'' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other non-pecuniary losses of any kind or nature;

(8) the term ''supplemental declaration'' means [a declaration under section 9 regarding the scope of a declared disaster];

(9) the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

SEC. 4. LIABILITY OF DISASTER RELIEF VOLUNTEERS.

A disaster relief volunteer shall not be liable for harm caused by an act or omission of the volunteer that is within the scope of the activities of the volunteer to provide aid or facilitate the provision of disaster relief services in connection with a declared disaster if—

(1) the harm was not caused by willful, knowing, or reckless misconduct by the volunteer; and

(2) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

(A) possess an operator's license; or

(B) maintain insurance.

SEC. 5. LIABILITY OF EMPLOYER OR PARTNER OF DISASTER RELIEF VOLUNTEER.

An employer or business partner of a disaster relief volunteer shall not be liable for any act or omission of such volunteer within the scope of the activities of the volunteer to provide aid or facilitate the provision of disaster relief services in connection with a declared disaster.

SEC. 6. LIABILITY OF HOST OR ENABLING PERSON, ENTITY, OR ORGANIZATION.

A person, entity, or organization, including a governmental entity, that works with, accepts services from, or opens its facilities to a disaster relief volunteer to enable the volunteer to render disaster relief services in connection with a declared disaster shall not be liable for any act or omission of a disaster relief volunteer. [no exception?]

SEC. 7. LIABILITY OF GOVERNMENTAL ENTITIES FOR DONATIONS OF DISASTER RELIEF GOODS .

A governmental entity that donates disaster relief goods to an agency or instrumentality of the United States in connection with a declared disaster shall not be liable for harm caused by such donated goods if the harm was not caused by willful, knowing, or reckless misconduct by the governmental entity.

SEC. 8. LIMITATION ON PUNITIVE AND NON-ECONOMIC DAMAGES BASED ON ACTIONS OF DISASTER RELIEF VOLUNTEERS AND GOVERNMENTAL DONORS.

(a) PUNITIVE DAMAGES.—Punitive damages may not be awarded in any civil action against a disaster relief volunteer or governmental entity unless a claimant establishes by clear and convincing evidence that the damages to the claimant were proximately caused by willful, knowing, or reckless misconduct by either—

(1) a disaster relief volunteer in an action brought for harm caused by the volunteers activities of the volunteer to provide aid or facilitate the provision of disaster relief services in connection with a declared disaster; or

(2) a governmental entity for harm caused by disaster relief goods donated by such governmental entity in connection with a declared disaster.

(b) NON-ECONOMIC DAMAGES.—

(1) IN GENERAL.—Liability for non-economic loss in any civil action brought against either a disaster relief volunteer for harm caused the activities of the volunteer to provide aid or facilitate the provision of disaster relief services in connection with a declared disaster, or a governmental entity for harm caused by disaster relief goods donated by such governmental entity in connection with a declared disaster, if permitted under this section 4 or 7, shall be determined in accordance with paragraph (2).

(2) AMOUNT OF LIABILITY.—

(A) IN GENERAL.—The amount of damages for non-economic loss allocated to a disaster relief volunteer or governmental entity defendant shall be in direct proportion to the percentage of responsibility of that defendant, determined in accordance with subparagraph (B), for the harm to the claimant with respect to which that defendant is liable.

(B) PERCENTAGE.—In a civil action described in paragraph (1), for purposes of determining the amount of non-economic loss, the trier of fact shall determine the percentage of

responsibility of each defendant found liable for harm to the claimant.

(C) SEPARATE JUDGMENTS.—The court shall render a separate judgment against each defendant for any non-economic loss.

SEC. 9. SUPPLEMENTAL DECLARATION.

(a) IN GENERAL.—In the event of a declared disaster, the President, the Secretary of Health and Human Services, or the Secretary of Homeland Security may issue a supplemental declaration.

(b) TEMPORAL EFFECT.—A supplemental declaration may [establish an effective date or termination date for the declared disaster as the President or relevant Secretary may deem necessary or appropriate to further the public interest.] provide that, for purposes of this section, such declared disaster shall have such temporal effect as the President or the Secretary may deem necessary or appropriate to further the public interest, including providing that such declared disaster shall have an effective date earlier than the date of the declaration or determination of such declared disaster.

(c) GEOGRAPHIC AND OTHER CONDITIONS.—A supplemental declaration may provide that, for purposes of this section, such declared disaster shall have such geographic or other conditions as the President or the rel-

evant Secretary may deem necessary or appropriate to further the public interest.

SEC. 10. CONSTRUCTION.

Nothing in this Act shall be construed to abrogate or limit any protection that a volunteer, as defined in section 6(6) of the Volunteer Protection Act (42 U.S.C. 14505(6)), may be entitled to under that Act. Neither shall anything in this section be construed to confer any right or action or to abrogate or limit any protection with respect to either liability or damages that any disaster relief volunteer or governmental entity may be entitled to under any other provision of law.

Hertling, Richard

From: Hertling, Richard
Sent: Thursday, September 15, 2005 5:04 PM
To: [redacted]@judiciary-rep.senate.gov'; Clinger, James H
Cc: Moschella, William; Seidel, Rebecca; Bucholtz, Jeffrey (CIV); Ansell, Frederick; Gorsuch, Neil M
Subject: RE: Language

I am no tort lawyer, but my sense is that the exception for wilful or reckless misconduct covers criminal acts. It is true that criminal liability is sometimes imposed for negligent acts, but those instances(aside from negligent homicide, usually from careless driving, which is already exempted from the bill's coverage) are rare. I see no reason to cover separately criminal misconduct. If Jeff thinks otherwise, I defer to him. rah

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Thursday, September 15, 2005 4:01 PM
To: Clinger, James H[redacted]@judiciary-rep.senate.gov
Cc: Moschella, William; Hertling, Richard; Seidel, Rebecca; Bucholtz, Jeffrey (CIV)
Subject: RE: Language

FYI - here's the draft.

Any additional thoughts to earlier issues, the one below or findings?

[redacted]

[redacted]
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

-----Original Message-----
From: [redacted]Judiciary)
Sent: Thursday, September 15, 2005 2:06 PM
To: 'James.H.Clinger@usdoj.gov'
Cc: 'Jeffrey.Bucholtz@usdoj.gov'; 'Richard.Hertling@usdoj.gov'; 'William.Moschella@usdoj.gov'; 'Rebecca.Seidel@usdoj.gov'
Subject: Re: Language

In addition to issues on the table... What about criminal misconduct in the standard for exceptions?

[redacted]

U.S. Senate Subcommittee on the Constitution, Civil Rights & Property Rights
U.S. Senator John Cornyn, Chairman
Dirksen Senate Office Building[redacted]
[redacted]

-----Original Message-----
From: James.H.Clinger@usdoj.gov <James.H.Clinger@usdoj.gov>
To[redacted] Judiciary) <[redacted]@judiciary-rep.senate.gov>
CC: Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>;
Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>;
William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>;
Rebecca.Seidel@usdoj.gov <Rebecca.Seidel@usdoj.gov>
Sent: Thu Sep 15 08:19:15 2005
Subject: FW: Language

[redacted]

Will asked me to send over to you our draft legislation protecting disaster relief volunteers from civil liability, which I understand you have been discussing with Rebecca. As you can see, our draft differs significantly from the bill that passed the House yesterday. Feel free to call Rebecca or me with any questions.

Thanks,

Jim Clinger
353-4920

> > <<Disaster relief bill (9-13-05) .wpd>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 5:09 PM
To: [redacted] (E-mail)
Subject: FYI - BRAC

It's off to the Hill.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 5:13 PM
To: 'Brett_C._Gerry@who.eop.gov'
Cc: Nichols, Carl (CIV)
Subject: RE:

Congratulations in getting this off!

-----Original Message-----
From: Brett_C._Gerry@who.eop.gov [mailto:Brett_C._Gerry@who.eop.gov]
Sent: Thursday, September 15, 2005 3:34 PM
To: Nichols, Carl (CIV)
Cc: Gorsuch, Neil M
Subject: RE:

Just went to Congress. Which means reading down that it only took three times longer than I told you that it would -- an improvement on my recent predictions about internal WH timing, I think.

-----Original Message-----
From: Carl.Nichols@usdoj.gov [mailto:Carl.Nichols@usdoj.gov]
Sent: Thursday, September 15, 2005 2:10 PM
To: Gerry, Brett C.
Cc: Neil.Gorsuch@usdoj.gov
Subject: RE:

thanks. didn't mean to bug -- just was curious

-----Original Message-----
From: Brett_C._Gerry@who.eop.gov [mailto:Brett_C._Gerry@who.eop.gov]
Sent: Thursday, September 15, 2005 2:07 PM
To: Nichols, Carl (CIV)
Cc: Gorsuch, Neil M
Subject: RE:

It will be sent in about a half-hour.

-----Original Message-----
From: Carl.Nichols@usdoj.gov [mailto:Carl.Nichols@usdoj.gov]
Sent: Thursday, September 15, 2005 2:03 PM
To: Gerry, Brett C.
Cc: Neil.Gorsuch@usdoj.gov

Subject:

Did the BRAC report/letter get transmitted?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 5:14 PM
To: 'Neomi_J._Rao@who.eop.gov'
Cc: Meron, Daniel (CIV)
Subject: RE: Theme name

You are full of interesting issues these days, Neomi. Dan, who in your shop is the appropriate candidate?

-----Original Message-----
From: Neomi_J._Rao@who.eop.gov [mailto:Neomi_J._Rao@who.eop.gov]
Sent: Thursday, September 15, 2005 3:13 PM
To: Gorsuch, Neil M
Subject: FW: Theme name

Neil,
I would appreciate if you could put me in touch with someone at DOJ who can advise on the intellectual property issues that might arise from Mrs. Bush using the theme "All Things Bright and Beautiful" for the White House Christmas Visitor's Guide. The theme would be a part various White House Christmas materials. This phrase comes from a well-known hymn, but is also the title of a book by James Herriot that is currently in publication. I appreciate your assistance with this.
Regards,
Neomi

Meron, Daniel (CIV)

From: Meron, Daniel (CIV)
Sent: Thursday, September 15, 2005 5:26 PM
To: Gorsuch, Neil M; Neomi_J._Rao@who.eop.gov; Fargo, John (CIV)
Subject: RE: Theme name

John Fargo is the Director of the Intellectual Property section of the Commerical Litigation branch, and he is in charge of handling claims (or potential claims) that a USG component is violating someone's IP rights. By this email, i'm inviting John to contact you directly to discuss. Obvious issues are whether a phrase from a hymn is copyrightable, whether this is fair use anyway, and whether it might not be very simple to get permission just in case. But I'll let John advise, because unlike me he actually knows something about these issues.

Dan

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 5:14 PM
To: Neomi_J._Rao@who.eop.gov
Cc: Meron, Daniel (CIV)
Subject: RE: Theme name

You are full of interesting issues these days, Neomi. Dan, who in your shop is the appropriate candidate?

-----Original Message-----
From: Neomi_J._Rao@who.eop.gov [mailto:Neomi_J._Rao@who.eop.gov]
Sent: Thursday, September 15, 2005 3:13 PM
To: Gorsuch, Neil M
Subject: FW: Theme name

Neil,
I would appreciate if you could put me in touch with someone at DOJ who can advise on the intellectual property issues that might arise from Mrs. Bush using the theme "All Things Bright and Beautiful" for the White House Christmas Visitor's Guide. The theme would be a part various White House Christmas materials. This phrase comes from a well-known hymn, but is also the title of a book by James Herriot that is currently in publication. I appreciate your assistance with this.
Regards,
Neomi

[redacted]@judiciary-rep.senate.gov

From: [redacted]@judiciary-rep.senate.gov
Sent: Thursday, September 15, 2005 6:38 PM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Cc: Moschella, William; Seidel, Rebecca; Gorsuch, Neil M; Ansell, Frederick
Subject: RE: Language

Good. Thanks. I was just making sure. Doesn't look like we will be in session tomorrow, so I am guessing we will just see what the President says, clean some stuff up tomorrow and introduce on Monday.

Some additional questions:

1. is the phrase "in connection with" in the definition of disaster relief volunteer sufficient enough? I don't want that to be interpreted as "requested by," so... I query if there is a different approach.
2. Why shouldn't the volunteer organization itself be covered by the act as opposed only to for acts/omissions of the volunteer?
3. I realize that you have shot me down a coupla times, but are we sure that we shouldn't/can't cover business/organizations/individuals who donate equipment or services?
4. What do you think about a Class-Action like diversity provision that puts a lot of these claims in Federal Court?
5. I know you are still working on findings, let me know what you think.

Finally - any feedback on the criminal provisions - both new ones and the ones we sent you?

Thanks much for all the help.

[redacted]

[redacted]
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

-----Original Message-----
From: Jeffrey.Bucholtz@usdoj.gov [mailto:Jeffrey.Bucholtz@usdoj.gov]
Sent: Thursday, September 15, 2005 5:47 PM
To: Richard.Hertling@usdoj.gov; James.H.Clinger@usdoj.gov; [redacted] (Judiciary)
Cc: William.Moschella@usdoj.gov; Rebecca.Seidel@usdoj.gov; Frederick.Ansell@usdoj.gov; Neil.Gorsuch@usdoj.gov
Subject: RE: Language

I agree with Richard. There actually are some strict-liability crimes (e.g., Food, Drug & Cosmetic Act violations), as well as crimes requiring only a negligence mental state. I wouldn't want a volunteer who acts with a pure mental state but violates some technical criminal provision to be excluded from coverage under this bill.

-----Original Message-----
From: Hertling, Richard
Sent: Thursday, September 15, 2005 5:04 PM
To: [redacted]@judiciary-rep.senate.gov; Clinger, James H
Cc: Moschella, William; Seidel, Rebecca; Bucholtz, Jeffrey (CIV); Ansell, Frederick; Gorsuch, Neil M
Subject: RE: Language

I am no tort lawyer, but my sense is that the exception for wilful or reckless misconduct covers criminal acts. It is true that criminal liability is sometimes imposed for negligent acts, but those instances(aside from negligent homicide, usually from careless driving, which is already exempted from the bill's coverage) are rare. I see no reason to cover separately criminal misconduct. If Jeff thinks otherwise, I defer to him. rah

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto[redacted]@judiciary-rep.senate.gov]
Sent: Thursday, September 15, 2005 4:01 PM
To: Clinger, James H[redacted]@judiciary-rep.senate.gov
Cc: Moschella, William; Hertling, Richard; Seidel, Rebecca; Bucholtz, Jeffrey (CIV)
Subject: RE: Language

FYI - here's the draft.

Any additional thoughts to earlier issues, the one below or findings?

[redacted]

[redacted]
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

-----Original Message-----
From: [redacted](Judiciary)
Sent: Thursday, September 15, 2005 2:06 PM
To: 'James.H.Clinger@usdoj.gov'
Cc: 'Jeffrey.Bucholtz@usdoj.gov'; 'Richard.Hertling@usdoj.gov'; 'William.Moschella@usdoj.gov'; 'Rebecca.Seidel@usdoj.gov'

Subject: Re: Language

In addition to issues on the table... What about criminal misconduct in the standard for exceptions?

[redacted]
U.S. Senate Subcommittee on the Constitution, Civil Rights & Property Rights
U.S. Senator John Cornyn, Chairman
Dirksen Senate Office Building [redacted]
[redacted]

-----Original Message-----
From: James.H.Clinger@usdoj.gov <James.H.Clinger@usdoj.gov>
To: [redacted]udiciary) <[redacted]@judiciary-rep.senate.gov>
CC: Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>;
Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>;
William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>;
Rebecca.Seidel@usdoj.gov <Rebecca.Seidel@usdoj.gov>
Sent: Thu Sep 15 08:19:15 2005
Subject: FW: Language

[redacted]

Will asked me to send over to you our draft legislation protecting disaster relief volunteers from civil liability, which I understand you have been discussing with Rebecca. As you can see, our draft differs significantly from the bill that passed the House yesterday. Feel free to call Rebecca or me with any questions.

Thanks,

Jim Clinger
353-4920

> > <<Disaster relief bill (9-13-05) .wpd>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 6:48 PM
To: Paige, Dana E
Subject: NAACP letter

Dana, Robt McCallum asked me to get another copy of a recent letter to the AG from the head of the NAACP, Bruce Gordon. Would it be possible for you to forward me a copy by email or in hard copy? Many thanks. Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 6:50 PM
To: Swenson, Lily F
Subject: RE: OASG staff meeting

I, too, can do anytime after 2:15

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, September 15, 2005 6:45 PM
To: Gorsuch, Neil M
Subject: FW: OASG staff meeting

Neil, see below. You pick the time for Avian flu.

-----Original Message-----
From: Barnett, Thomas O.
Sent: Thursday, September 15, 2005 6:35 PM
To: Swenson, Lily F; McDonald, Bruce
Subject: RE: OASG staff meeting

Tomorrow afternoon is fine with me. Any time after about 2:15.

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, September 15, 2005 6:27 PM
To: McDonald, Bruce; Barnett, Thomas O.
Subject: OASG staff meeting

Tom, Bruce --
Sorry, that was the longest staff meeting in OASG history. We just got out.
Bruce, if you want to talk now, I can.
Tom, Neil asks whether we can do Avian Flu vaccine tomorrow afternoon? I'm flexible.
Lily

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 6:52 PM
To: Bucholtz, Jeffrey (CIV)
Subject: FW: Language

you or me for the short straw on these? either way...

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto[redacted]@judiciary-rep.senate.gov]
Sent: Thursday, September 15, 2005 6:38 PM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Cc: Moschella, William; Seidel, Rebecca; Gorsuch, Neil M; Ansell, Frederick
Subject: RE: Language

Good. Thanks. I was just making sure. Doesn't look like we will be in session tomorrow, so I am guessing we will just see what the President says, clean some stuff up tomorrow and introduce on Monday.

Some additional questions:

1. is the phrase "in connection with" in the definition of disaster relief volunteer sufficient enough? I don't want that to be interpreted as "requested by," so... I query if there is a different approach.
2. Why shouldn't the volunteer organization itself be covered by the act as opposed only to for acts/omissions of the volunteer?
3. I realize that you have shot me down a coupla times, but are we sure that we shouldn't/can't cover business/organizations/individuals who donate equipment or services?
4. What do you think about a Class-Action like diversity provision that puts a lot of these claims in Federal Court?
5. I know you are still working on findings, let me know what you think.

Finally - any feedback on the criminal provisions - both new ones and the ones we sent you?

Thanks much for all the help.

[redacted]

[redacted]
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

[redacted]

-----Original Message-----
From: Jeffrey.Bucholtz@usdoj.gov [mailto:Jeffrey.Bucholtz@usdoj.gov]
Sent: Thursday, September 15, 2005 5:47 PM
To: Richard.Hertling@usdoj.gov; James.H.Clinger@usdoj.gov; [redacted] (Judiciary)
Cc: William.Moschella@usdoj.gov; Rebecca.Seidel@usdoj.gov; Frederick.Ansell@usdoj.gov; Neil.Gorsuch@usdoj.gov
Subject: RE: Language

I agree with Richard. There actually are some strict-liability crimes (e.g., Food, Drug & Cosmetic Act violations), as well as crimes requiring only a negligence mental state. I wouldn't want a volunteer who acts with a pure mental state but violates some technical criminal provision to be excluded from coverage under this bill.

-----Original Message-----
From: Hertling, Richard
Sent: Thursday, September 15, 2005 5:04 PM
To: [redacted]@judiciary-rep.senate.gov; Clinger, James H
Cc: Moschella, William; Seidel, Rebecca; Bucholtz, Jeffrey (CIV); Ansell, Frederick; Gorsuch, Neil M
Subject: RE: Language

I am no tort lawyer, but my sense is that the exception for wilful or reckless misconduct covers criminal acts. It is true that criminal liability is sometimes imposed for negligent acts, but those instances(aside from negligent homicide, usually from careless driving, which is already exempted from the bill's coverage) are rare. I see no reason to cover separately criminal misconduct. If Jeff thinks otherwise, I defer to him. rah

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Thursday, September 15, 2005 4:01 PM
To: Clinger, James H; [redacted]@judiciary-rep.senate.gov
Cc: Moschella, William; Hertling, Richard; Seidel, Rebecca; Bucholtz, Jeffrey (CIV)
Subject: RE: Language

FYI - here's the draft.

Any additional thoughts to earlier issues, the one below or findings?

[redacted]

[redacted]
United States Senate Subcommittee on Immigration, Border Security and Citizenship

US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

-----Original Message-----
From: [redacted] udiciary)
Sent: Thursday, September 15, 2005 2:06 PM
To: 'James.H.Clinger@usdoj.gov'
Cc: 'Jeffrey.Bucholtz@usdoj.gov'; 'Richard.Hertling@usdoj.gov';
'William.Moschella@usdoj.gov'; 'Rebecca.Seidel@usdoj.gov'
Subject: Re: Language

In addition to issues on the table... What about criminal misconduct in the standard for exceptions?

[redacted]
U.S. Senate Subcommittee on the Constitution, Civil Rights & Property Rights
U.S. Senator John Cornyn, Chairman
Dirksen Senate Office Building [redacted]
[redacted]

-----Original Message-----
From: James.H.Clinger@usdoj.gov <James.H.Clinger@usdoj.gov>
To: [redacted] Judiciary) < [redacted] @judiciary-rep.senate.gov>
CC: Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>;
Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>;
William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>;
Rebecca.Seidel@usdoj.gov <Rebecca.Seidel@usdoj.gov>
Sent: Thu Sep 15 08:19:15 2005
Subject: FW: Language

[redacted]

Will asked me to send over to you our draft legislation protecting disaster relief volunteers from civil liability, which I understand you have been discussing with Rebecca. As you can see, our draft differs significantly from the bill that passed the House yesterday. Feel free to call Rebecca or me with any questions.

Thanks,

Jim Clinger
353-4920

> > <<Disaster relief bill (9-13-05) .wpd>>

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Thursday, September 15, 2005 7:01 PM
To: Gorsuch, Neil M
Subject: RE: Language

I'll give it a shot, since you may end up holding the short straw once I get on a plane for Portland tomorrow afternoon (unless you can pass the short straw on to Fred...).

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 6:52 PM
To: Bucholtz, Jeffrey (CIV)
Subject: FW: Language

you or me for the short straw on these? either way...

-----Original Message-----
From [redacted]@judiciary-rep.senate.gov
[mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Thursday, September 15, 2005 6:38 PM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Cc: Moschella, William; Seidel, Rebecca; Gorsuch, Neil M; Ansell, Frederick
Subject: RE: Language

Good. Thanks. I was just making sure. Doesn't look like we will be in session tomorrow, so I am guessing we will just see what the President says, clean some stuff up tomorrow and introduce on Monday.

Some additional questions:

1. is the phrase "in connection with" in the definition of disaster relief volunteer sufficient enough? I don't want that to be interpreted as "requested by," so... I query if there is a different approach.
2. Why shouldn't the volunteer organization itself be covered by the act as opposed only to for acts/omissions of the volunteer?
3. I realize that you have shot me down a coupla times, but are we sure that we shouldn't/can't cover business/organizations/individuals who donate equipment or services?
4. What do you think about a Class-Action like diversity provision that puts a lot of these claims in Federal Court?
5. I know you are still working on findings, let me know what you think.

Finally - any feedback on the criminal provisions - both new ones and the ones we sent you?

Thanks much for all the help

Thanks much for all the help.

[redacted]

[redacted]
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

-----Original Message-----
From: Jeffrey.Bucholtz@usdoj.gov [mailto:Jeffrey.Bucholtz@usdoj.gov]
Sent: Thursday, September 15, 2005 5:47 PM
To: Richard.Hertling@usdoj.gov; James.H.Clinger@usdoj.gov; [redacted] (Judiciary)
Cc: William.Moschella@usdoj.gov; Rebecca.Seidel@usdoj.gov; Frederick.Ansell@usdoj.gov; Neil.Gorsuch@usdoj.gov
Subject: RE: Language

I agree with Richard. There actually are some strict-liability crimes (e.g., Food, Drug & Cosmetic Act violations), as well as crimes requiring only a negligence mental state. I wouldn't want a volunteer who acts with a pure mental state but violates some technical criminal provision to be excluded from coverage under this bill.

-----Original Message-----
From: Hertling, Richard
Sent: Thursday, September 15, 2005 5:04 PM
To: [redacted]@judiciary-rep.senate.gov; Clinger, James H
Cc: Moschella, William; Seidel, Rebecca; Bucholtz, Jeffrey (CIV); Ansell, Frederick; Gorsuch, Neil M
Subject: RE: Language

I am no tort lawyer, but my sense is that the exception for wilful or reckless misconduct covers criminal acts. It is true that criminal liability is sometimes imposed for negligent acts, but those instances(aside from negligent homicide, usually from careless driving, which is already exempted from the bill's coverage) are rare. I see no reason to cover separately criminal misconduct. If Jeff thinks otherwise, I defer to him. rah

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto: [redacted]@judiciary-rep.senate.gov]
Sent: Thursday, September 15, 2005 4:01 PM
To: Clinger, James H; [redacted]@judiciary-rep.senate.gov
Cc: Moschella, William; Hertling, Richard; Seidel, Rebecca; Bucholtz, Jeffrey (CIV)
Subject: RE: Language

FYI - here's the draft.

Any additional thoughts to earlier issues, the one below or findings?

[redacted]

[redacted]
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

-----Original Message-----
From: [redacted] Judiciary)
Sent: Thursday, September 15, 2005 2:06 PM
To: 'James.H.Clinger@usdoj.gov'
Cc: 'Jeffrey.Bucholtz@usdoj.gov'; 'Richard.Hertling@usdoj.gov';
'William.Moschella@usdoj.gov'; 'Rebecca.Seidel@usdoj.gov'
Subject: Re: Language

In addition to issues on the table... What about criminal misconduct in the standard for exceptions?

[redacted]
U.S. Senate Subcommittee on the Constitution, Civil Rights & Property Rights
U.S. Senator John Cornyn, Chairman
Dirksen Senate Office Building [redacted]
[redacted]

-----Original Message-----
From: James.H.Clinger@usdoj.gov <James.H.Clinger@usdoj.gov>
To: [redacted] Judiciary) [redacted] @judiciary-rep.senate.gov>
CC: Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>;
Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>;
William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>;
Rebecca.Seidel@usdoj.gov <Rebecca.Seidel@usdoj.gov>
Sent: Thu Sep 15 08:19:15 2005
Subject: FW: Language

[redacted]

Will asked me to send over to you our draft legislation protecting disaster relief volunteers from civil liability, which I understand you have been discussing with Rebecca. As you can see, our draft differs significantly from the bill that passed the House yesterday. Feel free to call Rebecca or me with any questions

questions.

Thanks,

Jim Clinger
353-4920

> > <<Disaster relief bill (9-13-05) .wpd>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 7:04 PM
To: Williams, Jan
Subject: Cliff White

I had lunch with him today and spoke with Robert. I can fill you in on details, but the upshot is that I very much doubt we will be able to keep Cliff from leaving, though it's unclear whether he will go immediately or whether it will be a matter of some weeks or months.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 7:05 PM
To: Bucholtz, Jeffrey (CIV)
Subject: RE: Language

You're too kind and I will gladly pick up the baton tomorrow. Good luck in Portland.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Thursday, September 15, 2005 7:01 PM
To: Gorsuch, Neil M
Subject: RE: Language

I'll give it a shot, since you may end up holding the short straw once I get on a plane for Portland tomorrow afternoon (unless you can pass the short straw on to Fred...).

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 6:52 PM
To: Bucholtz, Jeffrey (CIV)
Subject: FW: Language

you or me for the short straw on these? either way...

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Thursday, September 15, 2005 6:38 PM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Cc: Moschella, William; Seidel, Rebecca; Gorsuch, Neil M; Ansell, Frederick
Subject: RE: Language

Good. Thanks. I was just making sure. Doesn't look like we will be in session tomorrow, so I am guessing we will just see what the President says, clean some stuff up tomorrow and introduce on Monday.

Some additional questions:

1. is the phrase "in connection with" in the definition of disaster relief volunteer sufficient enough? I don't want that to be interpreted as "requested by," so... I query if there is a different approach.
2. Why shouldn't the volunteer organization itself be covered by the act as opposed only to for acts/omissions of the volunteer?

acts/omissions of the volunteer?
3. I realize that you have shot me down a coupla times, but are we sure that we shouldn't/can't cover business/organizations/individuals who donate equipment or services?
4. What do you think about a Class-Action like diversity provision that puts a lot of these claims in Federal Court?
5. I know you are still working on findings, let me know what you think.

Finally - any feedback on the criminal provisions - both new ones and the ones we sent you?

Thanks much for all the help.

[redacted]

[redacted]
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

-----Original Message-----
From: Jeffrey.Bucholtz@usdoj.gov [mailto:Jeffrey.Bucholtz@usdoj.gov]
Sent: Thursday, September 15, 2005 5:47 PM
To: Richard.Hertling@usdoj.gov; James.H.Clinger@usdoj.gov; [redacted] (Judiciary)
Cc: William.Moschella@usdoj.gov; Rebecca.Seidel@usdoj.gov; Frederick.Ansell@usdoj.gov; Neil.Gorsuch@usdoj.gov
Subject: RE: Language

I agree with Richard. There actually are some strict-liability crimes (e.g., Food, Drug & Cosmetic Act violations), as well as crimes requiring only a negligence mental state. I wouldn't want a volunteer who acts with a pure mental state but violates some technical criminal provision to be excluded from coverage under this bill.

-----Original Message-----
From: Hertling, Richard
Sent: Thursday, September 15, 2005 5:04 PM
To: [redacted]@judiciary-rep.senate.gov; Clinger, James H
Cc: Moschella, William; Seidel, Rebecca; Bucholtz, Jeffrey (CIV); Ansell, Frederick; Gorsuch, Neil M
Subject: RE: Language

I am no tort lawyer, but my sense is that the exception for wilful or reckless misconduct covers criminal acts. It is true that criminal liability is sometimes imposed for negligent acts, but those instances(aside from negligent homicide, usually from careless driving, which is already exempted from the bill's coverage) are rare. I see no reason to cover separately criminal misconduct. If Jeff thinks otherwise, I defer to him. rah

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto[redacted]@judiciary-rep.senate.gov]
Sent: Thursday, September 15, 2005 4:01 PM
To: Clinger, James H[redacted]judiciary-rep.senate.gov
Cc: Moschella, William; Hertling, Richard; Seidel, Rebecca; Bucholtz, Jeffrey (CIV)
Subject: RE: Language

FYI - here's the draft.

Any additional thoughts to earlier issues, the one below or findings?

[redacted]

[redacted]
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

-----Original Message-----
From: [redacted](Judiciary)
Sent: Thursday, September 15, 2005 2:06 PM
To: 'James.H.Clinger@usdoj.gov'
Cc: 'Jeffrey.Bucholtz@usdoj.gov'; 'Richard.Hertling@usdoj.gov'; 'William.Moschella@usdoj.gov'; 'Rebecca.Seidel@usdoj.gov'
Subject: Re: Language

In addition to issues on the table... What about criminal misconduct in the standard for exceptions?

[redacted]

U.S. Senate Subcommittee on the Constitution, Civil Rights & Property Rights
U.S. Senator John Cornyn, Chairman
Dirksen Senate Office Building[redacted]
[redacted]

-----Original Message-----
From: James.H.Clinger@usdoj.gov <James.H.Clinger@usdoj.gov>
To: [redacted](Judiciary)[redacted]@judiciary-rep.senate.gov>
CC: Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>; Richard.Hertling@usdoj.gov <Richard.Hertling@usdoj.gov>; William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>; Rebecca.Seidel@usdoj.gov <Rebecca.Seidel@usdoj.gov>

Rebecca.Seidel@usdoj.gov <Rebecca.Seidel@usdoj.gov>
Sent: Thu Sep 15 08:19:15 2005
Subject: FW: Language

[redacted]

Will asked me to send over to you our draft legislation protecting disaster relief volunteers from civil liability, which I understand you have been discussing with Rebecca. As you can see, our draft differs significantly from the bill that passed the House yesterday. Feel free to call Rebecca or me with any questions.

Thanks,

Jim Clinger
353-4920

> > <<Disaster relief bill (9-13-05) .wpd>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 7:05 PM
To: Paige, Dana E
Subject: RE: NAACP letter

Perfect, thanks very much.

-----Original Message-----
From: Paige, Dana E
Sent: Thursday, September 15, 2005 7:02 PM
To: Gorsuch, Neil M
Subject: Re: NAACP letter

Neil,
We will get you a copy first thing in the morning if that' alright.

Dana

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Paige, Dana E <Dana.E.Paige@SMOJMD.USDOJ.gov>
Sent: Thu Sep 15 18:47:38 2005
Subject: NAACP letter

Dana, Robt McCallum asked me to get another copy of a recent letter to the AG from the head of the NAACP, Bruce Gordon. Would it be possible for you to forward me a copy by email or in hard copy? Many thanks. Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 7:09 PM
To: Williams, Jan
Subject: RE: Cliff White

not at all; it was purely a matter of self interest in trying to keep him. sorry to make work for you.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, September 15, 2005 7:08 PM
To: Gorsuch, Neil M
Subject: RE: Cliff White

thanks for your time.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 15, 2005 7:04 PM
To: Williams, Jan
Subject: Cliff White

I had lunch with him today and spoke with Robert. I can fill you in on details, but the upshot is that I very much doubt we will be able to keep Cliff from leaving, though it's unclear whether he will go immediately or whether it will be a matter of some weeks or months.

Seidel, Rebecca

Subject:	Accepted: House Judiciary - revisions to Disaster Volunteer Liability bill
Location:	OLA conference room 1139
Start:	Friday, September 16, 2005 3:00 PM
End:	Friday, September 16, 2005 3:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Seidel, Rebecca

Meron, Daniel (CIV)

From: Meron, Daniel (CIV)
Sent: Thursday, September 15, 2005 8:47 PM
To: Gorsuch, Neil M
Subject: Re: one last edit

It opens and let's yoou edit, til you try to touch one of the last two parags ----------
Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Meron, Daniel (CIV) <DMeron@CIV.USDOJ.GOV>
Sent: Thu Sep 15 18:53:29 2005
Subject: FW: one last edit

Is this the last and correct copy? It seems to open, at least here.

-----Original Message-----
From: Meron, Daniel (CIV)
Sent: Tuesday, September 13, 2005 9:18 AM
To: Gorsuch, Neil M; Keisler, Peter D. (CIV)
Subject: one last edit

Neil and Peter,

I made one last suggested edit, to the last sentence of the requisitioning parag. I have been bothered by the fact that a lot of the failure to return requisitioned property was probably according to Zweig the result of breakage, but that possibility was not addressed by the statement, which instead suggested that the property was either abandoned or stolen. Unfortunately, the only fix I could come up with required changing the last half of the sentence into the passive voice. Let me know what you think. (All of the active voice formulations I came up with implied too much malice or deliberateness).

Daniel Meron
Principal Deputy Assistant Attorney General Civil Division U.S. Department of Justice RFK Main Justice Bldg.
950 Pennsylvania Ave., N.W.
Room 3605
Washington, D.C. 20530-0001
(202) 353-2793
Fax (202) 514-8071

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 16, 2005 9:13 AM
To: [redacted] (E-mail)
Subject: Detainee legislation

[redacted] - I'm trying to get a handle on the bills that are out there as well as anything you think might be introduced. Could DoD give us an "inventory" of existing or potential legislation? Many thanks. NMG

Washington, Tracy T

From: Washington, Tracy T
Sent: Friday, September 16, 2005 9:27 AM
To: Barnett, Thomas O.; Brand, Rachel; Fisher, Alice; Bradbury, Steve; Corts, Paul R; Gorsuch, Neil M; Swenson, Lily F; Elwood, Courtney; Taylor, Jeffrey (OAG); Tamargo, Mauricio J; Sanchez, William J (CRT); White, Clifford; Emrich, Andrew (ENRD); Seidel, Rebecca; Webb, Lauren; Reyes, Luis (SMO)
Subject: Transportation to the National Cathedral
Importance: High

Cathedral will open at 9:00 a.m.; everyone must arrive by 10:00 a.m. We have two vans leaving 9th gate at 9:30 a.m. en route to the National Cathedral. Please bring your ticket to the event as everyone will need a ticket to enter the service. Pickup vans scheduled at 12:15 p.m.

Tracy T. Washington
Office of the Attorney General
U.S. Department of Justice
Robert F. Kennedy Bldg., Room 5114
950 Pennsylvania Avenue, NW
Washington, DC 20530
(202) 514-9660

Fisher, Alice

From: Fisher, Alice
Sent: Friday, September 16, 2005 9:47 AM
To: Gorsuch, Neil M
Subject: Read: Accepted: Updated: Lunch with Neil Gorsuch (to be rescheduled)

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Friday, September 16, 2005 10:56 AM
To: Gorsuch, Neil M
Cc: [redacted]@dodgc.osd.mil
Subject: FW: Detainee legislation
Attachments: Detainee Legislation.doc

Neil,

Attached is a quick list I came up with re: pending detainee legislation.
Please let me know if I'm missing any bills you guys know of.

Thanks,
[redacted]

[redacted]
DoD Office of the General Counsel
Pentagon [redacted]

This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without prior approval from the Office of the DoD General Counsel.

-----Original Message-----
From [redacted] DoD OGC
Sent: Friday, September 16, 2005 09:16
To: [redacted] DoD OGC
Subject: FW: Detainee legislation

You've been tracking, correct?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Friday, September 16, 2005 09:13
To: [redacted] (E-mail)
Subject: Detainee legislation

[redacted] I'm trying to get a handle on the bills that are out there as well as anything you think might be introduced. Could DoD give us an "inventory" of existing or potential legislation? Many thanks. NMG

Detainee Legislation

I. Potential Amendments to the National Defense Authorization Act for Fiscal Year 2006, S. 1042

- **SA 1494** (Levin) -- Proposal to establish an independent commission on policies and practices on treatment of detainees.

- **SA 1505** (Graham) – codifies POTUS' authority to utilize CSRTs and ARBs in Guantanamo Bay, using procedures in effect as of July 1, 2005 except: (1) to the extent practicable, the CSRT shall determine, by a preponderance of the evidence, whether statements derived from persons held in foreign custody were obtained without undue coercion; (2) creates a Senate-confirmed Designated Civilian Official.

- **SA 1556** (McCain, Warner, Graham, Collins) -- No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment (as defined by U.S. Reservations, Declarations and Understandings to CAT). President may waive on a case-by-case basis if required for a military or national security necessity and submits timely notice to appropriate Congressional committees.

- **SA 1557** (McCain, Warner, Graham, Collins) -- No person in the custody or under the effective control of DoD or under detention in a DoD facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the US Army Field Manual on Intelligence Interrogation (in current form or future revised version). Army Field Manual cannot include technique that constitutes torture, or cruel, inhumane, or degrading treatment or punishment that is prohibited by the Constitution, laws or treaties of the United States.

- **SA 1566** (Warner) -- The Secretary of Defense shall establish uniform standards and procedures for the detention and interrogation of persons in the custody or under the control of the Department of Defense, which shall be consistent with U.S. law and international treaty obligations.

- **SA __** (unnumbered amendment) (Specter) – Unprivileged Combatant Act of 2005 creates discretionary authority to the President to employ procedures for detainees (field tribunal, classification tribunals and military commissions) and if these procedures are adopted, unprivileged combatants may not challenge their detention in U.S. courts via habeas corpus or any other statute.

House Bills:

- **H.R. __** (unnumbered bill) (Rep. Adam Schiff D-CA) – "Guantanamo Detainees Procedures Act of 2005" affirms the authority of the executive branch to detain foreign nationals as unlawful combatants, enables person detained as an unlawful combatant to challenge the basis for that detention and to receive a disposition within 2 years, to provide for the President to establish military tribunals to try such persons, and for other purposes.

- Unnumbered Draft of "Antiterrorism Detentions and Interrogations Procedures Act" (7/26/05 Rep. Jane Harman D-CA): Mandates detention of detainees in U.S. Provides detainee with Common Article 3 protection. Gives detainee the right to challenge detention in U.S. courts. Gives detainee right to trial "as soon as possible"—within 2 years of detention or must be released. Trial for violation of Law of Armed Conflict must be before U.S. Courts Martial. Interrogation techniques limited to *current* Army FM 34-52. Provides private cause of action in U.S. courts.

Beach, Andrew

Subject:	Updated: Senior Management Meeting
Start:	Monday, September 19, 2005 8:20 AM
End:	Monday, September 19, 2005 8:40 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia

When: Monday, September 19, 2005 8:20 AM-8:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Courtney Elwood, Bill Mercer, Neil Gorsuch, Tasia Scolinos, Jeff Oldham, Martha Pacold

Beach, Andrew

Subject:	Updated: Component Coordination Meeting
Start:	Monday, September 19, 2005 8:40 AM
End:	Monday, September 19, 2005 9:00 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Moschella, William; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Gorsuch, Neil M

When: Monday, September 19, 2005 8:40 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Courtney Elwood, Tasia Scolinos, Bill Mercer, Neil Gorsuch, Jeff Oldham, Martha Pacold, Rachel Brand, Jan Williams, Will Moschella, Crystal Roberts

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 16, 2005 1:07 PM
To: Henke, Tracy (SMO); Shiels, Marnie
Subject: FW: OVW grant solicitation template
Attachments: Fiscal Year 2006 template.doc

Marnie,

Tracy Henke is the DAAG in this office responsible for OVW matters in the first instance. By this email, I am asking her to work with you on this.

Thanks,

NMG

-----Original Message-----
From: Shiels, Marnie
Sent: Wednesday, September 07, 2005 3:18 PM
To: Gorsuch, Neil M
Cc: Bottner, Andrea
Subject: OVW grant solicitation template

Diane Stuart asked that I send you a copy of our solicitation template, in case you (or someone on your staff) would like to review it. The template will be used as the basis for all of our grant solicitations, so that they have common language as much as possible. There will be some changes to this language made later, due to the conversion from the OJP Grants Management System to Grants.gov, but the changes will not be substantive. We are working with OJP to determine the necessary changes as soon as possible.

I would greatly appreciate your comments, if any, by September 16, because the individual solicitations are already under development and in need of this template language. Also, please let me know if you would like to review copies of the individual grant program solicitations.

Thank you very much!

Marnie Shiels

U.S. Department of Justice
Office on Violence Against Women

OVW

[Insert Program] Fiscal Year 2006 Solicitation

[if applicable: LETTER OF INTENT DEADLINE:
[Insert date]]

GRANTS.GOV REGISTRATION DEADLINE:
[Insert date – must be at least 3 weeks prior to application deadline]

APPLICATION DEADLINE:
[Insert date]

[Font and point size:
Font=Arial
Headings- 14 pt. bold
Sub-headings- 12 pt. bold and underlined
Sub-sub-headings- 11 pt. bold
Text- 12 pt.]

U.S. Department of Justice
Office on Violence Against Women
800 K Street, NW, Suite 920
Washington, DC 20531

Alberto Gonzales
Attorney General
U.S. Department of Justice

Diane M. Stuart
Director
Office on Violence Against Women

Department of Justice Response Center
1-800-421-6770

TTY
202-307-2277

Office on Violence Against Women
www.ojp.usdoj.gov/vawo

[Insert program]
www.ojp.usdoj.gov/fundopps.htm

Grants.gov Customer Support Hotline
1-800-518-4726

DOJ_NMG_ 0147918

About the Office on Violence Against Women

The Office on Violence Against Women (OVW) is a component of the U.S. Department of Justice. Created in 1995, OVW implements the Violence Against Women Act (VAWA) and subsequent legislation and provides national leadership against domestic violence, sexual assault, and stalking. Since its inception, the Office has launched a multifaceted approach to responding to these crimes. By forging state, local and tribal partnerships among police, prosecutors, the judiciary, victim advocates, health care providers, faith leaders, and others, OVW grants help provide victims with the protection and services they need to pursue safe and healthy lives and enable communities to hold offenders accountable.

About the [insert program name]

[Insert program specific information]

Availability of Funds

[Use the following text if we do not yet have an appropriation for the current fiscal year:
The ability of OVW to make awards under [insert program] in Fiscal Year 2006 is contingent upon Congressional appropriation of funds for that purpose.]

Award Period

[Insert program specific information]

Award Amounts

[Insert program specific information]

[This section is optional]
Letter of Intent

All applicants who intend to apply for FY 2006 funding under this program are encouraged to **submit a non-binding letter of intent**, (please see Appendix [insert appropriate letter]), to OVW by **[insert date]**. You may fax the letter to OVW at [insert fax number]. OVW will use these letters to forecast the number of peer review panels needed to review competitive applications.

Application Due Date

Please note that final applications are due **by 5:30 pm (EST) [insert date], and will be accepted only through Grants.gov, an e-Government initiative that is included in the President's Management Agenda. Please note that Grants.gov is not the Grants Management System (GMS) that OVW applicants have submitted applications to in previous years.** Applicants should register with Grants.gov **by [Insert date]**. First-time registering will take up to one week to be validated and confirmed and for you to receive your user names and passwords. In addition, an original hard copy must be sent to Aspen Systems Corporation via overnight delivery not later than **[insert date].** We strongly recommend that you use a trackable shipping method which will allow you to confirm the delivery of your application. Applications should retain proof of timely submission.

DOJ_NMG_ 0147919

Please refer to the "How to Apply" section on page **[insert number]** of this solicitation for further instructions.

Program Eligibility

[Insert program specific information] **It is very important that you review this information carefully. Applications that are submitted by non-eligible entities will be screened out of the review process during an initial review process.**

Types of Applicants

[Insert program specific information]

Program Scope

[Insert program specific information]

Activities that May Compromise Victim Safety

Ensuring victim safety is the guiding principle underlying this Program. Experience has shown that certain practices may compromise victim safety rather than enhance it. Certain responses by the authorities may have the effect of minimizing or trivializing the offender's criminal behavior. Accordingly, consistent with the goals of ensuring victim safety while holding perpetrators accountable for their criminal conduct, applicants are strongly discouraged from proposing projects that include any activities that may compromise victim safety such as the following:

- [Insert program specific activities]

Review Process

[NOTE: This section is not needed for STOP Formula and State Coalitions]

All applications will be subject to internal review by OVW staff and peer review and will be scored according to the criteria set forth in this solicitation. **If the application fails to meet the criteria listed below for the initial internal review, the application will not receive further consideration. If applications that are partially beyond the scope of the program are sent to peer review, only those sections of the application that are within scope will be reviewed.** Criteria for the initial internal review follow:

- Whether the application is complete;
- Whether the proposed activities are within the scope of the program (see page [insert page number]);
- Whether all statutory eligibility criteria are met (see page [insert page number]);
- [If applicable: Whether the minimum requirements for the program are met (see page [insert page number])];
- [If applicable: Whether the certification requirements for the program are met (see page [insert page number])];
- Whether the application proposes significant activities that may compromise victim safety (see page [insert page number])];

DOJ_NMG_ 0147920

- Whether the proposed budget is within the established limits (see page [insert page number])];

In addition, applications for continuation funding will be reviewed for prior compliance with Program and Office requirements and the status of current grant-funded activities. (See page [insert page number] for further details on criteria for this review.)

OVW will establish panels of experts and practitioners to review applications. [Insert language about tribal applications if appropriate.] Each panel will review the information provided in the application against the selection criteria for the program. Following peer review, a second internal review will consider the geographic distribution of the applications for a national and statewide perspective, the ratio of population to services, the existence of underserved communities, and the type of projects already funded within an applicant's state or community. The total points possible for an application are 100 (65 points for Narrative, 15 points for Budget, and 20 points for the MOU [use EMOU, IMOU, and/or MOE as applicable]. Applications with the highest composite scores will be considered for funding.

Application Content

Applicants must complete each of the following sections as part of their proposals. **It is the responsibility of the applicant to ensure the application is complete. OVW will remove the application from consideration prior to peer review if the application is incomplete.** For each section listed below, please note the corresponding maximum point value that may be assigned during the review process. The proposal should follow the order below for easy reading. Please be sure to number each page of the application. Please note that incomplete applications may not be considered for funding. Peer reviewers will not receive materials submitted beyond those required by this solicitation.

Applications must use the following page format requirements:

- Double spaced (except for the Summary Data Sheet and Abstract which should be single spaced)
- 8 ½ x 11 inch paper
- One inch margins
- Type no smaller than 12 point, Times New Roman font
- No more than one page each for Summary Data Sheet and Abstract
- No more than 5 pages for Status of the Project (if applicable)
- No more than 20 pages for the Project Narrative
- Include your application number on every page and all attachments

Peer reviewers will not review applications exceeding the page limits, or their equivalent.

The following will be submitted online through Grants.gov.

DUNS Number

DOJ_NMG_ 0147921

A Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number must be included in every application for a new award or renewal of an award. **The DUNS number will be entered into Grants.gov by the applicant. An application will not be considered complete until a valid DUNS number is provided by the applicant.** Individual persons who receive a grant or cooperative agreement from the Federal government are exempt from this requirement.

Applicants can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1-800-333-0505.

If you have any questions about the DUNS number requirement, please contact the Office of the Comptroller's Customer Service Center at 1-800-458-0786.

Application for Federal Assistance (SF-424)

The SF-424 will be filled out online through Grants.gov. However, it should also be printed out and included in the hard copy that it submitted. The Catalog of Federal Domestic Assistance number for this program is **[Insert number]** (block 10). The cognizant Federal audit agency and fiscal year of the applicant organization should be listed in block 11 of the form. Please be sure that the amount requested matches the amount in the submitted budget.

Applicants must ensure that the information for the authorizing official and alternate contact is filled out correctly. The authorizing official is the individual authorized to accept grant funds on behalf of the jurisdiction or non-governmental private entity applying. If the individual applying online is not the authorizing official, that individual must list the authorizing official's name and contact information where appropriate.

Standard Assurances and Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (Form 4061/6)

Review the assurances and certification forms. Agreement to these assurances and certifications will be assumed upon receipt of an application received through Grants.gov. **NOTE:** If the authorizing official is not the individual submitting the application via Grants.gov, be sure the correct authorizing official information has been entered.

The following will be submitted as attachments in Grants.gov. Please save your attachments with names that indicate the substance of the attachment (e.g. save your program narrative as "Program Narrative").

Summary Data Sheet

[Insert program specific information] Is the applicant organization a faith-based entity? Are one or more of the applicant's MOU partners faith-based organizations? If so, please list each one and the amount of program funding they will receive.

Abstract/Proposal Summary:

[Insert program specific information]

DOJ_NMG_ 0147922

Status of the Current Project: [Do not include this section for STOP or State Coalitions]. Applicants for continuation funding only. This section will be used for internal review only. The application may receive a deduction in points based on the criteria listed below. This section should be provided on a separate page as it is a separate section from the program narrative and does not count toward the page limits of the narrative. State what has been accomplished with previous funding under the [Insert program], including the following:

- A description of the goals and objectives from the prior grant period and a brief discussion of the status of the existing project:
- The status of any project products;
- Any unanticipated obstacles to project implementation.

This section should be as clear and succinct as possible.

Current projects will be rated by OVW using the following criteria:

- Whether progress reports submitted by the applicant, in conjunction with monitoring conducted by OVW, demonstrate the effectiveness of the current project, indicating progress toward meeting project goals and objectives, and demonstrate that the current project has progressed in a timely manner as outlined in the original proposal;
- Whether the grantee has demonstrated that past activities supported with [Insert program] funds have been limited to program Purpose Areas;
- Whether the grantee has complied with all special conditions of its existing grant award from the Department of Justice;
- Whether the grantee has adhered to programmatic and financial reporting requirements;
- Whether the grantee has completed the project goals, objectives, and products according to the approved time line;
- Whether the grantee has demonstrated a commitment to sustaining the project after federal funds are no longer available;
- Whether the grantee appropriately utilized and actively participated in OVW-sponsored workshops and other technical assistance events as required by a special condition of the current award;
- Whether the grantee has received financial clearances on all current grants from DOJ;
- Whether the grantee has complied with the Office of Management and Budget audit requirement;
- How much funding is remaining in the current award.

Project Narrative:

The narrative should include the following (totaling 65 [This should be 85 for Tribal Coalitions] points): [NOTE: For STOP and State Coalitions, leave out point values]

Need for the Project: 10 points

[Insert program specific information]

DOJ_NMG_ 0147923

What Will be Done: 40 points
[Insert program specific information]

Who Will Implement the Project: 10 [30 For Tribal Coalitions] points
[Insert program specific information]

Sustainability Plan: 5 points [Not included for STOP or State Coalitions]
Because this is a competitive, discretionary program, there is no guarantee of continuation funding. Applicants are required to include a plan describing their commitment and capacity to continue the project if Federal funding through the [Insert program] were no longer available.

The plan will be evaluated on whether it proposes feasible strategies to preserve project activities long-term. **Continuation or supplemental funding is not guaranteed and applicants are encouraged to seek additional means of support to sustain their current projects.**

Budget Detail Worksheet and Narrative: 15 Points
Each application must include a detailed budget and budget narrative for the project. The budget must be complete, reasonable, and cost-effective in relation to the proposed project. The budget should provide the basis for the computation of all project-related costs. It should cover the cost of all components of the project. There must be a clear link between the proposed activities and the proposed budget items. The budget should include only those activities, products, and resources that are necessary for project implementation and discussed in the project narrative.

In developing the budget, applicants should fairly compensate all project partners for their participation in any project-related activities, including but not limited to compensation for time and travel expenses to attend or provide project development, training, and implementation. The budget **must** include compensation for all services rendered by project partners, including nonprofit, nongovernmental domestic violence and/or sexual assault victim services programs and state and tribal domestic violence and/or sexual assault coalitions.

Budget Caps
[Insert program specific information]

OVW has the discretion to make grants for greater or lesser amounts than requested and to negotiate the scope of work and budget with applicants prior to award of a grant.

[If appropriate (STOP, STOP VAIW, and Coalitions), insert section on match here]

Budget requirements
The following is a short list of budget guidelines:

- Applicants are strongly discouraged from requesting consultant rates in excess of $450 per day because they require prior approval from the Director of the Office on Violence Against Women.

DOJ_NMG_ 0147924

- Applicants **may not** allocate any funds for building renovations. This includes such seemingly minor things as painting or carpeting.

- [Do not include this for STOP, STOP VAIW, and the Coalition Programs. Instead add a separate section on match as indicated above] A contribution of non-Federal dollars ("match") is not required for this program, but applicants are encouraged to maximize the impact of federal dollars by contributing to the costs of their projects. Supplemental contributions may be cash, in-kind services, or a combination of both. Any non-Federal contributions can be discussed in the project narrative; however, these supplemental contributions should **not** be included in the budget or budget narrative.

- All applicants **are required** to allocate funds ([Insert appropriate amount]), to support travel costs associated with technical assistance and capacity-building activities sponsored by OVW-designated technical assistance providers. Applications selected for funding which do not include the entire recommended amount will not receive additional funds for this purpose, but will be required to adjust their budgets to cover these costs prior to final approval of the proposal. This required amount must be included in the *"travel"* category. Please provide an estimated breakdown for this amount (include the number of trips, number of travelers, airfare or mileage, lodging, per diem, etc.). These funds are to be used **only** for OVW-designated technical assistance unless otherwise approved by OVW. Travel funds should be used to support travel by all partners, including nonprofit, nongovernmental victim services providers.

- Applicants are also encouraged to include funds in their budgets to attend Financial Management Training Seminars sponsored by OJP's Office of the Comptroller. These seminars instruct participants in the financial administration of OJP and OVW formula and discretionary grant programs. A schedule listing the financial training seminars is available at **www.ojp.usdoj.gov/oc/fmts.htm.**

A Sample Budget Detail Worksheet is included in Appendix [Insert letter] of this solicitation. The budget and budget narrative should be submitted online as one attachment. When preparing these items, please use the Budget Detail Worksheet as a guide and be sure to include all necessary budget categories. The budget should clearly describe the proposed amounts and uses of grant funds for the duration of the grant period and how the amounts of the specific budget items were determined.

The following can be submitted either via fax to [Insert fax number], or electronically through Grants.gov. Please be sure to include your application number prominently on the cover sheet and all pages of the fax.

Memorandum of Understanding (MOU) [EMOU, IMOU, and MOE can also be included here if appropriate. Leave this out for Tribal Coalitions.]: 20 points

[Insert program specific information]

The MOU should be a single document that includes signatures and dates from all partners.

DOJ_NMG_ 0147925

Letter of Nonsupplanting
Applicants must submit a letter to OVW's Director, Diane M. Stuart, certifying that Federal funds will not be used to supplant State or local funds should a grant award be made. This letter must be faxed to [Insert fax number] or electronically scanned and submitted as an attachment via Grants.gov. If faxed, the application number must be prominently included on the fax cover page as well as the letter. Please refer to Appendix [Insert letter] for a sample letter.

Financial Capability Questionnaire
[Insert the following section, if appropriate:] All nonprofit, nongovernmental organizations that apply for funding with OVW that have not previously (or within the last 3 years) received funding from OVW or OJP must complete a Financial Capability Questionnaire. The form can be found at http://www.ojp.usdoj.gov/oc. Please fax this form to [Insert number] and include the application number predominantly on the cover page and on each page of the form. When submitting your application, please make sure that your current year's audit report has been submitted to the Federal Audit Clearinghouse, Bureau of the Census, 1201 East 10th Street, Jacksonville, IN 47132.

Indirect Cost Rate Agreement [Leave out for STOP]
If your organization is requesting indirect costs for this project, please include a copy of your current, signed indirect cost rate agreement.

[Insert other program specific sections of the application in the appropriate application content section (i.e. on Grants.gov, attachment, or fax)]

Additional Program Requirements

Technical Assistance
[Insert program specific information]

Performance Measurement
There are two [Change this to "three" for STOP, Campus, and Safe Havens] statutory requirements that require OVW grantees to collect and maintain data that measures the effectiveness of the funded projects. First, the Government Performance and Results Act of 1993 (GPRA) requires agencies to report on the results of government programs and activities. Second, the Violence Against Women Act of 2000 mandates that all OVW grant recipients report on the effectiveness of their programs. [For STOP, Safe Havens, and Campus, add a description of the third requirement – see Jen Kaplan for language)] To address these statutory requirements, OVW has developed a(n) [Insert program] semi-annual Progress Report that requests specific data on grantee activities. Information that grantees must collect for this progress report includes:

[Insert program specific information. You may want to check with Jen Kaplan or Marylouise Kelley to make sure you have the most current measures.]

Reporting Requirements

DOJ_NMG_ 0147926

Grantees will be required to submit quarterly Financial Status Reports and semi-annual Progress Reports. In addition, grant recipients who expend $500,000 or more in Federal funds during their fiscal year are required to submit a single organization-wide audit. Additional information on these reporting requirements will be provided to successful applicants in the award package.

OJP Financial Guide

All grantees are required to comply with the regulations and requirements outlined in the OJP Financial Guide. The Financial Guide includes information on allowable costs, methods of payment, audit requirements, accounting systems, and financial records. Copies are available from the Department of Justice Response Center (1-800-421-6770) and also through the OJP web page: http://www.ojp.usdoj.gov/FinGuide.

Suspension or Termination of Funding

OVW may suspend funding in whole or in part, terminate funding, or impose another sanction on a recipient who has failed to comply substantially with the following:

- The requirements of VAWA and statutory objectives of [Insert program];
- Timely submission of quarterly Financial Status Reports;
- Timely submission of semi-annual Progress Reports;
- The regulations and/or guidelines issued for the [Insert program] and any other regulations applicable to OVW grantees; or
- The application submitted in accordance with the provisions of VAWA or any other applicable federal Act.

OVW will provide reasonable notice of its intent to impose sanctions and will attempt informally to resolve the problem. Hearing and appeal procedures will follow those in the Department of Justice regulations at 28 CFR Part 18. References to the Office of Justice Programs and its components are deemed to refer to the Office on Violence Against Women. The responsible agency official, as defined by 28 CFR § 18.3(h), is the Director, Office on Violence Against Women.

Single Point of Contact Review

Executive Order 12372 requires applicants from State and local units of government or other organizations providing services with a State to submit a copy of the application to the State Single Point of Contact (SPOC) if one exists, and if this program has been selected for review of the State. Applicants must contact the State SPOC to determine if the program has been selected for State review. The date that the application was sent to the SPOC or the reason such submission is not required should be indicated on the Form SF-424. The list of SPOCs can be found at: **http://www.whitehouse.gov/omb/grants/spoc.html.**

Faith-Based Organizations

Consistent with President Bush Executive Order 13279, December 12, 2002, and 28 CFR Part 38, it is OVW policy that faith-based and community organizations, that statutorily qualify as eligible applicants under OVW programs, are invited and

DOJ_NMG_ 0147927

encouraged to apply for assistance awards. Faith-based and community organizations will be considered for awards on the same basis as other eligible applicants and, if they receive assistance awards, will be treated on an equal basis with non faith-based and community organization grantees in the administration of such awards. No eligible applicant or grantee will be discriminated against on the basis of its religious character or affiliation, religious name, or the religious composition of its board of directors or persons working in the organization.

Civil Rights Compliance

All recipients of Federal grant funds are required to comply with nondiscrimination requirements contained in various Federal laws. In the event that a court or administrative agency makes a finding of discrimination on grounds of race, color, religion, national origin, gender, disability, or age against a recipient of funds after a due process hearing, the recipient must agree to forward a copy of the finding to the Office for Civil Rights of OJP. All applicants should consult the Assurances required with the application funds to understand the applicable legal and administrative requirements.

Services to Limited-English-Proficient (LEP) Persons:

National origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI and the Safe Streets Act, recipients are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including interpretation and translation services, where necessary. Grantees are encouraged to consider the need for language services for LEP persons served or encountered both in developing their proposals and budgets and in conducting their programs and activities. Reasonable costs associated with providing meaningful access for LEP individuals are considered allowable program costs. The U.S. Department of Justice has issued guidance for grantees to assist them in complying with Title VI requirements. The guidance document can be accessed on the Internet at **www.lep.gov** or by contacting the Office of Justice Program's Office for Civil Rights at (202) 307-0690, or by writing to the following address:

Office for Civil Rights
Office of Justice Programs
U.S. Department of Justice
810 7th Street, N.W., 8th Floor
Washington, DC 20531

Anti-Lobbying Act

In 2002, the Anti-Lobbying Act, 18 U.S.C. § 1913, was amended to expand significantly the restriction on use of appropriated funding for lobbying. This expansion also makes the anti-lobbying restrictions enforceable via large civil penalties, with civil fines between $10,000 and $100,000 per each individual occurrence of lobbying activity. These restrictions are in addition to the anti-lobbying and lobbying disclosure restrictions imposed by 31 U.S.C. § 1352. The Office of Management and Budget (OMB) is currently in the process of amending the OMB cost circulars and the common rule (codified at 28 C.F.R. part 69 for DOJ grantees) to reflect these modifications. However, in the interest of full disclosure, all applicants must understand that no

DOJ_NMG_ 0147928

federally-appropriated funding made available under this grant program may be used, either directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation, or policy, at any level of government, without the express approval of OVW. Any violation of this prohibition is subject to a minimum $10,000 fine for each occurrence. This prohibition applies to all activity, even if currently allowed within the parameters of the existing OMB circulars.

How To Apply

Applicants must submit a fully executed application to OVW through **Grants.gov**, including all required supporting documentation. **Faxed applications will not be accepted. However, certain supporting documentation may be submitted to Grants.gov via fax as described below.** Applications submitted via Grants.gov must be in the following work processing formats: Microsoft Word (.doc), PDF files, (.pdf) or Text Documents (.txt). (Please refer to Appendix [Insert letter], the Step-by-Step Guide to Grants.gov.)

The following documents must be submitted via Grants.gov:

- The SF-424;
- Standard Assurances and Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug Free Workplace Requirements;
- the project abstract and project narrative; and
- the budget, budget summary, and budget narrative.

Note: The Catalog of Federal Domestic Assistance number for the [Insert Program is [Insert number].

Supporting documentation can be submitted either via fax to [Insert fax number], or electronically through Grants.gov, and should include:

- Letter of nonsupplanting
- An MOU [Insert EMOU, IMOU, and/or MOE as applicable and delete this for Tribal Coalitions]
- A current Indirect Cost Rate Agreement (if applicable)
- [Insert any other program specific attachments]

The application number must be prominently included on the cover page of all faxes, as well as each page of the faxed documents. Detailed instructions on how to use the Grants.gov system to submit your application online are available at OVW's web page, www.ojp.usdoj.gov/vawo. Also, a toll-free telephone number has been established for you to receive technical assistance as you work through the online application process, 1-888-549-9901.

DOJ_NMG_ 0147929

To help expedite the peer review process, **applicants must send via overnight delivery a complete hard-copy original of the application, postmarked by [Insert date] to:**
Aspen Systems Corporation
OVW [Insert program name]
Mail Stop 2K
2277 Research Boulevard
Rockville, MD 20850
(301) 519-5000

A complete application must include the following:

- SF 424
- Standard Assurances and Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug Free Workplace Requirements;
- the project abstract, project narrative, and for continuation applicants, the status of the project;
- the budget, budget summary, and budget narrative.
- Letter of nonsupplanting
- An MOU [Insert EMOU, IMOU, and/or MOE as applicable and delete this for Tribal Coalitions]
- A current Indirect Cost Rate Agreement (if applicable)
- [Insert any other program specific attachments]

Applicants that fail to submit the required hard copy original will not be considered for funding.

Application Due Date
Application must be electronically received by the close of business (5:30 p.m. EST) on **[Insert date].** The application attachments (e.g., MOU, Letter of Non-Supplanting, etc) that may be faxed to [Insert fax number] or submitted through Grants.gov as attachments must be received by 5:30 p.m. EST on **[Insert date]**. The hard copy original must be sent to OVW c/o Aspen Systems Corporation at the address provided above via overnight delivery not later than **[Insert date].** Applicants should retain proof of timely submission.

We recommend that you register through Grants.gov at least three weeks before the application due date, or no later than **[Insert date].** All applicants must receive confirmation of eligibility that they are eligible to submit an application through Grants.gov prior to completing the application submission process.

For additional information, please contact the Office on Violence Against Women at (202) 307-6026.

DOJ_NMG_ 0147930

DOJ_NMG_ 0147931

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 16, 2005 1:10 PM
To: [redacted]@dodgc.osd.mil'
Cc: [redacted]@dodgc.osd.mil
Subject: RE: Detainee legislation

Thanks so much, [redacted] This is exactly what I needed.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, September 16, 2005 10:56 AM
To: Gorsuch, Neil M
Cc: [redacted]@dodgc.osd.mil
Subject: FW: Detainee legislation

Neil,

Attached is a quick list I came up with re: pending detainee legislation.
Please let me know if I'm missing any bills you guys know of.

Thanks,
[redacted]

[redacted]
DoD Office of the General Counsel
Pentagon [redacted]
[redacted]

This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without prior approval from the Office of the DoD General Counsel.

-----Original Message-----
From: [redacted] DoD OGC
Sent: Friday, September 16, 2005 09:16
To: [redacted] DoD OGC
Subject: FW: Detainee legislation

You've been tracking, correct?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]

Sent: Friday, September 16, 2005 09:13
To: [redacted] (E-mail)
Subject: Detainee legislation

[redacted] I'm trying to get a handle on the bills that are out there as well as anything you think might be introduced. Could DoD give us an "inventory" of existing or potential legislation? Many thanks. NMG

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Friday, September 16, 2005 1:12 PM
To:	Seidel, Rebecca
Cc:	Moschella, William
Subject:	FW: Detainee legislation
Attachments:	Detainee Legislation.doc

Could you please have someone in your office get me electronic copies of these as soon as possible? The AG wants us to conduct a careful, internal evaluation of what is out there. My thought is, once we have electronic copies, to forward them to OLC, OLP, CIV, and others for views. Thanks, NMG

-----Original Message-----
From [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Friday, September 16, 2005 10:56 AM
To: Gorsuch, Neil M
Cc [redacted]@dodgc.osd.mil
Subject: FW: Detainee legislation

Neil,

Attached is a quick list I came up with re: pending detainee legislation.
Please let me know if I'm missing any bills you guys know of.

Thanks,
[redacted]

[redacted]
DoD Office of the General Counsel
Pentagon [redacted]
[redacted]

This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without prior approval from the Office of the DoD General Counsel.

-----Original Message-----
From: [redacted] DoD OGC
Sent: Friday, September 16, 2005 09:16
To [redacted] DoD OGC
Subject: FW: Detainee legislation

You've been tracking, correct?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Friday, September 16, 2005 09:13
To: [redacted] (E-mail)
Subject: Detainee legislation

[redacted] I'm trying to get a handle on the bills that are out there as well as anything you think might be introduced. Could DoD give us an "inventory" of existing or potential legislation? Many thanks. NMG

Detainee Legislation

I. Potential Amendments to the National Defense Authorization Act for Fiscal Year 2006, S. 1042

- **SA 1494** (Levin) -- Proposal to establish an independent commission on policies and practices on treatment of detainees.

- **SA 1505** (Graham) – codifies POTUS' authority to utilize CSRTs and ARBs in Guantanamo Bay, using procedures in effect as of July 1, 2005 except: (1) to the extent practicable, the CSRT shall determine, by a preponderance of the evidence, whether statements derived from persons held in foreign custody were obtained without undue coercion; (2) creates a Senate-confirmed Designated Civilian Official.

- **SA 1556** (McCain, Warner, Graham, Collins) -- No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment (as defined by U.S. Reservations, Declarations and Understandings to CAT). President may waive on a case-by-case basis if required for a military or national security necessity and submits timely notice to appropriate Congressional committees.

- **SA 1557** (McCain, Warner, Graham, Collins) -- No person in the custody or under the effective control of DoD or under detention in a DoD facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the US Army Field Manual on Intelligence Interrogation (in current form or future revised version). Army Field Manual cannot include technique that constitutes torture, or cruel, inhumane, or degrading treatment or punishment that is prohibited by the Constitution, laws or treaties of the United States.

- **SA 1566** (Warner) -- The Secretary of Defense shall establish uniform standards and procedures for the detention and interrogation of persons in the custody or under the control of the Department of Defense, which shall be consistent with U.S. law and international treaty obligations.

- **SA __** (unnumbered amendment) (Specter) – Unprivileged Combatant Act of 2005 creates discretionary authority to the President to employ procedures for detainees (field tribunal, classification tribunals and military commissions) and if these procedures are adopted, unprivileged combatants may not challenge their detention in U.S. courts via habeas corpus or any other statute.

House Bills:

- **H.R. __** (unnumbered bill) (Rep. Adam Schiff D-CA) – "Guantanamo Detainees Procedures Act of 2005" affirms the authority of the executive branch to detain foreign nationals as unlawful combatants, enables person detained as an unlawful combatant to challenge the basis for that detention and to receive a disposition within 2 years, to provide for the President to establish military tribunals to try such persons, and for other purposes.

- Unnumbered Draft of "Antiterrorism Detentions and Interrogations Procedures Act" (7/26/05 Rep. Jane Harman D-CA): Mandates detention of detainees in U.S. Provides detainee with Common Article 3 protection. Gives detainee the right to challenge detention in U.S. courts. Gives detainee right to trial "as soon as possible"—within 2 years of detention or must be released. Trial for violation of Law of Armed Conflict must be before U.S. Courts Martial. Interrogation techniques limited to *current* Army FM 34-52. Provides private cause of action in U.S. courts.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 16, 2005 2:50 PM
To: 'Neomi_J._Rao@who.eop.gov'
Subject: RE: Theme name

Not at all. They're fun issues!

-----Original Message-----
From: Neomi_J._Rao@who.eop.gov [mailto:Neomi_J._Rao@who.eop.gov]
Sent: Friday, September 16, 2005 2:14 PM
To: Gorsuch, Neil M
Subject: RE: Theme name

Neil,
Thanks for referring me. I bet you are now regretting stopping by my office earlier this week...

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, September 15, 2005 5:15 PM
To: Rao, Neomi J.
Cc: Dan.Meron@usdoj.gov
Subject: RE: Theme name

You are full of interesting issues these days, Neomi. Dan, who in your shop is the appropriate candidate?

-----Original Message-----
From: Neomi_J._Rao@who.eop.gov [mailto:Neomi_J._Rao@who.eop.gov]
Sent: Thursday, September 15, 2005 3:13 PM
To: Gorsuch, Neil M
Subject: FW: Theme name

Neil,
I would appreciate if you could put me in touch with someone at DOJ who can advise on the intellectual property issues that might arise from Mrs. Bush using the theme "All Things Bright and Beautiful" for the White House Christmas Visitor's Guide. The theme would be a part various White House Christmas materials. This phrase comes from a well-known hymn, but is also the title of a book by James Herriot that is currently in publication. I appreciate your assistance with this.
Regards, Neomi

Barnett, Thomas O.

From: Barnett, Thomas O.
Sent: Friday, September 16, 2005 3:12 PM
To: Swenson, Lily F; Gorsuch, Neil M
Subject: RE: avian flu vaccine

I know that Neil had a 3:00 p.m. call. Whenever you break free, let me know and I'll come up.

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, September 15, 2005 4:55 PM
To: Barnett, Thomas O.; Gorsuch, Neil M
Subject: RE: avian flu vaccine

Perfect (for me, not speaking for Neil). I'm supposed to talk to Bruce very briefly after staff; we'll call you if/when we're both ready.

-----Original Message-----
From: Barnett, Thomas O.
Sent: Thursday, September 15, 2005 4:52 PM
To: Swenson, Lily F; Gorsuch, Neil M
Subject: RE: avian flu vaccine

All else equal, I'd vote for after your staff meeting today. I should be here. Let me know when you are free, and I'll come up.

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, September 15, 2005 4:07 PM
To: Barnett, Thomas O.; Gorsuch, Neil M
Subject: RE: avian flu vaccine

I can, if Neil can, after our OASG staff meeting at 5. If not, then before 9:30 tomorrow when we have to leave for the National Day of Prayer event or after we return from that?

-----Original Message-----
From: Barnett, Thomas O.
Sent: Thursday, September 15, 2005 4:05 PM
To: Swenson, Lily F; Gorsuch, Neil M
Subject: RE: avian flu vaccine

Today if you would like.

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, September 15, 2005 4:05 PM
To: Barnett, Thomas O.; Gorsuch, Neil M
Subject: avian flu vaccine

When is the earliest each of you can be available to do an avian flu vaccine briefing?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 16, 2005 3:53 PM
To: Barnett, Thomas O.; Swenson, Lily F
Subject: RE: avian flu vaccine

Just freed up. Will stop by Lily's office and head down to yours, Tom.

-----Original Message-----
From: Barnett, Thomas O.
Sent: Friday, September 16, 2005 3:46 PM
To: Swenson, Lily F; Gorsuch, Neil M
Subject: RE: avian flu vaccine

I'm available if Neil is.

-----Original Message-----
From: Swenson, Lily F
Sent: Friday, September 16, 2005 3:46 PM
To: Barnett, Thomas O.; Gorsuch, Neil M
Subject: RE: avian flu vaccine

I have about half an hour right now if you both do.

-----Original Message-----
From: Barnett, Thomas O.
Sent: Friday, September 16, 2005 3:12 PM
To: Swenson, Lily F; Gorsuch, Neil M
Subject: RE: avian flu vaccine

I know that Neil had a 3:00 p.m. call. Whenever you break free, let me know and I'll come up.

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, September 15, 2005 4:55 PM
To: Barnett, Thomas O.; Gorsuch, Neil M
Subject: RE: avian flu vaccine

Perfect (for me, not speaking for Neil). I'm supposed to talk to Bruce very briefly after staff; we'll call you if/when we're both ready.

-----Original Message-----
From: Barnett, Thomas O.
Sent: Thursday, September 15, 2005 4:52 PM
To: Swenson, Lily F; Gorsuch, Neil M
Subject: RE: avian flu vaccine

All else equal, I'd vote for after your staff meeting today. I should be here. Let me know when you are free, and I'll come up.

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, September 15, 2005 4:07 PM
To: Barnett, Thomas O.; Gorsuch, Neil M
Subject: RE: avian flu vaccine

I can, if Neil can, after our OASG staff meeting at 5. If not, then before 9:30 tomorrow when

we have to leave for the National Day of Prayer event or after we return from that?

-----Original Message-----
From: Barnett, Thomas O.
Sent: Thursday, September 15, 2005 4:05 PM
To: Swenson, Lily F; Gorsuch, Neil M
Subject: RE: avian flu vaccine

Today if you would like.

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, September 15, 2005 4:05 PM
To: Barnett, Thomas O.; Gorsuch, Neil M
Subject: avian flu vaccine

When is the earliest each of you can be available to do an avian flu vaccine briefing?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 16, 2005 6:39 PM
To: Barnett, Thomas O.
Subject: RE: DPA

Plenty fine. Enjoyed our chat.

-----Original Message-----
From: Barnett, Thomas O.
Sent: Friday, September 16, 2005 5:58 PM
To: Gorsuch, Neil M
Subject: DPA

Neil,

I asked someone to confirm the scope of immunity under the DPA. They might not get back to me until Monday morning. If that is not timely enough, please let me know.

Tom

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Saturday, September 17, 2005 3:06 PM
To: Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, September 18, 2005 10:40 AM
To: Gorsuch, Neil M
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 17 15:06:07 2005
Subject:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 8:15 AM
To: Gorsuch, Neil M
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sun Sep 18 10:40:28 2005
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Sep 17 15:06:07 2005
Subject:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 9:12 AM
To: McCallum, Robert (SMO)
Subject: Ted

Just noticed a clip in today's briefing announcing that Ted U. is leaving for the private sector. Had you seen this?!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 9:20 AM
To: McCallum, Robert (SMO)
Subject: RE: News

A shame.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, September 19, 2005 9:14 AM
To: Gorsuch, Neil M
Subject: FW: News

FYI re Ted's departure. Robt.

-----Original Message-----
From: Ullyot, Theodore
Sent: Saturday, September 17, 2005 4:24 PM
To: McCallum, Robert (SMO)
Subject: News

Robert -- I missed you Friday but wanted to let you know that I have decided to leave the Administration in October to return to the private sector. You may have already heard that from Judge or others, but I did want to reach out directly to you and let you know. It is tough to leave, as it is the honor of a lifetime to serve in President Bush's administration, especially with the Judge, and here at DOJ this has been the most exciting and interesting job of my life, with superb colleagues, you prominent among those. Nonetheless, the time comes for each of us to return to the private sector -- and for me, the combination of my coming up on the 3-year mark in the Administration, plus a great opportunity presenting itself (it's a GC job), led me to decide that this is the right time for me. It has been an enormous privilege to work with you and observe + learn from your great judgment, legal acumen, and steady demeanor. I look forward to our last couple of weeks working as colleagues, and to continuing our friendship in the years to come.
With respect and appreciation -- from a Deerfield man to a Choate man, Ted

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Monday, September 19, 2005 9:23 AM
To: Shaw, Aloma A
Cc: Gorsuch, Neil M
Subject: FW: CHANGE: EEO SYMPOSIUM SPEAKER

Aloma, do you have a copy of Neil's bio by chance. I have something from a while ago, but figured you may have something recently used. Thanks.

-----Original Message-----
From: McBurrows, Ted
Sent: Monday, September 19, 2005 9:16 AM
To: Corts, Paul R; Reyes, Luis (SMO)
Subject: RE: CHANGE: EEO SYMPOSIUM SPEAKER

Thank you both. Luis, can you send us a copy of Neil's bio please.

Ted McBurrows
Director EEO Staff
US Department of Justice
(202) 616 4800

-----Original Message-----
From: Corts, Paul R
Sent: Sunday, September 18, 2005 5:48 PM
To: Reyes, Luis (SMO); McBurrows, Ted
Subject: Re: CHANGE: EEO SYMPOSIUM SPEAKER

Neil is fine. I'll be there participating too.
Thx

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Corts, Paul R <Paul.R.Corts@SMOJMD.USDOJ.gov>; McBurrows, Ted <Ted.McBurrows@SMOJMD.USDOJ.gov>
Sent: Fri Sep 16 18:41:23 2005
Subject: CHANGE: EEO SYMPOSIUM SPEAKER

Ted, Paul: Alas, a national security related item has come up on Robert's calendar for Tuesday and he

will not be able to make it after all to the symposium. He laments not being able to attend very much as this was of great interest to him. In his stead, Neil Gorsuch, Principal Deputy Associate Attorney General, is ready to appear and deliver remarks (unless, Paul, you feel that you should address the symposium in Robert's place). Please let me know how you wish to proceed. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 9:23 AM
To: Reyes, Luis (SMO); Shaw, Aloma A
Subject: RE: CHANGE: EEO SYMPOSIUM SPEAKER
Attachments: Bio.doc

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Monday, September 19, 2005 9:23 AM
To: Shaw, Aloma A
Cc: Gorsuch, Neil M
Subject: FW: CHANGE: EEO SYMPOSIUM SPEAKER

Aloma, do you have a copy of Neil's bio by chance. I have something from a while ago, but figured you may have something recently used. Thanks.

-----Original Message-----
From: McBurrows, Ted
Sent: Monday, September 19, 2005 9:16 AM
To: Corts, Paul R; Reyes, Luis (SMO)
Subject: RE: CHANGE: EEO SYMPOSIUM SPEAKER

Thank you both. Luis, can you send us a copy of Neil's bio please.

Ted McBurrows
Director EEO Staff
US Department of Justice
(202) 616 4800

-----Original Message-----
From: Corts, Paul R
Sent: Sunday, September 18, 2005 5:48 PM
To: Reyes, Luis (SMO); McBurrows, Ted
Subject: Re: CHANGE: EEO SYMPOSIUM SPEAKER

Neil is fine. I'll be there participating too.
Thx

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Corts, Paul R <Paul.R.Corts@SMOJMD.USDOJ.gov>; McBurrows, Ted <Ted.McBurrows@SMOJMD.USDOJ.gov>
Sent: Fri Sep 16 18:41:23 2005
Subject: CHANGE: EEO SYMPOSIUM SPEAKER

Ted, Paul: Alas, a national security related item has come up on Robert's calendar for Tuesday and he will not be able to make it after all to the symposium. He laments not being able to attend very much as this was of great interest to him. In his stead, Neil Gorsuch, Principal Deputy Associate Attorney General, is ready to appear and deliver remarks (unless, Paul, you feel that you should address the symposium in Robert's place). Please let me know how you wish to proceed. Thanks.

Neil M. Gorsuch is Principal Deputy to the Associate Attorney General. The Office of the Associate Attorney General is responsible for overseeing the Antitrust, Civil, Civil Rights, Environment and Natural Resources, and Tax Divisions of the Department of Justice. It also advises and assists the Attorney General in formulating and implementing departmental policies and programs pertaining to a broad range of civil justice, federal and local law enforcement, and public safety matters.

Prior to joining the Department of Justice, Mr. Gorsuch was a partner at the Washington, D.C. firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, where he specialized in complex trial and appellate litigation. Mr. Gorsuch is a former clerk to Justice Byron R. White and Justice Anthony M. Kennedy of the U.S. Supreme Court, and to Judge David B. Sentelle of the U.S. Court of Appeals for the D.C. Circuit.

Mr. Gorsuch holds a doctorate from Oxford University (Marshall Scholar), a law degree from Harvard Law School (*cum laude*, Harry S. Truman Scholar), and an undergraduate degree from Columbia University (Phi Beta Kappa, Class Marshal, Nachems Society). Mr. Gorsuch is a term member of the Council on Foreign Relations and has published and spoken widely on a variety of legal issues. A native of Colorado, he is married to the former Louise Burletson of Henley-on-Thames, England, and they have two daughters, Emma (6) and Belinda (3).

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Monday, September 19, 2005 11:26 AM
To: Gorsuch, Neil M; [redacted]@who.eop.gov
Cc: [redacted]@dodgc.osd.mil
Subject: FW: Graham's Future Legislation
Attachments: tmp.htm; SA1042 TerminatingHabCorp.pdf

FYI

-----Original Message-----
From: [redacted] CIV, OSD-LA
Sent: Monday, September 19, 2005 11:19
To: [redacted](OARDEC); [redacted] DoD OGC; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] CIV, OSD-LA; [redacted] DoD OGC
Subject: Graham's Future Legislation

As per my email of 15 Sept, attached is Senator Graham's future legislation on detainee issues. The amendment will be introduced when the Senate goes back to the floor. TY

Respectfully,

[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

AMENDMENT NO. Calendar No.

Purpose: To limit the review of the detention of enemy combatants.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRAHAM to the amendment (No.) proposed by

Viz:

At the end, add the following:

SEC. 1074. REVIEW OF DETENTION OF ENEMY COMBATANTS.

(a) DETENTION OF ENEMY COMBATANTS.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

"(e) No court, justice, or judge shall have jurisdiction to consider—

"(1) an application for a writ of habeas corpus filed on behalf of an alien who is detained as an enemy combatant by the United States Government; or

"(2) any other action challenging any aspect of the detention of an alien who is detained by the Secretary of Defense as an enemy combatant, if the alien has been afforded an opportunity to challenge his detention pursuant to the procedures specified in paragraphs (1) and (2) of section 1073(b) of the National Defense Authorization Act for Fiscal Year 2006, to the extent modified by the President pursuant to the authority in paragraph (3) of such section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any application or other action pending on or after the date of the enactment of this Act.

FYI

-----Original Message-----
From: [redacted] CIV, OSD-LA
Sent: Monday, September 19, 2005 11:19
To: [redacted] (OARDEC); [redacted] DoD OGC; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] CIV, OSD-LA; [redacted] DoD OGC
Subject: Graham's Future Legislation

As per my email of 15 Sept, attached is Senator Graham's future legislation on detainee issues. The amendment will be introduced when the Senate goes back to the floor. TY

Respectfully,

[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 11:55 AM
To: [redacted]@dodgc.osd.mil'
Subject: RE: Graham's Future Legislation

Thanks - appreciate keeping up to speed on this.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Monday, September 19, 2005 11:26 AM
To: Gorsuch, Neil M; [redacted]@who.eop.gov
Cc: [redacted]@dodgc.osd.mil
Subject: FW: Graham's Future Legislation

FYI

-----Original Message-----
From: [redacted] CIV, OSD-LA
Sent: Monday, September 19, 2005 11:19
To: [redacted] (OARDEC); [redacted] DoD OGC; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] CIV, OSD-LA; [redacted] DoD OGC
Subject: Graham's Future Legislation

As per my email of 15 Sept, attached is Senator Graham's future legislation on detainee issues. The amendment will be introduced when the Senate goes back to the floor. TY

Respectfully,

[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a

Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 11:55 AM
To: Seidel, Rebecca
Subject: RE: Detainee legislation

Rebecca- as discussed; thanks. Neil

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 16, 2005 1:12 PM
To: Seidel, Rebecca
Cc: Moschella, William
Subject: FW: Detainee legislation

Could you please have someone in your office get me electronic copies of these as soon as possible? The AG wants us to conduct a careful, internal evaluation of what is out there. My thought is, once we have electronic copies, to forward them to OLC, OLP, CIV, and others for views. Thanks, NMG

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, September 16, 2005 10:56 AM
To: Gorsuch, Neil M
Cc: [redacted]@dodgc.osd.mil
Subject: FW: Detainee legislation

Neil,

Attached is a quick list I came up with re: pending detainee legislation.
Please let me know if I'm missing any bills you guys know of.

Thanks,
[redacted]

[redacted]
DoD Office of the General Counsel
Pentagon [redacted]

This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without prior approval from the Office of the DoD General Counsel.

-----Original Message-----

-----Original Message-----
From: [redacted] DoD OGC
Sent: Friday, September 16, 2005 09:16
To: [redacted] DoD OGC
Subject: FW: Detainee legislation

You've been tracking, correct?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Friday, September 16, 2005 09:13
To: [redacted] (E-mail)
Subject: Detainee legislation

[redacted] I'm trying to get a handle on the bills that are out there as well as anything you think might be introduced. Could DoD give us an "inventory" of existing or potential legislation? Many thanks. NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 11:58 AM
To: Reyes, Luis (SMO)
Subject: EEO speech
Attachments: 09 20 2005 DOJ EEO Symposium Draft1.doc

Looks great. I've made only a few tinkering edits. If you have any further thoughts, do let me know.
-NMG

U.S. Department of Justice
National EEO & Diversity Symposium 2005
Tuesday, September 20, 2005

DOJ_NMG_ 0147962

Good afternoon. Thank you Dr. Corts for that kind introduction.

I want to thank Ted McBurrows (*Director of DOJ Equal Employment Opportunity Office)* and all involved in putting together this great event. For those who do not know me, I am Robert McCallum's principal deputy in the Associate Attorney General's office.

I bring you greetings from Attorney General Alberto Gonzales, as well as from Mr. McCallum. I know that both of these men care deeply and personally about the issues you are discussing and honor the work you do for the Department and the cause of justice.

****

In their view, EEO efforts are integral to the Department's success.

DOJ_NMG_ 0147963

Indeed, the Department's overall mission of defending freedom has no place for those who would exclude on the basis of race, color, religion, sex, age, or disability. As an institution charged with enforcing federal laws prohibiting discrimination in employment and upholding justice, we must lead by example.

We are at our best when we can say with confidence that equal treatment and individual merit are the guiding lights of our employment actions. I know we all take this mission to heart.

****

The Department of Justice employs over 102,000 men and women across the country and around the world. Our mission truly depends on our ability to attract, develop, and retain a competitive and highly qualified workforce. Equal

DOJ_NMG_ 0147964

opportunity serves this goal by promoting open and fair competition in the Federal workplace. It also ensures that law enforcement reflects the community we serve.

I am proud to be able to say that the Department has had a significant level of success in attracting a diverse team of employees committed to defending freedom while preserving justice for all Americans.

Over the past decade the Department has seen an increase in the total percentage of minorities employed. By the close of fiscal year 2004, that number rose to 30,311 – or fully 30% of the DOJ workforce.

*** * ***

We must continue to ensure that recruitment and hiring processes reach qualified applicants and that individuals are considered fairly. Many of the DOJ bureaus and

DOJ_NMG_ 0147965

components represented here today have taken steps to reach and retain qualified applicants of all backgrounds.

As part of our nation wide recruiting efforts we have made employment presentations at Historically Black Colleges, and also at universities serving large Hispanic student bodies. We have also engaged in substantial outreach and recruitment initiatives through national minority and women organizations.

Our employment and retention efforts are also enhanced by the promotion of a culture of equality and merit within our walls. As an agency, therefore, we continue to work together to ensure that allegations of discrimination are addressed in accordance with federal law and regulations.

DOJ_NMG_ 0147966

Even just a few instances of discrimination can have a harmful effect on morale, negatively impact our ability to retain valuable employees, and undermine a productive work environment.

Last fiscal year, 1,616 persons sought assistance from a DOJ EEO professional. While this number is never low enough, it represents less than 2% of the Department's total workforce.

Of that total number, 610 persons, or 37%, filed a formal EEO complaint. This means that 63% of these matters were resolved informally. I am gratified to see this high rate of informal resolution, which testifies to the skills, dedication, and hard work of many of you in this room today.

*** * ***

DOJ_NMG_ 0147967

Over the past several years, we have worked steadily to implement the President's Management Agenda which enumerates many goals, including the strategic management of our human resources and talent.

Consistent with this goal, on February 5, 2003, the Department announced a series of initiatives to strengthen our attorney workforce by intensifying outreach to individuals from a wide variety of racial, ethnic, economic, and geographic backgrounds.

As a result of these initiatives, the Department has:

- **Instituted a policy requiring that all attorney openings are posted on the Internet and Intranet, ensuring that potential candidates throughout the country have access to available attorney positions;**

DOJ_NMG_ 0147968

- **Implemented and expanded e-transmission applications for Attorney General's Honors Program and Summer Law Intern Program;**
- **Developed a Mentor Program for all new Honors Program attorneys in the fall of 2003 and expanded this Program to include all new attorneys in the litigating divisions in fall 2004. The program sponsors formal, as well as informal, inter- and intra-departmental networking events. The program will be expanded to the United States Attorneys' Offices in fall 2005;**
- **Implemented the Attorney Student Loan Repayment Program (ASLRP), designed to retain employees in key positions and to encourage new hires to remain at the Department by reducing the burden of qualified student loan debt.**

DOJ_NMG_ 0147969

- **In the last two years, the Department issued student loan repayments to 115 attorneys, almost a third of which have gone to minority employees.**
- **This year, the Department received 147 new applications**

- **The Department has also developed an Exit Survey which is distributed to all voluntarily departing attorneys to gather information that can help us increase retention within our existing attorney workforce;**
- **It has conducted diversity training for over 300 attorney managers and supervisors.**

Made annual presentations at more than 60 law schools across the country in an outreach effort designed to educate

DOJ_NMG_ 0147970

law students about the benefits of a career at the Department of Justice.

*****

We are all committed to developing and maintaining a highly qualified and diverse work force to enhance the integrity and performance of the Department of Justice. Each of you play an important role in ensuring that the Department continues to perform its mission in a way that inspires the confidence of all Americans.

Thank you all for having me here today and for putting together this symposium. On behalf of the Attorney General and Acting Deputy Attorney General, I want to thank each of you for your commitment to the EEO mission and for

DOJ_NMG_ 0147971

your dedication to the work of the Justice Department and to the work of justice itself.

DOJ_NMG_ 0147972

Seidel, Rebecca

From:	Seidel, Rebecca
Sent:	Monday, September 19, 2005 12:39 PM
To:	Gorsuch, Neil M
Cc:	Clinger, James H; Chambers, Shane P
Subject:	FW: Detainee legislation on DOD Authorization
Attachments:	Detainee Legislation SA 1566.doc; Detainee Legislation HR 3038.doc; Detainee Legislation SA 1494.doc; Detainee Legislation SA 1505.doc; Detainee Legislation SA 1556.doc; Detainee Legislation SA 1557.doc

Neil, see below. we will keep trying to track down last two as well.

-----Original Message-----
From: Chambers, Shane P
Sent: Monday, September 19, 2005 12:35 PM
To: Seidel, Rebecca
Cc: Clinger, James H; Moschella, William
Subject: RE: Detainee legislation on DOD Authorization
Importance: High

I have found all but two of the items listed:
- SA___ (Specter) Unprivileged Combatant Act of 2005 - Unnumbered Draft of Antiterrorism Detentions and Interrogations Procedures Act" (Harman)

I would take any suggestions as to go about finding these two? The others are attached.

Thanks.

-----Original Message-----
From: Seidel, Rebecca
Sent: Monday, September 19, 2005 11:49 AM
To: Chambers, Shane P
Cc: Clinger, James H; Moschella, William
Subject: FW: Detainee legislation on DOD Authorization

Shane - would you please track down these amendments to DOD Authorization? Neil (Associate's office) needs asap - the AG has asked them to gather this information asap.

Please attach them to an email. let me know if you have difficulties.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 16, 2005 1:12 PM
To: Seidel, Rebecca
Cc: Moschella, William

Subject: FW: Detainee legislation

Could you please have someone in your office get me electronic copies of these as soon as possible? The AG wants us to conduct a careful, internal evaluation of what is out there. My thought is, once we have electronic copies, to forward them to OLC, OLP, CIV, and others for views. Thanks, NMG

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, September 16, 2005 10:56 AM
To: Gorsuch, Neil M
Cc: [redacted]@dodgc.osd.mil
Subject: FW: Detainee legislation

Neil,

Attached is a quick list I came up with re: pending detainee legislation.
Please let me know if I'm missing any bills you guys know of.

Thanks,
[redacted]

[redacted]
DoD Office of the General Counsel
Pentagon[redacted]
[redacted]

This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without prior approval from the Office of the DoD General Counsel.

-----Original Message-----
From: [redacted]DoD OGC
Sent: Friday, September 16, 2005 09:16
To[redacted]DoD OGC
Subject: FW: Detainee legislation

You've been tracking, correct?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Friday, September 16, 2005 09:13
To: [redacted](E-mail)
Subject: Detainee legislation

[redacted] I'm trying to get a handle on the bills that are out there as well as anything you think might be introduced. Could DoD give us an "inventory" of existing or potential legislation? Many thanks. NMG

introduced. Could DoD give us an "inventory" of existing or potential legislation? Many thanks. NMG

HR 3038 IH

109th CONGRESS
1st Session
H. R. 3038

To affirm the authority of the executive branch to detain foreign nationals as unlawful combatants, to enable a person detained as an unlawful combatant to challenge the basis for that detention and to receive a disposition within 2 years, to provide for the President to establish military tribunals to try such persons, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

June 22, 2005

Mr. SCHIFF (for himself, Mr. UDALL of Colorado, and Mr. OWENS) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To affirm the authority of the executive branch to detain foreign nationals as unlawful combatants, to enable a person detained as an unlawful combatant to challenge the basis for that detention and to receive a disposition within 2 years, to provide for the President to establish military tribunals to try such persons, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Guantanamo Detainees Procedures Act of 2005'.

SEC. 2. AUTHORITY OF EXECUTIVE BRANCH TO DETAIN PERSONS COVERED BY THIS ACT AS UNLAWFUL COMBATANTS.

(a) Finding- Congress finds that the executive branch has authority to detain persons covered by this Act as unlawful combatants.
(b) Persons Covered by This Act- In this Act, the term `person covered by this Act' means an individual who--
(1) is accused of knowingly--
(A) planning, authorizing, committing, aiding, or abetting one or more terrorist acts against the United States; or

(B) being part of or supporting forces engaged in armed conflict against the United States;

(2) is not a United States person or lawful permanent resident; and

(3) is not a prisoner of war within the meaning of the Geneva Convention Relative to the Treatment of Prisoners of War, done on August 12, 1949.

SEC. 3. RIGHT OF PERSON DETAINED AS UNLAWFUL COMBATANT OR ON SIMILAR BASIS TO CHALLENGE THAT BASIS.

(a) In General- Whenever the United States detains a person covered by this Act on the basis of a determination that the person can be detained as an unlawful combatant or can be detained on any similar basis, the person is entitled to a hearing under this section as expeditiously as practicable but not later than 6 months after the date on which the United States first made the determination.

(b) Requirements for Hearing- A hearing required by subsection (a) must meet the following requirements:

(1) The hearing officer is an active member of one of the Courts of Criminal Appeals of the Armed Forces.

(2) The hearing officer has authority to decide de novo whether the basis of a determination under subsection (a) is valid and to grant appropriate relief if the hearing officer decides that the basis is invalid.

(3) The hearing officer is impartial in fact, and is in a position independent from--

(A) the individuals who first determined that the person can be detained; and

(B) the individuals on whose orders the person is being detained.

(4) The person is provided with access to the evidence that tends to support the determination that the person can be detained.

(5) The person is provided with an opportunity to address the hearing officer, and is provided with an interpreter for that purpose.

(c) Administrative Review- The Secretary of Defense shall conduct administrative review of the activities of a hearing officer under this section.

SEC. 4. RIGHT OF PERSON DETAINED TO DISPOSITION WITHIN 2 YEARS.

(a) In General- Whenever the United States detains a person covered by this Act on the basis of a determination that the person can be detained as an unlawful combatant or can be detained on any similar basis, the person is entitled to a disposition under this section not later than 2 years after the date on which the United States first made the determination.

(b) Requirements for Disposition- A disposition under this section is any one of the following:

(1) Repatriation to the governing authority in the area in which the person was first detained or the person's country of origin, except where there are

substantial grounds to believe that the person would be in danger of being subjected to torture.

(2) The commencement, by formal charges, of prosecution in an appropriate court, which may include an extraordinary tribunal under section 5 of this Act, an international criminal tribunal, or a district court of the United States.

(c) Extension-

(1) CERTIFICATION- The period required by subsection (a) for the repatriation of the person or the commencement of formal charges may be extended if the Secretary of Defense certifies, in writing, with respect to the person that the Secretary of Defense has determined that the person is a continuing threat to the national security of the United States due to a likelihood that the person will undertake terrorist or belligerent acts against the United States based on the person's past conduct, level of authority within the group or organization, statement and actions during confinement, age and health, psychological profile, and other pertinent factors, and the repatriation of the person or the commencement of formal charges will compromise the national security of the United States by curtailing intelligence gathering from the person, jeopardize intelligence sources necessary to prosecute the person, or other extraordinary circumstances justify the extension.

(2) DETAILED BASIS- A certification under this subsection must include a detailed account of the factual basis for that determination.

(3) ACCESS TO CERTIFICATION- A person covered by a certification under this subsection is entitled to an unclassified copy of the certification.

(4) DURATION OF CERTIFICATION- A certification under this subsection is effective for not more than 1 year. The Secretary may make successive certifications with respect to a person so long as each additional certification is made while an imminent threat to national security continues to be posed by the group or organization in which the person is a member or by other persons associated with, or acting on behalf of, the group, organization, or person.

(5) JUDICIAL REVIEW- The United States Court of Appeals for the Armed Forces shall provide judicial review with respect to any issue under this subsection, including whether the determination of the Secretary under paragraph (1) is justified by the factual basis under paragraph (2).

SEC. 5. EXTRAORDINARY TRIBUNALS.

(a) Authority- The President is hereby authorized to establish tribunals for the trial of persons covered by this Act.

(b) Jurisdiction- Tribunals established under subsection (a) may adjudicate violations of the law of war, international laws of armed conflict, and crimes against humanity targeted against United States persons or residents.

(c) Authority to Establish Procedural Rules- The Secretary of Defense, in consultation with the Secretary of State and the Attorney General, shall prescribe

and publish in the Federal Register, and report to the Committees on the Judiciary of the Senate and the House of Representatives, the rules of evidence and procedure that are to apply to tribunals established under subsection (a).

SEC. 6. PROCEDURAL REQUIREMENTS.

(a) In General- The rules prescribed for a tribunal under section 5(c) shall be designed to ensure a full and fair hearing of the charges against the accused. The rules shall require the following:

(1) That the tribunal be independent and impartial.

(2) That the accused be notified of the particulars of the offense charged or alleged without delay.

(3) That the proceedings be made simultaneously intelligible for participants not conversant in the English language by translation or interpretation.

(4) That the evidence supporting each alleged offense be given to the accused, except as provided in subsection (d).

(5) That the accused have the opportunity to be present at trial.

(6) That the accused have a right to be represented by counsel.

(7) That the accused have the opportunity--

(A) to respond to the evidence supporting each alleged offense;

(B) to obtain exculpatory evidence from the prosecution; and

(C) to present exculpatory evidence.

(8) That the accused have the opportunity to confront and cross-examine adverse witnesses and to offer witnesses.

(9) That the proceeding and disposition be expeditious.

(10) That the tribunal apply reasonable rules of evidence designed to ensure admission only of reliable information or material with probative value.

(11) That the accused be afforded all necessary means of defense before and after the trial.

(12) That conviction of an alleged offense not be based upon an act, offense, or omission that was not an offense under law when it was committed.

(13) That the penalty for an offense not be greater than it was when the offense was committed.

(14) That the accused--

(A) be presumed innocent until proven guilty, and

(B) not be found guilty except upon proof beyond a reasonable doubt.

(15) That the accused not be compelled to confess guilt or testify against himself.

(16) That, subject to subsections (c) and (d), the trial be open and public and include public availability of the transcripts of the trial and the pronouncement of judgment.

(17) That a convicted person be informed of remedies and appeals and the time limits for the exercise of the person's rights to the remedies and appeals under the rules.

(18) That a preliminary proceeding be held within 30 days of detention to determine whether there is jurisdiction under section 4 over the person and the offenses charged. The preliminary proceeding may be continued for an additional 30 days for good cause shown.

(19) That the privilege of the writ of habeas corpus under title 28, United States Code, or under any other provision of law not be infringed.

(20) That the tribunal be comprised of a military judge and not less than five members.

(b) Imposition of the Death Penalty- The requirements of the Uniform Code of Military Justice for the imposition of the death penalty shall apply in any case in which a tribunal established under section 5 is requested to adjudge the death penalty.

(c) Public Proceedings- Any proceedings conducted by a tribunal established under section 5, and the proceedings on any appeal of an action of the tribunal, shall be accessible to the public consistent with any demonstrable necessity to secure the safety of observers, witnesses, tribunal judges, counsel, or other persons.

(d) Confidentiality of Evidence- Evidence available from an agency of the Federal Government that is offered in a trial by a tribunal established under section 5 may be kept secret from the public only when the head of the agency personally certifies in writing that disclosure will cause--

(1) identifiable harm to the prosecution of military objectives;

(2) significant, identifiable harm to intelligence sources or methods; or

(3) substantial risk that such evidence could be used for planning future terrorist attacks.

(e) Review-

(1) PROCEDURES REQUIRED- The Secretary of Defense shall provide for prompt review of convictions by tribunals established under section 5 to ensure that the procedural requirements of a full and fair hearing have been met and that the evidence reasonably supports the convictions.

(2) UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES- The procedures established under paragraph (1) shall, at a minimum, allow for review of the proceedings of the tribunals, and the convictions and sentences of such tribunals, by the United States Court of Appeals for the Armed Forces established under the Uniform Code of Military Justice.

(3) SUPREME COURT- The decisions of the United States Court of Appeals for the Armed Forces regarding proceedings of tribunals established under section 5 shall be subject to review by the Supreme Court by writ of certiorari.

SEC. 7. ANNUAL REPORT ON PERSONS COVERED BY THIS ACT WHO ARE DETAINED AS UNLAWFUL COMBATANTS BY THE UNITED STATES.

(a) Report Required- The Secretary of Defense shall submit to Congress an annual report on persons covered by this Act who are detained as unlawful combatants by the United States.

(b) Current Detainees- The report shall include, for each person currently so detained, the following:

(1) The name and nationality of the person.

(2) The period during which the person has been so detained.

(3) A description of the specific process afforded to the person under sections 3 and 4 of this Act and the outcome of those processes.

(c) Former Detainees- The report shall include, for each person formerly so detained, the following:

(1) The name and nationality of the person.

(2) The terms of the conditional release agreement with respect to the person.

(3) A statement of the basis for the determination of the United States Government that release was warranted.

(4) The period during which the person was so detained, including the release date of the person.

(d) Classification- The report required by this section shall be submitted in unclassified form, but may include a classified annex.

END

SA 1494

Mr. LEVIN (for himself, Mr. KENNEDY, Mr. ROCKEFELLER, and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of division A, add the following:

TITLE XV--NATIONAL COMMISSION ON POLICIES AND PRACTICES ON TREATMENT OF DETAINEES SINCE SEPTEMBER 11, 2001

SEC. 1501. FINDINGS.

Congress makes the following findings:

(1) The vast majority of the members of the Armed Forces have served honorably and upheld the highest standards of professionalism and morality.

(2) While there have been numerous reviews, inspections, and investigations by the Department of Defense and others regarding aspects of the treatment of individuals detained in the course of Operation Enduring Freedom, Operation Iraqi Freedom, or United States activities to counter international terrorism since September 11, 2001, none has provided a comprehensive, objective, and independent investigation of United States policies and practices relating to the treatment of such detainees.

(3) The reports of the various reviews, inspections, and investigations conducted by the Department of Defense and others have left numerous omissions and reached conflicting conclusions regarding institutional and personal responsibility for United States policies and practices on the treatment of the detainees described in paragraph (2) that may have caused or contributed to the mistreatment of such detainees.

(4) Omissions in the reports produced to date also include omissions relating to--

(A) the authorities of the intelligence community for activities to counter international terrorism since September 11, 2001, including the rendition of detainees to foreign countries, and whether such authorities differed from the authorities of the military for the detention and interrogation of detainees;

(B) the role of intelligence personnel in the detention and interrogation of detainees;

(C) the role of special operations forces in the detention and interrogation of detainees; and

(D) the role of contract employees in the detention and interrogation of detainees.

SEC. 1502. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on United States Policies and Practices Relating to the Treatment of Detainees Since September 11, 2001 (in this title referred to as the ``Commission'').

SEC. 1503. COMPOSITION OF THE COMMISSION.

(a) *Members*.--The Commission shall be composed of 10 members, of whom--

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be appointed by the senior member of the leadership of the Senate of the Democratic Party, in consultation with the senior member of the leadership of the House of Representatives of the Democratic Party, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party;

(4) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

(5) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party; and

(6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

(b) *Qualifications; Initial Meeting*.--

(1) **POLITICAL PARTY AFFILIATION**.--Not more than 5 members of the Commission shall be from the same political party.

(2) **NONGOVERNMENTAL APPOINTEES**.--An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) **OTHER QUALIFICATIONS**.--It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national

recognition and significant depth of experience in such professions as governmental service, the Armed Forces, intelligence gathering or analysis, law, public administration, law enforcement, and foreign affairs.

(4) **DEADLINE FOR APPOINTMENT**.--All members of the Commission shall be appointed not later than 30 days after the date of the enactment of this Act.

(c) *Meetings; Quorum; Vacancies*.--

(1) **INITIAL MEETING**.--The Commission shall meet and begin the operations as soon as practicable after all members have been appointed under subsection (b).

(2) **MEETINGS**.--After its initial meeting under paragraph (1), the Commission shall meet upon the call of the chairman or a majority of its members.

(3) **QUORUM**.--Six members of the Commission shall constitute a quorum.

(4) **VACANCIES**.--Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 1504. PURPOSES.

(a) *In General*.--The purposes of the Commission are to--

(1) examine and report upon the policies and practices of the United States relating to the treatment of individuals detained in Operation Enduring Freedom (OEF), Operation Iraqi Freedom (OIF), or United States activities to counter international terrorism since September 11, 2001 (in this title referred to as ``detainees") , including the rendition of detainees to foreign countries;

(2) examine, evaluate, and report on the causes of and factors that may have contributed to the alleged mistreatment of detainees, including, but not limited to--

(A) laws and policies of the United States relating to the detention or interrogation of detainees, including the rendition of detainees to foreign countries;

(B) activities of special operations forces of the Armed Forces;

(C) activities of contract employees of any department, agency, or other entity of the United States Government, including for the rendition of detainees to foreign countries; and

(D) activities of employees of the Central Intelligence Agency, the Defense Intelligence Agency, or any other element of the intelligence community;

(3) assess the responsibility of leaders, whether military or civilian, within and outside the Department of Defense for policies and actions, or failures to act, that may have contributed, directly or indirectly, to the mistreatment of detainees;

(4) ascertain, evaluate, and report on the effectiveness and propriety of interrogation techniques, policies, and practices for producing useful and reliable intelligence;

(5) ascertain, evaluate, and report on all planning for long-term detention, or procedures for prosecution by civilian courts or military tribunals or commission, of detainees in the custody of any department, agency, or other entity of the United States Government or who have been rendered to any foreign government or entity; and

(6) investigate and submit a report to the President and Congress on the Commission's findings, conclusions, and recommendations, including any modifications to existing treaties, laws, policies, or regulations, as appropriate.

(b) *Utilization of Other Materials*.--The Commission may build upon reports conducted by the Department of Defense or other entities by reviewing the source materials, findings, conclusions, and recommendations of those other reviews in order to--

(1) avoid unnecessary duplication; and

(2) identify any omissions in or conflicts between such reports which in the Commission's view merit further investigation.

SEC. 1505. FUNCTIONS OF COMMISSION.

The functions of the Commission are to--

(1) conduct an investigation that ascertains relevant facts and circumstances relating to--

(A) laws, policies, and practices of the United States relating to the treatment of detainees since September 11, 2001, including any relevant treaties, statutes, Executive orders, regulations, plans, policies, practices, or procedures;

(B) activities of any department, agency, or other entity of the United States Government relating to Operation Enduring Freedom, Operation Iraqi Freedom, and efforts to counter international terrorism since September 11, 2001;

(C) the role of private contract employees in the treatment of detainees;

(D) the role of legal and medical personnel in the treatment of detainees, including the role of medical personnel in advising on plans for, and the conduct of, interrogations;

(E) dealings of any department, agency, or other entity of the United States Government with the International Committee of the Red Cross;

(F) the role of congressional oversight; and

(G) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify and review how policies regarding the detention, interrogation, and rendition of detainees were formulated and implemented, and evaluate such policies in light of lessons learned from activities in Iraq, Afghanistan, Guantanamo Bay, Cuba, and elsewhere; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing any appropriate modifications in legislation, organization, coordination, planning, management, procedures, rules, and regulations.

SEC. 1506. POWERS OF COMMISSION.

(a) *In General*.--

(1) **HEARINGS AND EVIDENCE**.--The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title--

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents,

as the Commission or such designated subcommittee or designated member may determine advisable.

(2) **SUBPOENAS**.--

(A) **ISSUANCE**.--

(i) **IN GENERAL**.--A subpoena may be issued under this subsection only--

(I) by the agreement of the chairman and the vice chairman; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) **SIGNATURE**.--Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) **ENFORCEMENT**.--

(i) **IN GENERAL**.--In the case of contumacy or failure to obey a subpoena issued under subparagraph (A), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) **ADDITIONAL ENFORCEMENT**.--In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) *Contracting*.--The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) *Information and Materials From Federal Agencies*.--

(1) **IN GENERAL**.--

(A) **COOPERATION OF AGENCIES**.--The Commission shall receive the full and timely cooperation of any department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States Government, and of any officer or employee thereof, whose assistance is necessary for the fulfillment of the duties of the Commission under this title.

(B) **FURNISHING OF MATERIALS**.--The Commission is authorized to secure directly from any department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States Government information, materials (including classified materials), suggestions, estimates, and statistics for the purposes of this title. Each such department, agency, element, bureau, board, commission, independent establishment, or other instrumentality shall, to the maximum extent authorized by law, furnish all such information, materials, suggestions, estimates, and statistics directly to the Commission, promptly upon a request made by the chairman,

the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, but in no case later than 14 days after such a request.

(2) **RECEIPT, HANDLING, STORAGE, AND DISSEMINATION**.--Information and materials shall be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders. The Commission shall maintain all classified information and materials provided to the Commission under this title in a secure location in the offices of the Commission or as designated by the Commission.

(3) **ACCESS TO INFORMATION AND MATERIALS**.--No department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States may withhold information or materials, including classified materials, from the Commission on the grounds that providing the information or materials would constitute the unauthorized disclosure of classified information, pre-decisional materials, or information relating to intelligence sources or methods.

(d) *Assistance From Particular Federal Agencies*.--

(1) **GENERAL SERVICES ADMINISTRATION**.--The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) **OTHER DEPARTMENTS AND AGENCIES**.--In addition to the assistance prescribed in paragraph (1), departments, agencies, and other elements of the United States Government may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) *Postal Services*.--The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States Government.

SEC. 1507. COMPENSATION AND TRAVEL EXPENSES.

(a) *Compensation*.--Each member of the Commission shall be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) *Travel Expenses*.--While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as

persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 1508. STAFF OF COMMISSION.

(a) *In General*.--

(1) **APPOINTMENT AND COMPENSATION**.--The chairman, in consultation with the vice chairman and in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) **PERSONNEL AS FEDERAL EMPLOYEES**.--

(A) **TREATMENT**.--The staff director and any personnel of the Commission who are employees of the Commission shall be treated as employees of the Federal Government under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

SEC. 1509. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The departments, agencies, and elements of the United States Government shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements. No person shall be provided with access to classified information under this title without the appropriate security clearances.

SEC. 1510. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) *In General*.--The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) *Public Meetings and Release of Public Versions of Reports*.--The Commission shall--

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section 1511.

(c) *Public Hearings*.--Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

SEC. 1511. REPORTS OF COMMISSION; TERMINATION.

(a) *Interim Reports*.--The Commission may submit to the President and Congress interim reports containing such findings, conclusions and recommendations as have been agreed to by a majority of Commission members.

(b) *Final Report*.--Not later than 12 months after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations as have been agreed to by a majority of Commission members.

(c) *Termination*.--

(1) **IN GENERAL**.--The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) **ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION**.--The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports, disseminating the final report.

SEC. 1512. FUNDING.

(a) *Authorization of Appropriations*.--There are authorized to be appropriated to

the Commission to carry out this section $2,500,000.

(b) *Duration of Availability*.--Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

SA 1505

Mr. GRAHAM (for himself, Mr. WARNER, and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. AUTHORITY TO UTILIZE COMBATANT STATUS REVIEW TRIBUNALS AND ANNUAL REVIEW BOARD TO DETERMINE STATUS OF DETAINEES AT GUANTANAMO BAY, CUBA.

(a) *Authority*.--The President is authorized to utilize the Combatant Status Review Tribunals and a noticed Annual Review Board, and the procedures thereof as specified in subsection (b), currently in operation at Guantanamo Bay, Cuba, in order to determine the status of the detainees held at Guantanamo Bay, including whether any such detainee is a lawful enemy combatant or an unlawful enemy combatant.

(b) *Procedures*.--

(1) **IN GENERAL**.--Except as provided in paragraph (2), the procedures specified in this subsection are as follows:

(A) For the Combatant Status Review Tribunals, the memorandum of the Secretary of the Navy of July 29, 2004, regarding the implementation of Combatant Status Review Tribunal procedures for Enemy Combatants detained at Guantanamo Bay Naval Base, Cuba.

(B) For the Annual Review Board, the Department of Defense Designated Civilian Official Memorandum dated September 14, 2004, regarding the Implementation of Administrative Review Procedures for Enemy Combatants Detained at U.S. Naval Base Guantanamo Bay, Cuba.

(2) **EXCEPTION**.--The exceptions provided in this paragraph for the procedures specified in paragraph (1) are as follows:

(A) To the extent practicable, the Combatant Status Review Tribunal shall determine, by a preponderance of the evidence, whether statements derived from persons held in foreign custody were obtained without under coercion.

(B) A detainee shall be provided a military judge advocate for purposes of the Annual Review Board.

(C) The Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advise and consent of the Senate.

(3) **MODIFICATION OF PROCEDURES**.--The President may modify the procedures and requirements set forth under paragraphs (1) and (2). Any modification of such procedures or requirements may not go into effect until 30 days after the date on which the President notifies the congressional defense committees of the modification.

(c) *Definitions*.--In this section:

(1) The term ``lawful enemy combatant'' means person engaging in war or other armed conflict against the United States or its allies on behalf of a state party to the Geneva Convention Relative to the Treatment of Prisoners of War, dated August 12, 1949, who meets the criteria of a prisoner of war under Article 4 of that Convention.

(2) The term ``unlawful enemy combatant'', with respect to noncitizens of the United States, means a person (other than a person described in paragraph (1)) engaging in war, other armed conflict, or hostile acts against the United States or its allies, or knowingly supporting others so engaged, regardless of location.

SA 1556

Mr. McCAIN (for himself, Mr. WARNER, Mr. GRAHAM, and Ms. COLLINS) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

(a) *In General*.--No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) *Construction*.--Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) *Limitation on Supersedure*.--The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) *Cruel, Inhuman, or Degrading Treatment or Punishment Defined*.--In this section, the term ``cruel, inhuman, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

SA 1557

Mr. McCAIN (for himself, Mr. WARNER, Mr. GRAHAM, Ms. COLLINS, and Mr. LEVIN) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) **LIMITATION ON INTERROGATION TECHNIQUES**.--

(1) **IN GENERAL**.--No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(2) **APPLICABILITY**.--Paragraph (1) shall not apply to with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(3) **CONSTRUCTION**.--Nothing in this subsection shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

(b) **PROHIBITION ON INCLUSION OF CERTAIN INTERROGATION TECHNIQUES IN ARMY FIELD MANUAL**.--No interrogation technique may be included as an authorized interrogation technique within the United States Army Field Manual on Intelligence Interrogation if such technique constitutes torture or cruel, inhumane, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(c) **NOTICE TO CONGRESS OF REVISION OF ARMY FIELD MANUAL**.--Not later than 30 days before issuing any revision to the United States Army Field Manual on Intelligence Interrogation, including an authorization of additional interrogation techniques, the Secretary of Defense shall submit to the congressional defense committees a report on such revision.

(d) **REGISTRATION WITH INTERNATIONAL RED CROSS**.--Each individual described in subsection (a) who is a national of a foreign country shall be registered with the International Committee of the Red Cross.

SA 1566. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS AND PROCEDURES FOR TREATMENT OF PERSONS UNDER DETENTION BY THE DEPARTMENT OF DEFENSE.

(a) *Uniform Standards and Procedures Required*.--The Secretary of Defense shall establish uniform standards and procedures for the detention and interrogation of persons in the custody or under the control of the Department of Defense.

(b) *Consistency With Law and Treaty Obligations*.--The standards and procedures established under subsection (a) shall be consistent with United States law and international treaty obligations.

(c) *Applicability*.--

(1) **IN GENERAL**.--The standards and procedures established under subsection (a) shall apply to all detention and interrogation activities involving persons in the custody or under the control of the Department of Defense, and to such activities conducted within facilities controlled by the Department of Defense, regardless of whether such activities are conducted by Department of Defense personnel, Department of Defense contractor personnel, or personnel or contractor personnel of any other department, agency, or element of the United States Government.

(2) **EXCEPTION**.--The standards and procedures established under subsection (a) shall not apply with respect to any person in the custody or under the control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(d) *Construction*.--Nothing in this section shall affect such rights, if any, under the Constitution of the United States of any person in the custody or under the control of the Department of Defense.

(e) *Notice to Congress of Revision*.--Not later than 60 days before issuing any revision to the standards and procedures established under subsection (a), the Secretary of Defense shall notify, in writing, the congressional defense committees of such revision.

(f) *Deadline*.--The standards and procedures required by subsection (a) shall be established not later than 60 days after the date of the enactment of this Act.

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Monday, September 19, 2005 12:40 PM
To: Gorsuch, Neil M
Subject: RE: Detainee legislation

yes - I found that email right after I got back from Associate's mtg and tasked Shane Chambers in my office with finding them, and just moments ago sent you all but 2, we are still trying for the last two. :)

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 11:55 AM
To: Seidel, Rebecca
Subject: RE: Detainee legislation

Rebecca- as discussed; thanks. Neil

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 16, 2005 1:12 PM
To: Seidel, Rebecca
Cc: Moschella, William
Subject: FW: Detainee legislation

Could you please have someone in your office get me electronic copies of these as soon as possible? The AG wants us to conduct a careful, internal evaluation of what is out there. My thought is, once we have electronic copies, to forward them to OLC, OLP, CIV, and others for views. Thanks, NMG

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, September 16, 2005 10:56 AM
To: Gorsuch, Neil M
Cc: [redacted]@dodgc.osd.mil
Subject: FW: Detainee legislation

Neil,

Attached is a quick list I came up with re: pending detainee legislation.
Please let me know if I'm missing any bills you guys know of.

Thanks,
[redacted]

[redacted]

[redacted]
DoD Office of the General Counsel
Pentagon [redacted]

This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without prior approval from the Office of the DoD General Counsel.

-----Original Message-----
From: [redacted] DoD OGC
Sent: Friday, September 16, 2005 09:16
To: [redacted] DoD OGC
Subject: FW: Detainee legislation

You've been tracking, correct?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Friday, September 16, 2005 09:13
To: [redacted] (E-mail)
Subject: Detainee legislation

[redacted] I'm trying to get a handle on the bills that are out there as well as anything you think might be introduced. Could DoD give us an "inventory" of existing or potential legislation? Many thanks. NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 12:46 PM
To: Seidel, Rebecca
Subject: RE: Detainee legislation

thanks very much

-----Original Message-----
From: Seidel, Rebecca
Sent: Monday, September 19, 2005 12:40 PM
To: Gorsuch, Neil M
Subject: RE: Detainee legislation

yes - I found that email right after I got back from Associate's mtg and tasked Shane Chambers in my office with finding them, and just moments ago sent you all but 2, we are still trying for the last two. :)

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 11:55 AM
To: Seidel, Rebecca
Subject: RE: Detainee legislation

Rebecca- as discussed; thanks. Neil

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 16, 2005 1:12 PM
To: Seidel, Rebecca
Cc: Moschella, William
Subject: FW: Detainee legislation

Could you please have someone in your office get me electronic copies of these as soon as possible? The AG wants us to conduct a careful, internal evaluation of what is out there. My thought is, once we have electronic copies, to forward them to OLC, OLP, CIV, and others for views. Thanks, NMG

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Friday, September 16, 2005 10:56 AM
To: Gorsuch, Neil M
Cc: [redacted]@dodgc.osd.mil
Subject: FW: Detainee legislation

Neil,

Attached is a quick list I came up with re: pending detainee legislation.
Please let me know if I'm missing any bills you guys know of.

Thanks,
[redacted]

[redacted]
DoD Office of the General Counsel
Pentagon [redacted]
[redacted]

This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without prior approval from the Office of the DoD General Counsel.

-----Original Message-----
From: [redacted] DoD OGC
Sent: Friday, September 16, 2005 09:16
To: [redacted] DoD OGC
Subject: FW: Detainee legislation

You've been tracking, correct?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Friday, September 16, 2005 09:13
To [redacted] (E-mail)
Subject: Detainee legislation

[redacted] I'm trying to get a handle on the bills that are out there as well as anything you think might be introduced. Could DoD give us an "inventory" of existing or potential legislation? Many thanks. NMG

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, September 19, 2005 12:56 PM
To:	Gorsuch, Neil M
Subject:	FW: Detainee legislation on DOD Authorization
Attachments:	Detainee Legislation SA 1566.doc; Detainee Legislation HR 3038.doc; Detainee Legislation SA 1494.doc; Detainee Legislation SA 1505.doc; Detainee Legislation SA 1556.doc; Detainee Legislation SA 1557.doc; SA1042 TerminatingHabCorp.pdf

HR 3038 IH

109th CONGRESS
1st Session
H. R. 3038

To affirm the authority of the executive branch to detain foreign nationals as unlawful combatants, to enable a person detained as an unlawful combatant to challenge the basis for that detention and to receive a disposition within 2 years, to provide for the President to establish military tribunals to try such persons, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

June 22, 2005

Mr. SCHIFF (for himself, Mr. UDALL of Colorado, and Mr. OWENS) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To affirm the authority of the executive branch to detain foreign nationals as unlawful combatants, to enable a person detained as an unlawful combatant to challenge the basis for that detention and to receive a disposition within 2 years, to provide for the President to establish military tribunals to try such persons, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Guantanamo Detainees Procedures Act of 2005'.

SEC. 2. AUTHORITY OF EXECUTIVE BRANCH TO DETAIN PERSONS COVERED BY THIS ACT AS UNLAWFUL COMBATANTS.

(a) Finding- Congress finds that the executive branch has authority to detain persons covered by this Act as unlawful combatants.
(b) Persons Covered by This Act- In this Act, the term `person covered by this Act' means an individual who--
(1) is accused of knowingly--
(A) planning, authorizing, committing, aiding, or abetting one or more terrorist acts against the United States; or

(B) being part of or supporting forces engaged in armed conflict against the United States;

(2) is not a United States person or lawful permanent resident; and

(3) is not a prisoner of war within the meaning of the Geneva Convention Relative to the Treatment of Prisoners of War, done on August 12, 1949.

SEC. 3. RIGHT OF PERSON DETAINED AS UNLAWFUL COMBATANT OR ON SIMILAR BASIS TO CHALLENGE THAT BASIS.

(a) In General- Whenever the United States detains a person covered by this Act on the basis of a determination that the person can be detained as an unlawful combatant or can be detained on any similar basis, the person is entitled to a hearing under this section as expeditiously as practicable but not later than 6 months after the date on which the United States first made the determination.

(b) Requirements for Hearing- A hearing required by subsection (a) must meet the following requirements:

(1) The hearing officer is an active member of one of the Courts of Criminal Appeals of the Armed Forces.

(2) The hearing officer has authority to decide de novo whether the basis of a determination under subsection (a) is valid and to grant appropriate relief if the hearing officer decides that the basis is invalid.

(3) The hearing officer is impartial in fact, and is in a position independent from--

(A) the individuals who first determined that the person can be detained; and

(B) the individuals on whose orders the person is being detained.

(4) The person is provided with access to the evidence that tends to support the determination that the person can be detained.

(5) The person is provided with an opportunity to address the hearing officer, and is provided with an interpreter for that purpose.

(c) Administrative Review- The Secretary of Defense shall conduct administrative review of the activities of a hearing officer under this section.

SEC. 4. RIGHT OF PERSON DETAINED TO DISPOSITION WITHIN 2 YEARS.

(a) In General- Whenever the United States detains a person covered by this Act on the basis of a determination that the person can be detained as an unlawful combatant or can be detained on any similar basis, the person is entitled to a disposition under this section not later than 2 years after the date on which the United States first made the determination.

(b) Requirements for Disposition- A disposition under this section is any one of the following:

(1) Repatriation to the governing authority in the area in which the person was first detained or the person's country of origin, except where there are

substantial grounds to believe that the person would be in danger of being subjected to torture.

(2) The commencement, by formal charges, of prosecution in an appropriate court, which may include an extraordinary tribunal under section 5 of this Act, an international criminal tribunal, or a district court of the United States.

(c) Extension-

(1) CERTIFICATION- The period required by subsection (a) for the repatriation of the person or the commencement of formal charges may be extended if the Secretary of Defense certifies, in writing, with respect to the person that the Secretary of Defense has determined that the person is a continuing threat to the national security of the United States due to a likelihood that the person will undertake terrorist or belligerent acts against the United States based on the person's past conduct, level of authority within the group or organization, statement and actions during confinement, age and health, psychological profile, and other pertinent factors, and the repatriation of the person or the commencement of formal charges will compromise the national security of the United States by curtailing intelligence gathering from the person, jeopardize intelligence sources necessary to prosecute the person, or other extraordinary circumstances justify the extension.

(2) DETAILED BASIS- A certification under this subsection must include a detailed account of the factual basis for that determination.

(3) ACCESS TO CERTIFICATION- A person covered by a certification under this subsection is entitled to an unclassified copy of the certification.

(4) DURATION OF CERTIFICATION- A certification under this subsection is effective for not more than 1 year. The Secretary may make successive certifications with respect to a person so long as each additional certification is made while an imminent threat to national security continues to be posed by the group or organization in which the person is a member or by other persons associated with, or acting on behalf of, the group, organization, or person.

(5) JUDICIAL REVIEW- The United States Court of Appeals for the Armed Forces shall provide judicial review with respect to any issue under this subsection, including whether the determination of the Secretary under paragraph (1) is justified by the factual basis under paragraph (2).

SEC. 5. EXTRAORDINARY TRIBUNALS.

(a) Authority- The President is hereby authorized to establish tribunals for the trial of persons covered by this Act.

(b) Jurisdiction- Tribunals established under subsection (a) may adjudicate violations of the law of war, international laws of armed conflict, and crimes against humanity targeted against United States persons or residents.

(c) Authority to Establish Procedural Rules- The Secretary of Defense, in consultation with the Secretary of State and the Attorney General, shall prescribe

and publish in the Federal Register, and report to the Committees on the Judiciary of the Senate and the House of Representatives, the rules of evidence and procedure that are to apply to tribunals established under subsection (a).

SEC. 6. PROCEDURAL REQUIREMENTS.

(a) In General- The rules prescribed for a tribunal under section 5(c) shall be designed to ensure a full and fair hearing of the charges against the accused. The rules shall require the following:

(1) That the tribunal be independent and impartial.

(2) That the accused be notified of the particulars of the offense charged or alleged without delay.

(3) That the proceedings be made simultaneously intelligible for participants not conversant in the English language by translation or interpretation.

(4) That the evidence supporting each alleged offense be given to the accused, except as provided in subsection (d).

(5) That the accused have the opportunity to be present at trial.

(6) That the accused have a right to be represented by counsel.

(7) That the accused have the opportunity--

(A) to respond to the evidence supporting each alleged offense;

(B) to obtain exculpatory evidence from the prosecution; and

(C) to present exculpatory evidence.

(8) That the accused have the opportunity to confront and cross-examine adverse witnesses and to offer witnesses.

(9) That the proceeding and disposition be expeditious.

(10) That the tribunal apply reasonable rules of evidence designed to ensure admission only of reliable information or material with probative value.

(11) That the accused be afforded all necessary means of defense before and after the trial.

(12) That conviction of an alleged offense not be based upon an act, offense, or omission that was not an offense under law when it was committed.

(13) That the penalty for an offense not be greater than it was when the offense was committed.

(14) That the accused--

(A) be presumed innocent until proven guilty, and

(B) not be found guilty except upon proof beyond a reasonable doubt.

(15) That the accused not be compelled to confess guilt or testify against himself.

(16) That, subject to subsections (c) and (d), the trial be open and public and include public availability of the transcripts of the trial and the pronouncement of judgment.

(17) That a convicted person be informed of remedies and appeals and the time limits for the exercise of the person's rights to the remedies and appeals under the rules.

(18) That a preliminary proceeding be held within 30 days of detention to determine whether there is jurisdiction under section 4 over the person and the offenses charged. The preliminary proceeding may be continued for an additional 30 days for good cause shown.

(19) That the privilege of the writ of habeas corpus under title 28, United States Code, or under any other provision of law not be infringed.

(20) That the tribunal be comprised of a military judge and not less than five members.

(b) Imposition of the Death Penalty- The requirements of the Uniform Code of Military Justice for the imposition of the death penalty shall apply in any case in which a tribunal established under section 5 is requested to adjudge the death penalty.

(c) Public Proceedings- Any proceedings conducted by a tribunal established under section 5, and the proceedings on any appeal of an action of the tribunal, shall be accessible to the public consistent with any demonstrable necessity to secure the safety of observers, witnesses, tribunal judges, counsel, or other persons.

(d) Confidentiality of Evidence- Evidence available from an agency of the Federal Government that is offered in a trial by a tribunal established under section 5 may be kept secret from the public only when the head of the agency personally certifies in writing that disclosure will cause--

(1) identifiable harm to the prosecution of military objectives;

(2) significant, identifiable harm to intelligence sources or methods; or

(3) substantial risk that such evidence could be used for planning future terrorist attacks.

(e) Review-

(1) PROCEDURES REQUIRED- The Secretary of Defense shall provide for prompt review of convictions by tribunals established under section 5 to ensure that the procedural requirements of a full and fair hearing have been met and that the evidence reasonably supports the convictions.

(2) UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES- The procedures established under paragraph (1) shall, at a minimum, allow for review of the proceedings of the tribunals, and the convictions and sentences of such tribunals, by the United States Court of Appeals for the Armed Forces established under the Uniform Code of Military Justice.

(3) SUPREME COURT- The decisions of the United States Court of Appeals for the Armed Forces regarding proceedings of tribunals established under section 5 shall be subject to review by the Supreme Court by writ of certiorari.

SEC. 7. ANNUAL REPORT ON PERSONS COVERED BY THIS ACT WHO ARE DETAINED AS UNLAWFUL COMBATANTS BY THE UNITED STATES.

(a) Report Required- The Secretary of Defense shall submit to Congress an annual report on persons covered by this Act who are detained as unlawful combatants by the United States.

(b) Current Detainees- The report shall include, for each person currently so detained, the following:

(1) The name and nationality of the person.

(2) The period during which the person has been so detained.

(3) A description of the specific process afforded to the person under sections 3 and 4 of this Act and the outcome of those processes.

(c) Former Detainees- The report shall include, for each person formerly so detained, the following:

(1) The name and nationality of the person.

(2) The terms of the conditional release agreement with respect to the person.

(3) A statement of the basis for the determination of the United States Government that release was warranted.

(4) The period during which the person was so detained, including the release date of the person.

(d) Classification- The report required by this section shall be submitted in unclassified form, but may include a classified annex.

END

SA 1494

Mr. LEVIN (for himself, Mr. KENNEDY, Mr. ROCKEFELLER, and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of division A, add the following:

TITLE XV--NATIONAL COMMISSION ON POLICIES AND PRACTICES ON TREATMENT OF DETAINEES SINCE SEPTEMBER 11, 2001

SEC. 1501. FINDINGS.

Congress makes the following findings:

(1) The vast majority of the members of the Armed Forces have served honorably and upheld the highest standards of professionalism and morality.

(2) While there have been numerous reviews, inspections, and investigations by the Department of Defense and others regarding aspects of the treatment of individuals detained in the course of Operation Enduring Freedom, Operation Iraqi Freedom, or United States activities to counter international terrorism since September 11, 2001, none has provided a comprehensive, objective, and independent investigation of United States policies and practices relating to the treatment of such detainees.

(3) The reports of the various reviews, inspections, and investigations conducted by the Department of Defense and others have left numerous omissions and reached conflicting conclusions regarding institutional and personal responsibility for United States policies and practices on the treatment of the detainees described in paragraph (2) that may have caused or contributed to the mistreatment of such detainees.

(4) Omissions in the reports produced to date also include omissions relating to--

(A) the authorities of the intelligence community for activities to counter international terrorism since September 11, 2001, including the rendition of detainees to foreign countries, and whether such authorities differed from the authorities of the military for the detention and interrogation of detainees;

(B) the role of intelligence personnel in the detention and interrogation of detainees;

(C) the role of special operations forces in the detention and interrogation of detainees; and

(D) the role of contract employees in the detention and interrogation of detainees.

SEC. 1502. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on United States Policies and Practices Relating to the Treatment of Detainees Since September 11, 2001 (in this title referred to as the ``Commission'').

SEC. 1503. COMPOSITION OF THE COMMISSION.

(a) *Members*.--The Commission shall be composed of 10 members, of whom--

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be appointed by the senior member of the leadership of the Senate of the Democratic Party, in consultation with the senior member of the leadership of the House of Representatives of the Democratic Party, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party;

(4) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

(5) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party; and

(6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

(b) *Qualifications; Initial Meeting*.--

(1) **POLITICAL PARTY AFFILIATION**.--Not more than 5 members of the Commission shall be from the same political party.

(2) **NONGOVERNMENTAL APPOINTEES**.--An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) **OTHER QUALIFICATIONS**.--It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national

recognition and significant depth of experience in such professions as governmental service, the Armed Forces, intelligence gathering or analysis, law, public administration, law enforcement, and foreign affairs.

(4) **DEADLINE FOR APPOINTMENT**.--All members of the Commission shall be appointed not later than 30 days after the date of the enactment of this Act.

(c) *Meetings; Quorum; Vacancies*.--

(1) **INITIAL MEETING**.--The Commission shall meet and begin the operations as soon as practicable after all members have been appointed under subsection (b).

(2) **MEETINGS**.--After its initial meeting under paragraph (1), the Commission shall meet upon the call of the chairman or a majority of its members.

(3) **QUORUM**.--Six members of the Commission shall constitute a quorum.

(4) **VACANCIES**.--Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 1504. PURPOSES.

(a) *In General*.--The purposes of the Commission are to--

(1) examine and report upon the policies and practices of the United States relating to the treatment of individuals detained in Operation Enduring Freedom (OEF), Operation Iraqi Freedom (OIF), or United States activities to counter international terrorism since September 11, 2001 (in this title referred to as ``detainees") , including the rendition of detainees to foreign countries;

(2) examine, evaluate, and report on the causes of and factors that may have contributed to the alleged mistreatment of detainees, including, but not limited to--

(A) laws and policies of the United States relating to the detention or interrogation of detainees, including the rendition of detainees to foreign countries;

(B) activities of special operations forces of the Armed Forces;

(C) activities of contract employees of any department, agency, or other entity of the United States Government, including for the rendition of detainees to foreign countries; and

(D) activities of employees of the Central Intelligence Agency, the Defense Intelligence Agency, or any other element of the intelligence community;

(3) assess the responsibility of leaders, whether military or civilian, within and outside the Department of Defense for policies and actions, or failures to act, that may have contributed, directly or indirectly, to the mistreatment of detainees;

(4) ascertain, evaluate, and report on the effectiveness and propriety of interrogation techniques, policies, and practices for producing useful and reliable intelligence;

(5) ascertain, evaluate, and report on all planning for long-term detention, or procedures for prosecution by civilian courts or military tribunals or commission, of detainees in the custody of any department, agency, or other entity of the United States Government or who have been rendered to any foreign government or entity; and

(6) investigate and submit a report to the President and Congress on the Commission's findings, conclusions, and recommendations, including any modifications to existing treaties, laws, policies, or regulations, as appropriate.

(b) *Utilization of Other Materials*.--The Commission may build upon reports conducted by the Department of Defense or other entities by reviewing the source materials, findings, conclusions, and recommendations of those other reviews in order to--

(1) avoid unnecessary duplication; and

(2) identify any omissions in or conflicts between such reports which in the Commission's view merit further investigation.

SEC. 1505. FUNCTIONS OF COMMISSION.

The functions of the Commission are to--

(1) conduct an investigation that ascertains relevant facts and circumstances relating to--

(A) laws, policies, and practices of the United States relating to the treatment of detainees since September 11, 2001, including any relevant treaties, statutes, Executive orders, regulations, plans, policies, practices, or procedures;

(B) activities of any department, agency, or other entity of the United States Government relating to Operation Enduring Freedom, Operation Iraqi Freedom, and efforts to counter international terrorism since September 11, 2001;

(C) the role of private contract employees in the treatment of detainees;

(D) the role of legal and medical personnel in the treatment of detainees, including the role of medical personnel in advising on plans for, and the conduct of, interrogations;

(E) dealings of any department, agency, or other entity of the United States Government with the International Committee of the Red Cross;

(F) the role of congressional oversight; and

(G) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify and review how policies regarding the detention, interrogation, and rendition of detainees were formulated and implemented, and evaluate such policies in light of lessons learned from activities in Iraq, Afghanistan, Guantanamo Bay, Cuba, and elsewhere; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing any appropriate modifications in legislation, organization, coordination, planning, management, procedures, rules, and regulations.

SEC. 1506. POWERS OF COMMISSION.

(a) *In General*.--

(1) **HEARINGS AND EVIDENCE**.--The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title--

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents,

as the Commission or such designated subcommittee or designated member may determine advisable.

(2) **SUBPOENAS**.--

(A) **ISSUANCE**.--

(i) **IN GENERAL**.--A subpoena may be issued under this subsection only--

(I) by the agreement of the chairman and the vice chairman; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) **SIGNATURE**.--Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) **ENFORCEMENT**.--

(i) **IN GENERAL**.--In the case of contumacy or failure to obey a subpoena issued under subparagraph (A), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) **ADDITIONAL ENFORCEMENT**.--In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) *Contracting*.--The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) *Information and Materials From Federal Agencies*.--

(1) **IN GENERAL**.--

(A) **COOPERATION OF AGENCIES**.--The Commission shall receive the full and timely cooperation of any department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States Government, and of any officer or employee thereof, whose assistance is necessary for the fulfillment of the duties of the Commission under this title.

(B) **FURNISHING OF MATERIALS**.--The Commission is authorized to secure directly from any department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States Government information, materials (including classified materials), suggestions, estimates, and statistics for the purposes of this title. Each such department, agency, element, bureau, board, commission, independent establishment, or other instrumentality shall, to the maximum extent authorized by law, furnish all such information, materials, suggestions, estimates, and statistics directly to the Commission, promptly upon a request made by the chairman,

the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, but in no case later than 14 days after such a request.

(2) **RECEIPT, HANDLING, STORAGE, AND DISSEMINATION**.--Information and materials shall be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders. The Commission shall maintain all classified information and materials provided to the Commission under this title in a secure location in the offices of the Commission or as designated by the Commission.

(3) **ACCESS TO INFORMATION AND MATERIALS**.--No department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States may withhold information or materials, including classified materials, from the Commission on the grounds that providing the information or materials would constitute the unauthorized disclosure of classified information, pre-decisional materials, or information relating to intelligence sources or methods.

(d) *Assistance From Particular Federal Agencies*.--

(1) **GENERAL SERVICES ADMINISTRATION**.--The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) **OTHER DEPARTMENTS AND AGENCIES**.--In addition to the assistance prescribed in paragraph (1), departments, agencies, and other elements of the United States Government may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) *Postal Services*.--The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States Government.

SEC. 1507. COMPENSATION AND TRAVEL EXPENSES.

(a) *Compensation*.--Each member of the Commission shall be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) *Travel Expenses*.--While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as

persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 1508. STAFF OF COMMISSION.

(a) *In General*.--

(1) **APPOINTMENT AND COMPENSATION**.--The chairman, in consultation with the vice chairman and in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) **PERSONNEL AS FEDERAL EMPLOYEES**.--

(A) **TREATMENT**.--The staff director and any personnel of the Commission who are employees of the Commission shall be treated as employees of the Federal Government under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

SEC. 1509. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The departments, agencies, and elements of the United States Government shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements. No person shall be provided with access to classified information under this title without the appropriate security clearances.

SEC. 1510. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) *In General*.--The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) *Public Meetings and Release of Public Versions of Reports*.--The Commission shall--

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section 1511.

(c) *Public Hearings*.--Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

SEC. 1511. REPORTS OF COMMISSION; TERMINATION.

(a) *Interim Reports*.--The Commission may submit to the President and Congress interim reports containing such findings, conclusions and recommendations as have been agreed to by a majority of Commission members.

(b) *Final Report*.--Not later than 12 months after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations as have been agreed to by a majority of Commission members.

(c) *Termination*.--

(1) **IN GENERAL**.--The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) **ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION**.--The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports, disseminating the final report.

SEC. 1512. FUNDING.

(a) *Authorization of Appropriations*.--There are authorized to be appropriated to

the Commission to carry out this section $2,500,000.

(b) *Duration of Availability*.--Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

SA 1505

Mr. GRAHAM (for himself, Mr. WARNER, and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. AUTHORITY TO UTILIZE COMBATANT STATUS REVIEW TRIBUNALS AND ANNUAL REVIEW BOARD TO DETERMINE STATUS OF DETAINEES AT GUANTANAMO BAY, CUBA.

(a) *Authority*.--The President is authorized to utilize the Combatant Status Review Tribunals and a noticed Annual Review Board, and the procedures thereof as specified in subsection (b), currently in operation at Guantanamo Bay, Cuba, in order to determine the status of the detainees held at Guantanamo Bay, including whether any such detainee is a lawful enemy combatant or an unlawful enemy combatant.

(b) *Procedures*.--

(1) **IN GENERAL**.--Except as provided in paragraph (2), the procedures specified in this subsection are as follows:

(A) For the Combatant Status Review Tribunals, the memorandum of the Secretary of the Navy of July 29, 2004, regarding the implementation of Combatant Status Review Tribunal procedures for Enemy Combatants detained at Guantanamo Bay Naval Base, Cuba.

(B) For the Annual Review Board, the Department of Defense Designated Civilian Official Memorandum dated September 14, 2004, regarding the Implementation of Administrative Review Procedures for Enemy Combatants Detained at U.S. Naval Base Guantanamo Bay, Cuba.

(2) **EXCEPTION**.--The exceptions provided in this paragraph for the procedures specified in paragraph (1) are as follows:

(A) To the extent practicable, the Combatant Status Review Tribunal shall determine, by a preponderance of the evidence, whether statements derived from persons held in foreign custody were obtained without under coercion.

(B) A detainee shall be provided a military judge advocate for purposes of the Annual Review Board.

(C) The Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advise and consent of the Senate.

(3) **MODIFICATION OF PROCEDURES**.--The President may modify the procedures and requirements set forth under paragraphs (1) and (2). Any modification of such procedures or requirements may not go into effect until 30 days after the date on which the President notifies the congressional defense committees of the modification.

(c) *Definitions*.--In this section:

(1) The term ``lawful enemy combatant'' means person engaging in war or other armed conflict against the United States or its allies on behalf of a state party to the Geneva Convention Relative to the Treatment of Prisoners of War, dated August 12, 1949, who meets the criteria of a prisoner of war under Article 4 of that Convention.

(2) The term ``unlawful enemy combatant'', with respect to noncitizens of the United States, means a person (other than a person described in paragraph (1)) engaging in war, other armed conflict, or hostile acts against the United States or its allies, or knowingly supporting others so engaged, regardless of location.

SA 1556

Mr. McCAIN (for himself, Mr. WARNER, Mr. GRAHAM, and Ms. COLLINS) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

(a) *In General*.--No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) *Construction*.--Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) *Limitation on Supersedure*.--The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) *Cruel, Inhuman, or Degrading Treatment or Punishment Defined*.--In this section, the term ``cruel, inhuman, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

SA 1557

Mr. McCAIN (for himself, Mr. WARNER, Mr. GRAHAM, Ms. COLLINS, and Mr. LEVIN) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) **LIMITATION ON INTERROGATION TECHNIQUES**.--

(1) **IN GENERAL**.--No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(2) **APPLICABILITY**.--Paragraph (1) shall not apply to with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(3) **CONSTRUCTION**.--Nothing in this subsection shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

(b) **PROHIBITION ON INCLUSION OF CERTAIN INTERROGATION TECHNIQUES IN ARMY FIELD MANUAL**.--No interrogation technique may be included as an authorized interrogation technique within the United States Army Field Manual on Intelligence Interrogation if such technique constitutes torture or cruel, inhumane, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(c) **NOTICE TO CONGRESS OF REVISION OF ARMY FIELD MANUAL**.--Not later than 30 days before issuing any revision to the United States Army Field Manual on Intelligence Interrogation, including an authorization of additional interrogation techniques, the Secretary of Defense shall submit to the congressional defense committees a report on such revision.

(d) **REGISTRATION WITH INTERNATIONAL RED CROSS**.--Each individual described in subsection (a) who is a national of a foreign country shall be registered with the International Committee of the Red Cross.

SA 1566. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS AND PROCEDURES FOR TREATMENT OF PERSONS UNDER DETENTION BY THE DEPARTMENT OF DEFENSE.

(a) *Uniform Standards and Procedures Required*.--The Secretary of Defense shall establish uniform standards and procedures for the detention and interrogation of persons in the custody or under the control of the Department of Defense.

(b) *Consistency With Law and Treaty Obligations*.--The standards and procedures established under subsection (a) shall be consistent with United States law and international treaty obligations.

(c) *Applicability*.--

(1) **IN GENERAL**.--The standards and procedures established under subsection (a) shall apply to all detention and interrogation activities involving persons in the custody or under the control of the Department of Defense, and to such activities conducted within facilities controlled by the Department of Defense, regardless of whether such activities are conducted by Department of Defense personnel, Department of Defense contractor personnel, or personnel or contractor personnel of any other department, agency, or element of the United States Government.

(2) **EXCEPTION**.--The standards and procedures established under subsection (a) shall not apply with respect to any person in the custody or under the control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(d) *Construction*.--Nothing in this section shall affect such rights, if any, under the Constitution of the United States of any person in the custody or under the control of the Department of Defense.

(e) *Notice to Congress of Revision*.--Not later than 60 days before issuing any revision to the standards and procedures established under subsection (a), the Secretary of Defense shall notify, in writing, the congressional defense committees of such revision.

(f) *Deadline*.--The standards and procedures required by subsection (a) shall be established not later than 60 days after the date of the enactment of this Act.

AMENDMENT NO. Calendar No.

Purpose: To limit the review of the detention of enemy combatants.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRAHAM to the amendment (No.) proposed by

Viz:

At the end, add the following:

SEC. 1074. REVIEW OF DETENTION OF ENEMY COMBATANTS.

(a) DETENTION OF ENEMY COMBATANTS.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

"(e) No court, justice, or judge shall have jurisdiction to consider—

"(1) an application for a writ of habeas corpus filed on behalf of an alien who is detained as an enemy combatant by the United States Government; or

"(2) any other action challenging any aspect of the detention of an alien who is detained by the Secretary of Defense as an enemy combatant, if the alien has been afforded an opportunity to challenge his detention pursuant to the procedures specified in paragraphs (1) and (2) of section 1073(b) of the National Defense Authorization Act for Fiscal Year 2006, to the extent modified by the President pursuant to the authority in paragraph (3) of such section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any application or other action pending on or after the date of the enactment of this Act.

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, September 19, 2005 1:11 PM
To:	Seidel, Rebecca
Subject:	FW: Detainee legislation on DOD Authorization
Attachments:	Detainee Legislation SA 1566.doc; Detainee Legislation HR 3038.doc; Detainee Legislation SA 1494.doc; Detainee Legislation SA 1505.doc; Detainee Legislation SA 1556.doc; Detainee Legislation SA 1557.doc; SA1042 TerminatingHabCorp.pdf

Rebecca -

I've added another Graham bill I received from DoD to the list. There is also a draft Specter bill we're aware of.
I need your help with one matter, though. It looks like Graham and McCain have each introduced two bills. Can you tell me which of these Graham and McCain really intend to push? Also, if we had to rank which of all the Senate bills we think most likely to attract attention, what would that order look like?

Warner (1566)
Graham (1505)
McCain (1556)
McCain (1557)
Graham (1042)
Specter (draft)
Levin (1494)

Thanks, NMG

HR 3038 IH

109th CONGRESS
1st Session
H. R. 3038

To affirm the authority of the executive branch to detain foreign nationals as unlawful combatants, to enable a person detained as an unlawful combatant to challenge the basis for that detention and to receive a disposition within 2 years, to provide for the President to establish military tribunals to try such persons, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

June 22, 2005

Mr. SCHIFF (for himself, Mr. UDALL of Colorado, and Mr. OWENS) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To affirm the authority of the executive branch to detain foreign nationals as unlawful combatants, to enable a person detained as an unlawful combatant to challenge the basis for that detention and to receive a disposition within 2 years, to provide for the President to establish military tribunals to try such persons, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Guantanamo Detainees Procedures Act of 2005'.

SEC. 2. AUTHORITY OF EXECUTIVE BRANCH TO DETAIN PERSONS COVERED BY THIS ACT AS UNLAWFUL COMBATANTS.

(a) Finding- Congress finds that the executive branch has authority to detain persons covered by this Act as unlawful combatants.
(b) Persons Covered by This Act- In this Act, the term `person covered by this Act' means an individual who--
(1) is accused of knowingly--
(A) planning, authorizing, committing, aiding, or abetting one or more terrorist acts against the United States; or

(B) being part of or supporting forces engaged in armed conflict against the United States;

(2) is not a United States person or lawful permanent resident; and

(3) is not a prisoner of war within the meaning of the Geneva Convention Relative to the Treatment of Prisoners of War, done on August 12, 1949.

SEC. 3. RIGHT OF PERSON DETAINED AS UNLAWFUL COMBATANT OR ON SIMILAR BASIS TO CHALLENGE THAT BASIS.

(a) In General- Whenever the United States detains a person covered by this Act on the basis of a determination that the person can be detained as an unlawful combatant or can be detained on any similar basis, the person is entitled to a hearing under this section as expeditiously as practicable but not later than 6 months after the date on which the United States first made the determination.

(b) Requirements for Hearing- A hearing required by subsection (a) must meet the following requirements:

(1) The hearing officer is an active member of one of the Courts of Criminal Appeals of the Armed Forces.

(2) The hearing officer has authority to decide de novo whether the basis of a determination under subsection (a) is valid and to grant appropriate relief if the hearing officer decides that the basis is invalid.

(3) The hearing officer is impartial in fact, and is in a position independent from--

(A) the individuals who first determined that the person can be detained; and

(B) the individuals on whose orders the person is being detained.

(4) The person is provided with access to the evidence that tends to support the determination that the person can be detained.

(5) The person is provided with an opportunity to address the hearing officer, and is provided with an interpreter for that purpose.

(c) Administrative Review- The Secretary of Defense shall conduct administrative review of the activities of a hearing officer under this section.

SEC. 4. RIGHT OF PERSON DETAINED TO DISPOSITION WITHIN 2 YEARS.

(a) In General- Whenever the United States detains a person covered by this Act on the basis of a determination that the person can be detained as an unlawful combatant or can be detained on any similar basis, the person is entitled to a disposition under this section not later than 2 years after the date on which the United States first made the determination.

(b) Requirements for Disposition- A disposition under this section is any one of the following:

(1) Repatriation to the governing authority in the area in which the person was first detained or the person's country of origin, except where there are

substantial grounds to believe that the person would be in danger of being subjected to torture.

(2) The commencement, by formal charges, of prosecution in an appropriate court, which may include an extraordinary tribunal under section 5 of this Act, an international criminal tribunal, or a district court of the United States.

(c) Extension-

(1) CERTIFICATION- The period required by subsection (a) for the repatriation of the person or the commencement of formal charges may be extended if the Secretary of Defense certifies, in writing, with respect to the person that the Secretary of Defense has determined that the person is a continuing threat to the national security of the United States due to a likelihood that the person will undertake terrorist or belligerent acts against the United States based on the person's past conduct, level of authority within the group or organization, statement and actions during confinement, age and health, psychological profile, and other pertinent factors, and the repatriation of the person or the commencement of formal charges will compromise the national security of the United States by curtailing intelligence gathering from the person, jeopardize intelligence sources necessary to prosecute the person, or other extraordinary circumstances justify the extension.

(2) DETAILED BASIS- A certification under this subsection must include a detailed account of the factual basis for that determination.

(3) ACCESS TO CERTIFICATION- A person covered by a certification under this subsection is entitled to an unclassified copy of the certification.

(4) DURATION OF CERTIFICATION- A certification under this subsection is effective for not more than 1 year. The Secretary may make successive certifications with respect to a person so long as each additional certification is made while an imminent threat to national security continues to be posed by the group or organization in which the person is a member or by other persons associated with, or acting on behalf of, the group, organization, or person.

(5) JUDICIAL REVIEW- The United States Court of Appeals for the Armed Forces shall provide judicial review with respect to any issue under this subsection, including whether the determination of the Secretary under paragraph (1) is justified by the factual basis under paragraph (2).

SEC. 5. EXTRAORDINARY TRIBUNALS.

(a) Authority- The President is hereby authorized to establish tribunals for the trial of persons covered by this Act.

(b) Jurisdiction- Tribunals established under subsection (a) may adjudicate violations of the law of war, international laws of armed conflict, and crimes against humanity targeted against United States persons or residents.

(c) Authority to Establish Procedural Rules- The Secretary of Defense, in consultation with the Secretary of State and the Attorney General, shall prescribe

and publish in the Federal Register, and report to the Committees on the Judiciary of the Senate and the House of Representatives, the rules of evidence and procedure that are to apply to tribunals established under subsection (a).

SEC. 6. PROCEDURAL REQUIREMENTS.

(a) In General- The rules prescribed for a tribunal under section 5(c) shall be designed to ensure a full and fair hearing of the charges against the accused. The rules shall require the following:

(1) That the tribunal be independent and impartial.

(2) That the accused be notified of the particulars of the offense charged or alleged without delay.

(3) That the proceedings be made simultaneously intelligible for participants not conversant in the English language by translation or interpretation.

(4) That the evidence supporting each alleged offense be given to the accused, except as provided in subsection (d).

(5) That the accused have the opportunity to be present at trial.

(6) That the accused have a right to be represented by counsel.

(7) That the accused have the opportunity--

(A) to respond to the evidence supporting each alleged offense;

(B) to obtain exculpatory evidence from the prosecution; and

(C) to present exculpatory evidence.

(8) That the accused have the opportunity to confront and cross-examine adverse witnesses and to offer witnesses.

(9) That the proceeding and disposition be expeditious.

(10) That the tribunal apply reasonable rules of evidence designed to ensure admission only of reliable information or material with probative value.

(11) That the accused be afforded all necessary means of defense before and after the trial.

(12) That conviction of an alleged offense not be based upon an act, offense, or omission that was not an offense under law when it was committed.

(13) That the penalty for an offense not be greater than it was when the offense was committed.

(14) That the accused--

(A) be presumed innocent until proven guilty, and

(B) not be found guilty except upon proof beyond a reasonable doubt.

(15) That the accused not be compelled to confess guilt or testify against himself.

(16) That, subject to subsections (c) and (d), the trial be open and public and include public availability of the transcripts of the trial and the pronouncement of judgment.

(17) That a convicted person be informed of remedies and appeals and the time limits for the exercise of the person's rights to the remedies and appeals under the rules.

(18) That a preliminary proceeding be held within 30 days of detention to determine whether there is jurisdiction under section 4 over the person and the offenses charged. The preliminary proceeding may be continued for an additional 30 days for good cause shown.

(19) That the privilege of the writ of habeas corpus under title 28, United States Code, or under any other provision of law not be infringed.

(20) That the tribunal be comprised of a military judge and not less than five members.

(b) Imposition of the Death Penalty- The requirements of the Uniform Code of Military Justice for the imposition of the death penalty shall apply in any case in which a tribunal established under section 5 is requested to adjudge the death penalty.

(c) Public Proceedings- Any proceedings conducted by a tribunal established under section 5, and the proceedings on any appeal of an action of the tribunal, shall be accessible to the public consistent with any demonstrable necessity to secure the safety of observers, witnesses, tribunal judges, counsel, or other persons.

(d) Confidentiality of Evidence- Evidence available from an agency of the Federal Government that is offered in a trial by a tribunal established under section 5 may be kept secret from the public only when the head of the agency personally certifies in writing that disclosure will cause--

(1) identifiable harm to the prosecution of military objectives;

(2) significant, identifiable harm to intelligence sources or methods; or

(3) substantial risk that such evidence could be used for planning future terrorist attacks.

(e) Review-

(1) PROCEDURES REQUIRED- The Secretary of Defense shall provide for prompt review of convictions by tribunals established under section 5 to ensure that the procedural requirements of a full and fair hearing have been met and that the evidence reasonably supports the convictions.

(2) UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES- The procedures established under paragraph (1) shall, at a minimum, allow for review of the proceedings of the tribunals, and the convictions and sentences of such tribunals, by the United States Court of Appeals for the Armed Forces established under the Uniform Code of Military Justice.

(3) SUPREME COURT- The decisions of the United States Court of Appeals for the Armed Forces regarding proceedings of tribunals established under section 5 shall be subject to review by the Supreme Court by writ of certiorari.

SEC. 7. ANNUAL REPORT ON PERSONS COVERED BY THIS ACT WHO ARE DETAINED AS UNLAWFUL COMBATANTS BY THE UNITED STATES.

(a) Report Required- The Secretary of Defense shall submit to Congress an annual report on persons covered by this Act who are detained as unlawful combatants by the United States.

(b) Current Detainees- The report shall include, for each person currently so detained, the following:

(1) The name and nationality of the person.

(2) The period during which the person has been so detained.

(3) A description of the specific process afforded to the person under sections 3 and 4 of this Act and the outcome of those processes.

(c) Former Detainees- The report shall include, for each person formerly so detained, the following:

(1) The name and nationality of the person.

(2) The terms of the conditional release agreement with respect to the person.

(3) A statement of the basis for the determination of the United States Government that release was warranted.

(4) The period during which the person was so detained, including the release date of the person.

(d) Classification- The report required by this section shall be submitted in unclassified form, but may include a classified annex.

END

SA 1494

Mr. LEVIN (for himself, Mr. KENNEDY, Mr. ROCKEFELLER, and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of division A, add the following:

TITLE XV--NATIONAL COMMISSION ON POLICIES AND PRACTICES ON TREATMENT OF DETAINEES SINCE SEPTEMBER 11, 2001

SEC. 1501. FINDINGS.

Congress makes the following findings:

(1) The vast majority of the members of the Armed Forces have served honorably and upheld the highest standards of professionalism and morality.

(2) While there have been numerous reviews, inspections, and investigations by the Department of Defense and others regarding aspects of the treatment of individuals detained in the course of Operation Enduring Freedom, Operation Iraqi Freedom, or United States activities to counter international terrorism since September 11, 2001, none has provided a comprehensive, objective, and independent investigation of United States policies and practices relating to the treatment of such detainees.

(3) The reports of the various reviews, inspections, and investigations conducted by the Department of Defense and others have left numerous omissions and reached conflicting conclusions regarding institutional and personal responsibility for United States policies and practices on the treatment of the detainees described in paragraph (2) that may have caused or contributed to the mistreatment of such detainees.

(4) Omissions in the reports produced to date also include omissions relating to--

(A) the authorities of the intelligence community for activities to counter international terrorism since September 11, 2001, including the rendition of detainees to foreign countries, and whether such authorities differed from the authorities of the military for the detention and interrogation of detainees;

(B) the role of intelligence personnel in the detention and interrogation of detainees;

(C) the role of special operations forces in the detention and interrogation of detainees; and

(D) the role of contract employees in the detention and interrogation of detainees.

SEC. 1502. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on United States Policies and Practices Relating to the Treatment of Detainees Since September 11, 2001 (in this title referred to as the ``Commission'').

SEC. 1503. COMPOSITION OF THE COMMISSION.

(a) *Members*.--The Commission shall be composed of 10 members, of whom--

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be appointed by the senior member of the leadership of the Senate of the Democratic Party, in consultation with the senior member of the leadership of the House of Representatives of the Democratic Party, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party;

(4) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

(5) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party; and

(6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

(b) *Qualifications; Initial Meeting*.--

(1) **POLITICAL PARTY AFFILIATION**.--Not more than 5 members of the Commission shall be from the same political party.

(2) **NONGOVERNMENTAL APPOINTEES**.--An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) **OTHER QUALIFICATIONS**.--It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national

recognition and significant depth of experience in such professions as governmental service, the Armed Forces, intelligence gathering or analysis, law, public administration, law enforcement, and foreign affairs.

(4) **DEADLINE FOR APPOINTMENT**.--All members of the Commission shall be appointed not later than 30 days after the date of the enactment of this Act.

(c) *Meetings; Quorum; Vacancies*.--

(1) **INITIAL MEETING**.--The Commission shall meet and begin the operations as soon as practicable after all members have been appointed under subsection (b).

(2) **MEETINGS**.--After its initial meeting under paragraph (1), the Commission shall meet upon the call of the chairman or a majority of its members.

(3) **QUORUM**.--Six members of the Commission shall constitute a quorum.

(4) **VACANCIES**.--Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 1504. PURPOSES.

(a) *In General*.--The purposes of the Commission are to--

(1) examine and report upon the policies and practices of the United States relating to the treatment of individuals detained in Operation Enduring Freedom (OEF), Operation Iraqi Freedom (OIF), or United States activities to counter international terrorism since September 11, 2001 (in this title referred to as ``detainees") , including the rendition of detainees to foreign countries;

(2) examine, evaluate, and report on the causes of and factors that may have contributed to the alleged mistreatment of detainees, including, but not limited to--

(A) laws and policies of the United States relating to the detention or interrogation of detainees, including the rendition of detainees to foreign countries;

(B) activities of special operations forces of the Armed Forces;

(C) activities of contract employees of any department, agency, or other entity of the United States Government, including for the rendition of detainees to foreign countries; and

(D) activities of employees of the Central Intelligence Agency, the Defense Intelligence Agency, or any other element of the intelligence community;

(3) assess the responsibility of leaders, whether military or civilian, within and outside the Department of Defense for policies and actions, or failures to act, that may have contributed, directly or indirectly, to the mistreatment of detainees;

(4) ascertain, evaluate, and report on the effectiveness and propriety of interrogation techniques, policies, and practices for producing useful and reliable intelligence;

(5) ascertain, evaluate, and report on all planning for long-term detention, or procedures for prosecution by civilian courts or military tribunals or commission, of detainees in the custody of any department, agency, or other entity of the United States Government or who have been rendered to any foreign government or entity; and

(6) investigate and submit a report to the President and Congress on the Commission's findings, conclusions, and recommendations, including any modifications to existing treaties, laws, policies, or regulations, as appropriate.

(b) *Utilization of Other Materials*.--The Commission may build upon reports conducted by the Department of Defense or other entities by reviewing the source materials, findings, conclusions, and recommendations of those other reviews in order to--

(1) avoid unnecessary duplication; and

(2) identify any omissions in or conflicts between such reports which in the Commission's view merit further investigation.

SEC. 1505. FUNCTIONS OF COMMISSION.

The functions of the Commission are to--

(1) conduct an investigation that ascertains relevant facts and circumstances relating to--

(A) laws, policies, and practices of the United States relating to the treatment of detainees since September 11, 2001, including any relevant treaties, statutes, Executive orders, regulations, plans, policies, practices, or procedures;

(B) activities of any department, agency, or other entity of the United States Government relating to Operation Enduring Freedom, Operation Iraqi Freedom, and efforts to counter international terrorism since September 11, 2001;

(C) the role of private contract employees in the treatment of detainees;

(D) the role of legal and medical personnel in the treatment of detainees, including the role of medical personnel in advising on plans for, and the conduct of, interrogations;

(E) dealings of any department, agency, or other entity of the United States Government with the International Committee of the Red Cross;

(F) the role of congressional oversight; and

(G) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify and review how policies regarding the detention, interrogation, and rendition of detainees were formulated and implemented, and evaluate such policies in light of lessons learned from activities in Iraq, Afghanistan, Guantanamo Bay, Cuba, and elsewhere; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing any appropriate modifications in legislation, organization, coordination, planning, management, procedures, rules, and regulations.

SEC. 1506. POWERS OF COMMISSION.

(a) *In General*.--

(1) **HEARINGS AND EVIDENCE**.--The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title--

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents,

as the Commission or such designated subcommittee or designated member may determine advisable.

(2) **SUBPOENAS**.--

(A) **ISSUANCE**.--

(i) **IN GENERAL**.--A subpoena may be issued under this subsection only--

(I) by the agreement of the chairman and the vice chairman; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) **SIGNATURE**.--Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) **ENFORCEMENT**.--

(i) **IN GENERAL**.--In the case of contumacy or failure to obey a subpoena issued under subparagraph (A), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) **ADDITIONAL ENFORCEMENT**.--In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) *Contracting*.--The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) *Information and Materials From Federal Agencies*.--

(1) **IN GENERAL**.--

(A) **COOPERATION OF AGENCIES**.--The Commission shall receive the full and timely cooperation of any department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States Government, and of any officer or employee thereof, whose assistance is necessary for the fulfillment of the duties of the Commission under this title.

(B) **FURNISHING OF MATERIALS**.--The Commission is authorized to secure directly from any department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States Government information, materials (including classified materials), suggestions, estimates, and statistics for the purposes of this title. Each such department, agency, element, bureau, board, commission, independent establishment, or other instrumentality shall, to the maximum extent authorized by law, furnish all such information, materials, suggestions, estimates, and statistics directly to the Commission, promptly upon a request made by the chairman,

the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, but in no case later than 14 days after such a request.

(2) **RECEIPT, HANDLING, STORAGE, AND DISSEMINATION**.--Information and materials shall be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders. The Commission shall maintain all classified information and materials provided to the Commission under this title in a secure location in the offices of the Commission or as designated by the Commission.

(3) **ACCESS TO INFORMATION AND MATERIALS**.--No department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States may withhold information or materials, including classified materials, from the Commission on the grounds that providing the information or materials would constitute the unauthorized disclosure of classified information, pre-decisional materials, or information relating to intelligence sources or methods.

(d) *Assistance From Particular Federal Agencies*.--

(1) **GENERAL SERVICES ADMINISTRATION**.--The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) **OTHER DEPARTMENTS AND AGENCIES**.--In addition to the assistance prescribed in paragraph (1), departments, agencies, and other elements of the United States Government may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) *Postal Services*.--The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States Government.

SEC. 1507. COMPENSATION AND TRAVEL EXPENSES.

(a) *Compensation*.--Each member of the Commission shall be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) *Travel Expenses*.--While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as

persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 1508. STAFF OF COMMISSION.

(a) *In General*.--

(1) **APPOINTMENT AND COMPENSATION**.--The chairman, in consultation with the vice chairman and in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) **PERSONNEL AS FEDERAL EMPLOYEES**.--

(A) **TREATMENT**.--The staff director and any personnel of the Commission who are employees of the Commission shall be treated as employees of the Federal Government under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

SEC. 1509. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The departments, agencies, and elements of the United States Government shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements. No person shall be provided with access to classified information under this title without the appropriate security clearances.

SEC. 1510. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) *In General*.--The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) *Public Meetings and Release of Public Versions of Reports*.--The Commission shall--

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section 1511.

(c) *Public Hearings*.--Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

SEC. 1511. REPORTS OF COMMISSION; TERMINATION.

(a) *Interim Reports*.--The Commission may submit to the President and Congress interim reports containing such findings, conclusions and recommendations as have been agreed to by a majority of Commission members.

(b) *Final Report*.--Not later than 12 months after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations as have been agreed to by a majority of Commission members.

(c) *Termination*.--

(1) **IN GENERAL**.--The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) **ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION**.--The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports, disseminating the final report.

SEC. 1512. FUNDING.

(a) *Authorization of Appropriations*.--There are authorized to be appropriated to

the Commission to carry out this section $2,500,000.

(b) *Duration of Availability*.--Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

SA 1505

Mr. GRAHAM (for himself, Mr. WARNER, and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. AUTHORITY TO UTILIZE COMBATANT STATUS REVIEW TRIBUNALS AND ANNUAL REVIEW BOARD TO DETERMINE STATUS OF DETAINEES AT GUANTANAMO BAY, CUBA.

(a) *Authority*.--The President is authorized to utilize the Combatant Status Review Tribunals and a noticed Annual Review Board, and the procedures thereof as specified in subsection (b), currently in operation at Guantanamo Bay, Cuba, in order to determine the status of the detainees held at Guantanamo Bay, including whether any such detainee is a lawful enemy combatant or an unlawful enemy combatant.

(b) *Procedures*.--

(1) **IN GENERAL**.--Except as provided in paragraph (2), the procedures specified in this subsection are as follows:

(A) For the Combatant Status Review Tribunals, the memorandum of the Secretary of the Navy of July 29, 2004, regarding the implementation of Combatant Status Review Tribunal procedures for Enemy Combatants detained at Guantanamo Bay Naval Base, Cuba.

(B) For the Annual Review Board, the Department of Defense Designated Civilian Official Memorandum dated September 14, 2004, regarding the Implementation of Administrative Review Procedures for Enemy Combatants Detained at U.S. Naval Base Guantanamo Bay, Cuba.

(2) **EXCEPTION**.--The exceptions provided in this paragraph for the procedures specified in paragraph (1) are as follows:

(A) To the extent practicable, the Combatant Status Review Tribunal shall determine, by a preponderance of the evidence, whether statements derived from persons held in foreign custody were obtained without under coercion.

(B) A detainee shall be provided a military judge advocate for purposes of the Annual Review Board.

(C) The Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advise and consent of the Senate.

(3) **MODIFICATION OF PROCEDURES**.--The President may modify the procedures and requirements set forth under paragraphs (1) and (2). Any modification of such procedures or requirements may not go into effect until 30 days after the date on which the President notifies the congressional defense committees of the modification.

(c) *Definitions*.--In this section:

(1) The term ``lawful enemy combatant'' means person engaging in war or other armed conflict against the United States or its allies on behalf of a state party to the Geneva Convention Relative to the Treatment of Prisoners of War, dated August 12, 1949, who meets the criteria of a prisoner of war under Article 4 of that Convention.

(2) The term ``unlawful enemy combatant'', with respect to noncitizens of the United States, means a person (other than a person described in paragraph (1)) engaging in war, other armed conflict, or hostile acts against the United States or its allies, or knowingly supporting others so engaged, regardless of location.

SA 1556

Mr. McCAIN (for himself, Mr. WARNER, Mr. GRAHAM, and Ms. COLLINS) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

(a) *In General*.--No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) *Construction*.--Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) *Limitation on Supersedure*.--The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) *Cruel, Inhuman, or Degrading Treatment or Punishment Defined*.--In this section, the term ``cruel, inhuman, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

SA 1557

Mr. McCAIN (for himself, Mr. WARNER, Mr. GRAHAM, Ms. COLLINS, and Mr. LEVIN) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) **LIMITATION ON INTERROGATION TECHNIQUES**.--

(1) **IN GENERAL**.--No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(2) **APPLICABILITY**.--Paragraph (1) shall not apply to with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(3) **CONSTRUCTION**.--Nothing in this subsection shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

(b) **PROHIBITION ON INCLUSION OF CERTAIN INTERROGATION TECHNIQUES IN ARMY FIELD MANUAL**.--No interrogation technique may be included as an authorized interrogation technique within the United States Army Field Manual on Intelligence Interrogation if such technique constitutes torture or cruel, inhumane, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(c) **NOTICE TO CONGRESS OF REVISION OF ARMY FIELD MANUAL**.--Not later than 30 days before issuing any revision to the United States Army Field Manual on Intelligence Interrogation, including an authorization of additional interrogation techniques, the Secretary of Defense shall submit to the congressional defense committees a report on such revision.

(d) **REGISTRATION WITH INTERNATIONAL RED CROSS**.--Each individual described in subsection (a) who is a national of a foreign country shall be registered with the International Committee of the Red Cross.

SA 1566. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS AND PROCEDURES FOR TREATMENT OF PERSONS UNDER DETENTION BY THE DEPARTMENT OF DEFENSE.

(a) *Uniform Standards and Procedures Required*.--The Secretary of Defense shall establish uniform standards and procedures for the detention and interrogation of persons in the custody or under the control of the Department of Defense.

(b) *Consistency With Law and Treaty Obligations*.--The standards and procedures established under subsection (a) shall be consistent with United States law and international treaty obligations.

(c) *Applicability*.--

(1) **IN GENERAL**.--The standards and procedures established under subsection (a) shall apply to all detention and interrogation activities involving persons in the custody or under the control of the Department of Defense, and to such activities conducted within facilities controlled by the Department of Defense, regardless of whether such activities are conducted by Department of Defense personnel, Department of Defense contractor personnel, or personnel or contractor personnel of any other department, agency, or element of the United States Government.

(2) **EXCEPTION**.--The standards and procedures established under subsection (a) shall not apply with respect to any person in the custody or under the control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(d) *Construction*.--Nothing in this section shall affect such rights, if any, under the Constitution of the United States of any person in the custody or under the control of the Department of Defense.

(e) *Notice to Congress of Revision*.--Not later than 60 days before issuing any revision to the standards and procedures established under subsection (a), the Secretary of Defense shall notify, in writing, the congressional defense committees of such revision.

(f) *Deadline*.--The standards and procedures required by subsection (a) shall be established not later than 60 days after the date of the enactment of this Act.

AMENDMENT NO. Calendar No.

Purpose: To limit the review of the detention of enemy combatants.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRAHAM to the amendment (No.) proposed by

Viz:

At the end, add the following:

SEC. 1074. REVIEW OF DETENTION OF ENEMY COMBATANTS.

(a) DETENTION OF ENEMY COMBATANTS.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

"(e) No court, justice, or judge shall have jurisdiction to consider—

"(1) an application for a writ of habeas corpus filed on behalf of an alien who is detained as an enemy combatant by the United States Government; or

"(2) any other action challenging any aspect of the detention of an alien who is detained by the Secretary of Defense as an enemy combatant, if the alien has been afforded an opportunity to challenge his detention pursuant to the procedures specified in paragraphs (1) and (2) of section 1073(b) of the National Defense Authorization Act for Fiscal Year 2006, to the extent modified by the President pursuant to the authority in paragraph (3) of such section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any application or other action pending on or after the date of the enactment of this Act.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 3:30 PM
To: Seidel, Rebecca; Bucholtz, Jeffrey (CIV); Ansell, Frederick; Clinger, James H
Subject: Meeting

I cannot make a call this evening, but doubt I'm essential. If I could make one suggestion, it would be to keep our bill pure. If Cornyn wants to go beyond our legislation, I would encourage him to do so by separate legislation.

Henke, Tracy (SMO)

From:	Henke, Tracy (SMO)
Sent:	Monday, September 19, 2005 5:15 PM
To:	Shiels, Marnie
Cc:	Gorsuch, Neil M; Bottner, Andrea; Stuart, Diane
Subject:	RE: OVW grant solicitation template

I suggest having the materials sent to OVW in care of the contractor. Also, we MUST get to the point where it is a completely automated system--that includes peer review. That is one of the principles behind grants.gov.

-----Original Message-----
From: Shiels, Marnie
Sent: Monday, September 19, 2005 5:07 PM
To: Henke, Tracy (SMO)
Cc: Gorsuch, Neil M; Bottner, Andrea; Stuart, Diane
Subject: RE: OVW grant solicitation template

Tracy:

It is necessary to get a hard copy due to application requirements such as MOUs and certifications. We need to have signed originals of these documents. It is better to send the copies to the contractor because they need to be able to make copies for peer review.

Thanks!

> -----Original Message-----
> **From:** Henke, Tracy (SMO)
> **Sent:** Friday, September 16, 2005 4:46 PM
> **To:** Shiels, Marnie
> **Cc:** Bottner, Andrea; Gorsuch, Neil M
> **Subject:** RE: OVW grant solicitation template
>
> Marnie:
> I know that OVW has been doing this for awhile, but is it standard for other government grantmaking entities to require the grantee to apply through grants.gov AND overnight a hard copy of the application? Also, we discussed this before --but if done this way, wouldn't it be more appropriate to have it submitted to the OVW/DOJ rather than a contractor if that requirement has to be maintained?
>
> Please let me know. Otherwise, it is fine.
>
> -----Original Message-----
> **From:** Gorsuch, Neil M
> **Sent:** Friday, September 16, 2005 1:07 PM
> **To:** Henke, Tracy (SMO); Shiels, Marnie
> **Subject:** FW: OVW grant solicitation template
>
> Marnie,
>
> Tracy Henke is the DAAG in this office responsible for OVW matters in the first instance. By this email, I am asking her to work with you on this.
>
> Thanks,

NMG

-----Original Message-----

From: Shiels, Marnie

Sent: Wednesday, September 07, 2005 3:18 PM

To: Gorsuch, Neil M

Cc: Bottner, Andrea

Subject: OVW grant solicitation template

Diane Stuart asked that I send you a copy of our solicitation template, in case you (or someone on your staff) would like to review it. The template will be used as the basis for all of our grant solicitations, so that they have common language as much as possible. There will be some changes to this language made later, due to the conversion from the OJP Grants Management System to Grants.gov, but the changes will not be substantive. We are working with OJP to determine the necessary changes as soon as possible.

<< File: Fiscal Year 2006 template.doc >>

I would greatly appreciate your comments, if any, by September 16, because the individual solicitations are already under development and in need of this template language. Also, please let me know if you would like to review copies of the individual grant program solicitations.

Thank you very much!

Marnie Shiels

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 5:15 PM
To: Gorsuch, Neil M
Subject: Not read: Detainee legislation on DOD Authorization

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, September 19, 2005 5:15 PM
To: Gorsuch, Neil M
Subject: Read: tomorrow

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Monday, September 19, 2005 5:17 PM
To: Gorsuch, Neil M
Subject: RE: EEO speech

This looks good to me Neil. You know where you need to go and the time? Dr. Corts and Ted McBurrows will be waiting for you at the hotel at noon.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 11:58 AM
To: Reyes, Luis (SMO)
Subject: EEO speech

Looks great. I've made only a few tinkering edits. If you have any further thoughts, do let me know.
-NMG

<< File: 09 20 2005 DOJ EEO Symposium Draft1.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 5:27 PM
To: Reyes, Luis (SMO)
Subject: Re: EEO speech

All set, thanks. RDM mentioned that the Judge made some statement early on endorsing the dept's eeo efforts. Do you have a copy of that?

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Sep 19 17:16:47 2005
Subject: RE: EEO speech

This looks good to me Neil. You know where you need to go and the time? Dr. Corts and Ted McBurrows will be waiting for you at the hotel at noon.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 11:58 AM
To: Reyes, Luis (SMO)
Subject: EEO speech

Looks great. I've made only a few tinkering edits. If you have any further thoughts, do let me know. - NMG

<< File: 09 20 2005 DOJ EEO Symposium Draft1.doc >>

Brown, Angela

From: Brown, Angela
Sent: Monday, September 19, 2005 6:00 PM
To: Gorsuch, Neil M
Subject: Not read: Accepted: Lunch with Neil Gorsuch

[redacted]@src.senate.gov

From: [redacted]@src.senate.gov
Sent: Monday, September 19, 2005 6:39 PM
To: Gorsuch, Neil M; Elizabeth_A._Sykes@who.eop.gov
Subject: CRS for GULF

Neil and Tevi,

Sherry Freeman is a terrific political appointee at DOJ where she heads up the Community Relations Service which has historically been THE major outreach effort by DOJ. The more I read about this, the more I hear about it from our African-American constituency, the more I am convinced that the President or Claude Allen must take Sherry [redacted] and her folks down there to help file down the hard political edges. She is in a perfect position and our team doesn't use her enough.

[redacted]

[redacted]@judiciary-rep.senate.gov

From: [redacted]@judiciary-rep.senate.gov
Sent: Monday, September 19, 2005 6:57 PM
To: Gorsuch, Neil M
Subject: [redacted]
Attachments: tmp.htm

Is going to call you. I have been such a poor conduit of the Judicial Review notion, I think it would be beneficial if you all talked.

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

Is going to call you. I have been such a poor conduit of the Judicial Review notion, I think it would be beneficial if you all talked.

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

Corts, Paul R

From: Corts, Paul R
Sent: Monday, September 19, 2005 7:32 PM
To: Ullyot, Theodore; Sampson, Kyle; Mercer, Bill (ODAG); Gorsuch, Neil M
Subject: The "Jehrico" march at DOJ Main

Wanted to be sure you had this information.

Rev. Jesse Jackson's Rainbow/PUSH Coalition has applied for a permit to protest at the Main Justice Building from 5:00 - 7:00 p.m. Wednesday Sep 21, 2005. The permit application indicates approximately 500 marchers, and unnamed Congressional leaders, will march around the MJB seven times before holding a press conference, with sound system and riser stage, at the corner of 9th & Conn.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 7:52 PM
To: Corts, Paul R
Subject: Re: The "Jehrico" march at DOJ Main

Thank you.

-----Original Message-----
From: Corts, Paul R <Paul.R.Corts@SMOJMD.USDOJ.gov>
To: Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Sep 19 19:31:54 2005
Subject: The "Jehrico" march at DOJ Main

Wanted to be sure you had this information.

Rev. Jesse Jackson's Rainbow/PUSH Coalition has applied for a permit to protest at the Main Justice Building from 5:00 - 7:00 p.m. Wednesday Sep 21, 2005. The permit application indicates approximately 500 marchers, and unnamed Congressional leaders, will march around the MJB seven times before holding a press conference, with sound system and riser stage, at the corner of 9th & Conn.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 7:53 PM
To: [redacted]@willkie.com'
Subject: Re: You around?

[redacted]- will try you tomorrow pm. NMG

-----Original Message-----
From: [redacted]@WILLKIE.COM <[redacted]@WILLKIE.COM>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: [redacted]@judiciary.senate.gov <[redacted]@judiciary.senate.gov>
Sent: Mon Sep 19 19:08:48 2005
Subject: FW: You around?

Neil --

In the small world department, [redacted] asked that I call you about this. When is a good time? Tonight? Tomorrow morning. I think we could clarify the drafting somewhat (as by providing this is to take place automatically before discovery), but clearly different from what takes place now, where plaintiff has a virtual right to conduct discovery for 6 months to a year with all the attendant expense before a motion for summary judgment can be filed. See F.R.Civ.P. 56(f). Plus this would happen automatically, without the expense of investigating and filing a motion for summary judgment. Essentially the equivalent of requiring a verified complaint or "Lone Pine" order in the state practice.

P.S. I am at my office at Yale [redacted] and at my house [redacted] later tonight and in the morning [redacted].

[redacted]
[redacted]
Willkie Farr & Gallagher LLP
1875 K St NW
Washington, DC 20006
[redacted]
[redacted]@willkie.com

-----Original Message-----
From: [redacted]
Sent: Monday, September 19, 2005 6:39 PM
To: [redacted] (Judiciary)'
Subject: RE: You around?

[redacted] -- Do you still want to talk tonight? If not, I am about to leave my office at Yale for home. If you do, I'll stay here so you can reach me. I certainly don't agree with DOJ's position as I understand it, and would be glad to write something showing how this differs from existing law. Practically, one typically has to go through about a year of discovery before a judge will rule on a motion for summary judgment, with all the attendant costs. See Fed.R.Civ.P. 56(f). It is typically regarded as an abuse of discretion not to allow plaintiffs to conduct discovery to try to develop facts to support their case. The bill would reverse that -- saying the plaintiff has to have facts in hand sufficient to service a motion for summary judgment BEFORE filing a case.

-----Original Message-----
From: [redacted](Judiciary) [mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Monday, September 19, 2005 6:09 PM
To: [redacted]
Subject: RE: You around?

Not that part - the second par of "shall make determination as matter of law

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship US Senator John Cornyn, Chairman www.cornyn.senate.gov
[redacted]

-----Original Message-----
From: [redacted][mailto:[redacted]@willkie.com]
Sent: Monday, September 19, 2005 6:05 PM
To: [redacted](Judiciary)
Subject: RE: You around?

I don't agree at all. What are they talking about? There is no requirement under present law to attach an affidavit. That is a verified complaint under some state practices, but not required under federal practice. Can allege and then conduct discovery to find facts to support.

-----Original Message-----
From: [redacted](Judiciary) [mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Monday, September 19, 2005 6:01 PM
To: [redacted]
Subject: RE: You around?
I am on phone with DOJ - they say the Judicial Review provision does nothing different from current rules of procedure.
Thoughts?
I will call you when I'm off.

[redacted]

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship US Senator John Cornyn, Chairman www.cornyn.senate.gov
[redacted]

-----Original Message-----
From: [redacted] [mailto: [redacted]@willkie.com]
Sent: Monday, September 19, 2005 5:57 PM
To: [redacted] (Judiciary)
Subject: RE: You around?

Yes, but in my office at Yale. [redacted]. Want to talk?
-----Original Message-----
From: [redacted] (Judiciary) [mailto: [redacted]@judiciary-rep.senate.gov]
Sent: Monday, September 19, 2005 5:55 PM
To: [redacted]
Subject: You around?

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship US Senator John Cornyn, Chairman www.cornyn.senate.gov
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 7:54 PM
To: [redacted]@judiciary-rep.senate.gov'
Subject: Re: [redacted]

Happy to speak with [redacted] and will reach out to him tomorrow. Best, NMG

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov <[redacted]@judiciary-rep.senate.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Sep 19 18:57:30 2005
Subject: [redacted]

Is going to call you. I have been such a poor conduit of the Judicial Review notion, I think it would be beneficial if you all talked.

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 7:57 PM
To: '[redacted]@src.senate.gov'; 'Elizabeth_A._Sykes@who.eop.gov'
Subject: Re: CRS for GULF

Sharee and her whole team have been deployed to the gulf and are basically living down there now, working hand in hand with FEMA, with the Department's full support. If there is more we can do, though, I know we would like to do it. NMG

-----Original Message-----
From: [redacted]@src.senate.gov <[redacted]@src.senate.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Elizabeth_A._Sykes@who.eop.gov <Elizabeth_A._Sykes@who.eop.gov>
Sent: Mon Sep 19 18:38:57 2005
Subject: CRS for GULF

Neil and Tevi,

Sherry Freeman is a terrific political appointee at DOJ where she heads up the Community Relations Service which has historically been THE major outreach effort by DOJ. The more I read about this, the more I hear about it from our African-American constituency, the more I am convinced that the President or Claude Allen must take Sherry [redacted] and her folks down there to help file down the hard political edges. She is in a perfect position and our team doesn't use her enough.
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 8:24 PM
To: 'Jeff.bucholtz@usdoj.gov'
Subject: Fw: [redacted]

Can you fill me in on what transpired today?

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: '[redacted]@judiciary-rep.senate.gov' <[redacted]@judiciary-rep.senate.gov>
Sent: Mon Sep 19 19:54:02 2005
Subject: Re: [redacted]

Happy to speak with [redacted] and will reach out to him tomorrow. Best, NMG

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov <[redacted]@judiciary-rep.senate.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Sep 19 18:57:30 2005
Subject: [redacted]

Is going to call you. I have been such a poor conduit of the Judicial Review notion, I think it would be beneficial if you all talked.

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 8:32 PM
To: 'Jeffrey.bucholtz@usdoj.gov'
Subject: Fw: [redacted]

Can you fill me in on what happened today? Looks like I need to speak with [redacted] Thanks, NMG

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: '[redacted]@judiciary-rep.senate.gov' <[redacted]@judiciary-rep.senate.gov>
Sent: Mon Sep 19 19:54:02 2005
Subject: Re: [redacted]

Happy to speak with [redacted] and will reach out to him tomorrow. Best, NMG

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov <[redacted]@judiciary-rep.senate.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Sep 19 18:57:30 2005
Subject: [redacted]

Is going to call you. I have been such a poor conduit of the Judicial Review notion, I think it would be beneficial if you all talked.

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

[redacted]@WILLKIE.COM

From: [redacted]@WILLKIE.COM
Sent: Monday, September 19, 2005 8:45 PM
To: Gorsuch, Neil M
Subject: RE: You around?

In Salt Lake City on a case tomorrow pm. Will try you when I land. [redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 19, 2005 7:53 PM
To: [redacted]
Subject: Re: You around?

[redacted]- will try you tomorrow pm. NMG

-----Original Message-----
From: [redacted]@WILLKIE.COM <[redacted]@WILLKIE.COM>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: [redacted]@judiciary.senate.gov <[redacted]@judiciary.senate.gov>
Sent: Mon Sep 19 19:08:48 2005
Subject: FW: You around?

Neil --

In the small world department, [redacted] asked that I call you about this. When is a good time? Tonight? Tomorrow morning. I think we could clarify the drafting somewhat (as by providing this is to take place automatically before discovery), but clearly different from what takes place now, where plaintiff has a virtual right to conduct discovery for 6 months to a year with all the attendant expense before a motion for summary judgment can be filed. See F.R.Civ.P. 56(f). Plus this would happen automatically, without the expense of investigating and filing a motion for summary judgment. Essentially the equivalent of requiring a verified complaint or "Lone Pine" order in the state practice.

P.S. I am at my office at Yale [redacted] and at my house i[redacted] later tonight and in the morning [redacted].

[redacted]

[redacted]
Willkie Farr & Gallagher LLP
1875 K St NW
Washington, DC 20006
[redacted]@willkie.com

[redacted]@willkie.com

-----Original Message-----
From: [redacted]
Sent: Monday, September 19, 2005 6:39 PM
To: '[redacted](Judiciary)'
Subject: RE: You around?

[redacted] -- Do you still want to talk tonight? If not, I am about to leave my office at Yale for home. If you do, I'll stay here so you can reach me. I certainly don't agree with DOJ's position as I understand it, and would be glad to write something showing how this differs from existing law. Practically, one typically has to go through about a year of discovery before a judge will rule on a motion for summary judgment, with all the attendant costs. See Fed.R.Civ.P. 56(f). It is typically regarded as an abuse of discretion not to allow plaintiffs to conduct discovery to try to develop facts to support their case. The bill would reverse that -- saying the plaintiff has to have facts in hand sufficient to service a motion for summary judgment BEFORE filing a case. -----Original Message----- From: [redacted](Judiciary) [mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Monday, September 19, 2005 6:09 PM
To: [redacted]
Subject: RE: You around?

Not that part - the second par of "shall make determination as matter of law

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship US Senator John Cornyn, Chairman www.cornyn.senate.gov[redacted]

-----Original Message-----
From: [redacted][mailto[redacted]@willkie.com]
Sent: Monday, September 19, 2005 6:05 PM
To: [redacted](Judiciary)
Subject: RE: You around?

I don't agree at all. What are they talking about? There is no requirement under present law to attach an affidavit. That is a verified complaint under some state practices, but not required under federal practice. Can allege and then conduct discovery to find facts to support. -----Original Message-----
From: [redacted](Judiciary) [mailto[redacted]@judiciary-rep.senate.gov]
Sent: Monday, September 19, 2005 6:01 PM
To: [redacted]
Subject: RE: You around?
I am on phone with DOJ - they say the Judicial Review provision does nothing different from current rules of procedure. Thoughts? I will call you when I'm off.

[redacted]

[redacted]
Counsel

United States Senate Subcommittee on Immigration, Border Security and Citizenship US Senator John Cornyn, Chairman www.cornyn.senate.gov[redacted]

-----Original Message-----
From: [redacted] [mailto:[redacted]@willkie.com]
Sent: Monday, September 19, 2005 5:57 PM
To: [redacted] (Judiciary)
Subject: RE: You around?

Yes, but in my office at Yale. [redacted]. Want to talk?
-----Original Message-----
From: [redacted] (Judiciary) [mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Monday, September 19, 2005 5:55 PM
To: [redacted]
Subject: You around?

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship US Senator John Cornyn, Chairman www.cornyn.senate.gov[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 8:49 PM
To: 'Jbucholtz@civ.usdoj.gov'
Subject: Fw: [redacted]

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: 'Jeffrey.bucholtz@usdoj.gov' <Jeffrey.bucholtz@usdoj.gov>
Sent: Mon Sep 19 20:32:23 2005
Subject: Fw: [redacted]

Can you fill me in on what happened today? Looks like I need to speak with [redacted] Thanks, NMG

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: [redacted]@judiciary-rep.senate.gov' <[redacted]@judiciary-rep.senate.gov>
Sent: Mon Sep 19 19:54:02 2005
Subject: Re: [redacted]

Happy to speak with [redacted] and will reach out to him tomorrow. Best, NMG

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov <[redacted]@judiciary-rep.senate.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Sep 19 18:57:30 2005
Subject: [redacted]

Is going to call you. I have been such a poor conduit of the Judicial Review notion, I think it would be beneficial if you all talked.

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 8:54 PM
To: Bucholtz, Jeffrey (CIV)
Subject: Fw: [redacted]

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: 'Jeffrey.bucholtz@usdoj.gov' <Jeffrey.bucholtz@usdoj.gov>
Sent: Mon Sep 19 20:32:23 2005
Subject: Fw: [redacted]

Can you fill me in on what happened today? Looks like I need to speak with [redacted] Thanks, NMG

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: '[redacted]@judiciary-rep.senate.gov' <[redacted]@judiciary-rep.senate.gov>
Sent: Mon Sep 19 19:54:02 2005
Subject: Re: [redacted]

Happy to speak with [redacted] and will reach out to [redacted] tomorrow. Best, NMG

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov <[redacted]@judiciary-rep.senate.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Sep 19 18:57:30 2005
Subject: [redacted]

Is going to call you. I have been such a poor conduit of the Judicial Review notion, I think it would be beneficial if you all talked.

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

[redacted]

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Monday, September 19, 2005 9:36 PM
To: Gorsuch, Neil M
Subject: Re: [redacted]

I just left you a vm at work explaining.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
Sent: Mon Sep 19 20:54:10 2005
Subject: Fw: [redacted]

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: 'Jeffrey.bucholtz@usdoj.gov' <Jeffrey.bucholtz@usdoj.gov>
Sent: Mon Sep 19 20:32:23 2005
Subject: Fw: [redacted]

Can you fill me in on what happened today? Looks like I need to speak with [redacted] Thanks, NMG

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: '[redacted]@judiciary-rep.senate.gov' <[redacted]@judiciary-rep.senate.gov>
Sent: Mon Sep 19 19:54:02 2005
Subject: Re: [redacted]

Happy to speak with [redacted] and will reach out to him tomorrow. Best, NMG

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov <[redacted]@judiciary-rep.senate.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Sep 19 18:57:30 2005
Subject: [redacted]

Is going to call you. I have been such a poor conduit of the Judicial Review notion. I think it would be

is going to call you. I have been such a poor conduit of the Judicial Review notion, I think it would be beneficial if you all talked.

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 19, 2005 9:37 PM
To: Bucholtz, Jeffrey (CIV)
Subject: Re: [redacted]

Thanks much

-----Original Message-----
From: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Sep 19 21:35:38 2005
Subject: Re: [redacted]

I just left you a vm at work explaining.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
Sent: Mon Sep 19 20:54:10 2005
Subject: Fw: [redacted]

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: 'Jeffrey.bucholtz@usdoj.gov' <Jeffrey.bucholtz@usdoj.gov>
Sent: Mon Sep 19 20:32:23 2005
Subject: Fw: [redacted]

Can you fill me in on what happened today? Looks like I need to speak with [redacted] Thanks, NMG

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: '[redacted]@judiciary-rep.senate.gov' <[redacted]@judiciary-rep.senate.gov>
Sent: Mon Sep 19 19:54:02 2005
Subject: Re: [redacted]

Happy to speak with [redacted] and will reach out to [redacted] tomorrow. Best, NMG

Happy to speak with [redacted] and will reach out to [redacted] tomorrow. Best, NMG

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov <[redacted]@judiciary-rep.senate.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Sep 19 18:57:30 2005
Subject: [redacted]

Is going to call you. I have been such a poor conduit of the Judicial Review notion, I think it would be beneficial if you all talked.

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 20, 2005 7:57 AM
To: Gorsuch, Neil M

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, September 20, 2005 8:31 AM
To: Gorsuch, Neil M
Subject: Read: tomorrow

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 20, 2005 9:38 AM
To: USDOJ- Office of Public Affairs
Subject: GLAXOSMITHKLINE PAYS $150 MILLION TO SETTLE DRUG PRICING FRAUD CASE

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 20, 2005
WWW.USDOJ.GOV

CIV
(202) 514-2007

TDD (202) 514-1888

GLAXOSMITHKLINE PAYS $150 MILLION TO SETTLE DRUG PRICING FRAUD CASE

WASHINGTON, D.C. - GlaxoSmithKline has paid over $150 million to resolve allegations that the company violated the False Claims Act through fraudulent drug pricing and marketing of two anti-emetic drugs, Zofran and Kytril, used primarily in conjunction with oncology and radiation treatment, the Justice Department announced today.

The United States alleged in settlement documents that GlaxoSmithKline-one of the world's largest pharmaceutical manufacturers-engaged in a scheme to set and maintain fraudulent and inflated prices for Zofran and Kytril knowing that federal healthcare programs established reimbursement rates based on those prices. The difference between the reimbursement rate of the federal health care programs and the actual price paid by healthcare providers for a drug is commonly known as the "spread." The larger the spread on a drug, the larger the profit or return on investment for the provider. GlaxoSmithKline allegedly used the spread to market, promote, and sell the drugs to existing and potential customers. Because reimbursement from federal programs was based on the fraudulent, inflated prices, the United States contended that GlaxoSmithKline caused false and fraudulent claims to be submitted to federal healthcare programs.

"This agreement marks another in a series of cases in which a pharmaceutical manufacturer has settled claims that its fraudulent drug pricing cost federal healthcare programs and taxpayers millions of dollars," said Assistant Attorney General Peter D. Keisler of the Justice Department's Civil Division. "The Justice Department will continue to pursue these types of fraud schemes vigorously to make clear that we will not tolerate fraudulent pricing practices designed to reap profits for drug companies and doctors at the expense of healthcare programs for the poor and the elderly."

The United States also alleged that, with respect to Kytril, the drug company engaged in a "double dipping" billing scheme by encouraging customers to pool leftover vials of Kytril to create an extra dose, which then would be administered to a patient and re-billed to Medicare and other federal healthcare programs.

DOJ_NMG_ 0148085

"Fraudulent pricing of prescription drugs can cost American taxpayers millions of dollars and undermine the financial integrity of the healthcare system," said U.S. Attorney Michael J. Sullivan of the District of Massachusetts. "To safeguard our nation's healthcare programs we will continue to aggressively investigate and prosecute healthcare fraud violations whether by pharmaceutical companies or individual practitioners."

"As our nation struggles to contain healthcare costs, we must ensure that drug manufacturers do not take advantage of the poor, the elderly or the sick by illegally inflating the price of prescription drugs. That a manufacturer would fraudulently inflate the cost of a drug used primarily to reduce the side effects of cancer treatments is unconscionable," said U.S. Attorney R. Alexander Acosta of the Southern District of Florida.

The investigation commenced after the filing of a civil False Claims Act suit by a small, home-infusion company, Ven-A-Care of the Florida Keys, Inc., and its principals. The civil False Claims Act allows for private persons to file whistleblower suits to provide the government information about wrongdoing. Where persons submit or cause others to submit false or fraudulent claims to the United States, the government is entitled to recover treble damages and $5,500 to $11,000 for each false or fraudulent claim. In cases in which the government is successful in resolving or litigating its claims, the whistleblower may receive a share of the recovery by receiving from 15-25% of the amount recovered. As part of this settlement, the Ven-A-Care whistleblowers will receive a share of approximately $26 million.

As part of a condition for doing business in the future with providers who do business with the Medicare and Medicaid programs, GlaxoSmithKline has agreed to enter into an addendum to its existing Corporate Integrity Agreement with the Office of Inspector General of the Department of Health and Human Services that, among other things, will require the company to report accurate average sales prices and average manufacturer's prices for its drugs covered by Medicare and other federal healthcare programs.

"Any pharmaceutical company that intentionally inflates the cost of prescription drugs with elaborate pricing schemes robs states and beneficiaries nationwide of millions of Medicare and Medicaid dollars. We will not tolerate any company abusing programs intended to benefit our most vulnerable citizens," said Daniel R. Levinson, HHS Inspector General.

"CMS has a strong commitment to protect the integrity of the federal healthcare programs, ensuring that the financial burdens are not shifted to the programs, beneficiaries or taxpayers. This agreement reinforces that commitment," said Mark B. McClellan, M.D., Ph.D., Administrator for the Centers of Medicare and Medicaid Services.

Of the $150 million settlement, the federal recovery is approximately $140 million and the states' recovery for their share of Medicaid is $10 million.

The investigation was conducted by the Civil Division of the Department of Justice, the United States Attorney's Offices for the Districts of Massachusetts and the Southern District of Florida, the Office of Inspector General for the Department of Health and Human Services, the Office of Program Integrity of TRICARE Management Activity, and the National Association of Medicaid Fraud Control Units.

###

05-489

DOJ_NMG_ 0148086

Image not available for this document, ID: 0.7.10316.65041-000001

Image not available for this document, ID: 0.7.10316.65041-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 20, 2005 9:40 AM
To: USDOJ- Office of Public Affairs
Subject: GLAXOSMITHKLINE PAYS $150 MILLION TO SETTLE DRUG PRICING FRAUD CASE



[Error : unloaded OLE object or mail attachment]

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 20, 2005
WWW.USDOJ.GOV <http://WWW.USDOJ.GOV>

CIV
(202) 514-2007
TDD (202) 514-1888

GLAXOSMITHKLINE PAYS $150 MILLION TO SETTLE DRUG PRICING FRAUD CASE

WASHINGTON, D.C. - GlaxoSmithKline has paid over $150 million to resolve allegations that the company violated the False Claims Act through fraudulent drug pricing and marketing of two anti-emetic drugs, Zofran and Kytril, used primarily in conjunction with oncology and radiation treatment, the Justice Department announced today.

The United States alleged in settlement documents that GlaxoSmithKline-one of the world's largest pharmaceutical manufacturers-engaged in a scheme to set and maintain fraudulent and inflated prices for Zofran and Kytril knowing that federal healthcare programs established reimbursement rates based on those prices. The difference between the reimbursement rate of the federal health care programs and the actual price paid by healthcare providers for a drug is commonly known as the "spread." The larger the spread on a drug, the larger the profit or return on investment for the provider. GlaxoSmithKline allegedly used the spread to market, promote, and sell the drugs to existing and potential customers. Because reimbursement from federal programs was based on the fraudulent, inflated prices, the United States contended that GlaxoSmithKline caused false and fraudulent claims to be submitted to federal healthcare programs.

"This agreement marks another in a series of cases in which a pharmaceutical manufacturer has settled claims that its fraudulent drug pricing cost federal healthcare programs and taxpayers millions of dollars," said Assistant Attorney General Peter D. Keisler of the Justice Department's Civil Division. "The Justice Department will continue to pursue these types of fraud schemes vigorously to make clear that we will not tolerate fraudulent pricing practices designed to reap profits for drug companies and doctors at the expense of healthcare programs for the poor and the elderly."

The United States also alleged that, with respect to Kytril, the drug company engaged in a "double dipping" billing scheme by encouraging customers to pool leftover vials of Kytril to create an extra dose, which then would be administered to a patient and re-billed to Medicare and other federal healthcare programs.

"Fraudulent pricing of prescription drugs can cost American taxpayers millions of dollars and undermine the financial integrity of the healthcare system," said U.S. Attorney Michael J. Sullivan of the

District of Massachusetts. "To safeguard our nation's healthcare programs we will continue to aggressively investigate and prosecute healthcare fraud violations whether by pharmaceutical companies or individual practitioners."

"As our nation struggles to contain healthcare costs, we must ensure that drug manufacturers do not take advantage of the poor, the elderly or the sick by illegally inflating the price of prescription drugs. That a manufacturer would fraudulently inflate the cost of a drug used primarily to reduce the side effects of cancer treatments is unconscionable," said U.S. Attorney R. Alexander Acosta of the Southern District of Florida.

The investigation commenced after the filing of a civil False Claims Act suit by a small, home-infusion company, Ven-A-Care of the Florida Keys, Inc., and its principals. The civil False Claims Act allows for private persons to file whistleblower suits to provide the government information about wrongdoing. Where persons submit or cause others to submit false or fraudulent claims to the United States, the government is entitled to recover treble damages and $5,500 to $11,000 for each false or fraudulent claim. In cases in which the government is successful in resolving or litigating its claims, the whistleblower may receive a share of the recovery by receiving from 15-25% of the amount recovered. As part of this settlement, the Ven-A-Care whistleblowers will receive a share of approximately $26 million.

As part of a condition for doing business in the future with providers who do business with the Medicare and Medicaid programs, GlaxoSmithKline has agreed to enter into an addendum to its existing Corporate Integrity Agreement with the Office of Inspector General of the Department of Health and Human Services that, among other things, will require the company to report accurate average sales prices and average manufacturer's prices for its drugs covered by Medicare and other federal healthcare programs.

"Any pharmaceutical company that intentionally inflates the cost of prescription drugs with elaborate pricing schemes robs states and beneficiaries nationwide of millions of Medicare and Medicaid dollars. We will not tolerate any company abusing programs intended to benefit our most vulnerable citizens," said Daniel R. Levinson, HHS Inspector General.

"CMS has a strong commitment to protect the integrity of the federal healthcare programs, ensuring that the financial burdens are not shifted to the programs, beneficiaries or taxpayers. This agreement reinforces that commitment," said Mark B. McClellan, M.D., Ph.D., Administrator for the Centers of Medicare and Medicaid Services.

Of the $150 million settlement, the federal recovery is approximately $140 million and the states' recovery for their share of Medicaid is $10 million.

The investigation was conducted by the Civil Division of the Department of Justice, the United States Attorney's Offices for the Districts of Massachusetts and the Southern District of Florida, the Office of Inspector General for the Department of Health and Human Services, the Office of Program Integrity of TRICARE Management Activity, and the National Association of Medicaid Fraud Control Units.

###

05-489

DOJ_NMG_ 0148090

Image not available for this document, ID: 0.7.10316.65040-000001

Image not available for this document, ID: 0.7.10316.65040-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 20, 2005 10:03 AM
To: USDOJ- Office of Public Affairs
Subject: MOTIVA ENTERPRISES SETTLES FEDERAL-STATE LAWSUIT RESULTING FROM EXPLOSION AT DELAWARE CITY REFINERY

Department of Justice

ENVIRONMENTAL PROTECTION AGENCY

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 20, 2005
WWW.USDOJ.GOV

ENRD (202) 514-2007
EPA (215) 814-5100
TDD (202) 514-1888

MOTIVA ENTERPRISES SETTLES FEDERAL–STATE LAWSUIT RESULTING FROM EXPLOSION AT DELAWARE CITY REFINERY

Settlement Worth Combined Total of Nearly $23.7 Million in Civil Penalties, Environmental Projects, Injunctive Relief, and Response Costs

WASHINGTON, D.C.—Motiva Enterprises LLC (Motiva) has agreed to pay $12 million to settle a joint federal–state civil lawsuit arising from a catastrophic explosion in 2001 at the company's former Delaware City refinery that killed one employee, injured several others, and caused a massive discharge of spent sulfuric acid from a ruptured tank, the Justice Department, the Environmental Protection Agency (EPA) and the state of Delaware announced today.

In addition to the $12 million civil penalty, Motiva will finance a series of environmental projects valued at more than $4 million and reimburse the United States and Delaware for over $170,000 in response costs. The settlement resolves claims against Motiva under the federal Clean Water Act (CWA), Clean Air Act, CERCLA (the Superfund statute), and numerous state environmental statutes. In 2004, Motiva sold the Delaware City refinery to the Premcor Refining Group Inc. (Premcor), which has agreed to join the settlement and to institute a series of controls valued at approximately $7.5 million, to improve safety at the refinery. The combined total of nearly $23.7 million in civil penalties, environmental projects, injunctive relief, and response costs is one of the largest settlements secured in an enforcement action involving violations of environmental laws at one facility. The civil penalty is the largest ever collected in Delaware for environmental violations.

"Companies that fail to adhere to environmental laws not only put our natural resources and wildlife at risk; they risk the lives and the safety of workers," said Acting Assistant Attorney General Kelly A. Johnson, of the Justice Department's Environment and Natural Resources Division. "Today's civil settlement reinforces our commitment to seeing that violators will be met with firm and decisive action, so that others will be deterred from breaking our laws and future catastrophes will be averted."

DOJ_NMG_ 0148093

On July 17, 2001, a 415,000-gallon tank at the Delaware City Refinery—then owned by Motiva—exploded while containing spent sulfuric acid, a mixture of sulfuric acid, water and hydrocarbons. The explosion killed one worker and injured several others. More than one million gallons of sulfuric acid were released from the tank farm and approximately 100,000 gallons spilled into the Delaware River, killing an estimated 2,400 fish and 240 crabs.

"This is the largest Clean Water Act settlement in the history of Delaware," said Donald S. Welsh, EPA regional administrator for the mid-Atlantic region. "In addition to Motiva paying a substantial penalty, today's settlement requires Premcor, the current owner of the refinery, to take immediate concrete steps to ensure compliance with environmental and safety regulations so that the tragic events of July 2001 will never be repeated."

In January 2002, OSHA issued a Citation & Notification of Penalty to Motiva citing willful violations which Motiva later settled for a total of $132,000. In July 2003, Motiva pleaded no contest to criminally negligent homicide and assault charges brought by the state attorney general. As a result, the presiding state judge ordered the company to pay $296,000 in penalties. In September 2003, Motiva agreed to pay $36.4 million to the widow and family of the worker who died. The amounts of settlements Motiva reached with other injured employees have not been made public. Most recently, in March 2004, as part of a criminal plea agreement with the United States Department of Justice in which Motiva pleaded guilty to negligently endangering its workers at the refinery and felony violations of the CWA, Motiva was ordered to pay a $10 million fine and to serve a three-year term of probation.

"This settlement closes a tragic chapter in the history of the Delaware City refinery," said Delaware Governor Ruth Ann Minner. "While nothing can erase the human and environmental impacts resulting from this event, we have made a number of changes on a state level as a result, including the enactment of Delaware's Above Ground Storage Tank Act and our enforcement action requiring enhancements to the refinery's mechanical integrity programs. Those, in addition to the improvements that will come from this settlement, will help ensure that this facility operates more safely. It also shows that negligent behavior can have dire consequences and will not be tolerated in Delaware."

The tank explosion also led to the passage of Delaware's Jeffrey Davis Above Ground Storage Tank Act and a state enforcement action requiring an audit of and improvements to the refinery's mechanical integrity programs. Jeffrey Davis was the worker killed in the explosion.

"Motiva's conduct was inexcusable," said Delaware Attorney General Jane Brady. "Nothing we do can undo the harm to the workers and their families but I trust all companies will take a lesson from this civil matter and our criminal prosecution and realize that we will not tolerate this type of behavior in Delaware."

"This accident would likely have been averted by a stringent tank inspection and repair program. Although Motiva saved thousands of dollars in putting off the inspection of Tank 393, it has now paid more than $58 million as a consequence of its actions," said Rudolph Contreras, Civil Chief, U.S. Attorney's Office for the District of Delaware. "This fact alone should be a clear message to other companies that cutting corners on safety and the environment makes no economic sense."

As part of the agreement announced today, Motiva will undertake a number of environmental projects in Delaware. Among these projects, Motiva will purchase and maintain three hybrid transit buses for DART, construct native-species shellfish beds in the Delaware River, fund the installation and operation of a water quality monitoring station in the Delaware River, purchase approximately $165,000 of emergency equipment for the Delaware City Fire Company, and construct a meteorologic station for DNREC near the refinery to help assess wind and weather conditions if there are future accidents.

DOJ_NMG_ 0148094

In addition, Premcor will grant a conservation easement over 285 acres of ecologically significant land near the refinery that will end the land's current agricultural use and restrict further use of the area in perpetuity. Motiva will spend at least $447,500 on restoration activities, such as the planting of trees and the suppression of weeds and non-native species, that are designed to allow the area to grow back to its natural state. The lands surround Dragon Run—an important natural area and tributary of the Delaware River—and will provide a protective buffer for the waterway and its associated wetlands.

Premcor will also undertake a number of measures at the refinery designed to address issues raised by the investigations into the causes of the July 2001 incident, including improved hot–work–permitting procedures.

The proposed consent decree is subject to a 30-day public comment period and final court approval.

A copy of the consent decree lodged today will be available by the close of business today on the Department of Justice website at http://www.usdoj.gov/enrd/open.html.

###

05-488

DOJ_NMG_ 0148095

Image not available for this document, ID: 0.7.10316.65045-000001

Image not available for this document, ID: 0.7.10316.65045-000002

Image not available for this document, ID: 0.7.10316.65045-000003

Image not available for this document, ID: 0.7.10316.65045-000004

[redacted]@src.senate.gov

From: [redacted]@src.senate.gov
Sent: Tuesday, September 20, 2005 11:06 AM
To: Gorsuch, Neil M; Elizabeth_A._Sykes@who.eop.gov
Subject: RE: CRS for GULF

One comment--If I didn't know she and her team were down there doing what they do then I bet no one else does either. There ought to be a press conference down there showcasing what CRS does and what the are specifically doing there. THe Dems ALWAYS use CRS against us--we can turn the tables here. CRS should be front and ceneter in terms of publicity--also because the folks down there need to know that CRS is available to them.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 19, 2005 7:57 PM
To: [redacted] (Republican-Conf); Elizabeth_A._Sykes@who.eop.gov
Subject: Re: CRS for GULF

Sharee and her whole team have been deployed to the gulf and are basically living down there now, working hand in hand with FEMA, with the Department's full support. If there is more we can do, though, I know we would like to do it. NMG

-----Original Message-----
From: [redacted]@src.senate.gov <[redacted]@src.senate.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Elizabeth_A._Sykes@who.eop.gov <Elizabeth_A._Sykes@who.eop.gov>
Sent: Mon Sep 19 18:38:57 2005
Subject: CRS for GULF

Neil and Tevi,

Sherry Freeman is a terrific political appointee at DOJ where she heads up the Community Relations Service which has historically been THE major outreach effort by DOJ. The more I read about this, the more I hear about it from our African-American constituency, the more I am convinced that the President or Claude Allen must take Sherry [redacted]nd her folks down there to help file down the hard political edges. She is in a perfect position and our team doesn't use her enough.

[redacted]

Marc_Kesselman@omb.eop.gov

From:	Marc_Kesselman@omb.eop.gov
Sent:	Tuesday, September 20, 2005 11:07 AM
To:	Gorsuch, Neil M; Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov; [redacted] (DHS)
Cc:	Raul_F._Yanes@omb.eop.gov
Subject:	Federal Contractor Liability
Attachments:	tmp.htm

I hope they push this. It will make our volunteer protection bill look quite modest.

washingtonpost.com <http://www.washingtonpost.com/>
Federal Contractors Seek Liability Shields Trade Group Drafting Bill to Protect Storm Cleanup Workers From Lawsuits

By [redacted]
Washington Post Staff Writer
Tuesday, September 20, 2005; A07

Contractors working on Hurricane Katrina relief efforts for the federal government want Congress to limit their liability from lawsuits and are drafting legislation to seek such protection, industry officials said yesterday.

The Army Corps of Engineers and the Federal Emergency Management Agency have relied on contractors, including several who started work without a contract, to fix the levees in New Orleans and pump water out of the city. But the companies have become concerned about the liability issue because of lawsuits filed against construction firms that helped clean up the World Trade Center after the Sept. 11, 2001, terrorist attacks.

"We're asking for some reasonable limits for going into the Gulf Coast and dealing with unknowns," Michael E. Kennedy, general counsel for the Associated General Contractors of America, said after a meeting of the trade group in Washington. "A contractor goes into an unknown situation to remove debris or fix a utility line, and three years from now someone decides they did it improperly."

The Corps has already contracted with more than a dozen companies for work worth $2.8 billion during the next year. Those companies will be joined by dozens more as reconstruction of the region begins.

The bill that the trade group is drafting would limit contractors' liabilities but still hold them responsible for following government regulations, Kennedy said. It would be similar to regulations the Homeland Security Department unveiled last year that protect companies selling security technology from lawsuits triggered by a terrorist act.

Legislation was introduced in the House last week to shield volunteer contractors from liability. The

general contractors' bill would extend the coverage to companies working under the government.

"You can consider these contractors as an extension of the government; they are performing a lot of public" duties, Kennedy said.

Robert S. Boh, president of Boh Bros. Construction Co. of New Orleans, said yesterday that he favors such a bill. His firm moved its New Orleans offices to Baton Rouge, La., after the hurricane hit but was soon hired by the Corps to fix the levees and pump water out of the city.

"We're simply showing up and responding to verbal direction," Boh said.
"We're not adequately able to assess the request for risks."

Also yesterday, the Homeland Security Department's inspector general appointed a National Weather Service official who once served as acting chief financial officer of FEMA to lead the office's work overseeing Katrina spending.

Matthew A. Jadacki, who worked at FEMA from 1991 to 2004, will "be responsible for overseeing the management and expenditures of all contracts, grants and governmental operations related to Hurricane Katrina relief efforts," according to a Homeland Security Department statement.

Jadacki's appointment comes as members of Congress continue to debate other ideas for how the government will monitor the flow of money for Gulf Coast reconstruction. The proposals include establishing a special inspector general's office, expanding the duties of the special inspector general for Iraq reconstruction or establishing a chief financial officer.

Some in Congress are concerned that Homeland Security's inspector general's office will not have the resources to monitor the department's regular work, as well as the tens of billions of dollars flowing into the Gulf Coast. Homeland Security Department officials, however, have said the department's IG office is up to the task.

Staff writers [redacted] contributed to this report.

I hope they push this. It will make our volunteer protection bill look quite modest.

washingtonpost.com

Federal Contractors Seek Liability Shields

Trade Group Drafting Bill to Protect Storm Cleanup Workers From Lawsuits

By Renae Merle
Washington Post Staff Writer
Tuesday, September 20, 2005; A07

Contractors working on Hurricane Katrina relief efforts for the federal government want Congress to limit their liability from lawsuits and are drafting legislation to seek such protection, industry officials said yesterday.

The Army Corps of Engineers and the Federal Emergency Management Agency have relied on contractors, including several who started work without a contract, to fix the levees in New Orleans and pump water out of the city. But the companies have become concerned about the liability issue because of lawsuits filed against construction firms that helped clean up the World Trade Center after the Sept. 11, 2001, terrorist attacks.

"We're asking for some reasonable limits for going into the Gulf Coast and dealing with unknowns," Michael E. Kennedy, general counsel for the Associated General Contractors of America, said after a meeting of the trade group in Washington. "A contractor goes into an unknown situation to remove debris or fix a utility line, and three years from now someone decides they did it improperly."

The Corps has already contracted with more than a dozen companies for work worth $2.8 billion during the next year. Those companies will be joined by dozens more as reconstruction of the region begins.

The bill that the trade group is drafting would limit contractors' liabilities but still hold them responsible for following government regulations, Kennedy said. It would be similar to regulations the Homeland Security Department unveiled last year that protect companies selling security technology from lawsuits triggered by a terrorist act.

Legislation was introduced in the House last week to shield volunteer contractors from liability. The general contractors' bill would extend the coverage to companies working under the government.

"You can consider these contractors as an extension of the government; they are performing a lot of public" duties, Kennedy said.

Robert S. Boh, president of Boh Bros. Construction Co. of New Orleans, said yesterday that he favors such a bill. His firm moved its New Orleans offices to Baton Rouge, La., after the hurricane hit but was soon hired by the Corps to fix the levees and pump water out of the city.

"We're simply showing up and responding to verbal direction," Boh said. "We're not adequately able to assess the request for risks."

Also yesterday, the Homeland Security Department's inspector general appointed a National Weather Service official who once served as acting chief financial officer of FEMA to lead the office's work overseeing Katrina spending.

Matthew A. Jadacki, who worked at FEMA from 1991 to 2004, will "be responsible for overseeing the

management and expenditures of all contracts, grants and governmental operations related to Hurricane Katrina relief efforts," according to a Homeland Security Department statement.

Jadacki's appointment comes as members of Congress continue to debate other ideas for how the government will monitor the flow of money for Gulf Coast reconstruction. The proposals include establishing a special inspector general's office, expanding the duties of the special inspector general for Iraq reconstruction or establishing a chief financial officer.

Some in Congress are concerned that Homeland Security's inspector general's office will not have the resources to monitor the department's regular work, as well as the tens of billions of dollars flowing into the Gulf Coast. Homeland Security Department officials, however, have said the department's IG office is up to the task.

Staff writers Spencer Hsu and Griff Witte contributed to this report.

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, September 20, 2005 11:15 AM
To: Seidel, Rebecca; Hertling, Richard; Ansell, Frederick
Cc: Gorsuch, Neil M
Subject: FW: Federal Contractor Liability
Attachments: tmp.htm

-----Original Message-----
From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Tuesday, September 20, 2005 11:07 AM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov; [redacted] (DHS)
Cc: Raul_F._Yanes@omb.eop.gov
Subject: Federal Contractor Liability

I hope they push this. It will make our volunteer protection bill look quite modest.

washingtonpost.com <http://www.washingtonpost.com/>
Federal Contractors Seek Liability Shields Trade Group Drafting Bill to Protect Storm Cleanup Workers From Lawsuits

By [redacted]
Washington Post Staff Writer
Tuesday, September 20, 2005; A07

Contractors working on Hurricane Katrina relief efforts for the federal government want Congress to limit their liability from lawsuits and are drafting legislation to seek such protection, industry officials said yesterday.

The Army Corps of Engineers and the Federal Emergency Management Agency have relied on contractors, including several who started work without a contract, to fix the levees in New Orleans and pump water out of the city. But the companies have become concerned about the liability issue because of lawsuits filed against construction firms that helped clean up the World Trade Center after the Sept. 11, 2001, terrorist attacks.

"We're asking for some reasonable limits for going into the Gulf Coast and dealing with unknowns," Michael E. Kennedy, general counsel for the Associated General Contractors of America, said after a meeting of the trade group in Washington. "A contractor goes into an unknown situation to remove debris or fix a utility line, and three years from now someone decides they did it improperly."

The Corps has already contracted with more than a dozen companies for work worth $2.8 billion during the next year. Those companies will be joined by dozens more as reconstruction of the region begins.

The bill that the trade group is drafting would limit contractors' liabilities but still hold them responsible for following government regulations, Kennedy said. It would be similar to regulations the Homeland Security Department unveiled last year that protect companies selling security technology from lawsuits triggered by a terrorist act.

Legislation was introduced in the House last week to shield volunteer contractors from liability. The general contractors' bill would extend the coverage to companies working under the government.

"You can consider these contractors as an extension of the government; they are performing a lot of public" duties, Kennedy said.

Robert S. Boh, president of Boh Bros. Construction Co. of New Orleans, said yesterday that he favors such a bill. His firm moved its New Orleans offices to Baton Rouge, La., after the hurricane hit but was soon hired by the Corps to fix the levees and pump water out of the city.

"We're simply showing up and responding to verbal direction," Boh said.
"We're not adequately able to assess the request for risks."

Also yesterday, the Homeland Security Department's inspector general appointed a National Weather Service official who once served as acting chief financial officer of FEMA to lead the office's work overseeing Katrina spending.

Matthew A. Jadacki, who worked at FEMA from 1991 to 2004, will "be responsible for overseeing the management and expenditures of all contracts, grants and governmental operations related to Hurricane Katrina relief efforts," according to a Homeland Security Department statement.

Jadacki's appointment comes as members of Congress continue to debate other ideas for how the government will monitor the flow of money for Gulf Coast reconstruction. The proposals include establishing a special inspector general's office, expanding the duties of the special inspector general for Iraq reconstruction or establishing a chief financial officer.

Some in Congress are concerned that Homeland Security's inspector general's office will not have the resources to monitor the department's regular work, as well as the tens of billions of dollars flowing into the Gulf Coast. Homeland Security Department officials, however, have said the department's IG office is up to the task.

Staff writers [redacted] contributed to this report.

I hope they push this. It will make our volunteer protection bill look quite modest.

washingtonpost.com

Federal Contractors Seek Liability Shields

Trade Group Drafting Bill to Protect Storm Cleanup Workers From Lawsuits

By [redacted]
Washington Post Staff Writer
Tuesday, September 20, 2005; A07

Contractors working on Hurricane Katrina relief efforts for the federal government want Congress to limit their liability from lawsuits and are drafting legislation to seek such protection, industry officials said yesterday.

The Army Corps of Engineers and the Federal Emergency Management Agency have relied on contractors, including several who started work without a contract, to fix the levees in New Orleans and pump water out of the city. But the companies have become concerned about the liability issue because of lawsuits filed against construction firms that helped clean up the World Trade Center after the Sept. 11, 2001, terrorist attacks.

"We're asking for some reasonable limits for going into the Gulf Coast and dealing with unknowns," Michael E. Kennedy, general counsel for the Associated General Contractors of America, said after a meeting of the trade group in Washington. "A contractor goes into an unknown situation to remove debris or fix a utility line, and three years from now someone decides they did it improperly."

The Corps has already contracted with more than a dozen companies for work worth $2.8 billion during the next year. Those companies will be joined by dozens more as reconstruction of the region begins.

The bill that the trade group is drafting would limit contractors' liabilities but still hold them responsible for following government regulations, Kennedy said. It would be similar to regulations the Homeland Security Department unveiled last year that protect companies selling security technology from lawsuits triggered by a terrorist act.

Legislation was introduced in the House last week to shield volunteer contractors from liability. The general contractors' bill would extend the coverage to companies working under the government.

"You can consider these contractors as an extension of the government; they are performing a lot of public" duties, Kennedy said.

Robert S. Boh, president of Boh Bros. Construction Co. of New Orleans, said yesterday that he favors such a bill. His firm moved its New Orleans offices to Baton Rouge, La., after the hurricane hit but was soon hired by the Corps to fix the levees and pump water out of the city.

"We're simply showing up and responding to verbal direction," Boh said. "We're not adequately able to assess the request for risks."

Also yesterday, the Homeland Security Department's inspector general appointed a National Weather Service official who once served as acting chief financial officer of FEMA to lead the office's work overseeing Katrina spending.

Matthew A. Jadacki, who worked at FEMA from 1991 to 2004, will "be responsible for overseeing the

management and expenditures of all contracts, grants and governmental operations related to Hurricane Katrina relief efforts," according to a Homeland Security Department statement.

Jadacki's appointment comes as members of Congress continue to debate other ideas for how the government will monitor the flow of money for Gulf Coast reconstruction. The proposals include establishing a special inspector general's office, expanding the duties of the special inspector general for Iraq reconstruction or establishing a chief financial officer.

Some in Congress are concerned that Homeland Security's inspector general's office will not have the resources to monitor the department's regular work, as well as the tens of billions of dollars flowing into the Gulf Coast. Homeland Security Department officials, however, have said the department's IG office is up to the task.

Staff writers [redacted] *contributed to this report.*

Bogan, Shanedda L. (ENRD)

From: Bogan, Shanedda L. (ENRD)
Sent: Tuesday, September 20, 2005 11:26 AM
To: Owens, Angela (ENRD); Zwick, Ken (CIV); Alexander, Craig (ENRD); Barsky, Seth (ENRD); Baylor, Lewis (ENRD); Brighton, William (ENRD); Brook, Bob (ENRD); Brookshire, James (ENRD); Bruffy, Robert (ENRD); Burgess, Wells (ENRD); Butler, Virginia (ENRD); Clark, Jeffrey B. (ENRD); Clark, Tom (ENRD); Cruden, John (ENRD); Davis, Deborah J; Davis, John S (ODAG); Disheroon, Fred (ENRD); Dworkin, Karen (ENRD); Edgar, Mary (ENRD); Emrich, Andrew (ENRD); Findlay, Charles (ENRD); Fisherow, Benjamin (ENRD); Fowler, Liane (SMO); Gelber, Bruce (ENRD); Gluck, Ronald (ENRD); Goldman, Greer (ENRD); Gorsuch, Neil M; Grishaw, Letitia (ENRD); Gunn, Currie (SMO); Haugrud, Jack (ENRD); Henderson, Charles V; Hoang, Anthony (ENRD); Johnson, Kelly A. (ENRD); Katz, Maureen (ENRD); Keeney, John; Kessler, Elizabeth A; Kilbourne, Jim (ENRD); Lazarus, William (ENRD); Lesch, Jaclyn; Mahan, Ellen (ENRD); Maher, Robert (ENRD); Mariani, Tom (ENRD); Martella, Roger (ENRD); McCabe, Catherine (ENRD); McCallum, Robert (SMO); Mergen, Andy (ENRD); Milius, Pauline (ENRD); Miller, Charles S; Miranda, Gail (ENRD); Monson, Peter C (ENRD); Neumayr, Mary (ENRD); Newton, Cullen (ENRD); O'Connor, Eileen J. (AAG/TAX); Oppenheimer, Peter (ENRD); Owen, Peter B; Racicot, Tim (ENRD); Randall, Gary (ENRD); Rogers, Cherie (ENRD); Rogers, Steven (ENRD); Rubin, Jim (ENRD); Samuels, Stephen (ENRD); Saxe, Keith (ENRD); Schachter, Scott (ENRD); Schiffer, Stuart (CIV); Shaw, Aloma A; Shockey, Charles (ENRD); Sither, John (ENRD); Smith, Justin (ENRD-LPS); Smith, Marc (ENRD); Sobeck, Eileen (ENRD); Turner, John (ENRD); Uhlmann, David (ENRD); Vaden, Christopher (ENRD); Wardzinski, Karen (ENRD); Webb, John T. (ENRD); Williams, Jean (ENRD); Young, Russell (ENRD); Gustafson, Kristen (ENRD)
Subject: Attached is ENRD's Weekly Report to the AG - September 20, 2005 ...
Attachments: #91600-v1-AG_Weekly_9_20.DOC

From the desk of Shanedda Bogan
Office of the AAG
Environment and Natural Resources Division
Main DOJ Room 2141
514-2701-phone
514-0557-fax

U.S. Department of Justice

Environment and Natural Resources Division

Assistant Attorney General
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Telephone (202) 514-2701
Facsimile (202) 514-0557

September 20, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Kelly A. Johnson
Acting Assistant Attorney General
Environment and Natural Resources Division

NEXT WEEK

- ***Post-Trial Briefing in Largest Coal-Fired Power Plant Enforcement Action***
  On September 29, Division lawyers will file proposed findings of fact/conclusions of law in the Clean Air Act enforcement action against American Electric Power. Trial was held in July in this case, which involves allegations that the defendant failed to comply with the Act's New Source Review permitting standards at various power plants in Ohio, West Virginia, and Pennslyvania.

THIS WEEK

- ***Submission of United States Proposal for Columbia River Dam Proceedings***
  On September 20 we will submit our proposal for structuring further proceedings regarding the effects of Columbia River dams on certain threatened salmon species. Last July the Ninth Circuit affirmed the District of Oregon's injunction requiring the Federal Columbia River Power System to provide more summer water spill over specified dams rather than through turbines for power generation, in order to avoid irreparable harm to the salmon species. However, the circuit court directed the district court to consider whether the injunction should be more narrowly tailored.

- ***Lodging of Consent Decree Arising from Fatal Explosion at Oil Refinery***
  On September 20 the United States and the State of Delaware will lodge a consent decree resolving the two governments' remaining claims stemming from a 2001 explosion at the Motiva oil refinery in Delaware City, Delaware, which killed one worker and injured five others. The value of this settlement of the two governments' Clean Air and Clean Water Act claims is over $23 million, including a $12 million fine, $3.96 million in supplemental environmental projects, and approximately $7.5 million in injunctive relief consisting of the implementation of enhanced refinery safety procedures. In addition, an easement will be recorded prohibiting development of 285 acres of riparian forest adjoining the refinery.

- ***Argument in Nationwide Permit Appeal Affecting Mountaintop Removal Mining***
  On September 19 the Fourth Circuit will hear argument on whether a district court erred in holding that a nationwide permit authorizing discharges associated with surface coal mining, including valley fills from mountaintop removal mining, violates Section 404(e) of the Clean Water Act.

LAST WEEK

- ***Criminal Trial Against Iron Foundry Begins***
  On September 12 Atlantic States Cast Iron Pipe Company, a division of McWane, Inc., and five of its current and former managers and supervisors went on trial in the District of New Jersey. The charges include conspiracy to violate the Clean Water Act and Clean Air Act, substantive violations of those and other environmental statutes, and making false statements to EPA and the Occupational Safety and Health Administration in connection with unlawful practices at a New Jersey iron foundry. The trial is expected to last four to six months.

- ***Fish and Wildlife Service Enjoined from Issuing Permits to Take Wolves***
  On September 13 the District Court for the District of Columbia enjoined the Fish and Wildlife Service from issuing Endangered Species Act permits authorizing Wisconsin and Michigan to take wolves. The court ruled that the agency had failed to comply with the notice and comment requirements at Section 10 of the Act prior to issuing the permits.

DIVISION CONTACT

Kelly A. Johnson
Acting Assistant Attorney General
(202) 514-4760

DOJ_NMG_ 0148111

Bogan, Shanedda L. (ENRD)

From: Bogan, Shanedda L. (ENRD)
Sent: Tuesday, September 20, 2005 11:33 AM
To: Owens, Angela (ENRD); Zwick, Ken (CIV); Alexander, Craig (ENRD); Barsky, Seth (ENRD); Baylor, Lewis (ENRD); Brighton, William (ENRD); Brook, Bob (ENRD); Brookshire, James (ENRD); Bruffy, Robert (ENRD); Burgess, Wells (ENRD); Butler, Virginia (ENRD); Clark, Tom (ENRD); Cruden, John (ENRD); Davis, Deborah J; Davis, John S (ODAG); Disheroon, Fred (ENRD); Dworkin, Karen (ENRD); Edgar, Mary (ENRD); Emrich, Andrew (ENRD); Findlay, Charles (ENRD); Fisherow, Benjamin (ENRD); Fowler, Liane (SMO); Gelber, Bruce (ENRD); Gluck, Ronald (ENRD); Goldman, Greer (ENRD); Gorsuch, Neil M; Grishaw, Letitia (ENRD); Gunn, Currie (SMO); Haugrud, Jack (ENRD); Henderson, Charles V; Hoang, Anthony (ENRD); Johnson, Kelly A. (ENRD); Katz, Maureen (ENRD); Keeney, John; Kessler, Elizabeth A; Kilbourne, Jim (ENRD); Lazarus, William (ENRD); Lesch, Jaclyn; Mahan, Ellen (ENRD); Maher, Robert (ENRD); Mariani, Tom (ENRD); Martella, Roger (ENRD); McCabe, Catherine (ENRD); McCallum, Robert (SMO); Mergen, Andy (ENRD); Milius, Pauline (ENRD); Miller, Charles S; Miranda, Gail (ENRD); Monson, Peter C (ENRD); Neumayr, Mary (ENRD); O'Connor, Eileen J. (AAG/TAX); Oppenheimer, Peter (ENRD); Owen, Peter B; Racicot, Tim (ENRD); Randall, Gary (ENRD); Rogers, Cherie (ENRD); Rogers, Steven (ENRD); Rubin, Jim (ENRD); Samuels, Stephen (ENRD); Saxe, Keith (ENRD); Schachter, Scott (ENRD); Schiffer, Stuart (CIV); Shaw, Aloma A; Shockey, Charles (ENRD); Sither, John (ENRD); Smith, Justin (ENRD-LPS); Smith, Marc (ENRD); Sobeck, Eileen (ENRD); Turner, John (ENRD); Uhlmann, David (ENRD); Vaden, Christopher (ENRD); Wardzinski, Karen (ENRD); Webb, John T. (ENRD); Williams, Jean (ENRD); Young, Russell (ENRD); Gustafson, Kristen (ENRD)
Subject: Attached is ENRD's Weekly Report to the AG - September 20, 2005 ...
Attachments: #91600-v1-AG_Weekly_9_20.DOC

From the desk of Shanedda Bogan
Office of the AAG
Environment and Natural Resources Division
Main DOJ Room 2141
514-2701-phone
514-0557-fax

U.S. Department of Justice

Environment and Natural Resources Division

Assistant Attorney General
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Telephone (202) 514-2701
Facsimile (202) 514-0557

September 20, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Kelly A. Johnson
Acting Assistant Attorney General
Environment and Natural Resources Division

NEXT WEEK

- ***Post-Trial Briefing in Largest Coal-Fired Power Plant Enforcement Action***
  On September 29, Division lawyers will file proposed findings of fact/conclusions of law in the Clean Air Act enforcement action against American Electric Power. Trial was held in July in this case, which involves allegations that the defendant failed to comply with the Act's New Source Review permitting standards at various power plants in Ohio, West Virginia, and Pennsylvania.

THIS WEEK

- ***Submission of United States Proposal for Columbia River Dam Proceedings***
  On September 20 we will submit our proposal for structuring further proceedings regarding the effects of Columbia River dams on certain threatened salmon species. Last July the Ninth Circuit affirmed the District of Oregon's injunction requiring the Federal Columbia River Power System to provide more summer water spill over specified dams rather than through turbines for power generation, in order to avoid irreparable harm to the salmon species. However, the circuit court directed the district court to consider whether the injunction should be more narrowly tailored.

- ***Lodging of Consent Decree Arising from Fatal Explosion at Oil Refinery***
  On September 20 the United States and the State of Delaware will lodge a consent decree resolving the two governments' remaining claims stemming from a 2001 explosion at the Motiva oil refinery in Delaware City, Delaware, which killed one worker and injured five others. The value of this settlement of the two governments' Clean Air and Clean Water Act claims is over $23 million, including a $12 million fine, $3.96 million in supplemental environmental projects, and approximately $7.5 million in injunctive relief consisting of the implementation of enhanced refinery safety procedures. In addition, an easement will be recorded prohibiting development of 285 acres of riparian forest adjoining the refinery.

- ***Argument in Nationwide Permit Appeal Affecting Mountaintop Removal Mining***
  On September 19 the Fourth Circuit heard argument on whether a district court erred in holding that a nationwide permit authorizing discharges associated with surface coal mining, including valley fills from mountaintop removal mining, violates Section 404(e) of the Clean Water Act.

LAST WEEK

- ***Criminal Trial Against Iron Foundry Begins***
  On September 12 Atlantic States Cast Iron Pipe Company, a division of McWane, Inc., and five of its current and former managers and supervisors went on trial in the District of New Jersey. The charges include conspiracy to violate the Clean Water Act and Clean Air Act, substantive violations of those and other environmental statutes, and making false statements to EPA and the Occupational Safety and Health Administration in connection with unlawful practices at a New Jersey iron foundry. The trial is expected to last four to six months.

- ***Fish and Wildlife Service Enjoined from Issuing Permits to Take Wolves***
  On September 13 the District Court for the District of Columbia enjoined the Fish and Wildlife Service from issuing Endangered Species Act permits authorizing Wisconsin and Michigan to take (i.e. kill or trap) wolves. The court ruled that the agency had failed to comply with the notice and comment requirements at Section 10 of the Act prior to issuing the permits.

DIVISION CONTACT

Kelly A. Johnson
Acting Assistant Attorney General
(202) 514-4760

DOJ_NMG_ 0148114

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 20, 2005 12:02 PM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE JUDICIAL CONFERENCE

Prepared Remarks of Attorney General Alberto R. Gonzales at the Judicial Conference Washington, D.C. September 20, 2005-9:30 am

Good morning.

Thank you, Justice Stevens.

Yesterday I had the pleasure of meeting with your Executive Committee. The agenda reflected that good progress has been made on issues of importance to the judiciary, but clearly work remains in the areas of sentencing, immigration appeals, and judicial security. I have enjoyed working with Judge Carolyn King, and I look forward to working closely with her successor, Judge Hogan.

It would be customary for me in addressing the conference to comment on substantive issues affecting the judiciary and the Department of Justice. But, as we all know, this is not a normal time, and so I wanted to add my voice to the choir of supporters and admirers of Chief Justice William Rehniquist.

There is a lot I might say about the Chief - he was one of the most distinguished Chief Justices in the history of the Court, and led

a colorful and full life outside of work. But being verbose in a tribute to the Chief, whose opinions sometimes seemed shorter than the syllabuses that summarized them, would be like citing foreign law in a tribute to Justice Scalia. So I will keep this short, because that is what he would want me to do.

As a father, I care very much about the influences on my 13 and 10 year old sons, Graham and Gabriel. Role models are so important at this age. The poignant words of eulogy offered by the Chief Justice's family at the memorial service painted a remarkably clear picture of a good man beloved by his family. They obviously learned a lot about life and priorities from their father and grandfather, as did a large cadre of former clerks. I did not have the privilege of knowing the personal side of the Chief Justice as well as some of you, but what I do know makes me a little sad that my sons will not know the man and they will not learn from him the lessons that he taught so many others.

Of course, most of us here knew the Chief Justice as a dedicated public servant-dedicated to the Court and to the rule of law.

As the Attorney General, I'd like to spend a few minutes commenting on the Chief Justice's jurisprudence in law-enforcement cases. Not everyone in this room may agree with Chief Justice Rehnquist's approach to the law in this area, but no one can deny the effect that he had.

In considering law enforcement cases, Chief Justice Rehnquist often advocated legal standards based on objective criteria, and he counseled against post-hoc inquiries into the subjective motivations of police officers and prosecutors. He worked to make legal rules clear and comprehensible for officers serving on the frontlines. He believed that bright-line rules would better protect both citizens and

law enforcement.

Chief Justice Rehnquist tried to understand the challenges - often life-threatening challenges - faced by law enforcement. He often cautioned against second guessing the split-second decisions made each day by law-enforcement officers on the street-decisions that he knew were often made in the dangerous context of an arrest or at the scene of a crime.

Perhaps the Chief Justice was particularly attuned to the concerns of law enforcement because of his tenure in the Department of Justice - as Assistant Attorney General for the Office of Legal Counsel. I think it more likely that it was due to his mid-western humility, his pragmatism, and his commitment to the separation of powers.

He vigorously defended the independence of the judiciary, but he also respected the enumerated powers and the specific roles afforded by our Constitution to the executive and the legislative branches.

The confirmation hearings of Judge Roberts last week remind us and the public of importance of judges and the Judiciary in our democratic and constitutional systems. The Chief Justice understood the role of the Judiciary in America's great story of freedom, and his life's work reflected it.

As one of his clerks recently wrote, the Chief Justice "regarded himself as the bearer of a great trust and of a heavy obligation of stewardship." As judges, you bear that same trust and obligation.

I appreciate every opportunity to meet with the Judicial Conference to ensure that the Department of Justice does all it can to

assist the Conference in the fulfillment of that trust and obligation.

And this year especially, I appreciate the service and the example of Chief Justice Rehnquist. He reminded us that, as public servants, the lives we touch everyday are as important as the legacy we leave in the law.

Thank you.

###

Lyon, Jaime

From: Lyon, Jaime
Sent: Tuesday, September 20, 2005 12:04 PM
To: CRS AG Weekly Report Recipients
Subject: CRS AG Weekly 9-20-05
Attachments: CRS AG Weekly 9-20-05.doc

Attached please find the CRS Weekly Report for the Attorney General for September 20, 2005.

Jaime Lyon
Confidential Assistant to the Director
Community Relations Service
United States Department of Justice
(202) 305-2934

September 20, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sharee M. Freeman
Director, Community Relations Service

SUBJECT: Weekly Report[1]

A. Next Week

B. This Week

- ***CRS Continues to Provide Assistance in Hurricane Katrina Relief Efforts***
  Since the week of September 5, 2005, CRS continues to provide assistance to the Federal Emergency Management Agency (FEMA) in the aftermath of Hurricane Katrina by facilitating and promoting cooperative interactions between disaster relief entities and minority communities. Pursuant to FEMA's request, CRS continues to conduct its ongoing cultural competency training program at FEMA's Regional Personnel Processing Center in Atlanta, Georgia to assist in preparing firefighters, park rangers, and other community relations personnel who are being deployed to disaster areas. In addition, Director Freeman and her team of eighteen CRS conciliators have been deployed to both Louisiana and Mississippi and have traveled to Biloxi, Gulfport, and Hattiesburg, Mississippi, as well as to New Orleans and Baton Rouge, Louisiana to meet with joint FEMA Equal Rights and Community Relations counterparts to conduct onsite assessments of resources and services, and to attend and facilitate meetings with respective stakeholders in minority communities. CRS also continues to conduct onsite assessments and provide conflict resolution services in an effort to defuse immediate racial tensions discovered at Red Cross sites throughout Mississippi and Louisiana.

[1] This report is an internal document that is not intended for distribution outside of the Department of Justice.

DOJ_NMG_ 0148120

- ***CRS Responded to Community Concerns in the Aftermath of Hurricane Katrina in Anniston, AL***
  On September 19, 2005, at the urgent request of the Federal Emergency Management Agency (FEMA), CRS was onsite in Anniston, AL to meet with state officials responsible for ownership and operation of the McClellan Military Base, community leaders, and other disaster relief entities to discuss shelter operational concerns and related protests at the McClellan Military Base. The Base is being used to house Hurricane Katrina evacuees. It is reported that the predominately African American evacuees are protesting the living conditions of the shelter, alleging inadequate and lack of accessible facilities, as required by the American Disability Act (ADA).

C. Last Week

- ***CRS Conducted Arab, Muslim, and Sikh Cultural Awareness Training in Decatur, GA***
  On September 14, 2005, Director Freeman and CRS staff were onsite in Decatur, GA to conduct an Arab, Muslim, and Sikh Cultural Awareness Protocol Training for local law enforcement officials, Transportation Security Administration (TSA) officials, the Director of Training for Immigration and Customs Enforcement (ICE), representatives from the Federal Bureau of Investigation, the United States Attorney for the Northern District of Georgia, and members of local Arab, Muslim, and Sikh communities.

COMMUNITY RELATIONS SERVICE CONTACT:
JAIME LYON AT (202) 305-2934

DOJ_NMG_ 0148121

[redacted]@judiciary-rep.senate.gov

From: [redacted]@judiciary-rep.senate.gov
Sent: Tuesday, September 20, 2005 12:12 PM
To: Gorsuch, Neil M
Subject: RE: [redacted]

Glad you and [redacted] spoke... able to cut through my clear incompetence in explaining what we were trying to accomplish.

I appreciate any help on that. I will introduce tomorrow - that's pretty much set. The only question is what will the Judicial Review language look like and will the boss want to include the language re: the liability protection for those donating goods and equipment.

Thanks again. My direct dial is below.

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 19, 2005 7:54 PM
To: [redacted](Judiciary)
Subject: Re: [redacted]

Happy to speak with [redacted] and will reach out to him tomorrow. Best, NMG

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
<[redacted]@judiciary-rep.senate.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Sep 19 18:57:30 2005
Subject: [redacted]

Is going to call you. I have been such a poor conduit of the Judicial Review notion, I think it would be beneficial if you all talked.

[redacted]
Counsel

Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 20, 2005 12:14 PM
To: Bucholtz, Jeffrey (CIV); Seidel, Rebecca; Hertling, Richard; Ansell, Frederick
Subject: Re: Federal Contractor Liability

I won't be able to make the 4 pm call, but I did speak to [redacted] per [redacted]'s request and think I understand [redacted] suggestion, which wasn't altogether clear from the comments we received. If someone can email the Senate draft to me at home - [redacted] I will revise the draft later this afternoon to capture what understand [redacted]'s pt to be. We can then discuss any concerns folks may have.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
To: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Ansell, Frederick <Frederick.Ansell@SMOJMD.USDOJ.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 20 11:14:33 2005
Subject: FW: Federal Contractor Liability

-----Original Message-----
From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Tuesday, September 20, 2005 11:07 AM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov; [redacted](DHS)
Cc: Raul_F._Yanes@omb.eop.gov
Subject: Federal Contractor Liability

I hope they push this. It will make our volunteer protection bill look quite modest.

washingtonpost.com <http://www.washingtonpost.com/>
Federal Contractors Seek Liability Shields Trade Group Drafting Bill to Protect Storm Cleanup Workers From Lawsuits

By [redacted]
Washington Post Staff Writer
Tuesday, September 20, 2005; A07

Contractors working on Hurricane Katrina relief efforts for the federal government want Congress to

Contractors working on Hurricane Katrina relief efforts for the federal government want Congress to limit their liability from lawsuits and are drafting legislation to seek such protection, industry officials said yesterday.

The Army Corps of Engineers and the Federal Emergency Management Agency have relied on contractors, including several who started work without a contract, to fix the levees in New Orleans and pump water out of the city. But the companies have become concerned about the liability issue because of lawsuits filed against construction firms that helped clean up the World Trade Center after the Sept. 11, 2001, terrorist attacks.

"We're asking for some reasonable limits for going into the Gulf Coast and dealing with unknowns," Michael E. Kennedy, general counsel for the Associated General Contractors of America, said after a meeting of the trade group in Washington. "A contractor goes into an unknown situation to remove debris or fix a utility line, and three years from now someone decides they did it improperly."

The Corps has already contracted with more than a dozen companies for work worth $2.8 billion during the next year. Those companies will be joined by dozens more as reconstruction of the region begins.

The bill that the trade group is drafting would limit contractors' liabilities but still hold them responsible for following government regulations, Kennedy said. It would be similar to regulations the Homeland Security Department unveiled last year that protect companies selling security technology from lawsuits triggered by a terrorist act.

Legislation was introduced in the House last week to shield volunteer contractors from liability. The general contractors' bill would extend the coverage to companies working under the government.

"You can consider these contractors as an extension of the government; they are performing a lot of public" duties, Kennedy said.

Robert S. Boh, president of Boh Bros. Construction Co. of New Orleans, said yesterday that he favors such a bill. His firm moved its New Orleans offices to Baton Rouge, La., after the hurricane hit but was soon hired by the Corps to fix the levees and pump water out of the city.

"We're simply showing up and responding to verbal direction," Boh said.
"We're not adequately able to assess the request for risks."

Also yesterday, the Homeland Security Department's inspector general appointed a National Weather Service official who once served as acting chief financial officer of FEMA to lead the office's work overseeing Katrina spending.

Matthew A. Jadacki, who worked at FEMA from 1991 to 2004, will "be responsible for overseeing the management and expenditures of all contracts, grants and governmental operations related to Hurricane Katrina relief efforts," according to a Homeland Security Department statement.

Jadacki's appointment comes as members of Congress continue to debate other ideas for how the government will monitor the flow of money for Gulf Coast reconstruction. The proposals include establishing a special inspector general's office, expanding the duties of the special inspector general for Iraq reconstruction or establishing a chief financial officer.

Some in Congress are concerned that Homeland Security's inspector general's office will not have the resources to monitor the department's regular work, as well as the tens of billions of dollars flowing

into the Gulf Coast. Homeland Security Department officials, however, have said the department's IG office is up to the task.

Staff writers [redacted] contributed to this report.

Ansell, Frederick

From: Ansell, Frederick
Sent: Tuesday, September 20, 2005 12:15 PM
To: Gorsuch, Neil M
Subject: Not read: findings

Ansell, Frederick

From: Ansell, Frederick
Sent: Tuesday, September 20, 2005 12:23 PM
To: Gorsuch, Neil M
Subject: RE: Federal Contractor Liability

Did you receive this yet?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, September 20, 2005 12:14 PM
To: Bucholtz, Jeffrey (CIV); Seidel, Rebecca; Hertling, Richard; Ansell, Frederick
Subject: Re: Federal Contractor Liability

I won't be able to make the 4 pm call, but I did speak to [redacted] per [redacted]s request and think I understand [redacted] suggestion, which wasn't altogether clear from the comments we received. If someone can email the Senate draft to me at home - [redacted] I will revise the draft later this afternoon to capture what understand [redacted]'s pt to be. We can then discuss any concerns folks may have.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
To: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Ansell, Frederick <Frederick.Ansell@SMOJMD.USDOJ.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 20 11:14:33 2005
Subject: FW: Federal Contractor Liability

-----Original Message-----
From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Tuesday, September 20, 2005 11:07 AM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov; [redacted] (DHS)
Cc: Raul_F._Yanes@omb.eop.gov
Subject: Federal Contractor Liability

I hope they push this. It will make our volunteer protection bill look quite modest.

washingtonpost.com <http://www.washingtonpost.com/>

washingtonpost.com <http://www.washingtonpost.com/>

Federal Contractors Seek Liability Shields Trade Group Drafting Bill to Protect Storm Cleanup Workers From Lawsuits

By [redacted]
Washington Post Staff Writer
Tuesday, September 20, 2005; A07

Contractors working on Hurricane Katrina relief efforts for the federal government want Congress to limit their liability from lawsuits and are drafting legislation to seek such protection, industry officials said yesterday.

The Army Corps of Engineers and the Federal Emergency Management Agency have relied on contractors, including several who started work without a contract, to fix the levees in New Orleans and pump water out of the city. But the companies have become concerned about the liability issue because of lawsuits filed against construction firms that helped clean up the World Trade Center after the Sept. 11, 2001, terrorist attacks.

"We're asking for some reasonable limits for going into the Gulf Coast and dealing with unknowns," Michael E. Kennedy, general counsel for the Associated General Contractors of America, said after a meeting of the trade group in Washington. "A contractor goes into an unknown situation to remove debris or fix a utility line, and three years from now someone decides they did it improperly."

The Corps has already contracted with more than a dozen companies for work worth $2.8 billion during the next year. Those companies will be joined by dozens more as reconstruction of the region begins.

The bill that the trade group is drafting would limit contractors' liabilities but still hold them responsible for following government regulations, Kennedy said. It would be similar to regulations the Homeland Security Department unveiled last year that protect companies selling security technology from lawsuits triggered by a terrorist act.

Legislation was introduced in the House last week to shield volunteer contractors from liability. The general contractors' bill would extend the coverage to companies working under the government.

"You can consider these contractors as an extension of the government; they are performing a lot of public" duties, Kennedy said.

Robert S. Boh, president of Boh Bros. Construction Co. of New Orleans, said yesterday that he favors such a bill. His firm moved its New Orleans offices to Baton Rouge, La., after the hurricane hit but was soon hired by the Corps to fix the levees and pump water out of the city.

"We're simply showing up and responding to verbal direction," Boh said.
"We're not adequately able to assess the request for risks."

Also yesterday, the Homeland Security Department's inspector general appointed a National Weather Service official who once served as acting chief financial officer of FEMA to lead the office's work overseeing Katrina spending.

Matthew A. Jadacki, who worked at FEMA from 1991 to 2004, will "be responsible for overseeing the

management and expenditures of all contracts, grants and governmental operations related to Hurricane Katrina relief efforts," according to a Homeland Security Department statement.

Jadacki's appointment comes as members of Congress continue to debate other ideas for how the government will monitor the flow of money for Gulf Coast reconstruction. The proposals include establishing a special inspector general's office, expanding the duties of the special inspector general for Iraq reconstruction or establishing a chief financial officer.

Some in Congress are concerned that Homeland Security's inspector general's office will not have the resources to monitor the department's regular work, as well as the tens of billions of dollars flowing into the Gulf Coast. Homeland Security Department officials, however, have said the department's IG office is up to the task.

Staff writers [redacted] contributed to this report.

Mansour, Linda

From: Mansour, Linda
Sent: Tuesday, September 20, 2005 12:44 PM
To: Shaw, Aloma A; Davis, Deborah J
Cc: McFarland, Steven T (ODAG); Overstreet, Wanda S; Gorsuch, Neil M; Roberts, Crystal; Henke, Tracy (SMO); Stuart, Diane; Schofield, Regina; Daley, Cybele; Hagy, David, W.; McGarry, Beth; Tzitzon, Nicholas; White, Jana; Keehner, Laura; Segerdahl-Ayers, Nancy; Pinkelman, James; Kendrick, Glenda; Pierce, Pete; Herraiz, Domingo S.; Greenfeld, Larry; Flores, Robert; Gillis, John; Hernandez, Nelson; Costigan, Michael; Alston, Michael; Silver, Gary; Schwimer, Cynthia J.; Madan, Rafael A.; Meldon, Jill; Fralick, Gerald
Subject: OJP Submission for the AG Weekly for Sept 18-24
Attachments: 918A.05.wpd

Hi Deborah and Aloma,

Attached is OJP's submission for the Attorney General's Weekly Report for September 18 - 24, 2005. Please let me know if you have any questions.

Thank you.
Linda

Linda Mansour
Office of Communications
Office of Justice Programs
U.S. Department of Justice
email: linda.mansour@usdoj.gov
phone: 202/616-3534

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Regina B. Schofield
Assistant Attorney General

SUBJECT: Weekly Report for the Week of September 18 - 24, 2005

NEXT WEEK

· ***Victims***

On September 29 - October 1, Office for Victims of Crime staff will attend the MADD National Conference. On September 30, MADD will hold its 25th Anniversary Victim/Survivor Tribute and Candlelight Ceremony.

On September 29 in Norman, OK, Office for Victims of Crime Director Gillis will give keynote remarks at the annual Oklahoma Conference on Child Abuse and Neglect and Healthy Families, sponsored by the U.S. Attorneys' Offices for the District of Kansas and Northern, Western, and Eastern Districts of Oklahoma. The conference also is sponsored by the Oklahoma Center on Child Abuse and Neglect and the Oklahoma State Department of Health. OVC provides funding scholarships that allow victim service providers in Indian Country to receive quality training on child abuse and neglect issues.

On September 26 in Newark, DE, Office for Victims of Crime Deputy Director Greenhouse will speak at the opening session of the Criminal Justice Council's Annual Statewide Crime Victim Service Conference, which will be attended by direct service provider representatives from Delaware, New Jersey, Pennsylvania, Virginia, and Maryland.

· ***Crime Prevention***

On September 30 in Miami, FL at the Citizens' Crime Watch of Miami-Dade 30th Annual Awards Ceremony, Bureau of Justice Assistance (BJA) Director Herraiz will give keynote remarks on OJP and BJA initiatives. About 700 members of Citizens' Crime

DOJ_NMG_ 0148132

Watch of Miami-Dade will attend the ceremony that will celebrate 30 years of crime watch service to the residents of Miami-Dade County and recognize crime watchers and law enforcement officers who have helped make a difference in their communities.

· ***Research***
On September 29 in Washington, DC, National Institute of Justice Acting Director Morgan will participate in the Homeland Security Strategy Forum.

· ***Faith-Based/Juvenile Justice***
On September 28 in San Diego, CA at the National Network of Youth Ministries meeting on "Mentor Recruitment in America's Faith-Based Communities," Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give remarks emphasizing the need to provide mentors from faith-based communities for at-risk youth to help prevent violence and encourage positive youth development.

THIS WEEK

· ****Missing Persons***
On September 19 in Tampa, FL, Assistant Attorney General Schofield and National Institute of Justice (NIJ) Acting Director Morgan gave opening remarks at the NIJ Regional Missing Persons Training Conference. Bureau of Justice Assistance staff also participated in the conference, which was the first of two planned events to convene medical examiners and/or coroners, law enforcement personnel, including state and local police officers who work on missing person's cases, managers of state missing children's clearinghouses, family members of long-term missing adults or their advocates, forensic scientists, and key state policymakers. Hosted by the National Forensic Science Technology Center (NFSTC), a member of the NIJ-sponsored Forensic Network, attendees were informed of the resources available to assist jurisdictions with the identification of missing persons and unidentified human remains. While in Tampa, Ms. Schofield toured the NFSTC, hosted a focus group on DNA technology, and held a news conference, along with Paul Perez, U.S. Attorney for the Middle District of Florida, to announce the 2005 President's DNA Initiative grants.

· ***Law Enforcement***
On September 23 at the Major Cities Chiefs meeting, Deputy Assistant Attorney General Daley, Bureau of Justice Assistance Director Herraiz, and Acting National Institute of Justice (NIJ) Director Morgan will address the group regarding body armor.

On September 23-28 in Miami Beach, FL, several OJP officials and staff will participate in the International Association of Chiefs of Police (IACP) annual conference. Assistant Attorney General Schofield will join Attorney General Gonzales on the dais at the First General Assembly and will address the National Association of Women Law Enforcement Executives. On September 25, Deputy Assistant Attorney General Daley will address a meeting of the International Association of Directors of Law Enforcement Standards and Training, as well as the Division of State Associations of Chiefs of Police.

DOJ_NMG_ 0148133

Office of Juvenile Justice and Delinquency Prevention staff will facilitate a focus group and several workshop sessions. Office for Victims of Crime Director Gillis will participate in a workshop on enhancing police response to victims, which will highlight a draft national strategy developed by IACP to create systemic change among law enforcement agencies in their response to victims of crime. The strategy represents the culmination of the first phase of a multi-year effort, the implementation of which will take place over the next few years. On September 27, Deputy Assistant Attorney General Daley, Acting NIJ Director Morgan, and BJA staff will conduct a workshop on body armor. Throughout the conference, Bureau of Justice Assistance Director Herraiz and staff will conduct several workshops on various topics including trafficking, information sharing and technology, gangs, police leadership development, and engaging youth.

· ***Drug Courts***
On September 22-23 in Washington, DC, the Bureau of Justice Assistance (BJA), the National Drug Court Institute, and ONDCP will host a meeting of the state drug court coordinators. This will be the first time that all state-level coordinators have met since the former OJP Drug Court Program Office merged with BJA. BJA Director Herraiz will provide welcoming remarks.

· ***Statistics***
On September 22 in Washington, DC, Bureau of Justice Statistics Director Greenfeld and staff along with the National Center for State Courts' International Division will meet with the information technology delegation of Egypt. Director Greenfeld will give an overview of BJS and its role in compiling statistical data for the federal court system.

· ***Research***
On September 21 in Arlington, VA, Assistant Attorney General Schofield will give opening remarks at the National Institute of Justice Biometrics Consortium Conference.

· ***Tribal***
On September 19-21 in Hinckley, MN, the Bureau of Justice Assistance (BJA) will co-sponsor and participate in the Native American Law Enforcement Summit: Improving Communities Through Multi-Jurisdictional Relationships, which will focus on building collaborative efforts between tribal and nontribal jurisdictions. The summit is modeled after Wisconsin's successful program, which BJA helped to develop, and co-sponsored by the Minnesota Native American Law Enforcement Summit Committee, the U.S. Attorney's Office for the District of Minnesota, the Minnesota Department of Public Safety, and the Minneapolis and St. Paul Police Departments.

· ***Victims***
On September 20 in Greensboro, NC, Office for Victims of Crime Director Gillis will give keynote remarks at the U.S. Attorneys' Statewide Training Conference, sponsored by
the U.S. Attorneys' Office for the Eastern, Western, and Middle Districts of North Carolina and the Governor's Crime Commission. The conference will focus on domestic

DOJ_NMG_ 0148134

violence and victims of violent crimes.

- ***Prescription Drugs***
On September 19-20 in Boston, MA, Bureau of Justice Assistance staff will attend the Prescription Drug Monitoring Program (PDMP) Northeast Regional Planning Meeting. Representatives of the PDMPs and the DEA will attend the meeting, which will be facilitated by the National Alliance for Model State Drug Laws. Topics to be discussed include information sharing, treatment referrals, performance measures, and issues specific to the participating states.

LAST WEEK

- ****Hurricane Katrina***
On September 2, the Bureau of Justice Assistance issued 33 supplemental Byrne Justice Assistance Grants (JAG) to state and local agencies in Alabama, Louisiana, and Mississippi to support immediate law enforcement needs resulting from Hurricane Katrina. BJA also took additional steps to ensure that grantee access to grant funds was not disrupted. Specifically, BJA issued 6-month, no-cost extensions for all grants in Alabama, Louisiana, and Mississippi, actively worked to resolve all conditional budget clearances on the recently issued FY 2005 grant awards, and removed all programmatic "withholding of funds" special conditions from the FY 2005 JAG awards.

The National Institute of Justice (NIJ) is reprinting 30,000 copies of the booklet *Identifying Victims Using DNA: A Guide for Families* booklet. In the ten working days after Hurricane Katrina hit the Gulf Coast, NIJ received about 13,000 requests for this publication from Texas and Louisiana officials and charitable organizations. Referring these requests to the Web version was obviously impossible given the amount of damage and lack of access to computers. NIJ anticipates additional requests for print copies.

- ****Law Enforcement***
On September 13 in Washington, DC, Assistant Attorney General Schofield gave welcoming remarks at the 2005 Summit: Overcoming Language Barriers in Law Enforcement.

On September 13 in Atlanta, GA, Bureau of Justice Assistance Director Herraiz provided opening remarks at the International Association of Chiefs of Police (IACP) National Workshop on Engaging State Law Enforcement and Citizen Corps Leaders: Partnerships, Preparedness, and Prevention. The conference, sponsored by IACP's Volunteers in Police Service Program, provided a forum for law enforcement leaders to engage Citizen Corps partners and to learn about growing trends in crime prevention and community preparedness. Several Citizen Corps and law enforcement representatives from those states directly affected by Hurricane Katrina attended.

- ***Identity Theft***
On September 15-16 in Pittsburgh, PA at the Pennsylvania Crime Prevention Association

DOJ_NMG_ 0148135

Annual Conference, Bureau of Justice Assistance staff conducted a workshop on identity theft. The workshop was presented in conjunction with the National White Collar Crime Center and included an overview of the National Sex Offender Public Registry.

- ***Victims***
  On September 14 in Charleston, WV, Office for Victims of Crime Director Gillis gave keynote remarks at the Victim Assistance Symposium, sponsored by the U.S. Attorneys' Offices for the Southern and Northern Districts of West Virginia, the West Virginia Division of Criminal Justice Services, the West Virginia Regional Community Policing Institute, and the Governor's Committee on Crime Delinquency and Correction.

- ***Substance Abuse/Reentry***
  On September 14 in Cleveland, OH at the annual Treatment Alternatives for Safer Communities Conference, Bureau of Justice Assistance staff gave a presentation on reentry and substance abuse treatment issues.

- ***Juvenile Justice***
  On September 14 in Bethesda, MD at the Substance Abuse and Mental Health Services Administration's National Policy Academy on Improving Services for Youth with Mental Health and Co-Occurring Substance Use Disorders Involved with the Juvenile Justice System, Office of Juvenile Justice and Delinquency Prevention staff moderated a panel on Diversion and Early Intervention: Promising National Models.

  On September 13 in Philadelphia, PA at the Hamilton Fish Institute on School and Community Violence national conference, Office of Juvenile Justice and Delinquency Prevention Administrator Flores gave remarks emphasizing the need to coordinate services for at-risk youth to help prevent violence and encourage positive youth development.

  On September 13, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) released *Alternatives to the Secure Detention and Confinement of Juvenile Offenders*. The latest in OJJDP's online Juvenile Justice Practices Series, the bulletin recommends expanding the range of alternatives to ensure that evidence-based programs are available.

- ***Information Sharing***
  On September 13 in Seattle, WA at the National Center for State Courts' National Court Technology Conference, Bureau of Justice Assistance (BJA) staff presented on BJA's information sharing initiatives. The conference addressed topics including the Global Justice eXtensible Markup Language Data Model's role in court technology, caseload management, and the Ohio Court Network, the Ohio Supreme Court's information sharing initiative for connecting all Ohio courts to a central information repository and the Internet.

DOJ_NMG_ 0148136

- ***Prosecution***
  On September 12 in Washington, DC, the Bureau of Justice Assistance and the American Prosecutors Research Institute convened the second and final meeting of the Prosecutors Capital Litigation Improvement Initiative curriculum development advisory group. The purpose of the meeting was to finalize the national curriculum, faculty, and materials for the October 24-27 national training and to identify ways to adapt the national training for a state-level audience. Arkansas and Florida have been chosen to pilot the curriculum at the state level.

- ***Research***
  On September 12 in St. Petersburg, FL, National Institute of Justice (NIJ) Acting Director Morgan gave opening remarks at NIJ's National Conference on the Science, Technology, and the Law. Bureau of Justice Assistance staff also participated in the conference, which was sponsored by the National Clearinghouse for Science, Technology, and the Law at Stetson University College of Law. The purpose of the conference was to improve the understanding of the interaction of science, technology, and law among scientists, law enforcement, attorneys, and judges, and to facilitate further discussion of emerging legal and scientific issues and trends in the use of scientific evidence in the courtroom.

LONG-RANGE EVENTS

- In late September 2005, the Bureau of Justice Statistics (BJS) will announce the estimates for criminal victimization in the United States during 2004. These annual estimates, which BJS has produced since 1973, provide the national measure of the public's exposure to crime and its consequences.

- In late September, the Bureau of Justice Statistics will announce almost $24 million in funding to the states, DC, and territories for cooperative agreements to provide support for improvements in criminal history records nationwide. This grant program, begun in 1995 following passage of the Brady Act, is designed to assist states in building the infrastructure to support nationwide background checks for firearms purchases and for other purposes, such as employment or volunteering with children, where a background check is required.

- On October 1-7 in London, England, National Institute of Justice staff will meet with officials from the Home Office and the Forensics Science Service regarding various aspects of England's National DNA Forensics Program. They also will meet with members of the London Metropolitan Police Force to discuss operational aspects of the program.

- On October 5 in Fairfax, VA, National Institute of Justice Acting Director Morgan will participate in a meeting on less lethal technologies sponsored by the Commission on Accreditation of Law Enforcement Agencies. This is one in an ongoing series of meetings involving the Bureau of Justice Assistance, the National Institute of Justice, the

DOJ_NMG_ 0148137

COPS Office, and the major law enforcement professional organizations to develop best practices with regard to deployment and employment of less lethal technologies.

- On October 8-11 in Washington, DC, the Bureau of Justice Assistance, the National Crime Prevention Council, and the Crime Prevention Coalition of America will sponsor the National Conference on Preventing Crime to celebrate 25 years of nationwide crime prevention successes, identify current crime issues and ways to address them, and renew commitments to prevention as a priority in reducing crime in the future.

- On October 27 in Charlotte, NC, Office for Victims of Crime Director Gillis will give remarks at the U.S. Attorney's Annual Training Conference, sponsored by the Eastern District of North Carolina.

- In October 2005, the Bureau of Justice Statistics will release *Prisoners in 2004*, an annual report published by the federal government since 1926. This report provides the counts of prisoners under the jurisdiction of federal and state corrections authorities, as well as data on capacity of state and federal prisons.

- In October 2005, the Bureau of Justice Statistics will release *Census of Tribal Justice Agencies in Indian Country, 2002*, which provides the first complete listing of all tribal justice agencies in Indian country, including law enforcement, juvenile justice, courts and prosecution, and corrections services and describes agency resources and workloads.

- On November 7 in Austin, TX, Office for Victims of Crime Director Gillis will give remarks at the Office of the Texas Attorney General's Conference.

- On November 16 in North Star, AK at the Alaska Youth Court Conference, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give remarks commending the attendees and members of the United Youth Courts of Alaska for the support they provide the state's 19 youth courts, and emphasizing how this alternative promotes positive development for youth who have committed nonviolent offenses.

- On November 16 in Albany, NY at the Town of Colonie Youth Court graduation ceremony, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give remarks commending the graduates for their willingness to volunteer, under adult supervision, as jurists, clerk/bailiffs, prosecutors, defenders, and judges, and emphasizing the importance of their role in the decision-making process for holding first-time juvenile offenders accountable for their actions through peer-operated sentencing.

- In November 2005, the Bureau of Justice Statistics, together with the National Center for Education Statistics in DoEd, will release the annual Indicators of School Crime and Safety, which provides national estimates of student and teacher victimization at school.

- During fall 2005, the Bureau of Justice Statistics will conduct for the first time the Census

DOJ_NMG_ 0148138

of Medical Examiners and Coroners Offices, which will focus on the medico-legal investigation of deaths and obtain information on agency personnel, expenditures, functions, workload, and needs. This census also will collect data on the number of unidentified remains held by medical examiner/coroner offices and their related policies and procedures for handling such remains.

- This fall, the Bureau of Justice Assistance (BJA) will host its annual regional conferences on "Demonstrating the Value of America's Justice Initiatives." BJA Director Herraiz and staff will attend these conferences to meet with representatives of State Administering Agencies and criminal justice practitioners throughout the country. The goal is to share information about BJA initiatives and promising practices. The conferences will be held on October 31-November 2 in Charlotte, NC (BJA Southeast Region), November 7-9 in Minneapolis, MN (BJA Midwest Region), November 28-30 in Anaheim, CA (BJA West Region), and December 12-14 in Newport, RI (BJS Northeast Region).

- By year-end 2005, the Bureau of Justice Statistics (BJS) will conduct a study of recidivism of domestic violence defendants charged in state courts in 2002. This recidivism study will track defendants following their arrest for a domestic violence offense in 2002, to evaluate how many were rearrested, convicted, and sentenced to incarceration during the follow-up period. With the cooperation of participating local prosecutor offices, the study will assess the percentage of defendants rearrested for repeated domestic violence against the same victim. The study also will examine the impact of alternative sentencing programs, such as anger management and batterer's intervention on subsequent offending.

- On January 9-13 in Washington, DC, Office of Juvenile Justice and Delinquency Prevention (OJJDP) Administrator Flores will give opening and closing remarks at OJJDP's National Conference on Building on Success: Providing Today's Youth with Opportunities for a Better Tomorrow, co-sponsored by the Coordinating Council on Juvenile Justice and Delinquency Prevention.

- In January 2006, the Bureau of Justice Statistics (BJS), in collaboration with DHS, will initiate the Computer Security Survey of U.S. businesses, a survey of 36,000 businesses nationwide on the impact of computer crime, theft, and fraud. BJS also will examine e-mail stalking and harassment in the workplace.

OJP GRANT ACTIVITY
SUMMARY INFORMATION THROUGH SEPTEMBER 24, 2005

- ***Bureau of Justice Assistance, Hoover, Alabama***
  $17,838 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Hoover.

- ***Bureau of Justice Assistance, Opelika, Alabama***
  $101,328 – Edward Byrne Memorial Justice Assistance Grant awarded to Lee County.

DOJ_NMG_ 0148139

- ***Bureau of Justice Assistance, South Tucson, Arizona***
  $13,539 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of South Tucson.

- ***Bureau of Justice Assistance, Arcadia, California***
  $15,731 – Edward Byrne Memorial Justice Assistance Grant awarded to Arcadia City.

- ***Bureau of Justice Assistance, Bell, California***
  $26,724 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Bell.

- ***Bureau of Justice Assistance, City of Industry, California***
  $16,101 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Industry.

- ***Bureau of Justice Assistance, Coachella, California***
  $19,728 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Coachella.

- ***Bureau of Justice Assistance, Commerce, California***
  $19,728 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Commerce.

- ***Bureau of Justice Assistance, Crescent City, California***
  $10,290 – Edward Byrne Memorial Justice Assistance Grant awarded to the County of Del Norte.

- ***Bureau of Justice Assistance, Culver City, California***
  $17,026 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Culver City.

- ***Bureau of Justice Assistance, Desert Hot Springs, California***
  $28,871 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Desert Hot Springs..

- ***Bureau of Justice Assistance, Encinitas, California***
  $18,729 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Encinitas.

- ***Bureau of Justice Assistance, Escondido, California***
  $68,587 – Developing and Enhancing Prescription Drug Monitoring Programs awarded to the City of Escondido.

- ***Bureau of Justice Assistance, Hawaiian Gardens, California***
  $14,806 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Hawaiian Gardens.

- ***Bureau of Justice Assistance, Hollister, California***
  $23,282 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Hollister.

- ***Bureau of Justice Assistance, Indio, California***
  $45,342 – Edward Byrne Memorial Justice Assistance Grant awarded to Indio City.

- ***Bureau of Justice Assistance, Lake Elsinore, California***
  $27,797 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Lake Elsinore.

- ***Bureau of Justice Assistance, Lemon Grove, California***
  $16,461 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Lemon Grove.

- ***Bureau of Justice Assistance, Lancaster, California***
  $136,988 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Lancaster.

- ***Bureau of Justice Assistance, Lomita, California***
  $12,918 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Lomita.

- ***Bureau of Justice Assistance, Los Banos, California***
  $11,881 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Los Banos.

- ***Bureau of Justice Assistance, Madera, California***
  $77,914 – Edward Byrne Memorial Justice Assistance Grant awarded to Madera County.

- ***Bureau of Justice Assistance, Martinez, California***
  $192,176 – Edward Byrne Memorial Justice Assistance Grant awarded to Contra Costa County.

- ***Bureau of Justice Assistance, Monterey, California***
  $21,283 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Monterey.

- ***Bureau of Justice Assistance, Norco, California***
  $10,327 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Norco.

DOJ_NMG_ 0148141

- ***Bureau of Justice Assistance, Novato, California***
  $12,363 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Novato.

- ***Bureau of Justice Assistance, Pleasant Hill, California***
  $15,283 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Pleasant Hill.

- ***Bureau of Justice Assistance, Redwood City, California***
  $176,260 – Edward Byrne Memorial Justice Assistance Grant awarded to San Mateo County.

- ***Bureau of Justice Assistance, Rohnert Park, California***
  $10,475 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Rohnert Park.

- ***Bureau of Justice Assistance, Salinas, California***
  $163,657 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Salinas.

- ***Bureau of Justice Assistance, San Jose, California***
  $750,048 – Edward Byrne Memorial Justice Assistance Grant awarded to the County of Santa Clara.

- ***Bureau of Justice Assistance, San Rafael, California***
  $22,171 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of San Rafael.

- ***Bureau of Justice Assistance, Santa Ana, California***
  $849,986 – Edward Byrne Memorial Justice Assistance Grant awarded to the County of Orange.

- ***Bureau of Justice Assistance, Santa Maria, California***
  $34,090 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Santa Maria.

- ***Bureau of Justice Assistance, Santa Paula, California***
  $12,104 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Santa Paula.

- ***Bureau of Justice Assistance, Santa Rosa, California***
  $61,209 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Santa Rosa.

- ***Bureau of Justice Assistance, Santee, California***
  $19,691 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Santee.

- ***Bureau of Justice Assistance, Alamosa, Colorado***
  $10,448 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Alamosa.

- ***Bureau of Justice Assistance, Winter Haven, Florida***
  $18,835 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Winter Haven.

- ***Bureau of Justice Assistance, Waynesboro, Georgia***
  $26,519 – Edward Byrne Memorial Justice Assistance Grant awarded to Burke County.

- ***Bureau of Justice Assistance, Mountain Home, Idaho***
  $13,287 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Mountain Home.

- ***Bureau of Justice Assistance, Pocatello, Idaho***
  $66,649 – Edward Byrne Memorial Justice Assistance Grant awarded to Bannock County.

- ***Bureau of Justice Assistance, Fort Dodge, Iowa***
  $40,859 – Edward Byrne Memorial Justice Assistance Grant awarded to Webster County.

- ***Bureau of Justice Assistance, Fort Scott, Kansas***
  $10,462 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Fort Scott.

- ***Bureau of Justice Assistance, Junction City, Kansas***
  $41,051 – Edward Byrne Memorial Justice Assistance Grant awarded to Junction City.

- ***Bureau of Justice Assistance, Salina, Kansas***
  $25,870 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Salina.

- ***Bureau of Justice Assistance, Leesville, Louisiana***
  $14,984 – Edward Byrne Memorial Justice Assistance Grant awarded to the Parish of Vernon.

- ***Bureau of Justice Assistance, Natchitoches, Louisiana***
  $25,554 – Edward Byrne Memorial Justice Assistance Grant awarded to the Natchitoches Parish Sheriff's Office.

DOJ_NMG_ 0148143

- ***Bureau of Justice Assistance, Corinth, Mississippi***
  $11,597 – Edward Byrne Memorial Justice Assistance Grant awarded to Alcorn County.

- ***Bureau of Justice Assistance, Hattiesburg, Mississippi***
  $43,956 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Hattiesburg.

- ***Bureau of Justice Assistance, Mccomb, Mississippi***
  $17,437 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Mccomb.

- ***Bureau of Justice Assistance, Ripley, Mississippi***
  $11,841 – Edward Byrne Memorial Justice Assistance Grant awarded to the Tippah County Sheriff's Office.

- ***Bureau of Justice Assistance, Arnold, Missouri***
  $18,625 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Arnold.

- ***Bureau of Justice Assistance, Branson, Missouri***
  $11,970 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Branson.

- ***Bureau of Justice Assistance, Columbia, Missouri***
  $54,625 – Edward Byrne Memorial Justice Assistance Grant awarded to Boone County.

- ***Bureau of Justice Assistance, Galena, Missouri***
  $20,903 – Edward Byrne Memorial Justice Assistance Grant awarded to the County of Stone.

- ***Bureau of Justice Assistance, Jefferson City, Missouri***
  $36,089 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Jefferson.

- ***Bureau of Justice Assistance, Joplin, Missouri***
  $27,871 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Joplin.

- ***Bureau of Justice Assistance, Lebanon, Missouri***
  $12,283 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Lebanon.

- ***Bureau of Justice Assistance, Marshfield, Missouri***

DOJ_NMG_ 0148144

$17,196 – Edward Byrne Memorial Justice Assistance Grant awarded to Webster County.

- ***Bureau of Justice Assistance, Berlin, New Hampshire***
  $13,215 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Berlin.

- ***Bureau of Justice Assistance, Brentwood, New Hampshire***
  $173,504 – Edward Byrne Memorial Justice Assistance Grant awarded to the Rockingham County Sheriff's Office.

- ***Bureau of Justice Assistance, Keene, New Hampshire***
  $29,841 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Keene.

- ***Bureau of Justice Assistance, Passaic, New Jersey***
  $355,820 – Edward Byrne Memorial Justice Assistance Grant awarded to Passaic City.

- ***Bureau of Justice Assistance, Salem City, New Jersey***
  $11,294 – Edward Byrne Memorial Justice Assistance Grant awarded to the County of Salem.

- ***Bureau of Justice Assistance, Trenton, New Jersey***
  $262,973 – Edward Byrne Memorial Justice Assistance Grant awarded to the County of Mercer.

- ***Bureau of Justice Assistance, Wildwood, New Jersey***
  $19,231 – Edward Byrne Memorial Justice Assistance Grant awarded to Wildwood City.

- ***Bureau of Justice Assistance, El Reno, Oklahoma***
  $11,352 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of El Reno.

- ***Bureau of Justice Assistance, Lawton, Oklahoma***
  $97,870 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Lawton.

- ***Bureau of Justice Assistance, Moore, Oklahoma***
  $56,616 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Moore.

- ***Bureau of Justice Assistance, Stillwater, Oklahoma***
  $14,106 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Stillwater.

- ***Bureau of Justice Assistance, Allentown, Pennsylvania***
  $93,894 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Allentown.

- ***Bureau of Justice Assistance, Stroudsburg, Pennsylvania***
  $16,863 – Edward Byrne Memorial Justice Assistance Grant awarded to Stroud Township.

- ***Bureau of Justice Assistance, Uniontown, Pennsylvania***
  $10,607 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Uniontown.

- ***Bureau of Justice Assistance, West Chester, Pennsylvania***
  $30,256 – Edward Byrne Memorial Justice Assistance Grant awarded to the Borough of West Chester.

- ***Bureau of Justice Assistance, East Providence, Rhode Island***
  $33,066 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of East Providence.

- ***Bureau of Justice Assistance, Pawtucket, Rhode Island***
  $98,246 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Pawtucket.

- ***Bureau of Justice Assistance, Woonsocket, Rhode Island***
  $63,173 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Woonsocket.

- ***Bureau of Justice Assistance, Newberry, South Carolina***
  $10,722 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Newberry.

- ***Bureau of Justice Assistance, Newberry, South Carolina***
  $10,682 – Edward Byrne Memorial Justice Assistance Grant awarded to the County of Newberry.

- ***Bureau of Justice Assistance, Pierre, South Dakota***
  $883,829 – Edward Byrne Memorial Justice Assistance Grant awarded to the Office of the Governor.

- ***Bureau of Justice Assistance, Greeneville, Tennessee***
  $17,710 – Edward Byrne Memorial Justice Assistance Grant awarded to Greene County.

- ***Bureau of Justice Assistance, Baytown, Texas***

DOJ_NMG_ 0148146

$27,651 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Baytown.

- ***Bureau of Justice Assistance, Bedford, Texas***
  $12,696 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Bedford.

- ***Bureau of Justice Assistance, Gatesville, Texas***
  $15,305 – Edward Byrne Memorial Justice Assistance Grant awarded to Coryell County.

- ***Bureau of Justice Assistance, Kingsville, Texas***
  $18,460 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Kingsville.

- ***Bureau of Justice Assistance, Lufkin, Texas***
  $23,250 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Lufkin.

- ***Bureau of Justice Assistance, Mercedes, Texas***
  $10,165 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Mercedes.

- ***Bureau of Justice Assistance, Richmond, Texas***
  $58,612 – Edward Byrne Memorial Justice Assistance Grant awarded to Fort Bend County.

- ***Bureau of Justice Assistance, Wise, Virginia***
  $12,391 – Edward Byrne Memorial Justice Assistance Grant awarded to Wise County.

- ***Bureau of Justice Assistance, St. Thomas, Virgin Islands***
  $1,238,750 – Edward Byrne Memorial Justice Assistance Grant awarded to the Law Enforcement Planning Commission.

- ***Bureau of Justice Assistance, Bluefield, West Virginia***
  $12,372 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Bluefield.

- ***Bureau of Justice Assistance, Morgantown, West Virginia***
  $41,478 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Morgantown.

- ***Bureau of Justice Assistance, Parkersburg, West Virginia***
  $15,465 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Parkersburg.

DOJ_NMG_ 0148147

- ***Bureau of Justice Assistance, Parkersburg, West Virginia***
  $27,044 – Edward Byrne Memorial Justice Assistance Grant awarded to the Wood County Commission.

- ***Bureau of Justice Assistance, Princeton, West Virginia***
  $16,655 – Edward Byrne Memorial Justice Assistance Grant awarded to the City of Princeton.

- ***Bureau of Justice Assistance, Winfield, West Virginia***
  $27,202 – Edward Byrne Memorial Justice Assistance Grant awarded to the Putnam County Commission.

- ***Bureau of Justice Assistance, Pago Pago, American Somoa***
  $1,238,750 - Edward Byrne Memorial Justice Assistance Grant awarded to the Criminal Justice Planning Agency.

- ***Bureau of Justice Assistance, Brewton, Alabama***
  $26,409 - Edward Byrne Memorial Justice Assistance Grant awarded to Escambia County.

- ***Bureau of Justice Assistance, West Memphis, Arkansas***
  $73,022 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of West Memphis..

- ***Bureau of Justice Assistance, Apache Junction, Arizona***
  $11,074 - Edward Byrne Memorial Justice Assistance Grant awarded to Apache Junction Police Department.

- ***Bureau of Justice Assistance, Bisbee, Arizona***
  $43,121 - Edward Byrne Memorial Justice Assistance Grant awarded to Cochise County Sheriff's Office.

- ***Bureau of Justice Assistance, Coolidge, Arizona***
  $10,213 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Coolidge.

- ***Bureau of Justice Assistance, Kingman, Arizona***
  $16,747 - Edward Byrne Memorial Justice Assistance Grant awarded to Mohave County

- ***Bureau of Justice Assistance, Prescott, Arizona***
  $15,300 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Prescott

DOJ_NMG_ 0148148

- ***Bureau of Justice Assistance, Prescott, Arizona***
  $39,169 - Edward Byrne Memorial Justice Assistance Grant awarded to Yavapai County

- ***Bureau of Justice Assistance, Sells, Arizona***
  $18,195 - Edward Byrne Memorial Justice Assistance Grant awarded to the Office of the Prosecutor Tohono O Odham Nation.

- ***Bureau of Justice Assistance, Tucson, Arizona***
  $644,227 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Tucson.

- ***Bureau of Justice Assistance, Window Rock, Arizona***
  $310,367 - Edward Byrne Memorial Justice Assistance Grant awarded to the Navajo Nation.

- ***Bureau of Justice Assistance, Beaumont, California***
  $10,068 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Beaumont.

- ***Bureau of Justice Assistance, El Monte California***
  $95,015 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of El Monte.

- ***Bureau of Justice Assistance, La Puente, California***
  $25,918 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of La Puente

- ***Bureau of Justice Assistance, Paramount, California***
  $51,005 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Paramount.

- ***Bureau of Justice Assistance, Rosemead, California***
  $35,607 - Edward Bryce Memorial Justice Assistance Grant awarded to the City of Rosemead

- ***Bureau of Justice Assistance, San Andreas, California***
  $13,917 - Edward Byrne Memorial Justice Assistance Grant awarded to Calaveras County.

- ***Bureau of Justice Assistance, San Bernardino, California***
  $1,015,551 - Edward Byrne Memorial Justice Assistance Grant awarded to the County of San Bernardino.

- ***Bureau of Justice Assistance, San Jacinto, California***

DOJ_NMG_ 0148149

$11,548 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of San Jacinto.

- ***Bureau of Justice Assistance, Simi Valley, California***
  $15,731 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Simi Valley.

- ***Bureau of Justice Assistance, Tulare, California***
  $48,155 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Tulare.

- ***Bureau of Justice Assistance, Brooksville, Florida***
  $76,822 - Edward Byrne Memorial Justice Assistance Grant awarded to Hernando County.

- ***Bureau of Justice Assistance, Cape Coral, Florida***
  $31,942 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Cape Coral.

- ***Bureau of Justice Assistance, Cocoa, Florida***
  $36,861 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Cocoa

- ***Bureau of Justice Assistance, Defuniak Springs, Florida***
  $12,467 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Defuniak Springs.

- ***Bureau of Justice Assistance , Delray Beach, Florida***
  $61,592 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Delray Beach.

- ***Bureau of Justice Assistance, Homestead, Florida***
  $72,307 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Homestead.

- ***Bureau of Justice Assistance, Lakeland, Florida***
  $57,044 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Lakeland.

- ***Bureau of Justice Assistance, Largo, Florida***
  $29,987 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Largo.

- ***Bureau of Justice Assistance, Live Oak, Florida***
  $11,186 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Live Oak

DOJ_NMG_ 0148150

- ***Bureau of Justice Assistance, Longwood, Florida***
  $22,811 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Longwood.

- ***Bureau of Justice Assistance, Ocala, Florida***
  $70,386 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Ocala.

- ***Bureau of Justice Assistance, Opa-Locka, Florida***
  $72,644 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Opa-Locka.

- ***Bureau of Justice Assistance, Panama City, Florida***
  $50,136 - Edward Byrne Memorial Justice Assistance Grant awarded to Bay County.

- ***Bureau of Justice Assistance, Rivera Beach, Florida***
  $57,145 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Rivera Beach.

- ***Bureau of Justice Assistance, Stuart, Florida***
  $42,825 - Edward Byrne Memorial Justice Assistance Grant awarded to Martin County.

- ***Bureau of Justice Assistance, Tavares, Florida***
  $88,210 - Edward Byrne Memorial Justice Assistance Grant awarded to Lake County.

- ***Bureau of Justice Assistance, Hilo, Hawaii***
  $115,645 - Edward Byrne Memorial Justice Assistance Grant awarded to Hawaii County.

- ***Bureau of Justice Assistance, Caldwell, Idaho***
  $151,370 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Caldwell.

- ***Bureau of Justice Assistance, Sandpoint, Idaho***
  $16,476 - Edward Byrne Memorial Justice Assistance Grant awarded to Bonner County.

- ***Bureau of Justice Assistance, Belleville, Illinois***
  $301,823 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Belleville

- ***Bureau of Justice Assistance, Centralia, Illinois***
  $11,415 - Edward Byrne Memorial Justice Assistance Grant awarded to Marion County.

- ***Bureau of Justice Assistance, Geneva, Illinois***
  $162,116 - Edward Byrne Memorial Justice Assistance Grant awarded to Kane County.

DOJ_NMG_ 0148151

- ***Bureau of Justice Assistance, Goshen, Indiana***
  $103,405 - Edward Byrne Memorial Justice Assistance Grant awarded to Elkhart County.

- ***Bureau of Justice Assistance, Muncie, Indiana***
  $37,127 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Muncie.

- ***Bureau of Justice Assistance, Florence, Kentucky***
  $13,999 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Florence.

- ***Bureau of Justice Assistance, Henderson, Kentucky***
  $64,222 - Edward Byrne Memorial Justice Assistance Grant awarded to Henderson City.

- ***Bureau of Justice Assistance, Owensboro, Kentucky***
  $21,135 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Owensboro.

- ***Bureau of Justice Assistance, Radcliff, Kentucky***
  $32,847 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Radcliff.

- ***Bureau of Justice Assistance, Kenner, Louisiana***
  $43,292 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Kenner.

- ***Bureau of Justice Assistance, New Orleans, Louisiana***
  $631,271 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of New Orleans.

- ***Bureau of Justice Assistance, Plaquemine, Louisiana***
  $19,520 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Plaquemine.

- ***Bureau of Justice Assistance, Westbrook, Maine***
  $20,692 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Westbrook.

- ***Bureau of Justice Assistance, Pascagoula, Mississippi***
  $39,820 - Edward Byrne Memorial Justice Assistance Grant awarded to Jackson County.

- ***Bureau of Justice Assistance, Starkville, Mississippi***
  $17,680 - Edward Byrne Memorial Justice Assistance Grant awarded to Oktibbeha County.

DOJ_NMG_ 0148152

- ***Bureau of Justice Assistance, St. Peters, Missouri***
  $15,722 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of St. Peters.

- ***Bureau of Justice Assistance, Bozeman, Montana***
  $20,497 - Edward Byrne Memorial Justice Assistance Grant awarded to Gallatin County.

- ***Bureau of Justice Assistance, Hamilton, Montana***
  $37,474 - Edward Byrne Memorial Justice Assistance Grant awarded to Ravalli County Commissioners.

- ***Bureau of Justice Assistance, Gering, Nebraska***
  $11,417 - Edward Byrne Memorial Justice Assistance Grant awarded to Scotts Bluff County.

- ***Bureau of Justice Assistance, Grand Island, Nebraska***
  $34,581 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Grand Island.

- ***Bureau of Justice Assistance, Kearney, Nebraska***
  $16,921 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Kearney.

- ***Bureau of Justice Assistance, Lincoln, Nebraska***
  $2,180,976 - Edward Byrne Memorial Justice Assistance Grant awarded to the Commission on Law Enforcement and Criminal Justice.

- ***Bureau of Justice Assistance, Omaha, Nebraska***
  $750,675 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Omaha.

- ***Bureau of Justice Assistance, Camden, New Jersey***
  $377,136 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Camden.

- ***Bureau of Justice Assistance, Mays Landing, New Jersey***
  $149,827 - Edward Byrne Memorial Justice Assistance Grant awarded to the Township of Hamilton.

- ***Bureau of Justice Assistance, Morristown, New Jersey***
  $18,773 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Morristown.

DOJ_NMG_ 0148153

- ***Bureau of Justice Assistance, Vineland, New Jersey***
  $147,639 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Vineland.

- ***Bureau of Justice Assistance, Woodbridge, New Jersey***
  $222,681 - Edward Byrne Memorial Justice Assistance Grant awarded to the Township of Woodbridge.

- ***Bureau of Justice Assistance, New City, New York***
  $44,172 - Edward Byrne Memorial Justice Assistance Grant awarded to the Town of Clarkstown.

- ***Bureau of Justice Assistance, Devils Lake, North Dakota***
  $17,249 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Devils Lake.

- ***Bureau of Justice Assistance, Dickinson, North Dakota***
  $11,500 - Edward Byrne Memorial Justice Assistance Grant awarded to Stark County.

- ***Bureau of Justice Assistance, Newark, Ohio***
  $15,840 - Edward Byrne Memorial Justice Assistance Grant awarded to Licking County.

- ***Bureau of Justice Assistance, Trigard, Oregon***
  $19,662 - Edward Byrne Memorial Justice Assistance Grant awarded to Trigard City.

- ***Bureau of Justice Assistance, Scranton, Pennsylvania***
  $23,070 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Scranton.

- ***Bureau of Justice Assistance, Williamsport, Pennsylvania***
  $13,441 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Williamsport.

- ***Bureau of Justice Assistance, York, Pennsylvania***
  $35,339 - Edward Byrne Memorial Justice Assistance Grant awarded to York City.

- ***Bureau of Justice Assistance, Johnston, Rhode Island***
  $19,227 - Edward Byrne Memorial Justice Assistance Grant awarded to the Town of Johnston.

- ***Bureau of Justice Assistance, Rosebud, South Dakota***
  $21,961 - Edward Byrne Memorial Justice Assistance Grant awarded to the Rosebud Sioux Tribe.

- ***Bureau of Justice Assistance, Blountville, Tennessee***

DOJ_NMG_ 0148154

$34,856 - Edward Byrne Memorial Justice Assistance Grant awarded to Sullivan County.

- ***Bureau of Justice Assistance, Clarksville, Tennessee***
  $ 78,117 - Edward Byrne Memorial Justice Assistance Grant awarded to City of Clarksville

- ***Bureau of Justice Assistance, Cleveland, Tennessee***
  $25,926 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Cleveland.

- ***Bureau of Justice Assistance, Covington, Tennessee***
  $10,993 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Covington.

- ***Bureau of Justice Assistance, Gallatin, Tennessee***
  $35,231 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Gallatin.

- ***Bureau of Justice Assistance, Jackson, Tennessee***
  $106,482 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Jackson.

- ***Bureau of Justice Assistance, Lavergne, Tennessee***
  $12,682 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Lavergne.

- ***Bureau of Justice Assistance, Lebanon, Tennessee***
  $36,507 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Lebanon.

- ***Bureau of Justice Assistance, Madisonville, Tennessee***
  $24,163 - Edward Byrne Memorial Justice Assistance awarded to Monroe County.

- ***Bureau of Justice Assistance, Nashville, Tennessee***
  $1,003,778 - Edward Byrne Memorial Justice Assistance awarded to the Metropolitan Government of Nashville and Davidson County.

- ***Bureau of Justice Assistance, Spring field, Tennessee***
  $21,311 - Edward Byrne Memorial Justice Assistance awarded to the City of Springfield.

- ***Bureau of Justice Assistance, Conroe, Texas***
  $88,561 - Edward Byrne Memorial Justice Assistance awarded to Montgomery County.

DOJ_NMG_ 0148155

- ***Bureau of Justice Assistance, Edinburg, Texas***
  $155,079 - Edward Byrne Memorial Justice Assistance awarded to Hidalgo County.

- ***Bureau of Justice Assistance, Pampa, Texas***
  $11,450 - Edward Byrne Memorial Justice Assistance awarded to Gray County.

- ***Bureau of Justice Assistance, Leesburg, Virginia***
  $14,983 - Edward Byrne Memorial Justice Assistance awarded to the Town of Leesburg.

- ***Bureau of Justice Assistance, North Tazewell, Virginia***
  $42,798 - Edward Byrne Memorial Justice Assistance awarded to Tazewell County.

- ***Bureau of Justice Assistance, Stafford, Virginia***
  $23,707 - Edward Byrne Memorial Justice Assistance awarded to Stafford County.

- ***Bureau of Justice Assistance, Cheyenne, Wyoming***
  $25,140 - Edward Byrne Memorial Justice Assistance awarded to Laramie County.

- ***Bureau of Justice Assistance, Lander, Wyoming***
  $11,061 - Edward Byrne Memorial Justice Assistance awarded to Fremont County Commissioners.

- ***Bureau of Justice Assistance, Jasper, Alabama***
  $11,842 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Jasper.

- ***Bureau of Justice Assistance, Conway, Arkansas***
  $14,267 - Edward Byrne Memorial Justice Assistance Grant awarded to Faulkner County.

- ***Bureau of Justice Assistance, Luxora, Arkansas***
  $48,506 - Edward Byrne Memorial Justice Assistance Grant awarded to Mississippi County.

- ***Bureau of Justice Assistance, Peoria, Arizona***
  $34,708 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Peoria.

- ***Bureau of Justice Assistance, Covina, California***
  $26,428 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Covina.

DOJ_NMG_ 0148156

- ***Bureau of Justice Assistance, Eureka, California***
  $23,319 - Edward Byrne Memorial Justice Assistance Grant awarded to Humboldt County.

- ***Bureau of Justice Assistance, Eureka, California***
  $21,949 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Eureka.

- ***Bureau of Justice Assistance, Oroville, California***
  $21,912 - Edward Byrne Memorial Justice Assistance Grant awarded to Butte County.

- ***Bureau of Justice Assistance, Pittsburg, California***
  $25,466 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Pittsburg.

- ***Bureau of Justice Assistance, Reedley, California***
  $16,286 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Reedley.

- ***Bureau of Justice Assistance, Milford, Connecticut***
  $13,152 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Milford.

- ***Bureau of Justice Assistance, Smyrna, Delaware***
  $47,204 - Edward Byrne Memorial Justice Assistance Grant awarded to the Town of Smyrna.

- ***Bureau of Justice Assistance, Wilmington, Delaware***
  $213,333 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Wilmington.

- ***Bureau of Justice Assistance, Altamonte Springs, Florida***
  $16,443 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Altamonte Springs.

- ***Bureau of Justice Assistance, Bartow, Florida***
  $158,091 - Edward Byrne Memorial Justice Assistance Grant awarded to Polk County.

- ***Bureau of Justice Assistance, Boca Raton, Florida***
  $20,587 - Edward Byrne Memorial Justice Assistance Grant awarded the City of Boca Raton.

- ***Bureau of Justice Assistance, Bradenton, Florida***
  $178,442 - Edward Byrne Memorial Justice Assistance Grant awarded to Manatee

DOJ_NMG_ 0148157

County.

- ***Bureau of Justice Assistance, Melbourne, Florida***
  $86,357 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Melbourne.

- ***Bureau of Justice Assistance, New Port Richey, Florida***
  $16,746 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of New Port Richey.

- ***Bureau of Justice Assistance, Panama City, Florida***
  $30,998 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Panama City.

- ***Bureau of Justice Assistance, Pensacola , Florida***
  $174,264 - Edward Byrne Memorial Justice Assistance Grant awarded to Escambia County.

- ***Bureau of Justice Assistance, Port Charlotte, Florida***
  $35,378 - Edward Byrne Memorial Justice Assistance Grant awarded to Charlotte County.

- ***Bureau of Justice Assistance, Quincy, Florida***
  $13,612 - Edward Byrne Memorial Justice Assistance Grant awarded to Gadsden County.

- ***Bureau of Justice Assistance, St. Augustine, Florida***
  $14,017 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of St. Augustine.

- ***Bureau of Justice Assistance, College Park, Georgia***
  $32,198 - Edward Byrne Memorial Justice Assistance Grant awarded to the College Park Police Department.

- ***Bureau of Justice Assistance, Cordele, Georgia***
  $20,336 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Cordele.

- ***Bureau of Justice Assistance, Honolulu, Hawaii***
  $796,522 - Edward Byrne Memorial Justice Assistance Grant awarded to the City and County of Honolulu- Office of the Mayor.

- ***Bureau of Justice Assistance, Anderson, Indiana***
  $46,997 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Anderson.

DOJ_NMG_ 0148158

- ***Bureau of Justice Assistance, Franklin Indiana***
  $30,126 - Edward Byrne Memorial Justice Assistance Grant awarded to Johnson County.

- ***Bureau of Justice Assistance, Highland, Indiana***
  $10,272 - Edward Byrne Memorial Justice Assistance Grant awarded to the Town of Highland.

- ***Bureau of Justice Assistance, Jeffersonville, Indiana***
  $18,592 - Edward Byrne Memorial Justice Assistance Grant awarded to Jeffersonville City.

- ***Bureau of Justice Assistance, Kokomo, Indiana***
  $43,153 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Kokomo.

- ***Bureau of Justice Assistance, Michigan City, Indiana***
  $23,240 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Michigan City.

- ***Bureau of Justice Assistance, North Chicago, Illinois***
  $28,243 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of North Chicago.

- ***Bureau of Justice Assistance, Louisville, Kentucky***
  $526,249 - Edward Byrne Memorial Justice Assistance Grant awarded to Louisville Jefferson County Metro Government.

- ***Bureau of Justice Assistance, Somerset, Kentucky***
  $12,910 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Somerset.

- ***Bureau of Justice Assistance, Tallulah, Louisiana***
  $22,557 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Tallulah.

- ***Bureau of Justice Assistance, Clarksdale, Mississippi***
  $24,168 - Edward Byrne Memorial Justice Assistance Grant awarded to Coahoma County.

- ***Bureau of Justice Assistance, Greenville, Mississippi***
  $90,183 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Greenville.

DOJ_NMG_ 0148159

- ***Bureau of Justice Assistance, Grenada, Mississippi***
  $20,518 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Grenada.

- ***Bureau of Justice Assistance, Jackson, Mississippi***
  $474,356 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Jackson.

- ***Bureau of Justice Assistance, Pascagoula, Mississippi***
  $40,307 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Pascagoula.

- ***Bureau of Justice Assistance, Billings, Montana***
  $91,924 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Billings.

- ***Bureau of Justice Assistance, Polson, Montana***
  $14,182 - Edward Byrne Memorial Justice Assistance Grant awarded to Lake County.

- ***Bureau of Justice Assistance, Jersey City, New Jersey***
  $601,750 - Edward Byrne Memorial Justice Assistance Grant awarded to the County of Hudson.

- ***Bureau of Justice Assistance, Paramus, New Jersey***
  $61,916 - Edward Byrne Memorial Justice Assistance Grant awarded to the Borough of Paramus.

- ***Bureau of Justice Assistance, Dulce, New Mexico***
  $18,432 - Edward Byrne Memorial Justice Assistance Grant awarded to Jicarilla Apache Nation.

- ***Bureau of Justice Assistance, Socorro, New Mexico***
  $24,354 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Socorro.

- ***Bureau of Justice Assistance, Lincoln, Nebraska***
  $310,324 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Lincoln.

- ***Bureau of Justice Assistance, Carson City, Nevada***
  $2,900,724 - Edward Byrne Memorial Justice Assistance Grant awarded to the Department of Public Safety.

- ***Bureau of Justice Assistance, Idabel, Oklahoma***
  $10,289 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of

DOJ_NMG_ 0148160

Idabel.

- ***Bureau of Justice Assistance, Wilkes-Barre, Pennsylvania***
  $30,793 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Wilkes- Barre.

- ***Bureau of Justice Assistance, Agency Village, South Dakota***
  $37,324- Edward Byrne Memorial Justice Assistance Grant awarded to the Sisseton-Wahpeton Sioux Tribe.

- ***Bureau of Justice Assistance, Sioux Falls, South Dakota***
  $110,396 - Edward Byrne Memorial Justice Assistance Grant awarded to Minnehaha County.

- ***Bureau of Justice Assistance, Jasper, Tennessee***
  $13,958 - Edward Byrne Memorial Justice Assistance Grant awarded to the Marion County Sheriff's Office.

- ***Bureau of Justice Assistance, Bay City, Texas***
  $11,761 - Edward Byrne Memorial Justice Assistance Grant awarded to Bay City.

- ***Bureau of Justice Assistance, Beaumont, Texas***
  $174,747 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Beaumont.

- ***Bureau of Justice Assistance, Plano, Texas***
  $103,828 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Plano.

- ***Bureau of Justice Assistance, Arlington, Virginia***
  $63,786 - Edward Byrne Memorial Justice Assistance Grant awarded to Arlington County.

- ***Bureau of Justice Assistance, Fredericksburg, Virginia***
  $23,390 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Fredericksburg.

- ***Bureau of Justice Assistance, Burlington, Vermont***
  $125,583 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Burlington.

- ***Bureau of Justice Assistance, Casper, Wyoming***
  $59,958 - Edward Byrne Memorial Justice Assistance Grant awarded to the City of Casper.

DOJ_NMG_ 0148161

- ***Bureau of Justice Assistance, Chino Valley, Arizona***
  $7,021 - Gang Resistance Education and Training Grant awarded to the Town of Chino Valley.

- ***Bureau of Justice Assistance, Cortez, Colorado***
  $8,500 - Gang Resistance Education and Training Grant awarded to Montezuma County Sheriff's Office.

- ***Bureau of Justice Assistance, Greeley, Colorado***
  $119,855 - Gang Resistance Education and Training Grant awarded to Greeley Police Department.

- ***Bureau of Justice Assistance, Orlando, Florida***
  $219,052 - Gang Resistance Education and Training Grant awarded to Orange County Sheriff's Office.

- ***Bureau of Justice Assistance, Reidsville, Georgia***
  $24,650 - Gang Resistance Education and Training Grant awarded to Tattnall County Commissioners.

- ***Bureau of Justice Assistance, Salina, Kansas***
  $24,488 - Gang Resistance Education and Training Grant awarded to the Saline County Sheriff's Office.

- ***Bureau of Justice Assistance, Harvey, Louisiana***
  $86,758 - Gang Resistance Education and Training Grant awarded to the Jefferson Parish Sheriff's Office.

- ***Bureau of Justice Assistance, New Orleans, Louisiana***
  $74,931 - Gang Resistance Education and Training Grant awarded to the City of New Orleans.

- ***Bureau of Justice Assistance, Boston, Massachusetts***
  $218,890 - Gang Resistance Education and Training Grant awarded to the City of Boston.

- ***Bureau of Justice Assistance, Gulfport, Mississippi***
  $61,722 - Gang Resistance Education and Training Grant awarded to the City of Gulfport.

- ***Bureau of Justice Assistance, Gulfport, Mississippi***
  $51, 446 - Gang Resistance Education and Training Grant awarded to the Harrison County Sheriff's Office.

- ***Bureau of Justice Assistance, Olive Branch, Mississippi***

DOJ_NMG_ 0148162

$6,678 - Gang Resistance Education and Training Grant awarded to the City of Olive Branch.

- ***Bureau of Justice Assistance, Brooklyn, New York***
  $36,108 - Gang Resistance Education and Training Grant awarded to Kings County District Attorney.

- ***Bureau of Justice Assistance, New York City, New York***
  $238,000 - Gang Resistance Education and Training Grant awarded to the Police Department.

- ***Bureau of Justice Assistance, Syracuse, New York***
  $46,436 - Gang Resistance Education and Training Grant awarded to the Police Department.

- ***Bureau of Justice Assistance, Pahrump, Nevada***
  $50,381 - Gang Resistance Education and Training Grant awarded to Nye County Sheriff's Office.

- ***Bureau of Justice Assistance, Akron, Ohio***
  $33,000 - Gang Resistance Education and Training Grant awarded to the County of Summit.

- ***Bureau of Justice Assistance, Eastlake, Ohio***
  $22,236 - Gang Resistance Education and Training Grant awarded to the City of Eastlake.

- ***Bureau of Justice Assistance, Marysville, Ohio***
  $43,851 - Gang Resistance Education and Training Grant awarded to the Union County Sheriff's Office.

- ***Bureau of Justice Assistance, Hillsboro, Oregon***
  $16,835 - Gang Resistance Education and Training Grant awarded to the Police Department.

- ***Bureau of Justice Assistance, Tigard, Oregon***
  $23,467 - Gang Resistance Education and Training Grant awarded to the Police Department.

- ***Bureau of Justice Assistance, Memphis, Tennessee***
  $172,982 - Gang Resistance Education and Training Grant awarded to the City of Memphis.

- ***Bureau of Justice Assistance, Corpus Christi, Texas***
  $75,000 - Gang Resistance Education and Training Grant awarded to the Independent

DOJ_NMG_ 0148163

School District.

- ***Bureau of Justice Assistance, Garland, Texas***
  $119,929 - Gang Resistance Education and Training Grant awarded to the City Garland.

- ***Bureau of Justice Assistance, Houston, Texas***
  $40,998 - Gang Resistance Education and Training Grant awarded to the Harris County Constable Precinct Five.

- ***Bureau of Justice Assistance, Odessa, Texas***
  $105,724 - Gang Resistance Education and Training Grant awarded to Ector County Independent School District.

- ***Bureau of Justice Assistance, Green Bay, Wisconsin***
  $61,942 - Gang Resistance Education and Training Grant awarded to Brown County Sheriff's Office.

- ***Bureau of Justice Assistance, Onalaska, Wisconsin***
  $25,398 - Gang Resistance Education and Training Grant awarded to the Police Department.

- ***Bureau of Justice Assistance, Atlanta, Georgia***
  $23,800 – Gang Resistance Education and Training Grant awarded to Fulton County

- ***Bureau of Justice Assistance, Lowell, Massachusetts***
  $80,904 – Gang Resistance Education and Training grant awarded to the City of Lowell.

- ***Bureau of Justice Assistance, Socorro, New Mexico***
  $16,026 – Gang Resistance Education and Training grant awarded to the Socorro County Sheriff's Office.

- ***Bureau of Justice Assistance, Green Bay, Wisconsin***
  $96,687 – Gang Resistance Education and Training Grant awarded to the City of Green Bay.

- ***Bureau of Justice Assistance, Phenix City, Alabama***
  $40,800 - Gang Resistance Education and Training grant awarded to the Russell County Sheriff's Office.

- ***Bureau of Justice Assistance, Mountain Home, Arkansas***
  $4,420 - Gang Resistance Education and Training grant awarded to the Baxter County Sheriff's Office.

- ***Bureau of Justice Assistance, Flagstaff, Arizona***
  $45,353 - Gang Resistance Education and Training grant awarded to the City of Flagstaff.

- ***Bureau of Justice Assistance, Glendale, Arizona***
  $85,000 - Gang Resistance Education and Training grant awarded to the Glendale Police Department.

- ***Bureau of Justice Assistance, Phoenix, Arizona***
  $67,123 - Gang Resistance Education and Training grant awarded to the Maricopa County Sheriff's Office

- ***Bureau of Justice Assistance, Tucson, Arizona***
  $224,580 - Gang Resistance Education and Training grant awarded to the City of Tucson.

- ***Bureau of Justice Assistance, Hanford, California***
  $107,144 - Gang Resistance Education and Training grant awarded to Kings County Probation Department.

- ***Bureau of Justice Assistance, Los Angeles, California***
  $54,060 - Gang Resistance Education and Training Grant awarded to the City of Los Angeles.

- ***Bureau of Justice Assistance, Monterey Park, California***
  $38,250 - Gang Resistance Education and Training Grant awarded to the Los Angeles County Sheriff's Office.

- ***Bureau of Justice Assistance, Newark, California***
  $40,000 - Gang Resistance Education and Training grant awarded to the City of Newark Police Department.

- ***Bureau of Justice Assistance, Redwood, California***
  $14,420 - Gang Resistance Education and Training grant awarded to San Mateo County.

- ***Bureau of Justice Assistance, Riverside, California***
  $22,701 - Gang Resistance Education and Training grant awarded to the County of Riverside.

- ***Bureau of Justice Assistance, San Diego, California***
  $75,000 - Gang Resistance Education and Training grant awarded to the San Diego County Probation Department.

- ***Bureau of Justice Assistance, Apalachicola, Florida***

DOJ_NMG_ 0148165

$19,680 - Gang Resistance Education and Training grant awarded to the City of Apalachicola.

- ***Bureau of Justice Assistance, Sebastian, Florida***
  $9,894 - Gang Resistance Education and Training grant awarded to the City of Sebastian.

- ***Bureau of Justice Assistance, Tavares, Florida***
  $4,845 - Gang Resistance Education and Training grant awarded to the Lake County Sheriff's Office.

- ***Bureau of Justice Assistance, Albany, Georgia***
  $32,398 - Gang Resistance Education and Training grant awarded to Dougherty County.

- ***Bureau of Justice Assistance, Honolulu, Hawaii***
  $196,273 - Gang Resistance Education and Training grant awarded to the Honolulu Police Department.

- ***Bureau of Justice Assistance, Lihue, Hawaii***
  $42,499 - Gang Resistance Education and Training grant awarded to the I Police Department.

- ***Bureau of Justice Assistance, Wailulu, Hawaii***
  $34,000 - Gang Resistance Education and Training gant awarded to the Maui Police Department.

- ***Bureau of Justice Assistance, Kankakee, Illinois***
  $21,553 - Gang Resistance Education and Training grant awarded to the Kankakee County Sheriff's Office.

- ***Bureau of Justice Assistance, Mendota, Illinois***
  $9,527 - Gang Resistance Education and Training grant awarded to the City of Mendota.

- ***Bureau of Justice Assistance, Springfield, Massachusetts***
  $5,000 - Gang Resistance Education and Training grant awarded to the City of Springfield.

- ***Bureau of Justice Assistance, Moorhead, Minnesota***
  $48,314 - Gang Resistance Education and Training grant awarded to the City of Moorhead.

- ***Bureau of Justice Assistance, Pascagoula, Mississippi***
  $15,557 - Gang Resistance Education and Training grant awarded to the County of Jackson.

DOJ_NMG_ 0148166

- ***Bureau of Justice Assistance, Vicksburg, Mississippi***
  $38,080 - Gang Resistance Education and Training grant awarded to the City of Vicksburg.

- ***Bureau of Justice Assistance, Belleville, New Jersey***
  $12,600 - Gang Resistance Education and Training grant awarded to Belleville Township.

- ***Bureau of Justice Assistance, Newark, New Jersey***
  $19,380 - Gang Resistance Education and Training grant awarded to the City of Newark.

- ***Bureau of Justice Assistance, New Brunswick, New Jersey***
  $38,566 - Gang Resistance Education and Training grant awarded to the New Brunswick Police Department.

- ***Bureau of Justice Assistance, Hempstead, New York***
  $37,589 - Gang Resistance Education and Training grant awarded to the Village of Hempstead.

- ***Bureau of Justice Assistance, Lumberton, North Carolina***
  $6,790 - Gang Resistance Education and Training grant awarded to the City of Lumberton.

- ***Bureau of Justice Assistance, Columbus, Nebraska***
  $29,325 - Gang Resistance Education and Training grant awarded to the City of Columbus.

- ***Bureau of Justice Assistance, Minden, Nevada***
  $42,170 - Gang Resistance Education and Training grant awarded to the County of Douglas.

- ***Bureau of Justice Assistance, Reno, Nevada***
  $60,615 - Gang Resistance Education and Training grant awarded to the City of Reno.

- ***Bureau of Justice Assistance, Chagrin Falls, Ohio***
  $6,000 - Gang Resistance Education and Training grant awarded to the Village of Chargin Falls.

- ***Bureau of Justice Assistance, Wadsworth, Ohio***
  $18,700 - Gang Resistance Education and Training grant awarded to the City of Wadsworth.

- ***Bureau of Justice Assistance, Portland, Oregon***

DOJ_NMG_ 0148167

$234,902 - Gang Resistance Education and Training grant awarded to the City of Portland.

- ***Bureau of Justice Assistance, Easton, Pennsylvania***
  $10,425 - Gang Resistance Education and Training grant awarded to Forks Township.

- ***Bureau of Justice Assistance, Philadelphia, Pennsylvania***
  $227,415 - Gang Resistance Education and Training grant awarded to the Philadelphia Police Department.

- ***Bureau of Justice Assistance, Columbia, South Carolina***
  $32,640 - Gang Resistance Education and Training grant awarded to Richland County.

- ***Bureau of Justice Assistance, Navasto, Texas***
  $43,317 - Gang Resistance Education and Training grant awarded to the City of Navasto.

- ***Bureau of Justice Assistance, Appleton, Wisconsin***
  $20,440 - Gang Resistance Education and Training grant awarded to the Outagamie County Sheriff's Office.

- ***Bureau of Justice Assistance, La Crosse, Wisconsin***
  $28,411 - Gang Resistance Education and Training grant awarded to the La Crosse County Sheriff's Office.

- ***Bureau of Justice Assistance, La Crosse, Wisconsin***
  $49,900 - Gang Resistance Education and Training grant awarded to the La Crosse Police Department.

- ***Bureau of Justice Assistance, Indianapolis, Indiana***
  $82,500 - Community Prosecution and Project Safe Neighborhoods grant awarded to the Criminal Justice Institute.

- ***Bureau of Justice Assistance, Huntsville, Texas***
  $296,560 - Community Prosecution and Project Safe Neighborhoods Grant awarded to Sam Houston State University.

- ***Bureau of Justice Assistance, Montgomery, Alabama***
  $65,015 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Montgomery Area United Way.

- ***Bureau of Justice Assistance, Phoenix, Arizona***
  $221,326 – Community Prosecution and Project Safe Neighborhoods awarded to the

DOJ_NMG_ 0148168

Criminal Justice Commission.

- ***Bureau of Justice Assistance, San Diego, California***
  $127,525 – Community Prosecution and Project Safe Neighborhoods grant awarded to the County of San Diego.

- ***Bureau of Justice Assistance, Denver, Colorado***
  $185,548 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Division of Criminal Justice.

- ***Bureau of Justice Assistance, Indianapolis, Indiana***
  $156,119 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Marion County Justice Agency.

- ***Bureau of Justice Assistance, Lexington, Kentucky***
  $86,877 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Lexington Fayette Urban County Government..

- ***Bureau of Justice Assistance, Baton Rouge, Louisiana***
  $88,990 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Commission on Law Enforcement.

- ***Bureau of Justice Assistance, Augusta, Maine***
  $65,015 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Department of Public Safety.
- ***Bureau of Justice Assistance, Detroit, Michigan***
  $285,761 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Community Justice Partnership.

- ***Bureau of Justice Assistance, Kansas City, Missouri***
  $135,514 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Metropolitan Crime Commission.

- ***Bureau of Justice Assistance, Concord, New Hampshire***
  $54,114 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Department of Justice.

- ***Bureau of Justice Assistance, Trenton, New Jersey***
  $296,560 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Department of Law and Public Safety.

- ***Bureau of Justice Assistance, Santa Fe, New Mexico***
  $78,470 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Department of Public Safety.

DOJ_NMG_ 0148169

- ***Bureau of Justice Assistance, Raleigh, North Carolina***
  $107,509 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Department of Crime Control and Public Safety.

- ***Bureau of Justice Assistance, Raleigh, North Carolina***
  $105,731 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Department of Crime Control and Public Safety.

- ***Bureau of Justice Assistance, Raleigh, North Carolina***
  $133,992 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Department of Crime Control and Public Safety.

- ***Bureau of Justice Assistance, Portland, Oregon***
  $147,593 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Multnomah County District Attorney's Office.

- ***Bureau of Justice Assistance, Blythewood, South Carolina***
  $105,862 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Department of Public Safety.

- ***Bureau of Justice Assistance, Dallas, Texas***
  $253,281 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Greater Dallas Crime Commission.

- ***Bureau of Justice Assistance, Denton, Texas***
  $125,418 – Community Prosecution and Project Safe Neighborhoods grant awarded to the University of North Texas.

- ***Bureau of Justice Assistance, Waterbury, Vermont***
  $65,015 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Department of Public Safety.

- ***Bureau of Justice Assistance, Lacey, Washington***
  $197,882 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Washington Association of Sheriffs and Police Chiefs.

- ***Bureau of Justice Assistance, Anchorage, Alaska***
  $65,015 – Community Prosecution and Project Safe Neighborhoods grant awarded to the State Troopers.

- ***Bureau of Justice Assistance, Mather, California***
  $296,560 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Governor's Office of Emergency Services.

- ***Bureau of Justice Assistance, Washington, DC***

DOJ_NMG_ 0148170

$65,015 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Urban Institute.

- ***Bureau of Justice Assistance, New Orleans, Louisiana***
  $73,339 – Community Prosecution and Project Safe Neighborhoods grant awarded to the New Orleans Police Foundation.

- ***Bureau of Justice Assistance, Boston, Massachusetts***
  $273,888 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Executive Office of Public Safety.

- ***Bureau of Justice Assistance, Grand Rapids, Michigan***
  $142,964 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Grand Valley State University.

- ***Bureau of Justice Assistance, Columbus, Ohio***
  $255,245 – Community Prosecution and Project Safe Neighborhoods grant awarded to the Office of Criminal Justice Services.

- ***Bureau of Justice Assistance, Chicago, Illinois***
  $296,560 - Community Prosecution and Project Safe Neighborhoods grant awarded to the Criminal Justice Information Authority.
- ***Bureau of Justice Assistance, Cleveland, Ohio***
  $98,664 - Congressionally Mandated Award to the City of Cleveland.

- ***Bureau of Justice Assistance, Appomattox, Virginia***
  $5,000 - Congressionally Mandated Award to Appomattox County.

- ***Bureau of Justice Assistance, Los Angeles, California***
  $295,993 – Congressionally Mandated award to Jovenes, Inc.

- ***Bureau of Justice Assistance, San Rafael, California***
  $246,661 – Congressionally Mandated award to Center Point, Inc.

- ***Bureau of Justice Assistance, Chicago, Illinois***
  $197,329 – Congressionally Mandated Award to the Safer Foundation.

- ***Bureau of Justice Assistance, Concord, New Hampshire***
  $631,846 – Congressionally Mandated Award to the Department of Justice.

- ***Bureau of Justice Assistance, Teaneck, New Jersey***
  $493,322 – Congressionally Mandated Award to Fairleigh Dickinson University.

- ***Bureau of Justice Assistance, Schuyleville, New York***
  $295,993 – Congressionally Mandated Awards awarded to the Drug Risk Solutions, Llc.

- ***Bureau of Justice Assistance, Manassas, Virginia***
  $246,661 – Congressionally Mandated Award to the Prince William County Public Schools.

- ***Bureau of Justice Assistance, Boulder, Colorado***
  $80,000 – Solicited Award to the National American Indian Court Judges Association, Inc.

- ***Bureau of Justice Assistance, Washington, DC***
  $50,000 – Solicited Award to the International Community Corrections Association.

- ***Bureau of Justice Assistance, Grand Forks, North Dakota***
  $965,477 – Solicited Award to the University of North Dakota.

- ***Bureau of Justice Assistance, Alexandria, Virginia***
  $94,100 – Solicited Award to the National Association of Drug Court Professionals.

- ***Bureau of Justice Assistance, Kwigillingok, Alaska***
  $158,040 – Tribal Courts Assistance grant awarded to the Native Village of Kwigillingok..

- ***Bureau of Justice Assistance, Flagstaff, Arizona***
  $200,000 – Drug Court grant awarded to the Coconino County Superior Court.

- ***Bureau of Justice Assistance, Fountain Hills, Arizona***
  $446,270 – Drug Court grant awarded to the Fort McDowell Yavapai Nation.

- ***Bureau of Justice Assistance, San Diego, California***
  $199,926 – Drug Court grant awarded to San Diego County.

- ***Bureau of Justice Assistance, Denver, Colorado***
  $110,393 – Drug Court grant awarded to the Judicial Department.

- ***Bureau of Justice Assistance, Wilmington, Delaware***
  $176,420 – Drug Court grant awarded to the Criminal Justice Council.

- ***Bureau of Justice Assistance, Indianapolis, Indiana***
  $199,995 – Drug Court grant awarded to the Judicial Center.

- ***Bureau of Justice Assistance, Knoxville, Tennessee***
  $199,868 – Drug Court grant awarded to Knox County.

DOJ_NMG_ 0148172

- ***Bureau of Justice Assistance, Port Orchard, Washington***
  $199,881 – Drug Court grant awarded to Kitsap County.

- ***Bureau of Justice Assistance, Lansing, Michigan***
  $350,000 – Prescription Drug Monitoring Programs grant awarded to the Department of Community Health.

- ***Bureau of Justice Assistance, Carson City, Nevada***
  $340,298 – Prescription Drug Monitoring Programs grant awarded to the Department of Public Safety.

- ***Bureau of Justice Assistance, Delhi, New York***
  $250,000 – Comprehensive Approaches to Sex Offender Management grant awarded to the Delaware County Department of Social Services.

- ***Bureau of Justice Assistance, Suquamish, Washington***
  $499,790 - Indian Alcohol and Substance Abuse Program Grant awarded to the Suquamish Tribe.
- ***Office of Juvenile Justice and Delinquency Prevention, New York, New York***
  $246,661 – Earmarked funds - Demonstration Programs Division - awarded to the Ballet Theatre Foundation, Inc.

- ***Office of Juvenile Justice and Delinquency Prevention, White Plains, New York***
  $492,450 – Earmarked funds - Demonstration Programs Division - awarded to the Usta Tennis and Education Foundation.

- ***Office of Juvenile Justice and Delinquency Prevention, Luray, Virginia***
  $59,199 – Earmarked funds - Demonstration Programs Division - awarded to the Page County Sheriff's Office.

- ***Office of Juvenile Justice and Delinquency Prevention, Washington, DC***
  $98,664 - Earmarked funds - Demonstration Programs Division - awarded to the Afterschool Alliance.

- ***Office of Juvenile Justice and Delinquency Prevention, Minneapolis, Minnesota***
  $493,322 - Earmarked funds - Demonstration Programs Division - awarded to the Folwell Neighborhood Association.

- ***Office of Juvenile Justice and Delinquency Prevention, Lovington, New Mexico***
  $246,661 - Earmarked funds - Demonstration Programs Division - awarded to Lea County.

- ***Office of Juvenile Justice and Delinquency Prevention, Juneau, Alaska***
  $1,973,286 – Earmarked funds - Demonstration Programs Division- awarded to the

DOJ_NMG_ 0148173

Department of Health and Social Services.

- ***Office of Juvenile Justice and Delinquency Prevention, Juneau, Alaska***
  $591,986 – Earmarked funds - Demonstration Programs Division - awarded to the Department of Health and Social Services.

- ***Office of Juvenile Justice and Delinquency Prevention, Florence, Alabama***
  $98,664 – Earmarked funds - Demonstration Programs Division - awarded to the Northwest Alabama Children's Advocacy Center.

- ***Office of Juvenile Justice and Delinquency Prevention, Los Angeles, California***
  $246,661 – Earmarked funds - Demonstration Programs Division - awarded to the Northeast Trees, Inc.

- ***Office of Juvenile Justice and Delinquency Prevention, Sacramento, California***
  $493,322 – Earmarked funds - Demonstration Programs Division - awarded to the Sacramento Housing and Redevelopment Agency.
- ***Office of Juvenile Justice and Delinquency Prevention, San Bernardino, California***
  $394,657 – Earmarked funds - Demonstration Programs Division - awarded to San Bernardino County.

- ***Office of Juvenile Justice and Delinquency Prevention, Clearwater, Florida***
  $493,322 – Earmarked funds - Demonstration Programs Division - awarded to the Eckerd Youth Alternatives, Inc.

- ***Office of Juvenile Justice and Delinquency Prevention, Miami, Florida***
  $147,996 – Earmarked funds - Demonstration Programs Division - awarded to the Overtown Youth Center.

- ***Office of Juvenile Justice and Delinquency Prevention, Decatur, Illinois***
  $246,661 – Earmarked funds - Demonstration Programs Division - awarded to Teen Challenge Illinois.

- ***Office of Juvenile Justice and Delinquency Prevention, Rockville, Maryland***
  $98,664 – Earmarked funds - Demonstration Programs Division - awarded to the Adventist Healthcare, Inc.

- ***Office of Juvenile Justice and Delinquency Prevention, Long Beach, Mississippi***
  $221,995 – Earmarked funds - Demonstration Programs Division - awarded to the University of Southern Mississippi.

- ***Office of Juvenile Justice and Delinquency Prevention, Brooklyn, New York***
  $197,329 – Earmarked funds - Demonstration Programs Division - awarded to the Young Dancers in Repertory, Inc.

DOJ_NMG_ 0148174

- ***Office of Juvenile Justice and Delinquency Prevention, Laurinburg, North Carolina***
  $98,664 – Earmarked funds - Demonstration Programs Division - awarded to the Housing Authority of the Town of Laurinburg.

- ***Office of Juvenile Justice and Delinquency Prevention, Massillon, Ohio***
  $493,322 – Earmarked funds - Demonstration Programs Division - awarded to the Boys & Girls Club of Massillon, Inc.

- ***Office of Juvenile Justice and Delinquency Prevention, Elwyn, Pennsylvania***
  $245,864 – Earmarked funds - Demonstration Programs Division - awarded to Elwyn, Inc.

- ***Office of Juvenile Justice and Delinquency Prevention, Olympia, Washington***
  $986,643 – Earmarked funds - Demonstration Programs Division - awarded to the Office of Superintendent of Public Instruction.
- ***Office of Juvenile Justice and Delinquency Prevention, Seattle, Washington***
  $3,841,032 – Earmarked funds - Demonstration Programs Division - awarded to the National Court Appointed Special Advocate Association.

- ***Office of Juvenile Justice and Delinquency Prevention, Anchorage, Alaska***
  $207,195 – Earmarked funds - Demonstration Programs Division - awarded to the State Troopers.

- ***Office of Juvenile Justice and Delinquency Prevention, Los Angeles, California***
  $98,664 – Earmarked funds - Demonstration Programs Division - awarded to the Eagle Rock Community Cultural Association.

- ***Office of Juvenile Justice and Delinquency Prevention, Los Angeles, California***
  $59,199 – Earmarked funds - Demonstration Programs Division - awarded to the City of Los Angeles, Recreation and Parks.

- ***Office of Juvenile Justice and Delinquency Prevention, Norwalk, California***
  $147,996 – Earmarked funds - Demonstration Programs Division - awarded to the City of Norwalk.

- ***Office of Juvenile Justice and Delinquency Prevention, San Jose, California***
  $246,661 – Earmarked funds - Demonstration Programs Division - awarded to the City of San Jose.

- ***Office of Juvenile Justice and Delinquency Prevention, Wilmington, California***
  $147,996 – Earmarked funds - Demonstration Programs Division - awarded to the Harbor Area Gang Alternatives Program.

- ***Office of Juvenile Justice and Delinquency Prevention, Washington, DC***
  $493,322 – Earmarked funds - Demonstration Programs Division - awarded to the Rape

DOJ_NMG_ 0148175

Abuse and Incest National Network, Inc.

- ***Office of Juvenile Justice and Delinquency Prevention, Washington, DC***
  $493,322 – Earmarked funds - Demonstration Programs Division - awarded to the International Youth Service and Development Corps, Inc.

- ***Office of Juvenile Justice and Delinquency Prevention, Washington, DC***
  $493,322 – Earmarked funds - Demonstration Programs Division - awarded to the Self Reliance Foundation.

- ***Office of Juvenile Justice and Delinquency Prevention, Fort Myers, Florida***
  $246,661 – Earmarked funds - Demonstration Programs Division - awarded to the Florida Gulf Coast University.
- ***Office of Juvenile Justice and Delinquency Prevention, St. Augustine, Florida***
  $2,959,930 – Earmarked funds - Demonstration Programs Division - awarded to the World Golf Foundation.

- ***Office of Juvenile Justice and Delinquency Prevention, Carmel, Indiana***
  $984,463 – Earmarked funds - Demonstration Programs Division - awarded to the Center for Successful Parenting.

- ***Office of Juvenile Justice and Delinquency Prevention, Chicago, Illinois***
  $98,664 – Earmarked funds - Demonstration Programs Division - awarded to the Horizons for Youth.

- ***Office of Juvenile Justice and Delinquency Prevention, Wheaton, Illinois***
  $147,996 – Earmarked funds - Demonstration Programs Division - awarded to DuPage County.

- ***Office of Juvenile Justice and Delinquency Prevention, Sioux City, Iowa***
  $468,656 – Earmarked funds - Demonstration Programs Division - awarded to the Boys and Girls Home Residential Treatment Centers, Inc.

- ***Office of Juvenile Justice and Delinquency Prevention, Bowling Green, Kentucky***
  $591,986 – Earmarked funds - Demonstration Programs Division - awarded to the Western Kentucky University Research Foundation, Inc.

- ***Office of Juvenile Justice and Delinquency Prevention, New Gloucester, Maine***
  $295,993 – Earmarked funds - Demonstration Programs Division - awarded to the Spurwink Institute.

- ***Office of Juvenile Justice and Delinquency Prevention, Unity, Maine***
  $986,643 – Earmarked funds - Demonstration Programs Division - awarded to the Residential Care Consortium Llc.

DOJ_NMG_ 0148176

- ***Office of Juvenile Justice and Delinquency Prevention, Baltimore, Maryland***
  $2,959,930 – Earmarked funds - Demonstration Programs Division - awarded to the Cal Ripken Sr. Foundation, Inc.

- ***Office of Juvenile Justice and Delinquency Prevention, Dorchester, Massachusetts***
  $98,664 – Earmarked funds - Demonstration Programs Division - awarded to the Lena Park Community Development Corporation.

- ***Office of Juvenile Justice and Delinquency Prevention, Detroit, Michigan***
  $98,664 – Earmarked funds - Demonstration Programs Division - awarded to the Wayne County Department of Children and Family Services.
- ***Office of Juvenile Justice and Delinquency Prevention, Hattiesburg, Mississippi***
  $345,325 – Earmarked funds - Demonstration Programs Division - awarded to the University of Southern Mississippi.

- ***Office of Juvenile Justice and Delinquency Prevention, Lincroft, New Jersey***
  $147,996 – Earmarked funds - Demonstration Programs Division - awarded to the Brookdale Community College.

- ***Office of Juvenile Justice and Delinquency Prevention, Newark, New Jersey***
  $246,661 – Earmarked funds - Demonstration Programs Division - awarded to the Covenant House New Jersey, Inc.

- ***Office of Juvenile Justice and Delinquency Prevention, Albany, New York***
  $197,328 – Earmarked funds - Demonstration Programs Division - awarded to the National Association of State Fire Marshals.

- ***Office of Juvenile Justice and Delinquency Prevention, Bronx, New York***
  $98,664 – Earmarked funds - Demonstration Programs Division - awarded to the Northwest Bronx Community and Clergy Coalition, Inc.

- ***Office of Juvenile Justice and Delinquency Prevention, Bronx, New York***
  $78,998 – Earmarked funds - Demonstration Programs Division - awarded to the Fordham Evangelical Lutheran Church.

- ***Office of Juvenile Justice and Delinquency Prevention, East Meadow, New York***
  $98,045 – Earmarked funds - Demonstration Programs Division - awarded to the Womens Sports Foundation.

- ***Office of Juvenile Justice and Delinquency Prevention, Jamaica, New York***
  $98,664 – Earmarked funds - Demonstration Programs Division - awarded to the Grads Foundation, Inc.
- ***Office of Juvenile Justice and Delinquency Prevention, Jamaica, New York***
  $246,661 – Earmarked funds - Demonstration Programs Division - awarded to the Southern Queens Park Association.

DOJ_NMG_ 0148177

- ***Office of Juvenile Justice and Delinquency Prevention, Mineola, New York***
  $221,995 – Earmarked funds - Demonstration Programs Division - awarded to Nassau County.

- ***Office of Juvenile Justice and Delinquency Prevention, Monsey, New York***
  $197,329 – Earmarked funds - Demonstration Programs Division - awarded to the Community Outreach Center.

- ***Office of Juvenile Justice and Delinquency Prevention, New York, New York***
  $147,996 – Earmarked funds - Demonstration Programs Division - awarded to the Parkchester Baptist Church.

- ***Office of Juvenile Justice and Delinquency Prevention, New York, New York***
  $197,004 – Earmarked funds - Demonstration Programs Division - awarded to the Research Foundation of the City University of New York.

- ***Office of Juvenile Justice and Delinquency Prevention, New York, New York***
  $493,322 – Earmarked funds - Demonstration Programs Division - awarded to the Research Foundation/Cuny.

- ***Office of Juvenile Justice and Delinquency Prevention, Plainview, New York***
  $49,322 – Earmarked funds - Demonstration Programs Division - awarded to the Nassau County Detectives Association, Inc.

- ***Office of Juvenile Justice and Delinquency Prevention, Syracuse, New York***
  $295,993 – Earmarked funds - Demonstration Programs Division - awarded to the Syracuse Model Neighborhood Facility.

- ***Office of Juvenile Justice and Delinquency Prevention, Oregon City, Oregon***
  $197,329 – Earmarked funds - Demonstration Programs Division - awarded to Clackamas County.

- ***Office of Juvenile Justice and Delinquency Prevention, Providence, Rhode Island***
  $493,322 – Earmarked funds - Demonstration Programs Division - awarded to the Rhode Island Family Court.

- ***Office of Juvenile Justice and Delinquency Prevention, Columbia, South Carolina***
  $246,661 – Earmarked funds - Demonstration Programs Division - awarded to the Indian Waters Council.

- ***Office of Juvenile Justice and Delinquency Prevention, Austin, Texas***
  $246,661 – Earmarked funds - Demonstration Programs Division - awarded to the Southwest Key Program, Inc.

DOJ_NMG_ 0148178

- ***Office of Juvenile Justice and Delinquency Prevention, Fort Worth, Texas***
  $739,982 – Earmarked funds - Demonstration Programs Division - awarded to the Tarrant County Youth Collaboration.

- ***Office of Juvenile Justice and Delinquency Prevention, Salt Lake City, Utah***
  $493,322 – Earmarked funds - Demonstration Programs Division - awarded to the Granite School District.
- ***Office of Juvenile Justice and Delinquency Prevention, Salt Lake City, Utah***
  $197,288 – Earmarked funds - Demonstration Programs Division - awarded to the Department of Human Services.

- ***Office of Juvenile Justice and Delinquency Prevention, Big Stone Gap, Virginia***
  $73,998 – Earmarked funds - Demonstration Programs Division - awarded to Wise County.

- ***Office of Juvenile Justice and Delinquency Prevention, Bedford, Virginia***
  $197,329 – Earmarked funds - Demonstration Programs Division - awarded to the County of Bedford.

- ***Office of Juvenile Justice and Delinquency Prevention, Norfolk, Virginia***
  $98,664 – Earmarked funds - Demonstration Programs Division - awarded to the Children's Hospital of the Kings Daughters.

- ***Office of Juvenile Justice and Delinquency Prevention, Salinas, California***
  $369,991 – Earmarked funds - Demonstration Programs Division - awarded to the City of Salinas.

- ***Office of Juvenile Justice and Delinquency Prevention, Winston Salem, North Carolina***
  $1,352,686 - Demonstration Programs Division grant awarded to Wake Forest University Health Sciences.

- ***Office of Juvenile Justice and Delinquency Prevention, Nanwalek, Alaska***
  $179,196 – Tribal Youth grant awarded to the Nanwalek.

- ***Office of Juvenile Justice and Delinquency Prevention, Loleta, California***
  $225,000 – Tribal Youth grant awarded to the Bear River Band of Rohnerville Rancheria.

- ***Office of Juvenile Justice and Delinquency Prevention, Brimley, Michigan***
  $224,397 – Tribal Youth grant awarded to the Bay Mills Indian Community.

- ***Office of Juvenile Justice and Delinquency Prevention, Deming, Washington***
  $225,000 – Tribal Youth grant awarded to the Nooksack Indian Tribe.

- ***Office of Juvenile Justice and Delinquency Prevention, Lac Du Flambeau, Wisconsin***
  $225,000 – Tribal Youth grant awarded to the Lac Du Flambeau Band of Lake Superior

DOJ_NMG_ 0148179

Chippewa Indians.

- ***Office of Juvenile Justice and Delinquency Prevention, Monroe, Louisiana***
  $450,000 – Juvenile Drug Court Implementation grant awarded to the Ouachita Parish Police Jury.
- ***Office of Juvenile Justice and Delinquency Prevention, Erie, Pennsylvania***
  $449,999 – Juvenile Drug Court Implementation grant awarded to Erie County.

- ***Office of Juvenile Justice and Delinquency Prevention, Lancaster, Ohio***
  $449,077 – Family Drug Court Implementation grant awarded to the Fairfield County Alcohol Drug Addiction and Mental Health Services Board.

- ***Bureau of Justice Statistics, Boston, Massachusetts***
  $39,985 - Special Data Collections and Statistical Studies grant awarded to Northeastern University.

- ***Bureau of Justice Statistics, Sacramento, California***
  $105,619 – Special Data Collections and Statistical Studies Grant awarded to the Search Group, Inc.

- ***Bureau of Justice Statistics, Dover, Delaware***
  $50,500 – State Justice Statistics Program for Statistical Analysis Centers grant awarded to the Delaware Statistical Analysis Center.

- ***Bureau of Justice Statistics, Chicago, Illinois***
  $49,549 – State Justice Statistics Program for Statistical Analysis Centers grant awarded to the Criminal Justice Information Authority.

- ***Bureau of Justice Statistics, Augusta, Maine***
  $49,999 – State Justice Statistics Program for Statistical Analysis Centers grant awarded to the Department of Corrections.

•

Bureau of Justice Assistance, East Lansing, Michigan
$49,997 - State Justice Statistics Program for Statical Analysis Centers grant awarded to Michigan State University.

- ***Bureau of Justice Statistics, Concord, New Hampshire***
  $49,999 – State Justice Statistics Program for Statistical Analysis Centers grant awarded to the Department of Justice.

.

Bureau of Justice Statistics, Fountain Hills, Arizona
$49,936 – Tribal Criminal History Record Improvement Program grant awarded to the Fort Mcdowell Yavapai Nation.

DOJ_NMG_ 0148180

- ***National Institute of Justice, Sudbury, Massachusetts***
  $493,322 - Congressionally Directed award to DSD Laboratories Inc.

- ***National Institute of Justice, Anchorage, Alaska***
  $180,042 – Violence Against Women Research and Evaluation grant awarded to the University of Alaska.

- ***National Institute of Justice, Newark, New Jersey***
  $375,000 – Less Than Lethal Grant awarded to the University of Medicine and Dentistry of New Jersey.

- ***National Institute of Justice, Cincinnati, Ohio***
  $187,167 – Situational Aspects of Crime grant awarded to the University of Cincinnati.

- ***National Institute of Justice, Waltham, Massachusetts***
  $324,877 - Technology to Combat Violence Against Women grant awarded to the Botec Analysis Corporation.

- ***National Institute of Justice, Little Rock, Arkansas***
  $89,278 – Paul Coverdell Forensic Science Improvement grant awarded to the Department of Finance and Administration.

- ***National Institute of Justice, Miami, Florida***
  $95,000 – Paul Coverdell Forensic Science Improvement grant awarded to the Miami Police Department.

- ***National Institute of Justice, Topeka, Kansas***
  $88,722 – Paul Coverdell Forensic Science Improvement grant awarded to the Criminal Justice Coordinating Council.

- ***National Institute of Justice, Anchorage, Alaska***
  $95,000 - Paul Coverdell Forensic Science Improvement grant awarded to the Municipality of Anchorage.

- ***National Institute of Justice, Rogers, Arkansas***
  $28,191 - Paul Coverdell Forensic Science Improvement grant awarded to the City of Rogers.

- ***National Institute of Justice, Mather, California***
  $1,164,088 - Paul Coverdell Forensic Science Improvement grant awarded to the Governor's Office of Emergency Services.

- ***National Institute of Justice, Santa Ana, California***

DOJ_NMG_ 0148181

$48,188 - Paul Coverdell Forensic Science Improvement grant awarded to the City Santa Ana.

- ***National Institute of Justice, Fort Pierce, Florida***
  $85,500 - Paul Coverdell Forensic Science Improvement Grant awarded to St. Lucie County.

- ***National Institute of Justice, Atlanta, Georgia***
  $286,369 - Paul Coverdell Forensic Science Improvement Grant awarded to the Criminal Justice Coordinating Council.

- ***National Institute of Justice, Meridian, Idaho***
  $82,639 - Paul Coverdell Forensic Science Improvement grant awarded to Idaho State Police.

- ***National Institute of Justice, Wichita, Kansas***
  $58,250 - Paul Coverdell Forensic Science Improvement grant awarded to Sedgwick County.

- ***National Institute of Justice, Baton Rouge, Louisiana***
  $146,463 - Paul Coverdell Forensic Science Improvement grant awarded to the Commission on Law Enforcement.

- ***National Institute of Justice, Kansas City, Missouri***
  $94,624 - Paul Coverdell Forensic Science Improvement grant awarded to Board of Police Commissioners.

- **National Institute of Justice, Albany, New York**
  $623,604 - Paul Coverdell Forensic Science Improvement grant awarded to the State Division of Criminal Justice Service.

- ***National Institute of Justice, Akron, Ohio***
  $56,600 - Paul Coverdell Forensic Science Improvement Grant awarded to Summit County.

- ***National Institute of Justice, Columbus, Ohio***
  $89,985 - Paul Coverdell Forensic Science Improvement Grant awarded to the City of Columbus.

- ***National Institute of Justice, Columbus, Ohio***
  $371,657 - Paul Coverdell Forensic Science Improvement Grant awarded to the Office of Criminal Justice Services.

- ***National Institute of Justice, Harrisburg, Pennsylvania***
  $402,381 - Paul Coverdell Forensic Science Improvement Grant awarded to the

DOJ_NMG_ 0148182

Commission on Crime and Delinquency.

- ***National Institute of Justice, Providence, Rhode Island***
  $82,639 - Paul Coverdell Forensic Science Improvement Grant awarded to the State of Rhode Island.

- ***National Institute of Justice, Columbia, South Carolina***
  $92,501 - Paul Coverdell Forensic Science Improvement Grant awarded to the City of Columbia.

- ***National Institute of Justice, Spanish Fork, Utah***
  $94,307 - Paul Coverdell Forensic Science Improvement Grant awarded to the County of Utah.

- ***National Institute of Justice, Richmond, Virginia***
  $241,949 - Paul Coverdell Forensic Science Improvement Grant awarded to the Department of Health.

- ***National Institute of Justice, Olympia, Washington***
  $201,211 - Paul Coverdell Forensic Science Improvement Grant awarded to the Department of Community, Trade, and Economics.

- ***National Institute of Justice, Eau Clair, Wisconsin***
  $18,000 - Paul Coverdell Forensic Science Improvement Grant awarded to the City of Eau Clair.

- ***National Institute of Justice, Madison, Wisconsin***
  $178,678 - Paul Coverdell Forensic Science Improvement Grant awarded to the Department of Justice.

- ***Community Capacity Development Office, Manchester, New Hampshire***
  $738,927 - Weed and Seed grant awarded to Southern New Hampshire University.

- ***Community Capacity Development Office, Bristol, Pennsylvania***
  $175,000 - Weed and Seed grant awarded to Bristol Township.

- ***Community Capacity Development Office, Nogales, Arizona***
  $175,000 – Weed and Seed grant awarded to Santa Cruz County.

- ***Community Capacity Development Office, Tucson, Arizona***
  $225,000 – Weed and Seed grant awarded to the City of Tucson.

- ***Community Capacity Development Office, Tucson, Arizona***
  $175,000 – Weed and Seed grant awarded to the City of Tucson.

- ***Community Capacity Development Office, Norwalk, Connecticut***
  $225,000 – Weed and Seed grant awarded to the City of Norwalk.

- ***Community Capacity Development Office, West Palm Beach, Florida***
  $80,000 – Weed and Seed grant awarded to the City of West Palm Beach.

- ***Community Capacity Development Office, South Bend, Indiana***
  $100,000 – Weed and Seed grant awarded to the City of South Bend.

- ***Community Capacity Development Office, Atlantic City, New Jersey***
  $175,000 –Weed and Seed grant awarded to the Boys and Girls Club of Atlantic City, Inc.

- ***Community Capacity Development Office, Newark, New Jersey***
  $100,000 – Weed and Seed grant awarded to the Community Agencies Corporation of New Jersey.

- ***Community Capacity Development Office, New York, New York***
  $444,560 – Weed and Seed grant awarded to the National Urban Technology Center.

- ***Community Capacity Development Office, New York, New York***
  $225,000 – Weed and Seed grant awarded to Help Social Services Corporation.

- ***Community Capacity Development Office, Chattanooga, Tennessee***
  $100,000 – Weed and Seed grant awarded to the Westside Community Development Corporation.

- ***Community Capacity Development Office, Dyersburg, Tennessee***
  $225,000 – Weed and Seed grant awarded to the Dyersburg Police Department.

- ***Community Capacity Development Office, Kingsport, Tennessee***
  $100,000 – Weed and Seed grant awarded to the South Central Kingsport Community Development Corporation.

- ***Community Capacity Development Office, Dallas, Texas***
  $76,670 – Weed and Seed grant awarded to the East Dallas Community Organization.

- ***Community Capacity Development Office, Fort Worth, Texas***
  $175,000 – Weed and Seed grant awarded to the Near Southeast Community Development Corporation, Inc.

- ***Community Capacity Development Office, Ogden, Utah***
  $225,000 – Weed and Seed grant awarded to the Ogden City Corporation.
- ***Community Capacity Development Office, Salt Lake City, Utah***
  $225,000 – Weed and Seed grant awarded to the Salt Lake City Corporation.

DOJ_NMG_ 0148184

- ***Community Capacity Development Office, Mobile, Alabama***
  $80,000 – Weed and Seed grant awarded to the City of Mobile.

- ***Community Capacity Development Office, Oxnard, California***
  $100,000 – Weed and Seed grant awarded to the Community Action Resource Exchange of Ventura County.

- ***Community Capacity Development Office, Rancho Cordova, California***
  $194,451 – Weed and Seed grant awarded to the City of Rancho Cordova.

- ***Community Capacity Development Office, New Haven, Connecticut***
  $80,000 – Weed and Seed grant awarded to the City of New Haven.

- ***Community Capacity Development Office, Washington, DC***
  $200,000 – Weed and Seed grant awarded to the National Center for Neighborhood Enterprise.

- ***Community Capacity Development Office, Washington, DC***
  $250,000 – Weed and Seed grant awarded to the International Economic Development Council.

- ***Community Capacity Development Office, Washington, DC***
  $314,188 – Weed and Seed grant awarded to the Neighborhood Reinvestment Corporation.

- ***Community Capacity Development Office, Wilmington, Delaware***
  $100,000 – Weed and Seed grant awarded to the Criminal Justice Council.

- ***Community Capacity Development Office, Fort Myers, Florida***
  $100,000 – Weed and Seed grant awarded to the City of Fort Myers.

- ***Community Capacity Development Office, North Miami Beach ,Florida***
  $80,000 – Weed and Seed grant awarded to the City of North Miami Beach.

- ***Community Capacity Development Office, Orlando, Florida***
  $225,000 – Weed and Seed grant awarded to the City of Orlando.

- ***Community Capacity Development Office, St. Charles, Illinois***
  $225,000 – Weed and Seed grant awarded to the Kane County State's Attorney's Office.

- ***Community Capacity Development Office, Wichita, Kansas***
  $80,000 – Weed and Seed grant awarded to the Wichita Family Service Institute.

- ***Community Capacity Development Office, Wichita, Kansas***

DOJ_NMG_ 0148185

$225,000 – Weed and Seed grant awarded to the Wichita Family Service Institute.

- ***Community Capacity Development Office, Great Falls, Montana***
  $225,000 – Weed and Seed grant awarded to the Boys and Girls Clubs North Central Montana.

- ***Community Capacity Development Office, Jackson, Mississippi***
  $225,000 – Weed and Seed grant awarded to the City of Jackson.

- ***Community Capacity Development Office, Jackson, Mississippi***
  $100,000 – Weed and Seed grant awarded to the City of New Haven.

- ***Community Capacity Development Office, St. Louis, Missouri***
  $225,000 – Weed and Seed grant awarded to the Operation Weed and Seed, St. Louis.

- ***Community Capacity Development Office, Omaha, Nebraska***
  $100,000 – Weed and Seed grant awarded to the City of Omaha, Office of the Mayor.

- ***Community Capacity Development Office, Omaha, Nebraska***
  $80,000 – Weed and Seed grant awarded to the City of Omaha, Office of the Mayor.

- ***Community Capacity Development Office, Camden, New Jersey***
  $225,000 – Weed and Seed grant awarded to the Camden Neighborhood Renaissance.

- ***Community Capacity Development Office, New York City, New York***
  $80,000 – Weed and Seed grant awarded to the South Bronx Overall Economic Development Corporation.

- ***Community Capacity Development Office, New York, New York***
  $80,000 – Weed and Seed grant awarded to the Help Social Service Corporation.

- ***Community Capacity Development Office, New York, New York***
  $498,962 – Weed and Seed grant awarded to the National Federation of Community Development Credit Union.

- ***Community Capacity Development Office, New York, New York***
  $298,815 – Weed and Seed grant awarded to the National Urban Technology Center.

- ***Community Capacity Development Office, Patchogue, New York***
  $175,000 – Weed and Seed grant awarded to the Economic Opportunity Council of Suffolk.

- ***Community Capacity Development Office, Schenectady, New York***
  $175,000 – Weed and Seed grant awarded to the Schenectady Municipal Housing

DOJ_NMG_ 0148186

Authority.

- ***Community Capacity Development Office, Yonkers, New York***
  $100,000 – Weed and Seed grant awarded to the City of Yonkers.

- ***Community Capacity Development Office, Midwest City, Oklahoma***
  $175,000 – Weed and Seed grant awarded to the City of Midwest City.

- ***Community Capacity Development Office, Burns, Oregon***
  $100,000 – Weed and Seed grant awarded to the Burns Paiute Tribe.

- ***Community Capacity Development Office, Allentown, Pennsylvania***
  $80,000 – Weed and Seed grant awarded to the City of Allentown.

- ***Community Capacity Development Office, Coatesville, Pennsylvania***
  $175,000 – Weed and Seed grant awarded to the City of Coatesville.

- ***Community Capacity Development Office, Lancaster, Pennsylvania***
  $175,000 – Weed and Seed grant awarded to Neighborhood Services Inc.

- ***Community Capacity Development Office, Philadelphia, Pennsylvania***
  $175,000 – Weed and Seed grant awarded to the Philadelphia Managing Directors Office.

- ***Community Capacity Development Office, Chattanooga, Tennessee***
  $225,000 – Weed and Seed grant awarded to the Westside Community Development Corporation.

- ***Community Capacity Development Office, Dallas, Texas***
  $175,000 – Weed and Seed grant awarded to the Builders of Hope Community Development Corporation.

- ***Community Capacity Development Office, San Antonio, Texas***
  $80,000 – Weed and Seed grant awarded to the San Antonio Fighting Back, Inc.

- ***Community Capacity Development Office, San Antonio, Texas***
  $225,000 – Weed and Seed grant awarded to the San Antonio Fighting Back, Inc.

- ***Community Capacity Development Office, Alexandria, Virginia***
  $400,000 – Weed and Seed grant awarded to the Community Anti-Drug Coalitions of America.

- ***Community Capacity Development Office, Alexandria, Virginia***
  $1,377,649 – Weed and Seed grant awarded to the Institute for Law and Justice.

- ***Community Capacity Development Office, Newport News, Virginia***

DOJ_NMG_ 0148187

$100,000 – Weed and Seed grant awarded to the City of Newport News.

- ***Community Capacity Development Office, Madison, Wisconsin***
  $225,000 – Weed and Seed grant awarded to the City of Madison.

- ***Community Capacity Development Office, Montgomery, Alabama***
  $100,000- Weed and Seed grant awarded to the City of Montgomery.

- ***Community Capacity Development Office, Glendale, Arizona***
  $175,000- Weed and Seed grant awarded to the Glendale Police Department.

- ***Community Capacity Development Office, Santa Paula, California***
  $100,000 - Weed and Seed grant awarded to the City of Santa Paula.

- ***Community Capacity Development Office, Merritt Island, Florida***
  $80,000 - Weed and Seed grant awarded to the Housing Authority of Brevard County.

- ***Community Capacity Development Office, Miami, Florida***
  $225,000 - Weed and Seed grant awarded to the Miami Dade Weed and Seed Inc.

- ***Community Capacity Development Office, Indianapolis, Indiana***
  $100,000 - Weed and Seed grant awarded to the City of Indianapolis

- ***Community Capacity Development Office, Chicago, Illinois***
  $80,000 - Weed and Seed grant awarded to Westside Health Authority.

- ***Community Capacity Development Office, St. Charles, Illinois***
  $80,000 - Weed and Seed grant awarded to Kane County State's Attorney's Office.

- ***Community Capacity Development Office, Kansas City, Kansas***
  $175,000 - Weed and Seed grant awarded to the Unified Government of Wyandotte County.

- ***Community Capacity Development Office, New Orleans, Louisiana***
  $668,991 - Weed and Seed grant awarded to New Orleans Police Foundation.

- ***Community Capacity Development Office, New Orleans, Louisiana***
  $75,823 - Weed and Seed grant awarded to New Orleans Police Foundation.

- ***Community Capacity Development Office, Brunswick, Maine***
  $99,988 - Weed and Seed grant awarded to Volunteers of America Northern England Inc.

- ***Community Capacity Development Office, Great Falls, Montana***
  $100,000 - Weed and Seed grant awarded to Boys and Girls Clubs North Central Montana.

DOJ_NMG_ 0148188

· ***Community Capacity Development Office, Manchester, New Hampshire***
$225,000 - Weed and Seed grant awarded to the City of Manchester.

· ***Community Capacity Development Office, Egg Harbortownship, New Jersey***
$80,000 - Weed and Seed grant awarded to the Atlanticare Health System.

·
Community Capacity Development Office, Buffalo, New York
$100,000 - Weed and Seed grant awarded to the City of Buffalo.

· ***Community Capacity Development Office, Winston Salem, North Carolina***
$300,000 - Weed and Seed Program Support Grant awarded to Winston Salem State University.

· ***Community Capacity Development Office, Oklahoma City, Oklahoma***
$100,000 - Weed and Seed grant awarded to City of Oklahoma.

· ***Community Capacity Development Office, Oklahoma City, Oklahoma***
$175,000 - Weed and Seed grant awarded to City of Oklahoma.

· ***Community Capacity Development Office, Philadelphia, Pennsylvania***
$175,000 - Weed and Seed grant awarded to the Managing Directors Office.

· ***Community Capacity Development Office, Reading, Pennsylvania***
$100,000 - Weed and Seed grant awarded to the County of Berks.

· ***Community Capacity Development Office, Corpus Christi, Texas***
$100,000 - Weed and Seed grant awarded to the City of Corpus Christi.

· ***Community Capacity Development Office, Houston, Texas***
$225,000 - Weed and Seed grant awarded to the Mayor's Anti-Gang Office.

· ***Community Capacity Development Office, San Antonio, Texas***
$225,000 - Weed and Seed grant awarded to San Antonio Fighting Back Inc..
· ***Community Capacity Development Office, Alexandria, Virginia***
$1,369,061 - Weed and Seed grant awarded to the Institute for Law and Justice.

· ***Community Capacity Development Office, Glendale, Arizona***
$ 175,000 - Weed and Seed Program Guide and Application Kit Grant awarded to Glendale Police Department.

· ***Community Capacity Development Office, Miami, Florida***
$ 225,000 - Weed and Seed Program Guide and Application Kit Grant awarded to Miami Dade Weed and Seed Incorporated.

DOJ_NMG_ 0148189

- ***Community Capacity Development Office, Kansas City, Kansas***
  $ 175,000 - Weed and Seed Program Guide and Application Kit Grant awarded to Unified Govt. Of Wyandotte County.

- ***Community Capacity Development Office, New Orleans, Louisiana***
  $ 668,991 - Weed and Seed Program Guide and Application Kit Grant awarded to New Orleans Police Foundation.

- ***Community Capacity Development Office, Oklahoma City, Oklahoma***
  $ 175,000 - Weed and Seed Program Guide and Application Kit Grant awarded to the City of Oklahoma City.

- **Community Capacity Development Office, Manchester, New Hampshire**
  $ 225,000 - Weed and Seed Program Guide and Application Kit Grant awarded to the City of Manchester.

- ***Community Capacity Development Office, Philadelphia, Pennsylvania***
  $ 175,000 - Weed and Seed Program Guide and Application Kit Grant awarded to Philadelphia Managing Directors Office.

- ***Community Capacity Development Office, Houston, Texas***
  $ 225,000 - Weed and Seed Program Guide and Application Kit Grant awarded to Houston Mayor's Anti-Gang Office.

- ***Community Capacity Development Office, San Antonio, Texas***
  $ 225,000 - Weed and Seed Program Guide and Application Kit Grant awarded to San Antonio Fighting Back Inc.

- ***Office for Victims of Crime, Laguna, New Mexico***
  $69,763 - Tribal Victim Assistance grant awarded to Pueblo of Laguna.

- ***Office for Victims of Crime, Boston Massachusetts***
  $428,383 – Trafficking Mental Health Services grant awarded to the Justice Resource Institute.

DIVISION/COMPONENT CONTACT

Nancy Ayers, Director
Office of Communications
307-0703

DOJ_NMG_ 0148190

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Tuesday, September 20, 2005 12:46 PM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV); Hertling, Richard; Ansell, Frederick
Cc: Clinger, James H
Subject: Re: Federal Contractor Liability

I am home dick, would someone else please email to him. Also, just because clarity is difficult, the 4pm call is with the House staffer, [redacted]. JIm Clinger will host in my absence.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Ansell, Frederick <Frederick.Ansell@SMOJMD.USDOJ.gov>
Sent: Tue Sep 20 12:13:44 2005
Subject: Re: Federal Contractor Liability

I won't be able to make the 4 pm call, but I did speak to [redacted] per [redacted]'s request and think I understand [redacted] suggestion, which wasn't altogether clear from the comments we received. If someone can email the Senate draft to me at home - [redacted] I will revise the draft later this afternoon to capture what understand [redacted]'s pt to be. We can then discuss any concerns folks may have.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
To: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Ansell, Frederick <Frederick.Ansell@SMOJMD.USDOJ.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 20 11:14:33 2005
Subject: FW: Federal Contractor Liability

-----Original Message-----
From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Tuesday, September 20, 2005 11:07 AM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov; [redacted] (DHS)
Cc: Raul_F._Yanes@omb.eop.gov
Subject: Federal Contractor Liability

I hope they push this. It will make our volunteer protection bill look quite modest.

washingtonpost.com <http://www.washingtonpost.com/>
Federal Contractors Seek Liability Shields Trade Group Drafting Bill to Protect Storm Cleanup Workers From Lawsuits

By [redacted]
Washington Post Staff Writer
Tuesday, September 20, 2005; A07

Contractors working on Hurricane Katrina relief efforts for the federal government want Congress to limit their liability from lawsuits and are drafting legislation to seek such protection, industry officials said yesterday.

The Army Corps of Engineers and the Federal Emergency Management Agency have relied on contractors, including several who started work without a contract, to fix the levees in New Orleans and pump water out of the city. But the companies have become concerned about the liability issue because of lawsuits filed against construction firms that helped clean up the World Trade Center after the Sept. 11, 2001, terrorist attacks.

"We're asking for some reasonable limits for going into the Gulf Coast and dealing with unknowns," Michael E. Kennedy, general counsel for the Associated General Contractors of America, said after a meeting of the trade group in Washington. "A contractor goes into an unknown situation to remove debris or fix a utility line, and three years from now someone decides they did it improperly."

The Corps has already contracted with more than a dozen companies for work worth $2.8 billion during the next year. Those companies will be joined by dozens more as reconstruction of the region begins.

The bill that the trade group is drafting would limit contractors' liabilities but still hold them responsible for following government regulations, Kennedy said. It would be similar to regulations the Homeland Security Department unveiled last year that protect companies selling security technology from lawsuits triggered by a terrorist act.

Legislation was introduced in the House last week to shield volunteer contractors from liability. The general contractors' bill would extend the coverage to companies working under the government.

"You can consider these contractors as an extension of the government; they are performing a lot of public" duties, Kennedy said.

Robert S. Boh, president of Boh Bros. Construction Co. of New Orleans, said yesterday that he favors such a bill. His firm moved its New Orleans offices to Baton Rouge, La., after the hurricane hit but was soon hired by the Corps to fix the levees and pump water out of the city.

"We're simply showing up and responding to verbal direction," Boh said.
"We're not adequately able to assess the request for risks."

Also yesterday, the Homeland Security Department's inspector general appointed a National Weather

Service official who once served as acting chief financial officer of FEMA to lead the office's work overseeing Katrina spending.

Matthew A. Jadacki, who worked at FEMA from 1991 to 2004, will "be responsible for overseeing the management and expenditures of all contracts, grants and governmental operations related to Hurricane Katrina relief efforts," according to a Homeland Security Department statement.

Jadacki's appointment comes as members of Congress continue to debate other ideas for how the government will monitor the flow of money for Gulf Coast reconstruction. The proposals include establishing a special inspector general's office, expanding the duties of the special inspector general for Iraq reconstruction or establishing a chief financial officer.

Some in Congress are concerned that Homeland Security's inspector general's office will not have the resources to monitor the department's regular work, as well as the tens of billions of dollars flowing into the Gulf Coast. Homeland Security Department officials, however, have said the department's IG office is up to the task.

Staff writers [redacted] contributed to this report.

Jenkins, Jacqueline D. (TAX)

From:	Jenkins, Jacqueline D. (TAX)
Sent:	Tuesday, September 20, 2005 12:53 PM
To:	Hechtkopf, Alan (TAX); Shaw, Aloma A; Reid, Ann Carroll (TAX); Salad, Bruce M. (TAX); Praylow, Carletta J (TAX); Fallon, Claire (TAX); Moore, Clara A. (TAX); Magnuson, Cynthia; Mullarkey, D. Patrick (TAX); Hubbert, David A. (TAX); Pincus, David I (TAX); Davis, Deborah J; Rothenberg, Gilbert S (TAX); DiCicco, John A. (TAX); Cohen, Jonathan S. (TAX); Young, Joseph E. (TAX); Fowler, Liane; Hytken, Louise P. (TAX); Friend, Mark R. (TAX); Kearns, Michael J. (TAX); Alvarez, Michelle M. (TAX); Seidman, Mildred L. (TAX); Gorsuch, Neil M; Ward, Richard R. (TAX); Watkins, Robert S. (TAX); Cimino, Ronald A. (TAX); Paguni, Rosemary E. (TAX); Heald, Seth G. (TAX); Catlett, Susanne S. (TAX); Cole, Thomas P. (TAX); Watkins, Yvonne (TAX)
Subject:	Tax Division's Wkly Rpt to AG, 092005
Attachments:	092005 wkly rpt.DOC

September 20, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Eileen J. O'Connor
Assistant Attorney General

SUBJECT: Weekly Report

A. NEXT WEEK

- **Nothing to report.**

B. THIS WEEK

- **Second Circuit to Hear Argument in "Lease-Strip" Tax Shelter Case.** On September 22, 2005, the Second Circuit will hear oral argument in the *Long-Term Capital* case. Long-Term Capital, a defunct hedge fund, appealed from a decision of the district court that it improperly deducted $106 million in losses it claimed to have incurred in connection with its participation in a "lease-strip" abusive tax shelter. Nationwide, the IRS estimates that $1 billion is at stake in lease-stripping tax shelters, including over $100 million in other lease-strip cases the Tax Division is presently handling. [*Long-Term Capital et al. v. United States* (United States Court of Appeals for the Second Circuit)].

C. LAST WEEK

- **IRS Timely Assessed Taxes in Son of Boss Cases.** On September 16, the Court of Federal Claims held, in a "Son of Boss" abusive tax shelter case, that the IRS's issuance of a notice against a partnership (known as a Final Partnership Administrative Adjustment, or "FPAA") suspends the statute of limitations for the assessment of taxes against all partners. Approximately one-half of the plaintiffs involved in Son of Boss cases handled by the Tax Division have asserted that the issuance of an FPAA did not suspend the statute, and that the IRS had therefore not timely assessed the taxes at issue in their cases. The IRS estimates that Son of Boss transactions may have cost the Federal Treasury more than $6 billion in tax,

not including interest and penalties. [*AD Global Fund, LLC v. United States* (Court of Federal Claims)]

DOJ_NMG_ 0148196

- **Two Accountants in International Tax-Fraud Scheme Sentenced and One Scheme Client Convicted.** On September 16, a federal judge in the Western District of Washington sentenced two certified public accountants, Tara Lagrand and Lynden Bridges, to prison for 24 months and 18 months respectively. The two previously pled guilty to aiding and assisting the filing of false tax returns in connection with their promotion and sale of an international tax fraud scheme. They performed accounting services for Anderson's Ark and Associates (AAA), a Hoodsport, Washington-based organization with offices in Costa Rica, that sold fraudulent tax shelters over the Internet to more than 1,500 clients and funneled money through bank accounts in Costa Rica, Canada, Austria, and Latvia. [*United States v. Keith Anderson, et al.* (W.D. Wash.)]. On September 13, a Milwaukee, Wisconsin, jury convicted the first AAA client to be prosecuted, Glen J. Murphy, of seven counts of filing false tax returns and three counts of willfully failing to file income tax returns. Using the AAA schemes, Murphy created fictitious losses or expenses to reduce or eliminate his tax obligations for seven years and failed to file individual income tax returns for three years. [*United States v. Glen Murphy* (United States District Court for the Eastern District of Wisconsin)].

DIVISION CONTACT

S. Hollis Fleischer, Special Counsel for Civil/Criminal Coordination, Tax Division (202) 353-8899.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 20, 2005 1:06 PM
To: Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 20, 2005 1:06 PM
To: Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 20, 2005 2:06 PM
To: Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 20, 2005 2:07 PM
To: Gorsuch, Neil M
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 20 14:05:46 2005
Subject:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 20, 2005 2:17 PM
To: Seidel, Rebecca; Bucholtz, Jeffrey (CIV); Hertling, Richard; Ansell, Frederick
Cc: Clinger, James H
Subject: Re: Federal Contractor Liability

Spoke to [redacted] and I think we can satisfy [redacted] with the following. They are concerned about the transaction costs associated with defending even meritless cases through the expensive discovery process. Please let me know whether you think we should send this along. Need to respond to [redacted] today as [redacted] hopes to drop bill tomorrow.

Section 107 Judicial Review of Allegations.

A claimant in a civil action subject to the limitations of liability under this title shall attach to its complaint sworn affidavit(s) or documents containg admissible evidence. Before allowing the case to proceed into discovery, the trial judge shall determine whether, as a matter of law, the evidence submitted is sufficient to raise a genuine issue of material fact.

-----Original Message-----
From: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Ansell, Frederick <Frederick.Ansell@SMOJMD.USDOJ.gov>
CC: Clinger, James H <James.H.Clinger@SMOJMD.USDOJ.gov>
Sent: Tue Sep 20 12:46:28 2005
Subject: Re: Federal Contractor Liability

I am home dick, would someone else please email to him. Also, just because clarity is difficult, the 4pm call is with the House staffer, [redacted], JIm Clinger will host in my absence.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Ansell, Frederick <Frederick.Ansell@SMOJMD.USDOJ.gov>
Sent: Tue Sep 20 12:13:44 2005
Subject: Re: Federal Contractor Liability

I won't be able to make the 4 pm call, but I did speak to [redacted] per [redacted]s request and think I understand [redacted] suggestion, which wasn't altogether clear from the comments we received. If someone

can email the Senate draft to me at home - [redacted] I will revise the draft later this afternoon to capture what understand [redacted]'s pt to be. We can then discuss any concerns folks may have.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
To: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Ansell, Frederick <Frederick.Ansell@SMOJMD.USDOJ.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 20 11:14:33 2005
Subject: FW: Federal Contractor Liability

-----Original Message-----
From: Marc_Kesselman@omb.eop.gov [mailto:Marc_Kesselman@omb.eop.gov]
Sent: Tuesday, September 20, 2005 11:07 AM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV); Allyson_N._Ho@who.eop.gov; [redacted] (DHS)
Cc: Raul_F._Yanes@omb.eop.gov
Subject: Federal Contractor Liability

I hope they push this. It will make our volunteer protection bill look quite modest.

washingtonpost.com <http://www.washingtonpost.com/>
Federal Contractors Seek Liability Shields Trade Group Drafting Bill to Protect Storm Cleanup Workers From Lawsuits

By [redacted]
Washington Post Staff Writer
Tuesday, September 20, 2005; A07

Contractors working on Hurricane Katrina relief efforts for the federal government want Congress to limit their liability from lawsuits and are drafting legislation to seek such protection, industry officials said yesterday.

The Army Corps of Engineers and the Federal Emergency Management Agency have relied on contractors, including several who started work without a contract, to fix the levees in New Orleans and pump water out of the city. But the companies have become concerned about the liability issue because of lawsuits filed against construction firms that helped clean up the World Trade Center after the Sept. 11, 2001, terrorist attacks.

"We're asking for some reasonable limits for going into the Gulf Coast and dealing with unknowns," Michael E. Kennedy, general counsel for the Associated General Contractors of America, said after a meeting of the trade group in Washington. "A contractor goes into an unknown situation to remove

debris or fix a utility line, and three years from now someone decides they did it improperly."

The Corps has already contracted with more than a dozen companies for work worth $2.8 billion during the next year. Those companies will be joined by dozens more as reconstruction of the region begins.

The bill that the trade group is drafting would limit contractors' liabilities but still hold them responsible for following government regulations, Kennedy said. It would be similar to regulations the Homeland Security Department unveiled last year that protect companies selling security technology from lawsuits triggered by a terrorist act.

Legislation was introduced in the House last week to shield volunteer contractors from liability. The general contractors' bill would extend the coverage to companies working under the government.

"You can consider these contractors as an extension of the government; they are performing a lot of public" duties, Kennedy said.

Robert S. Boh, president of Boh Bros. Construction Co. of New Orleans, said yesterday that he favors such a bill. His firm moved its New Orleans offices to Baton Rouge, La., after the hurricane hit but was soon hired by the Corps to fix the levees and pump water out of the city.

"We're simply showing up and responding to verbal direction," Boh said.
"We're not adequately able to assess the request for risks."

Also yesterday, the Homeland Security Department's inspector general appointed a National Weather Service official who once served as acting chief financial officer of FEMA to lead the office's work overseeing Katrina spending.

Matthew A. Jadacki, who worked at FEMA from 1991 to 2004, will "be responsible for overseeing the management and expenditures of all contracts, grants and governmental operations related to Hurricane Katrina relief efforts," according to a Homeland Security Department statement.

Jadacki's appointment comes as members of Congress continue to debate other ideas for how the government will monitor the flow of money for Gulf Coast reconstruction. The proposals include establishing a special inspector general's office, expanding the duties of the special inspector general for Iraq reconstruction or establishing a chief financial officer.

Some in Congress are concerned that Homeland Security's inspector general's office will not have the resources to monitor the department's regular work, as well as the tens of billions of dollars flowing into the Gulf Coast. Homeland Security Department officials, however, have said the department's IG office is up to the task.

Staff writers [redacted] contributed to this report.

Chip_Roy@judiciary-rep.senate.gov

From: [redacted]@judiciary-rep.senate.gov
Sent: Tuesday, September 20, 2005 2:17 PM
To: Seidel, Rebecca; Clinger, James H
Cc: Gorsuch, Neil M
Subject: FW: Were my notes clear?
Attachments: HEN05944_xml.pdf

Latest document, I have not reviewed it yet... will shortly.

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

-----Original Message-----
From: [redacted] (Legis Counsel)
Sent: Tuesday, September 20, 2005 2:09 PM
To: [redacted] (Judiciary)
Subject: RE: Were my notes clear?

[redacted]

Here is the revised bill - I broke up the definitions of "compensation" and "declared disaster" to help clarify. Let me know if you need anything else.

[redacted]

-----Original Message-----
From: [redacted] (Judiciary) [mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Tuesday, September 20, 2005 12:29 PM
To: [redacted] (Legis Counsel)
Subject: Re: Were my notes clear?

Yes. Electronic version was for your benefit...

[redacted]
Counsel
U.S. Senate Subcommittee on the Constitution, Civil Rights & Property Rights U.S. Senator John Cornyn, Chairman Dirksen Senate Office Building Room 139[redacted] (office) (202) 228-2281 (fax)

-----Original Message-----
From: [redacted] (Legis Counsel) <[redacted]@slc.senate.gov>
To: [redacted] (Judiciary) <[redacted]@judiciary-rep.senate.gov>
Sent: Tue Sep 20 12:15:32 2005
Subject: RE: Were my notes clear?

The notes were fine - I saw that there were no differences between the findings you sent today and the earlier version, so does that mean you did not have changes to the findings?

Also, as I mentioned in my earlier e-mail, I wanted to double check that the only changes to the first document you sent today were also marked on the hard copy you dropped off, correct?

-----Original Message-----
From: [redacted] (Judiciary) [mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Tuesday, September 20, 2005 12:10 PM
To: [redacted] (Legis Counsel)
Subject: Were my notes clear?

I am hopeful that will be the last significant round of changes.

Maybe a nit or two on final review - with one possible tweak to the judicial review language (which of course needs to be replicated three times). I will know about that soon.

[redacted]

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship US Senator John Cornyn, Chairman www.cornyn.senate.gov[redacted]

109TH CONGRESS
1ST SESSION

S. _____

To limit liability for volunteers and those providing goods and services for disaster relief, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. CORNYN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To limit liability for volunteers and those providing goods and services for disaster relief, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Good Samaritan Liability Improvement and Volunteer Encouragement Act of 2005'' or the ''GIVE Act of 2005''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) It is in the national interest to encourage individuals to volunteer, and particularly to assist victims of national disasters.

(2) The exposure of potential volunteers, their employers, and those who would use the services of volunteers under existing law to compensatory and punitive damages for negligent acts discourages the provision of these services.

(3) The availability of damages in these circumstances for actions that constitute gross negligence creates uncertainty concerning the actual conduct that might cause liability to be imposed on volunteers.

(4) Potential liability for acts of volunteers discourages the employers or business partners of potential volunteers from permitting those potential volunteers to provide disaster relief services.

(5) Potential liability for acts of volunteers discourages entities that might use the services provided by volunteers from doing so.

(6) Well-founded fear of liability under existing law for providing goods, equipment, access to facilities, and other in-kind contributions discourages those who would donate them from doing so.

(7) Well-founded fear of liability under existing law for providing goods discourages governmental and intergovernmental entities from providing needed disaster relief goods.

(8) Well-founded fear of liability for punitive damages under existing law discourages governmental and intergovernmental entities from providing needed disaster relief goods and discourages potential volunteers from providing volunteer services to disaster victims.

(9) Fear of compensatory and punitive damages for providing volunteer services deters potential volunteers from States located outside the national disaster area from providing volunteer services.

(10) Fear of compensatory and punitive damages for providing volunteer services deters potential foreign volunteers from providing disaster relief services.

(11) Any lessening of liability for volunteers providing disaster relief services, their employers and business partners, and entities utilizing their services should maintain adequate incentives for each of these classes of persons or entities to avoid causing harm.

(12) Unwillingness to provide volunteer services in the face of uncertain liability substantially affects, burdens, and deters interstate commerce and travel.

(13) Unwillingness of employers and business partners to allow their employees and business partners to provide volunteer and disaster relief services in the face of uncertain liability substantially affects, burdens, and deters interstate commerce and travel.

(14) Unwillingness of persons, entities, or organizations to accept volunteer and disaster relief services from volunteers in the face of uncertain liability substantially affects, burdens, and deters interstate commerce and travel.

(15) Unwillingness by foreigners to provide volunteer and disaster relief services in the face of uncertain liability substantially affects, burdens, and deters foreign commerce and travel.

(16) Unless Congress provides uniform standards to address disasters that could occur in any State or combination of States, potential volunteers and others will not be certain which laws would govern their providing disaster relief services, which would substantially affect, burden, and deter interstate and foreign commerce and travel in the event of a national disaster.

TITLE I—DISASTER RELIEF VOLUNTEER PROTECTION

SEC. 101. DEFINITIONS.

In this title—

(1) the term ''compensation''—

(A) means monetary or other compensation of any kind provided in exchange for an individual's services; and

(B) does not include—

(i) reasonable reimbursement or allowance for expenses actually incurred by such individual;

(ii) provision of reasonable supplies, lodging, or transportation to such an individual; or

(iii) the ordinary salary or compensation paid to such an individual by the employer of the individual while the individual is on leave from performing ordinary duties for the employer of the individual in order to provide disaster relief services;

(2) the term ''declared disaster'' means—

(A) a public health emergency declared by the Secretary of Health and Human Services

under section 319 of the Public Health Services Act (42 U.S.C. 247d);

(B) a public health emergency, or a risk of such emergency, as determined by the Secretary of Homeland Security in accordance with clause (i) or (ii) of section 2811(b)(3)(A) of the Public Health Services Act (42 U.S.C. 300hh-11(b)(3)(A)), as transferred by section 503(5) of the Homeland Security Act of 2002 (6 U.S.C. 313(5)); or

(C) an emergency or major disaster declared by the President under section 401 or 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170, 5191);

(3) the term ''disaster relief goods'' means either—

(A) those goods provided in preparation for, response to, or recovery from a declared disaster and reasonably necessary to such preparation, response, or recovery; or

(B) those goods defined by a supplemental declaration under this title;

(4) the term ''disaster relief services'' means services or assistance provided in preparation for, re-

sponse to, or recovery from a declared disaster, including but not limited to health, medical, firefighting, rescue, reconstruction, and any other services or assistance specified by a supplemental declaration under this title as necessary or desirable to prepare for, respond to, or recover from such declared disaster;

(5) the term ''disaster relief volunteer'' means an individual—

(A) who provides disaster relief services or assistance in connection with a declared disaster without expectation or receipt of compensation in exchange for providing such services or assistance; and

(B) who, to the extent required by the appropriate authorities of a State (even if such State is not the State in which the volunteer provides services or assistance) or, if, and to the extent, specified in a supplemental declaration under this title, a foreign country, is licensed, certified, or authorized to provide the relevant services or assistance;

(6) the term ''non-economic loss'' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, dis-

figurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other non-pecuniary losses of any kind or nature;

(7) the term ''supplemental declaration'' means a declaration under section 108 regarding the scope of a declared disaster;

(8) the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

SEC. 102. LIABILITY OF DISASTER RELIEF VOLUNTEERS.

A disaster relief volunteer shall not be liable for harm caused by an act or omission of the volunteer that is within the scope of the activities of the volunteer to provide or facilitate the provision of disaster relief services in connection with a declared disaster if—

(1) the harm was not caused by willful, knowing, or reckless misconduct by the volunteer; and

(2) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

(A) possess an operator's license; or

(B) maintain insurance.

SEC. 103. LIABILITY OF EMPLOYER OR PARTNER OF DISASTER RELIEF VOLUNTEER.

An employer or business partner of a disaster relief volunteer shall not be liable for any act or omission of such volunteer within the scope of the activities of the volunteer to provide or facilitate the provision of disaster relief services in connection with a declared disaster.

SEC. 104. LIABILITY OF HOST OR ENABLING PERSON, ENTITY, OR ORGANIZATION.

A person, entity, or organization, including a governmental or intergovernmental entity, that works with, accepts services from, or opens its facilities to a disaster relief volunteer to enable the volunteer to render disaster relief services in connection with a declared disaster shall not be liable for any act or omission of a disaster relief volunteer.

SEC. 105. LIABILITY OF GOVERNMENTAL AND INTERGOVERNMENTAL ENTITIES FOR DONATIONS OF DISASTER RELIEF GOODS .

A governmental or intergovernmental entity that donates disaster relief goods to an agency or instrumentality of the United States in connection with a declared disaster shall not be liable for harm caused by such donated goods if the harm was not caused by willful, knowing, or reckless misconduct by the governmental or intergovernmental entity.

SEC. 106. LIMITATION ON PUNITIVE AND NON-ECONOMIC DAMAGES BASED ON ACTIONS OF DISASTER RELIEF VOLUNTEERS AND GOVERNMENTAL OR INTERGOVERNMENTAL DONORS.

(a) PUNITIVE DAMAGES.—Punitive damages may not be awarded in any civil action against a disaster relief volunteer or governmental or intergovernmental entity unless a claimant establishes by clear and convincing evidence that the damages to the claimant were proximately caused by willful, knowing, or reckless misconduct by either—

(1) a disaster relief volunteer in an action brought for harm caused by the activities of the volunteer to provide or facilitate the provision of disaster relief services in connection with a declared disaster; or

(2) a governmental or intergovernmental entity for harm caused by disaster relief goods donated by such governmental or intergovernmental entity in connection with a declared disaster.

(b) NON-ECONOMIC DAMAGES.—

(1) IN GENERAL.—Liability for non-economic loss in any civil action brought against either a disaster relief volunteer for harm caused the activities of the volunteer to provide or facilitate the provision of disaster relief services in connection with a declared disaster, or a governmental or intergovernmental entity for harm caused by disaster relief goods donated by such governmental or intergovernmental entity in connection with a declared disaster, if permitted under section 102 or section 105, shall be determined in accordance with paragraph (2).

(2) AMOUNT OF LIABILITY.—

(A) IN GENERAL.—The amount of damages for non-economic loss allocated to a disaster relief volunteer or governmental or intergovernmental entity defendant shall be in direct proportion to the percentage of responsibility of that defendant, determined in accordance with subparagraph (B), for the harm to the claimant with respect to which that defendant is liable.

(B) PERCENTAGE.—In a civil action described in paragraph (1), for purposes of determining the amount of non-economic loss, the trier of fact shall determine the percentage of responsibility of each defendant found liable for harm to the claimant.

(C) SEPARATE JUDGMENTS.—The court shall render a separate judgment against each defendant for any non-economic loss.

SEC. 107. JUDICIAL REVIEW OF ALLEGATIONS.

(a) IN GENERAL.—A claimant in a civil action for an act or omission outside of the limitations on liability under this title shall attach 1 or more sworn affidavits, or documents containing admissible evidence of facts, sufficient to withstand a motion for summary judgment, to the claimant's complaint.

(b) INITIAL REVIEW.—After a defendant files an answer in a civil action described in subsection (a), but before allowing discovery, the trial judge shall determine whether, as a matter of law, the allegations of a claimant, as recorded in the affidavit or documents attached to the complaint, raise a genuine issue of material fact.

SEC. 108. SUPPLEMENTAL DECLARATION.

(a) IN GENERAL.—In the event of a declared disaster, the President, the Secretary of Health and Human

Services, or the Secretary of Homeland Security may issue a supplemental declaration.

(b) TEMPORAL EFFECT.—A supplemental declaration may provide that, for purposes of this section, such declared disaster shall have such temporal effect as the President or the Secretary may deem necessary or appropriate to further the public interest, including providing that such declared disaster shall have an effective date earlier than the date of the declaration or determination of such declared disaster.

(c) GEOGRAPHIC AND OTHER CONDITIONS.—A supplemental declaration may provide that, for purposes of this section, such declared disaster shall have such geographic or other conditions as the President or the relevant Secretary may deem necessary or appropriate to further the public interest.

SEC. 109. CONSTRUCTION.

Nothing in this title shall be construed to abrogate or limit any protection that a volunteer, as defined in section 6(6) of the Volunteer Protection Act (42 U.S.C. 14505(6)), may be entitled to under that Act. Neither shall anything in this title be construed to confer any private right of action or to abrogate or limit any protection with respect to either liability or damages that any disaster relief volunteer or governmental or intergovern-

mental entity may be entitled to under any other provision of law.

TITLE II—VOLUNTEER PROTECTION IMPROVEMENTS

SEC. 201. DEFINITIONS.

In this title—

(1) the term ''aircraft'' has the meaning given that term in section 40102(6) of title 49, United States Code;

(2) the term ''equipment'' includes mechanical equipment, electronic equipment, and office equipment;

(3) the term ''facility'' means any real property, including any building, improvement, or appurtenance;

(4) the term ''motor vehicle'' has the meaning given that term in section 30102(6) of title 49, United States Code;

(5) the term ''nonprofit organization'' means—

(A) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) any not-for-profit organization organized and conducted for public benefit and op-

erated primarily for charitable, civic, educational, religious, welfare, or health purposes;

(6) the term ''person'' includes any governmental or other entity; and

(7) the term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

SEC. 202. LIABILITY PROTECTION FOR ACTIONS OF VOLUNTEERS GENERALLY.

Section 4 of the Volunteer Protection Act of 1997 (42 U.S.C. 14503) is amended—

(1) in subsection (a)(3), by striking ''willful or criminal misconduct, gross negligence, reckless misconduct'' and inserting the following: ''willful, knowing, or reckless misconduct'';

(2) by striking subsection (c) and inserting the following:

''(c) EFFECT ON LIABILITY OF NONPROFIT ORGANIZATIONS.—No nonprofit organization shall be liable for the acts or omissions of a volunteer with respect to harm caused to any person unless—

''(1) the acts or omissions of the volunteer are not subject to the limitations on liability under subsection (a); and

''(2) the nonprofit organization has willfully disregarded or been recklessly indifferent to the reasonable expectations or safety of the individual harmed by the volunteer.''; and

(3) by adding at the end the following:

''(g) JUDICIAL REVIEW OF ALLEGATIONS.—

''(1) IN GENERAL.—A claimant shall attach 1 or more sworn affidavits, or documents containing admissible evidence of facts sufficient to withstand a motion for summary judgment, to the claimant's complaint in any case where the claimant alleges that —

''(A) the acts or omissions of a volunteer are not within the limitations of liability under subsection (a);

''(B) a nonprofit organization is not covered by the limitations of liability under subsection (c); or

''(C) the acts or omissions of a volunteer are within the conduct described in subsections (e)(1) or (f)(1).

''(2) INITIAL REVIEW.—After a defendant files an answer in a case described in paragraph (1), the trial judge shall determine whether, as a matter of law, the allegations of a claimant, as recorded in the affidavit or documents attached to the complaint, raise a genuine issue of material fact.''.

SEC. 203. CHARITABLE DONATIONS LIABILITY REFORM FOR IN-KIND CONTRIBUTIONS.

(a) IN GENERAL.—

(1) LIABILITY FOR DONATIONS OF EQUIPMENT TO NONPROFIT ORGANIZATIONS.—

(A) IN GENERAL.—Subject to subsection (b), a person shall not be subject to civil liability relating to any injury or death that results from the use of equipment donated by such person to a nonprofit organization.

(B) APPLICATION.—This paragraph shall apply with respect to civil liability under Federal and State law.

(2) LIABILITY FOR PROVIDING USE OF FACILITIES TO NONPROFIT ORGANIZATIONS.—

(A) IN GENERAL.—Except as provided in subsection (b), a person shall not be subject to civil liability relating to any injury or death occurring at a facility owned or operated by the

person in connection with a use of such facility by a nonprofit organization, if—

(i) the use occurs outside of the normal use of the facility by the person;

(ii) such injury or death occurs during a period that such facility is used by the nonprofit organization; and

(iii) the person authorized the use of such facility by the nonprofit organization.

(B) APPLICATION.—This paragraph shall apply—

(i) with respect to civil liability under Federal and State law; and

(ii) regardless of whether a nonprofit organization pays for the use of a facility.

(3) LIABILITY FOR PROVIDING USE OF A MOTOR VEHICLE OR AIRCRAFT.—

(A) IN GENERAL.—Subject to subsection (b), a person shall not be subject to civil liability relating to any injury or death occurring as a result of the operation of an aircraft or a motor vehicle the person loaned to a nonprofit organization, if—

(i) the use occurs outside of the normal use of the aircraft or motor vehicle by the person;

(ii) such injury or death occurs during a period that such motor vehicle or aircraft is used by a nonprofit organization; and

(iii) the person authorized the use by the nonprofit organization of motor vehicle or aircraft that resulted in the injury or death.

(B) APPLICATION.—This paragraph shall apply—

(i) with respect to civil liability under Federal and State law; and

(ii) regardless of whether a nonprofit organization pays for the use of the aircraft or motor vehicle.

(b) EXCEPTIONS.—Subsection (a) shall not apply to an injury or death that results from an act or omission of a person that constitutes willful, knowing, or reckless misconduct.

(c) JUDICIAL REVIEW OF ALLEGATIONS.—

(1) IN GENERAL.—A claimant in a civil action for an act or omission outside of the limitations on liability under this section shall attach 1 or more

sworn affidavits, or documents containing admissible evidence of facts, sufficient to withstand a motion for summary judgment, to the claimant's complaint.

(2) INITIAL REVIEW.—After a defendant files an answer in a civil action described in paragraph (1), the trial judge shall determine whether, as a matter of law, the allegations of a claimant, as recorded in the affidavit or documents attached to the complaint, raise a genuine issue of material fact.

(d) SUPERSEDING PROVISION.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (e), this section preempts the laws of any State to the extent that such laws are inconsistent with this section, except that this section shall not preempt any State law that provides additional protection for a person for an injury or death described in paragraph (1), (2), or (3) of subsection (a) with respect to which the conditions specified in such paragraph apply.

(2) LIMITATION.—Nothing in this section shall be construed to supersede any Federal or State health or safety law.

(e) ELECTION OF STATE REGARDING NONAPPLICABILITY.—A provision of this section shall not apply to any civil action in a State court against a person in which all

parties are citizens of the State if such State enacts a statute—

(1) citing the authority of this section;

(2) declaring the election of such State that such provision shall not apply to such civil action in the State; and

(3) containing no other provisions.

(f) EFFECTIVE DATE.—This section shall apply to liability for injury or death caused by equipment donated, facilities used, or aircraft or motor vehicles loaned on or after the date of the enactment of this Act.

Clinger, James H

From:	Clinger, James H
Sent:	Tuesday, September 20, 2005 2:40 PM
To:	Ansell, Frederick; Bucholtz, Jeffrey (CIV); Hertling, Richard
Cc:	Gorsuch, Neil M; Seidel, Rebecca
Subject:	Latest Cornyn draft on volunteer liability protection
Attachments:	HEN05944_xml.pdf

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Tuesday, September 20, 2005 2:17 PM
To: Seidel, Rebecca; Clinger, James H
Cc: Gorsuch, Neil M
Subject: FW: Were my notes clear?

Latest document, I have not reviewed it yet... will shortly.

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

-----Original Message-----
From: [redacted](Legis Counsel)
Sent: Tuesday, September 20, 2005 2:09 PM
To: [redacted](Judiciary)
Subject: RE: Were my notes clear?

[redacted]

Here is the revised bill - I broke up the definitions of "compensation" and "declared disaster" to help clarify. Let me know if you need anything else.

[redacted]

-----Original Message-----
From: [redacted](Judiciary) [mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Tuesday, September 20, 2005 12:29 PM

To: [redacted] (Legis Counsel)
Subject: Re: Were my notes clear?

Yes. Electronic version was for your benefit...

[redacted]
Counsel
U.S. Senate Subcommittee on the Constitution, Civil Rights & Property Rights U.S. Senator John Cornyn, Chairman Dirksen Senate Office Building Room 139 [redacted] (office) (202) 228-2281 (fax)

-----Original Message-----
From: [redacted] (Legis Counsel) <[redacted]@slc.senate.gov>
To: [redacted] (Judiciary) <[redacted]@judiciary-rep.senate.gov>
Sent: Tue Sep 20 12:15:32 2005
Subject: RE: Were my notes clear?

The notes were fine - I saw that there were no differences between the findings you sent today and the earlier version, so does that mean you did not have changes to the findings?

Also, as I mentioned in my earlier e-mail, I wanted to double check that the only changes to the first document you sent today were also marked on the hard copy you dropped off, correct?

-----Original Message-----
From: [redacted] (Judiciary) [mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Tuesday, September 20, 2005 12:10 PM
To: [redacted] (Legis Counsel)
Subject: Were my notes clear?

I am hopeful that will be the last significant round of changes.

Maybe a nit or two on final review - with one possible tweak to the judicial review language (which of course needs to be replicated three times). I will know about that soon.

[redacted]
[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship US Senator John Cornyn, Chairman www.cornyn.senate.gov [redacted]

109TH CONGRESS
1ST SESSION

S. _____

To limit liability for volunteers and those providing goods and services for disaster relief, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. CORNYN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To limit liability for volunteers and those providing goods and services for disaster relief, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Good Samaritan Liability Improvement and Volunteer Encouragement Act of 2005'' or the ''GIVE Act of 2005''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) It is in the national interest to encourage individuals to volunteer, and particularly to assist victims of national disasters.

(2) The exposure of potential volunteers, their employers, and those who would use the services of volunteers under existing law to compensatory and punitive damages for negligent acts discourages the provision of these services.

(3) The availability of damages in these circumstances for actions that constitute gross negligence creates uncertainty concerning the actual conduct that might cause liability to be imposed on volunteers.

(4) Potential liability for acts of volunteers discourages the employers or business partners of potential volunteers from permitting those potential volunteers to provide disaster relief services.

(5) Potential liability for acts of volunteers discourages entities that might use the services provided by volunteers from doing so.

(6) Well-founded fear of liability under existing law for providing goods, equipment, access to facilities, and other in-kind contributions discourages those who would donate them from doing so.

(7) Well-founded fear of liability under existing law for providing goods discourages governmental and intergovernmental entities from providing needed disaster relief goods.

(8) Well-founded fear of liability for punitive damages under existing law discourages governmental and intergovernmental entities from providing needed disaster relief goods and discourages potential volunteers from providing volunteer services to disaster victims.

(9) Fear of compensatory and punitive damages for providing volunteer services deters potential volunteers from States located outside the national disaster area from providing volunteer services.

(10) Fear of compensatory and punitive damages for providing volunteer services deters potential foreign volunteers from providing disaster relief services.

(11) Any lessening of liability for volunteers providing disaster relief services, their employers and business partners, and entities utilizing their services should maintain adequate incentives for each of these classes of persons or entities to avoid causing harm.

(12) Unwillingness to provide volunteer services in the face of uncertain liability substantially affects, burdens, and deters interstate commerce and travel.

(13) Unwillingness of employers and business partners to allow their employees and business partners to provide volunteer and disaster relief services in the face of uncertain liability substantially affects, burdens, and deters interstate commerce and travel.

(14) Unwillingness of persons, entities, or organizations to accept volunteer and disaster relief services from volunteers in the face of uncertain liability substantially affects, burdens, and deters interstate commerce and travel.

(15) Unwillingness by foreigners to provide volunteer and disaster relief services in the face of uncertain liability substantially affects, burdens, and deters foreign commerce and travel.

(16) Unless Congress provides uniform standards to address disasters that could occur in any State or combination of States, potential volunteers and others will not be certain which laws would govern their providing disaster relief services, which would substantially affect, burden, and deter interstate and foreign commerce and travel in the event of a national disaster.

TITLE I—DISASTER RELIEF VOLUNTEER PROTECTION

SEC. 101. DEFINITIONS.

In this title—

(1) the term ''compensation''—

(A) means monetary or other compensation of any kind provided in exchange for an individual's services; and

(B) does not include—

(i) reasonable reimbursement or allowance for expenses actually incurred by such individual;

(ii) provision of reasonable supplies, lodging, or transportation to such an individual; or

(iii) the ordinary salary or compensation paid to such an individual by the employer of the individual while the individual is on leave from performing ordinary duties for the employer of the individual in order to provide disaster relief services;

(2) the term ''declared disaster'' means—

(A) a public health emergency declared by the Secretary of Health and Human Services

under section 319 of the Public Health Services Act (42 U.S.C. 247d);

(B) a public health emergency, or a risk of such emergency, as determined by the Secretary of Homeland Security in accordance with clause (i) or (ii) of section 2811(b)(3)(A) of the Public Health Services Act (42 U.S.C. 300hh-11(b)(3)(A)), as transferred by section 503(5) of the Homeland Security Act of 2002 (6 U.S.C. 313(5)); or

(C) an emergency or major disaster declared by the President under section 401 or 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170, 5191);

(3) the term ''disaster relief goods'' means either—

(A) those goods provided in preparation for, response to, or recovery from a declared disaster and reasonably necessary to such preparation, response, or recovery; or

(B) those goods defined by a supplemental declaration under this title;

(4) the term ''disaster relief services'' means services or assistance provided in preparation for, re-

sponse to, or recovery from a declared disaster, including but not limited to health, medical, firefighting, rescue, reconstruction, and any other services or assistance specified by a supplemental declaration under this title as necessary or desirable to prepare for, respond to, or recover from such declared disaster;

(5) the term ''disaster relief volunteer'' means an individual—

(A) who provides disaster relief services or assistance in connection with a declared disaster without expectation or receipt of compensation in exchange for providing such services or assistance; and

(B) who, to the extent required by the appropriate authorities of a State (even if such State is not the State in which the volunteer provides services or assistance) or, if, and to the extent, specified in a supplemental declaration under this title, a foreign country, is licensed, certified, or authorized to provide the relevant services or assistance;

(6) the term ''non-economic loss'' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, dis-

figurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other non-pecuniary losses of any kind or nature;

(7) the term ''supplemental declaration'' means a declaration under section 108 regarding the scope of a declared disaster;

(8) the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

SEC. 102. LIABILITY OF DISASTER RELIEF VOLUNTEERS.

A disaster relief volunteer shall not be liable for harm caused by an act or omission of the volunteer that is within the scope of the activities of the volunteer to provide or facilitate the provision of disaster relief services in connection with a declared disaster if—

(1) the harm was not caused by willful, knowing, or reckless misconduct by the volunteer; and

(2) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

(A) possess an operator's license; or

(B) maintain insurance.

SEC. 103. LIABILITY OF EMPLOYER OR PARTNER OF DISASTER RELIEF VOLUNTEER.

An employer or business partner of a disaster relief volunteer shall not be liable for any act or omission of such volunteer within the scope of the activities of the volunteer to provide or facilitate the provision of disaster relief services in connection with a declared disaster.

SEC. 104. LIABILITY OF HOST OR ENABLING PERSON, ENTITY, OR ORGANIZATION.

A person, entity, or organization, including a governmental or intergovernmental entity, that works with, accepts services from, or opens its facilities to a disaster relief volunteer to enable the volunteer to render disaster relief services in connection with a declared disaster shall not be liable for any act or omission of a disaster relief volunteer.

SEC. 105. LIABILITY OF GOVERNMENTAL AND INTERGOVERNMENTAL ENTITIES FOR DONATIONS OF DISASTER RELIEF GOODS .

A governmental or intergovernmental entity that donates disaster relief goods to an agency or instrumentality of the United States in connection with a declared disaster shall not be liable for harm caused by such donated goods if the harm was not caused by willful, knowing, or reckless misconduct by the governmental or intergovernmental entity.

SEC. 106. LIMITATION ON PUNITIVE AND NON-ECONOMIC DAMAGES BASED ON ACTIONS OF DISASTER RELIEF VOLUNTEERS AND GOVERNMENTAL OR INTERGOVERNMENTAL DONORS.

(a) PUNITIVE DAMAGES.—Punitive damages may not be awarded in any civil action against a disaster relief volunteer or governmental or intergovernmental entity unless a claimant establishes by clear and convincing evidence that the damages to the claimant were proximately caused by willful, knowing, or reckless misconduct by either—

(1) a disaster relief volunteer in an action brought for harm caused by the activities of the volunteer to provide or facilitate the provision of disaster relief services in connection with a declared disaster; or

(2) a governmental or intergovernmental entity for harm caused by disaster relief goods donated by such governmental or intergovernmental entity in connection with a declared disaster.

(b) NON-ECONOMIC DAMAGES.—

(1) IN GENERAL.—Liability for non-economic loss in any civil action brought against either a disaster relief volunteer for harm caused the activities of the volunteer to provide or facilitate the provision of disaster relief services in connection with a declared disaster, or a governmental or intergovernmental entity for harm caused by disaster relief goods donated by such governmental or intergovernmental entity in connection with a declared disaster, if permitted under section 102 or section 105, shall be determined in accordance with paragraph (2).

(2) AMOUNT OF LIABILITY.—

(A) IN GENERAL.—The amount of damages for non-economic loss allocated to a disaster relief volunteer or governmental or intergovernmental entity defendant shall be in direct proportion to the percentage of responsibility of that defendant, determined in accordance with subparagraph (B), for the harm to the claimant with respect to which that defendant is liable.

(B) PERCENTAGE.—In a civil action described in paragraph (1), for purposes of determining the amount of non-economic loss, the trier of fact shall determine the percentage of responsibility of each defendant found liable for harm to the claimant.

(C) SEPARATE JUDGMENTS.—The court shall render a separate judgment against each defendant for any non-economic loss.

SEC. 107. JUDICIAL REVIEW OF ALLEGATIONS.

(a) IN GENERAL.—A claimant in a civil action for an act or omission outside of the limitations on liability under this title shall attach 1 or more sworn affidavits, or documents containing admissible evidence of facts, sufficient to withstand a motion for summary judgment, to the claimant's complaint.

(b) INITIAL REVIEW.—After a defendant files an answer in a civil action described in subsection (a), but before allowing discovery, the trial judge shall determine whether, as a matter of law, the allegations of a claimant, as recorded in the affidavit or documents attached to the complaint, raise a genuine issue of material fact.

SEC. 108. SUPPLEMENTAL DECLARATION.

(a) IN GENERAL.—In the event of a declared disaster, the President, the Secretary of Health and Human

Services, or the Secretary of Homeland Security may issue a supplemental declaration.

(b) TEMPORAL EFFECT.—A supplemental declaration may provide that, for purposes of this section, such declared disaster shall have such temporal effect as the President or the Secretary may deem necessary or appropriate to further the public interest, including providing that such declared disaster shall have an effective date earlier than the date of the declaration or determination of such declared disaster.

(c) GEOGRAPHIC AND OTHER CONDITIONS.—A supplemental declaration may provide that, for purposes of this section, such declared disaster shall have such geographic or other conditions as the President or the relevant Secretary may deem necessary or appropriate to further the public interest.

SEC. 109. CONSTRUCTION.

Nothing in this title shall be construed to abrogate or limit any protection that a volunteer, as defined in section 6(6) of the Volunteer Protection Act (42 U.S.C. 14505(6)), may be entitled to under that Act. Neither shall anything in this title be construed to confer any private right of action or to abrogate or limit any protection with respect to either liability or damages that any disaster relief volunteer or governmental or intergovern-

mental entity may be entitled to under any other provision of law.

TITLE II—VOLUNTEER PROTECTION IMPROVEMENTS

SEC. 201. DEFINITIONS.

In this title—

(1) the term ''aircraft'' has the meaning given that term in section 40102(6) of title 49, United States Code;

(2) the term ''equipment'' includes mechanical equipment, electronic equipment, and office equipment;

(3) the term ''facility'' means any real property, including any building, improvement, or appurtenance;

(4) the term ''motor vehicle'' has the meaning given that term in section 30102(6) of title 49, United States Code;

(5) the term ''nonprofit organization'' means—

(A) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) any not-for-profit organization organized and conducted for public benefit and op-

erated primarily for charitable, civic, educational, religious, welfare, or health purposes;

(6) the term ''person'' includes any governmental or other entity; and

(7) the term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

SEC. 202. LIABILITY PROTECTION FOR ACTIONS OF VOLUNTEERS GENERALLY.

Section 4 of the Volunteer Protection Act of 1997 (42 U.S.C. 14503) is amended—

(1) in subsection (a)(3), by striking ''willful or criminal misconduct, gross negligence, reckless misconduct'' and inserting the following: ''willful, knowing, or reckless misconduct'';

(2) by striking subsection (c) and inserting the following:

''(c) EFFECT ON LIABILITY OF NONPROFIT ORGANIZATIONS.—No nonprofit organization shall be liable for the acts or omissions of a volunteer with respect to harm caused to any person unless—

''(1) the acts or omissions of the volunteer are not subject to the limitations on liability under subsection (a); and

''(2) the nonprofit organization has willfully disregarded or been recklessly indifferent to the reasonable expectations or safety of the individual harmed by the volunteer.''; and

(3) by adding at the end the following:

''(g) JUDICIAL REVIEW OF ALLEGATIONS.—

''(1) IN GENERAL.—A claimant shall attach 1 or more sworn affidavits, or documents containing admissible evidence of facts sufficient to withstand a motion for summary judgment, to the claimant's complaint in any case where the claimant alleges that —

''(A) the acts or omissions of a volunteer are not within the limitations of liability under subsection (a);

''(B) a nonprofit organization is not covered by the limitations of liability under subsection (c); or

''(C) the acts or omissions of a volunteer are within the conduct described in subsections (e)(1) or (f)(1).

''(2) INITIAL REVIEW.—After a defendant files an answer in a case described in paragraph (1), the trial judge shall determine whether, as a matter of law, the allegations of a claimant, as recorded in the affidavit or documents attached to the complaint, raise a genuine issue of material fact.''.

SEC. 203. CHARITABLE DONATIONS LIABILITY REFORM FOR IN-KIND CONTRIBUTIONS.

(a) IN GENERAL.—

(1) LIABILITY FOR DONATIONS OF EQUIPMENT TO NONPROFIT ORGANIZATIONS.—

(A) IN GENERAL.—Subject to subsection (b), a person shall not be subject to civil liability relating to any injury or death that results from the use of equipment donated by such person to a nonprofit organization.

(B) APPLICATION.—This paragraph shall apply with respect to civil liability under Federal and State law.

(2) LIABILITY FOR PROVIDING USE OF FACILITIES TO NONPROFIT ORGANIZATIONS.—

(A) IN GENERAL.—Except as provided in subsection (b), a person shall not be subject to civil liability relating to any injury or death occurring at a facility owned or operated by the

person in connection with a use of such facility by a nonprofit organization, if—

(i) the use occurs outside of the normal use of the facility by the person;

(ii) such injury or death occurs during a period that such facility is used by the nonprofit organization; and

(iii) the person authorized the use of such facility by the nonprofit organization.

(B) APPLICATION.—This paragraph shall apply—

(i) with respect to civil liability under Federal and State law; and

(ii) regardless of whether a nonprofit organization pays for the use of a facility.

(3) LIABILITY FOR PROVIDING USE OF A MOTOR VEHICLE OR AIRCRAFT.—

(A) IN GENERAL.—Subject to subsection (b), a person shall not be subject to civil liability relating to any injury or death occurring as a result of the operation of an aircraft or a motor vehicle the person loaned to a nonprofit organization, if—

(i) the use occurs outside of the normal use of the aircraft or motor vehicle by the person;

(ii) such injury or death occurs during a period that such motor vehicle or aircraft is used by a nonprofit organization; and

(iii) the person authorized the use by the nonprofit organization of motor vehicle or aircraft that resulted in the injury or death.

(B) APPLICATION.—This paragraph shall apply—

(i) with respect to civil liability under Federal and State law; and

(ii) regardless of whether a nonprofit organization pays for the use of the aircraft or motor vehicle.

(b) EXCEPTIONS.—Subsection (a) shall not apply to an injury or death that results from an act or omission of a person that constitutes willful, knowing, or reckless misconduct.

(c) JUDICIAL REVIEW OF ALLEGATIONS.—

(1) IN GENERAL.—A claimant in a civil action for an act or omission outside of the limitations on liability under this section shall attach 1 or more

sworn affidavits, or documents containing admissible evidence of facts, sufficient to withstand a motion for summary judgment, to the claimant's complaint.

(2) INITIAL REVIEW.—After a defendant files an answer in a civil action described in paragraph (1), the trial judge shall determine whether, as a matter of law, the allegations of a claimant, as recorded in the affidavit or documents attached to the complaint, raise a genuine issue of material fact.

(d) SUPERSEDING PROVISION.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (e), this section preempts the laws of any State to the extent that such laws are inconsistent with this section, except that this section shall not preempt any State law that provides additional protection for a person for an injury or death described in paragraph (1), (2), or (3) of subsection (a) with respect to which the conditions specified in such paragraph apply.

(2) LIMITATION.—Nothing in this section shall be construed to supersede any Federal or State health or safety law.

(e) ELECTION OF STATE REGARDING NONAPPLICABILITY.—A provision of this section shall not apply to any civil action in a State court against a person in which all

parties are citizens of the State if such State enacts a statute—

(1) citing the authority of this section;

(2) declaring the election of such State that such provision shall not apply to such civil action in the State; and

(3) containing no other provisions.

(f) EFFECTIVE DATE.—This section shall apply to liability for injury or death caused by equipment donated, facilities used, or aircraft or motor vehicles loaned on or after the date of the enactment of this Act.

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Tuesday, September 20, 2005 2:51 PM
To: Rubin, Jim (ENRD); Chemtob, Stuart; Roth, Monique; Melnick, Mark (CIV)
Cc: Gorsuch, Neil M
Subject: Trade Working Group Meeting -

Since we have not met in a while, I think it would be a good idea if we plan to meet tomorrow to touch base. While there is not a great deal going on and several of our regulars are out, I would find it useful.

As Jim has a conflict at our usual time - and as he generally has the most to report - we will plan to meet at 2 pm tomorrow. If you can't make that time, please let me know if you have anything that you need me or the group to know. Thanks much. - Liz

p.s. We'll still meet in our conference room (5710).

Chemtob, Stuart

From: Chemtob, Stuart
Sent: Tuesday, September 20, 2005 2:58 PM
To: Kessler, Elizabeth A; Rubin, Jim (ENRD); Roth, Monique; Melnick, Mark (CIV)
Cc: Gorsuch, Neil M
Subject: RE: Trade Working Group Meeting -

I should be able to make it. See you then.

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Tuesday, September 20, 2005 2:51 PM
To: Rubin, Jim (ENRD); Chemtob, Stuart; Roth, Monique; Melnick, Mark (CIV)
Cc: Gorsuch, Neil M
Subject: Trade Working Group Meeting -

Since we have not met in a while, I think it would be a good idea if we plan to meet tomorrow to touch base. While there is not a great deal going on and several of our regulars are out, I would find it useful.

As Jim has a conflict at our usual time - and as he generally has the most to report - we will plan to meet at 2 pm tomorrow. If you can't make that time, please let me know if you have anything that you need me or the group to know. Thanks much. - Liz

p.s. We'll still meet in our conference room (5710).

Roth, Monique

From: Roth, Monique
Sent: Tuesday, September 20, 2005 3:10 PM
To: Melnick, Mark (CIV); Chemtob, Stuart; Rubin, Jim (ENRD); Kessler, Elizabeth A
Cc: Gorsuch, Neil M
Subject: RE: Trade Working Group Meeting -

Liz, I'll have to punt but we have nothing to report.

Monique Perez Roth
202-353-6200

From: Kessler, Elizabeth A
Sent: Tuesday, September 20, 2005 2:52 PM
To: Roth, Monique; Rubin, Jim (ENRD); Chemtob, Stuart; Melnick, Mark (CIV)
Cc: Gorsuch, Neil M
Subject: Trade Working Group Meeting -

Since we have not met in a while, I think it would be a good idea if we plan to meet tomorrow to touch base. While there is not a great deal going on and several of our regulars are out, I would find it useful.

As Jim has a conflict at our usual time - and as he generally has the most to report - we will plan to meet at 2 pm tomorrow. If you can't make that time, please let me know if you have anything that you need me or the group to know. Thanks much. - Liz

p.s. We'll still meet in our conference room (5710).

Beach, Andrew

Subject:	Senior Management Meeting
Start:	Monday, October 31, 2005 10:00 AM
End:	Monday, October 31, 2005 10:20 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia

When: Occurs every weekday effective 10/31/05 until 11/30/05 from 9:00 AM to 9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Kyle Sampson, Jeff Taylor, Tasia Scolinos, Courtney Elwood, Neil Gorsuch, Bill Mercer, Jeff Oldham, Martha Pacold

Beach, Andrew

Subject:	Component Coordination Meeting
Start:	Monday, October 31, 2005 10:20 AM
End:	Monday, October 31, 2005 10:40 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Moschella, William; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia

When: Occurs every weekday effective 10/31/05 until 11/30/05 from 9:20 AM to 9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Kyle Sampson, Jeff Taylor, Courtney Elwood, Tasia Scolinos, Bill Mercer, Neil Gorsuch, Jeff Oldham, Martha Pacold, Rachel Brand, Jan Williams, Will Moschella, Crystal Roberts

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 20, 2005 3:46 PM
To: Gorsuch, Neil M

Tyler, Joyce Y (CRT)

From:	Tyler, Joyce Y (CRT)
Sent:	Tuesday, September 20, 2005 4:30 PM
To:	Davis, Deborah J; Fowler, Liane (SMO); Gorsuch, Neil M; Henderson, George; Martinez, Jorge (OPA); Scott-Finan, Nancy; Shaw, Aloma A; Torchinsky, Jason (CRT)
Subject:	Civil Rights Weekly Report for week ending 9/16/2005. Sorry for the delay
Attachments:	week920.doc

September 20, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Bradley J. Schlozman
Acting Assistant Attorney General

SUBJECT: Weekly Report[1] for the Week ending September 16, 2005

NEXT WEEK

- ***Sentencing Scheduled in New York Involuntary Servitude Case:***
On September 29th, sentencing is scheduled to occur in *United States v. Zavala and Ibanez* (Eastern District of New York). On November 5, 2004, defendants Mariluz Zavala and Jorge Ibanez pled guilty to conspiracy to commit forced labor and document servitude, conspiracy to recruit, harbor, transport and house undocumented workers, engaging in extortionate credit transaction and transferring false alien registration cards. Between June 1, 1999, and June 21, 2004, defendants Zavala and Ibanez orchestrated a scheme to illegally obtain visas for Peruvian aliens seeking to come into the United States. The defendants charged the aliens a smuggling fee ranging from $6,000 to $13,000. By confiscating their passports and threatening to turn them over to authorities, the defendants compelled the aliens to perform work for them and other employers. The defendants would keep most of their paychecks, leaving the aliens with approximately $50 or less per week on which to live and support their families.

[1]This report is an internal document that is not intended for distribution outside of the Department of Justice.

THIS WEEK

- ***Sentencing Scheduled in Hawaii Human Trafficking Case*:**
On September 22nd, sentencing is scheduled to occur in *United States v. Maka* (District of Hawaii). On December 14, 2004, defendant Lueleni Fetongi Maka was convicted on charges of violating four counts of 18 U.S.C. § 1590 (human trafficking with respect to involuntary servitude and forced labor), four counts of 18 U.S.C. § 1584 (involuntary servitude), four counts of 18 U.S.C. § 1589 (forced labor), one count of 18 U.S.C. § 1592 (unlawful conduct with documents in furtherance of trafficking, involuntary servitude and forced labor), and nine counts of 8 U.S.C. § 1324 (alien harboring and smuggling). The defendant, a landscape maintenance contractor and rock wall builder transported Tongan males to Hawaii where they were forced to work in his businesses to repay the transporting expenses. The victims were housed in shacks on the subject's pig farm and were required to work in excess of 12 hours a day, six days a week for approximately $60 to $100 per week.

LAST WEEK

- ***2005 Law Enforcement Limited English Proficiency (LEP) Summit Held:***
On September 13th, the Coordination and Review Section (COR) hosted the Civil Rights Division's *2005 Law Enforcement Limited English Proficiency (LEP) Summit* from 9:00 to 5:00 at the Office of Justice Programs auditorium. The *2005 Summit* provided an opportunity for attendees to participate in small working group discussions, which allowed for an exchange of promising practices and strategies, sharing of learning experiences, and identification of useful technologies and tools for effectively communicating with LEP persons. The Acting Assistant Attorney General for the Civil Rights Division and the Assistant Attorney General for the Office of Justice Programs gave short presentations to open the day's events. More than 50 individuals from the law enforcement-related agencies and associations (including corrections associations and agencies) from the Washington, D.C. metropolitan area and from around the country attended.

  About half of the attendees completed COR's evaluation form, and 85 percent rated the *2005 Summit* as "outstanding" or "excellent." Some of the comments on the evaluation forms included a request that COR develop a guide for facilitators to use with the LEP DVD as part of a training program; to develop a model Language Access Plan; to develop a roll-call video; to publish the article that was distributed at the *2005 Summit*, "Lost in Translation - Not Just a Movie," in law enforcement and corrections periodicals; and to include more materials concerning probation, juvenile justice, and corrections.

- ***Indictment Returned in Iowa Human Trafficking Case:***
On September 7th, a federal grand jury returned a one count indictment in *United States v. Bowie* (Northern District of Iowa), charging defendant Demont Bowie with violating 18 U.S.C. § 1201 (kidnapping). The defendant kidnaped a thirteen year old girl in Minneapolis and took her to Iowa for prostitution. The defendant allegedly threatened and beat the girl during the ordeal.

- ***Acquittal in New York Color of Law Case:***
  On September 8th, trial in *United States v. Rhodes* (Western District of New York), resulted in the acquittal of defendant Robert Rhodes, an officer with the Bureau of Customs and Border Protection of the Department of Homeland Security, on charges of violating 18 U.S.C. § 242. On July 21st, defendant Rhodes allegedly assaulted a Chinese National tourist while at the Rainbow Bridge at Niagara Falls.

- ***Guilty Plea in Michigan Human Trafficking Case*:**
  On September 8th, in *United States v. Maksimenko and Aronov* (Eastern District of Michigan), defendant Michail Aronov pled guilty to conspiring with others to compel Eastern Europeans to serve as exotic dancers through forced labor, trafficking, document servitude, and obstruction (18 U.S.C. §§ 1589, 1590, 1592, and 1519). Aronov also pled guilty to conspiring to illegally recruit, transport, and harbor the women (8 U.S.C. § 1324) as well as to launder the proceeds of the compelled servitude and immigration crimes (18 U.S.C. §§ 1956 and 1957). Co-defendant Maksimenko remains charged with forced labor. On September 9th, in a separate but related case, defendants Evgeny Prokopenko and Alesander Bondarenko entered guilty pleas to visa fraud (18 U.S.C. § 1546). The federal grand jury heard additional testimony on September 13th. The defendants smuggled a Ukranian woman into the United States and then coerced her into working at bars dancing for customers in the Detroit area. The defendants sexually assaulted her as part of their scheme to intimidate her. The investigation is continuing.

- **Sentencing in California Color of Law Case:**
  On September 13th, in *United States v. Jackson* (Northern District of California), defendant Charles Jackson, a Special Agent with the Federal Protective Service, was sentenced to 24 months in prison to be followed by two years supervised release for his conviction on charges of violating 18 U.S.C. § 1519 for falsifying records. Previously, in a separate but related case, defendant Peter Taoy, a United States Federal Protective Service officer, was sentenced to 18 months in prison to be followed by 3 years supervised release for his guilty plea to violating one count of 18 U.S.C. § 241 (conspiracy) and one count of 18 U.S.C. § 1001 (false statements); and co-defendant John Haire, also a Federal Protective Service officer, was sentenced to six months home detention, three years probation and fined $3,000 for his guilty plea to violating one count of 18 U.S.C. § 242. Defendants Taoy and Haire entered guilty pleas for causing Petrie to be jailed for six days on false charges of assaulting a police officer. They invented a story about motorist Jeffrey Petri trying to run them down to explain why one of the officers shot at the Petri's car.

- ***Indictment Returned in Texas Color of Law Case:***
  On September 14th, a federal grand jury returned a two count indictment in *United States v. Sullivan* (Southern District of Texas), charging defendant Scott Anthony Sullivan, a United States Border Patrol Agent, with violating two counts of 18 U.S.C. § 242. Defendant Sullivan was indicted for allegedly sexually assaulting a young woman who had been detained at a border checkpoint and for subjecting another minor female to multiple unreasonable searches.

- ***Grand Jury Returns Indictment in Texas Human Trafficking Case:***
  On September 15th, a federal grand jury returned a one count indictment in *United States v. Salazar, et al.* (Southern District of Texas), charging defendants Gerardo Salazar, Salvador Fernando Molina Garcia, Angel Moreno Salazar and Jose Luis Moreno Salazar with conspiring to commit sex trafficking of young Mexican women and girls. The defendants allegedly lured young Mexican girls and women into the United States under false pretenses, then forced them into prostitution, using physical violence and threats to maintain strict control over them.

- ***Division Issued Findings in Civil Rights of Institutionalized Persons Act (CRIPA) Investigations***
  On September 9th, the Division issued findings in its CRIPA investigations of three juvenile facilities, the Logansport Juvenile Intake/Diagnostic Facility, the Plainfield Juvenile Correctional Facility, and the South Bend Juvenile Correctional Facility. The Division found constitutionally inadequate mental health care at all three facilities and constitutionally inadequate protection from harm practices at the Plainfield and South Bend facilities. The Division also found that special education services at South Bend and Plainfield violate the Individuals with Disabilities Education Act.

LONG RANGE EVENTS

- No entries this period.

Division Contact: Jason Torchinsky -- 202/305-1873

Tyler, Joyce Y (CRT)

From:	Tyler, Joyce Y (CRT)
Sent:	Tuesday, September 20, 2005 4:45 PM
To:	Davis, Deborah J; Fowler, Liane (SMO); Gorsuch, Neil M; Henderson, George; Martinez, Jorge (OPA); Scott-Finan, Nancy; Shaw, Aloma A; Torchinsky, Jason (CRT)
Subject:	FW: Edited Civil Rights Weekly Report for week ending 9/16/2005. Sorry for the delay
Attachments:	week920.doc

September 20, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Bradley J. Schlozman
Acting Assistant Attorney General

SUBJECT: Weekly Report[1] for the Week ending September 16, 2005

NEXT WEEK

- ***Sentencing Scheduled in New York Involuntary Servitude Case:***
On September 29th, sentencing is scheduled to occur in *United States v. Zavala and Ibanez* (Eastern District of New York). On November 5, 2004, defendants Mariluz Zavala and Jorge Ibanez pled guilty to conspiracy to commit forced labor and document servitude, conspiracy to recruit, harbor, transport and house undocumented workers, engaging in extortionate credit transaction and transferring false alien registration cards. Between June 1, 1999, and June 21, 2004, defendants Zavala and Ibanez orchestrated a scheme to illegally obtain visas for Peruvian aliens seeking to come into the United States. The defendants charged the aliens a smuggling fee ranging from $6,000 to $13,000. By confiscating their passports and threatening to turn them over to authorities, the defendants compelled the aliens to perform work for them and other employers. The defendants would keep most of their paychecks, leaving the aliens with approximately $50 or less per week.

[1]This report is an internal document that is not intended for distribution outside of the Department of Justice.

THIS WEEK

- ***Sentencing Scheduled in Hawaii Human Trafficking Case*:**
  On September 22nd, sentencing is scheduled to occur in *United States v. Maka* (District of Hawaii). On December 14, 2004, defendant Lueleni Fetongi Maka was convicted on charges of violating four counts of 18 U.S.C. § 1590 (human trafficking with respect to involuntary servitude and forced labor), four counts of 18 U.S.C. § 1584 (involuntary servitude), four counts of 18 U.S.C. § 1589 (forced labor), one count of 18 U.S.C. § 1592 (unlawful conduct with documents in furtherance of trafficking, involuntary servitude and forced labor), and nine counts of 8 U.S.C. § 1324 (alien harboring and smuggling). The defendant, a landscape maintenance contractor and rock wall builder, transported Tongan males to Hawaii and forced them to work in his businesses to repay the transporting expenses. The victims were housed in shacks on the subject's pig farm and were required to work in excess of 12 hours a day, six days a week for approximately $60 to $100 per week.

LAST WEEK

- ***2005 Law Enforcement Limited English Proficiency (LEP) Summit Held:***
  On September 13th, the Coordination and Review Section (COR) hosted the Civil Rights Division's *2005 Law Enforcement Limited English Proficiency (LEP) Summit* from 9:00 to 5:00 at the Office of Justice Programs auditorium. The *2005 Summit* provided an opportunity for attendees to participate in small working group discussions, which allowed for an exchange of promising practices and strategies, sharing of learning experiences, and identification of useful technologies and tools for effectively communicating with LEP persons. The Acting Assistant Attorney General for the Civil Rights Division and the Assistant Attorney General for the Office of Justice Programs gave short presentations to open the day's events. More than 50 individuals from the law enforcement-related agencies and associations (including corrections associations and agencies) from the Washington, D.C. metropolitan area and from around the country attended.

  About half of the attendees completed COR's evaluation form, and 85 percent rated the *2005 Summit* as "outstanding" or "excellent." Some of the comments on the evaluation forms included a request that COR develop a guide for facilitators to use with the LEP DVD as part of a training program; to develop a model Language Access Plan; to develop a roll-call video; to publish the article that was distributed at the *2005 Summit*, "Lost in Translation - Not Just a Movie," in law enforcement and corrections periodicals; and to include more materials concerning probation, juvenile justice, and corrections.

- ***Indictment Returned in Iowa Human Trafficking Case:***
  On September 7th, a federal grand jury returned a one-count indictment in *United States v. Bowie* (Northern District of Iowa), charging defendant Demont Bowie with violating 18 U.S.C. § 1201 (kidnapping). The defendant kidnapped a thirteen year old girl in Minneapolis and took her to Iowa for prostitution. The defendant allegedly threatened and beat the girl during the ordeal.

- ***Acquittal in New York Color of Law Case:***
  On September 8th, trial in *United States v. Rhodes* (Western District of New York), resulted in the acquittal of defendant Robert Rhodes, an officer with the Bureau of Customs and Border Protection of the Department of Homeland Security, on charges of violating 18 U.S.C. § 242. On July 21st, defendant Rhodes allegedly assaulted a Chinese National tourist while at the Rainbow Bridge at Niagara Falls.

- ***Guilty Plea in Michigan Human Trafficking Case*:**
  On September 8th, in *United States v. Maksimenko and Aronov* (Eastern District of Michigan), defendant Michail Aronov pled guilty to conspiring with others to compel Eastern Europeans to serve as exotic dancers through forced labor, trafficking, document servitude, and obstruction (18 U.S.C. §§ 1589, 1590, 1592, and 1519). Aronov also pled guilty to conspiring to illegally recruit, transport, and harbor the women (8 U.S.C. § 1324) as well as to launder the proceeds of the compelled servitude and immigration crimes (18 U.S.C. §§ 1956 and 1957). Co-defendant Maksimenko remains charged with forced labor. On September 9th, in a separate but related case, defendants Evgeny Prokopenko and Alesander Bondarenko entered guilty pleas to visa fraud (18 U.S.C. § 1546). The federal grand jury heard additional testimony on September 13th. The defendants smuggled a Ukranian woman into the United States and then coerced her into working at bars dancing for customers in the Detroit area. The defendants sexually assaulted her as part of their scheme to intimidate her. The investigation is continuing.

- ***Sentencing in California Color of Law Case:***
  On September 13th, in *United States v. Jackson* (Northern District of California), defendant Charles Jackson, a Special Agent with the Federal Protective Service, was sentenced to 24 months in prison to be followed by two years supervised release for his conviction on charges of violating 18 U.S.C. § 1519 for falsifying records. Previously, in a separate but related case, defendant Peter Taoy, a United States Federal Protective Service officer, was sentenced to 18 months in prison to be followed by 3 years supervised release for his guilty plea to violating one count of 18 U.S.C. § 241 (conspiracy) and one count of 18 U.S.C. § 1001 (false statements); and co-defendant John Haire, also a Federal Protective Service officer, was sentenced to six months home detention, three years probation and fined $3,000 for his guilty plea to violating one count of 18 U.S.C. § 242. Defendants Taoy and Haire entered guilty pleas for causing Petrie to be jailed for six days on false charges of assaulting a police officer.

- ***Indictment Returned in Texas Color of Law Case:***
  On September 14th, a federal grand jury returned a two count indictment in *United States v. Sullivan* (Southern District of Texas), charging defendant Scott Anthony Sullivan, a United States Border Patrol Agent, with violating two counts of 18 U.S.C. § 242. Defendant Sullivan was indicted for allegedly sexually assaulting a young woman who had been detained at a border checkpoint and for subjecting another minor female to multiple unreasonable searches.

- ***Grand Jury Returns Indictment in Texas Human Trafficking Case:***
  On September 15th, a federal grand jury returned a one count indictment in *United States v. Salazar, et al.* (Southern District of Texas), charging defendants Gerardo Salazar, Salvador Fernando Molina Garcia, Angel Moreno Salazar and Jose Luis Moreno Salazar with conspiring to commit sex trafficking. The defendants allegedly lured young Mexican girls and women into the United States under false pretenses, then forced them into prostitution, using physical violence and threats to maintain strict control over them.

- ***Division Issued Findings in Civil Rights of Institutionalized Persons Act (CRIPA) Investigations***
  On September 9th, the Division issued findings in its CRIPA investigations of three juvenile facilities, the Logansport Juvenile Intake/Diagnostic Facility, the Plainfield Juvenile Correctional Facility, and the South Bend Juvenile Correctional Facility. The Division found constitutionally inadequate mental health care at all three facilities and constitutionally inadequate protection from harm at the Plainfield and South Bend facilities. The Division also found that special education services at South Bend and Plainfield violate the Individuals with Disabilities Education Act.

LONG RANGE EVENTS

- No entries this period.

Division Contact: Jason Torchinsky -- 202/305-1873

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, September 20, 2005 4:52 PM
To: Gorsuch, Neil M
Subject: There are no morning meetings on Wed.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 20, 2005 4:59 PM
To: Shaw, Aloma A
Subject: Re: There are no morning meetings on Wed.

Thanks!

-----Original Message-----
From: Shaw, Aloma A <Aloma.A.Shaw@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 20 16:51:43 2005
Subject: There are no morning meetings on Wed.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, September 20, 2005 6:19 PM
To: Snell, Scott; Lauria-Sullens, Jolene; Carter, Cyntoria
Cc: Gorsuch, Neil M; Gunn, Currie (SMO)
Subject: OASG Surplus?

Scott, et al.:
Last time we spoke a few months ago, you guys mentioned an anticipated surplus for OASG that we may want to use for 1 time costs (like computers, blackberried, copiers, etc.). Can we get an assessment of this as it stands? If we do have a surplus, I take it we would have about 10 days to use those funds wisely?

Thanks.

Beach, Andrew

Subject:	Updated: Senior Management Meeting
Start:	Friday, September 23, 2005 8:45 AM
End:	Friday, September 23, 2005 9:05 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia

When: Friday, September 23, 2005 8:45 AM-9:05 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Courtney Elwood, Bill Mercer, Neil Gorsuch, Tasia Scolinos, Jeff Oldham, Martha Pacold

Beach, Andrew

Subject:	Updated: Component Coordination Meeting
Start:	Friday, September 23, 2005 9:05 AM
End:	Friday, September 23, 2005 9:25 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Moschella, William; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Gorsuch, Neil M

When: Friday, September 23, 2005 9:05 AM-9:25 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Courtney Elwood, Tasia Scolinos, Bill Mercer, Neil Gorsuch, Jeff Oldham, Martha Pacold, Rachel Brand, Jan Williams, Will Moschella, Crystal Roberts

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 21, 2005 11:24 AM
To: Reyes, Luis (SMO)
Subject: RE: Lou Dobbs Transcript

ouch

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, September 21, 2005 10:53 AM
To: Gorsuch, Neil M; Swenson, Lily F
Subject: FW: Lou Dobbs Transcript

Julie took another hit last night on Lou Dobbs....

Copyright 2005 Cable News Network
All Rights Reserved.

CNN

SHOW: LOU DOBBS TONIGHT 6:00 PM EST

September 20, 2005 Tuesday

TRANSCRIPT: 092001CN.V19

SECTION: NEWS; International

LENGTH: 7938 words

HEADLINE: Key West Escapes Serious Harm from Rita; New Orleans Prepares for Hurricane

BYLINE: Lou Dobbs, John Zarrella, Mary Snow, Christine Romans, Lisa Sylvester, Casey Wian, Kitty Pilgrim, Dan Lothian, Bill Tucker

GUESTS: Ed Rappaport, Tom Coburn, Gary LaGrange, Nathaniel Fick

LISA SYLVESTER, CNN CORRESPONDENT (voice-over): Thirty-six-year- old Julie Myers has worked for the Treasury Department investigating financial crimes, the Commerce Department enforcing expert control laws, as an associate of Kenneth Starr and served as an assistant U.S. attorney in New York.

But critics say she has virtually no experience on immigration issues and is not qualified to run the

But critics say she has virtually no experience on immigration issues and is not qualified to run the Bureau of Immigration and Customs Enforcement, the country's second largest investigative agency.

SEN. DICK DURBIN (D), ILLINOIS: Ms. Myers appears to be an extraordinarily talented person, as a lawyer, but she is being asked to -- we're being asked to give her permission to head an agency with 20,000 employees and a $4 billion budget.

SYLVESTER: Rank and file immigration agents say morale is already low.

Perception is that Myers was nominated to the post in part because of her close political ties. Her uncle is General Richard Myers, chairman of the giant chiefs of staff.

Her nomination may have flown under the radar if it weren't for former FEMA director, Michael Brown, another Bush appointee, who was roundly criticized for handling Hurricane Katrina relief.

CHARLES SHOWALTER, NATIONAL HOMELAND SECURITY COUNCIL: Those are issues that have clearly demonstrated that people who do not have the concept of what needs to be done are put into a position and the job doesn't get done effectively.

CHARLES GREENBERGER, CENTER FOR HEALTH AND HOMELAND SECURITY: Look, she's going to be in charge of, for example, an office of intelligence, is within her shop. And the intelligence office is supposed to predict bad people who are going to come into the United States. We've already seen on 9/11 how bad people coming into the United States can be a disaster for us.

SYLVESTER: Myers is on her honeymoon, unreachable. But she does have her supporters.

CHUCK CANTERBURY, FRATERNAL ORDER OF POLICE: As an administrator, her job is to locate the people within the agency that have the expertises that she needs, the career individuals that have worked in those areas.
I think her management skills is what sets Julie aside and ahead of a lot of other candidates for that job.

SYLVESTER: Some senators say they were underwhelmed during her confirmation hearing.

SEN. FRANK LAUTENBERG (D), NEW JERSEY: Her answers didn't give us any confidence that she had either the experience or knowledge to take on this kind of an assignment.

(END VIDEOTAPE)

SYLVESTER: Senators have not scheduled a vote on her confirmation. A White House spokeswoman told CNN, "She's well-known and respected throughout the law enforcement community and she has a proven track record as an effective manager," end quote.

But Senator Lautenberg points out that while she ran a department with 170 people with a budget of $25 million, she is now being asked to run a department with 22,000 people and $4 billion budget -- Lou.

DOBBS: And one has to question how much experience she could have. How long was she in charge of any part of homeland security?

SYLVESTER: Well, what she has done is sort of jumped from job to job.

She worked at the Treasury Department, the Commerce Department. Now, there is a requirement that you have to have five years of law enforcement background. But as one source put it to me today, she essentially cobbled her position, taking 18 months from here, 15 months from here, to come up with that five years -- Lou.

DOBBS: Remarkable, particularly in the wake of all that we've learned from the Hurricane Katrina disaster and the importance of having exceptional leadership, experienced leadership at the top of agencies.

It looks like this is going to be a partisan battle. That seems to be unfortunate. Senator Voinovich, well-known Republican, questioned her credentials but has since apparently indicated he is going to be supportive. Is that correct?

SYLVESTER: That is correct. Over the weekend he said he had a chance to speak to her and that she was able to convince him and essentially win her vote. But I think you're dead right on this, that this is going to come down to Democrats versus Republicans on this one. She has a lot of friends in high places.

DOBBS: One would hope that on an important post such as this, that it would not have to be a partisan battle. But if that be the only way in which there can be oversight, so be it. Lisa Sylvester, thank you.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 21, 2005 12:21 PM
To: Sampson, Kyle
Subject: want to grab a quick lunch?

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Wednesday, September 21, 2005 12:46 PM
To: Gorsuch, Neil M
Subject: RE: H.R. 3541
Attachments: HR3541.doc

Rep. Conyers (with Skelton, Serrano, Zoe Lofgren of California, Meehan and Linda Sanchez of California). He dropped the bill on 7/28/05. The bill is attached.

[redacted] DoD General Counsel Pentagon [redacted]

This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without prior approval from the Office of the DoD General Counsel.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, September 21, 2005 11:39
To: [redacted]@dodgc.osd.mil
Subject: RE: H.R. 3541

Who is sponsoring this?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Tuesday, September 20, 2005 2:20 PM
To: Gorsuch, Neil M
Cc: [redacted]@dodgc.osd.mil
Subject: H.R. 3541

Here's one more for the list:

* H.R. 3541 (Conyers) - "Promoting Responsible Interrogation Standards Enforcement Act of 2005" (PRISE Act of 2005). Prohibits torture or cruel, inhuman or degrading treatment or punishment (as prohibited by the 5th, 8th and 14th Amendments to U.S. Constitution). The Act does not affect the status of any person under the Geneva Conventions. SECDEF must promulgate rules, regulations or guidelines within 180 days and submit reports to Congress twice/yr.

[redacted]
DoD Office of the General Counsel
[redacted]

Pentagon [redacted]

This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without prior approval from the Office of the DoD General Counsel.

109TH CONGRESS

1ST SESSION

H. R. 3541

To affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment or punishment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2005

Mr. CONYERS (for himself, Mr. SKELTON, Mr. SERRANO, Ms. ZOE LOFGREN of California, Mr. MEEHAN, and Ms. LINDA T. SáNCHEZ of California) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment or punishment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Promoting Responsible Interrogation Standards Enforcement Act of 2005" or "PRISE Act of 2005".

SEC. 2. FINDINGS AND SENSE OF CONGRESS.

(a) Findings.—Congress makes the following findings:

(1) After World War II, the United States and its allies created a new international legal order based on respect for human rights. One of its fundamental tenets was a universal prohibition on torture and ill treatment.

(2) On June 26, 2003, the International Day in Support of Victims of Torture,

President George W. Bush stated, "The United States is committed to the world-wide elimination of torture and we are leading this fight by example. I call on all governments to join with the United States and the community of law-abiding nations in prohibiting, investigating, and prosecuting all acts of torture and in undertaking to prevent other cruel and unusual punishment.".

(3) The United States is a party to the Geneva Conventions, which prohibit torture, cruel treatment, or outrages upon personal dignity, in particular, humiliating and degrading treatment, during armed conflict.

(4) The United States is a party to 2 treaties that prohibit torture and cruel, inhuman, or degrading treatment or punishment, as follows:

(A) The International Covenant on Civil and Political Rights, done at New York on December 16, 1966.

(B) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984.

(5) The United States filed reservations to the treaties described in subparagraphs (A) and (B) of paragraph (4) stating that the United States considers itself bound to prevent "cruel, inhuman or degrading treatment or punishment" to the extent that phrase means the cruel, unusual, and inhumane treatment or punishment prohibited by the 5th amendment, 8th amendment, or 14th amendment to the Constitution.

(6) Army Regulation 190-8 entitled "Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees" provides that "Inhumane treatment is a serious and punishable violation under international law and the Uniform Code of Military Justice (UCMJ). . . . All prisoners will receive humane treatment without regard to race, nationality, religion, political opinion, sex, or other criteria. The following acts are prohibited: murder, torture, corporal punishment, mutilation, the taking of hostages, sensory deprivation, collective punishments, execution without trial by proper authority, and all cruel and degrading treatment. . . . All persons will be respected as human beings. They will be protected against all acts of violence to include rape, forced prostitution, assault and theft, insults, public curiosity, bodily injury, and reprisals of any kind. . . . This list is not exclusive.".

(7) The Field Manual on Intelligence Interrogation of the Department of the Army states that "acts of violence or intimidation, including physical or mental torture, threats, insults, or exposure to inhumane treatment as a means of or an aid to interrogation" are "illegal". Such Manual defines "infliction of pain through . . . bondage (other than legitimate use of restraints to prevent escape)", "forcing an individual to stand, sit, or kneel in abnormal positions for prolonged periods of time", "food deprivation", and "any form of beating" as "physical torture", defines "abnormal sleep deprivation" as "mental torture", and prohibits the use of such tactics under any circumstances.

(8) The Field Manual on Intelligence Interrogation of the Department of the Army states that "Use of torture and other illegal methods is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator wants to hear. Revelation of use of torture by U.S. personnel will bring discredit upon the U.S. and its armed forces while

undermining domestic and international support for the war effort. It may also place U.S. and allied personnel in enemy hands at a greater risk of abuse by their captors.".

(b) Sense of Congress.—It is the sense of Congress that the reservation filed by the United States to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Convention") regarding the obligation under Article 16 of the Convention—

(1) should be interpreted as a substantive definition of the term "cruel, inhuman or degrading treatment or punishment" under Article 16 of the Convention and not as a geographical limitation on the obligations of the United States under Article 16 of the Convention; and

(2) should reflect the original intent of the Senate and preserve the objectives and purposes of the Convention.

SEC. 3. HUMANE TREATMENT OF DETAINEES.

(a) Prohibition on Torture or Cruel, Inhuman, or Degrading Treatment or Punishment.—(1) No person in the custody or under the physical control of the United States shall be subject to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(b) Rules, Regulations, and Guidelines.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe the rules, regulations, or guidelines necessary to ensure compliance with the prohibition in subsection (a)(1) by the members of the Armed Forces and by any person providing services to the Department of Defense on a contract basis.

(2) The Secretary shall submit to the congressional defense committees the rules, regulations, or guidelines prescribed under paragraph (1), and any modifications to such rules, regulations, or guidelines—

(A) not later than 30 days after the effective date of such rules, regulations, guidelines, or modifications; and

(B) in a manner and form that will protect the national security interests of the United States.

(c) Report to Congress.—(1) The Secretary of Defense shall submit, on a timely basis and not less than twice each year, a report to Congress on the circumstances surrounding any investigation of a possible violation of the prohibition in subsection

(a)(1) by a member of the Armed Forces or by a person providing services to the Department of Defense on a contract basis.

(2) A report required under paragraph (1) shall be submitted in a manner and form that—

(A) will protect the national security interests of the United States; and

(B) will not prejudice any prosecution of an individual involved in, or responsible for, a violation of the prohibition in subsection (a)(1).

(d) Definitions.—In this section:

(1) The term "cruel, inhuman, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the 5th amendment, 8th amendment, or 14th amendment to the Constitution.

(2) The term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(3) The term "Geneva Conventions" means—

(A) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(B) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(C) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(D) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(4) The term "torture" has the meaning given that term in section 2340 of title 18, United States Code.

SEC. 4. ADHERENCE BY UNITED STATES TO OBLIGATIONS UNDER THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT.

(a) Limitation on Assistance With Respect to Obtaining Information From Individuals.—An officer or employee of the United States may not provide assistance to the government of a foreign country for the purpose of obtaining information from an individual held in custody by the foreign government if the officer or employee has reason to believe that torture or cruel, inhuman, or degrading treatment or punishment will be utilized to obtain the information.

(b) Limitation on Assistance With Respect to Transfer of Individuals.—An officer or employee of the United States may not encourage or otherwise assist the government of a foreign country to transfer, render, expel, return, or extradite an individual to another country if the officer or employee has reason to believe that the individual would be in danger of being subjected to torture in violation of Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. For purposes of the preceding sentence, the term "assist" includes the provision of personnel, information, equipment, financial assistance, or any other form of assistance.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 21, 2005 1:28 PM
To: Gorsuch, Neil M; Swenson, Lily F; Meron, Daniel (CIV)
Cc: Shaw, Aloma A; Bucholtz, Jeffrey (CIV); Hertling, Richard
Subject: RE: Avian Flu

Aloma - please could you make sure Richard Hertling (or his designee) attends too? Many thanks.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, September 21, 2005 11:27 AM
To: Swenson, Lily F; Meron, Daniel (CIV)
Cc: Shaw, Aloma A; Bucholtz, Jeffrey (CIV)
Subject: Avian Flu

Dan, Lily - Attachments as discussed.

Aloma - Please could you schedule a time tomorrow for Dan, Lily, Jeff and I to discuss?

<< Message: FW: pandemic vaccine >> << Message: thoughts on different approaches to carve-out >>

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Wednesday, September 21, 2005 1:49 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: ASG Surplus

I did some checking after speaking with Neil. According to JCON the last blackberry upgrade was a courtesy of JCON. All blackberry upgrades now will be at the expense of the component. You have to make certain the blackberry selected is supported by JCON. The new blackberry that has been tested for the rollout is the 7250. I need to verify this information with the blackberry team then we can proceed. All other software and hardware upgrades are taken care of through JCON. We should also be able to upgrade and include the voice/phone feature on the blackberry.

We can also order 2 additional laptops for this office and possibly desktop scanners. I am willing as is I am sure Aloma & Deborah to have scanners hooked to their desktop. I cannot think of any other items that would be of a great expense to help with the surplus.

We can do a count and get the paperwork going on new blackberry's.

Currie

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 21, 2005 1:52 PM
To: Barnett, Thomas O.
Subject: ATR Katrina Release

Tom - OMB has promptly given its assent. Waiting to hear from WH counsel and DPC, but they're on notice that we intend to go forward after 9 am tomorrow. So unless you hear from me otherwise by then, please do march on. NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 21, 2005 2:11 PM
To: Seidel, Rebecca; Bucholtz, Jeffrey (CIV); Hertling, Richard; Ansell, Frederick
Cc: Clinger, James H
Subject: RE: HOUSE Disaster Relief Volunteer Protection Act

Looks good on a quick read. Wish the Senate bill were as clean.

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, September 21, 2005 1:41 PM
To: Bucholtz, Jeffrey (CIV); Hertling, Richard; Gorsuch, Neil M; Ansell, Frederick
Cc: Clinger, James H
Subject: FW:HOUSE Disaster Relief Volunteer Protection Act

Attached is the most recent revised draft from House Legislative counsel - please review and let me know if there are any outstanding issues that we need to discuss further with House staff. thank you for your help.

-----Original Message-----
From: [redacted]@mail.house.gov [mailto:[redacted]@mail.house.gov]
Sent: Wednesday, September 21, 2005 11:26 AM
To: Seidel, Rebecca; Clinger, James H
Subject: FW: Disaster Relief Volunteer Protection Act

Rebecca and Jim, I sent to leg counsel the text we worked out on Monday.
Attached here is what should be the same text I sent leg counsel, with the only change from what we discussed being a correction in the citation of the Volunteer Protection Act which leg counsel tells me he spotted and corrected. Please have whomever appropriate look this over to make sure it conforms to what we agreed on on Monday (which was the text of what I sent last Friday, with the only change that references be made to "providing or FACILITATING THE PROVISION OF" instead of just "providing"). I'll do the same here, and if it looks in good shape from your end I'll forward it to the Full Committee folks over here.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 21, 2005 2:13 PM
To: Brett Gerry (E-mail)
Subject: FW: Delivery Status Notification (Failure)
Attachments: ATTACHMENT.TXT

Brett, my email to Dan Levin on the Gold Train bounced back. By any chance do you have his email address? Thanks, NMG

-----Original Message-----
From: postmaster@eopds.eop.gov [mailto:postmaster@eopds.eop.gov]
Sent: Wednesday, September 21, 2005 2:08 PM
To: Gorsuch, Neil M
Subject: Delivery Status Notification (Failure)

This is an automatically generated Delivery Status Notification.

Delivery to the following recipients failed.

dlevin@who.eop.gov

Reporting-MTA: dns;SGEOP08.eopds.eop.gov
Received-From-MTA: dns;SMTP
Arrival-Date: Wed, 21 Sep 2005 14:08:26 -0400

Final-Recipient: rfc822;dlevin@who.eop.gov
Action: failed
Status: 5.1.1

Chip_Roy@judiciary-rep.senate.gov

From: [redacted]@judiciary-rep.senate.gov
Sent: Wednesday, September 21, 2005 3:54 PM
To: Gorsuch, Neil M; [redacted]@willkie.com
Subject: Either of you around?
Attachments: tmp.htm

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

[redacted]@judiciary-rep.senate.gov

From: [redacted]@judiciary-rep.senate.gov
Sent: Wednesday, September 21, 2005 4:11 PM
To: Gorsuch, Neil M; [redacted]@willkie.com
Subject: RE: Either of you around?
Attachments: tmp.htm

I am good now. Thanks Gents...

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
202-224-8582

-----Original Message-----
From: [redacted] [mailto:[redacted]@willkie.com]
Sent: Wednesday, September 21, 2005 4:06 PM
To: [redacted](Judiciary); neil.gorsuch@usdoj.gov
Subject: Re: Either of you around?

Sorry no. In Salt Lake City on a case today.

[redacted]
Willkie Farr & Gallagher LLP
1875 K St NW
Washington, DC 20006
(202) 303-1120
[redacted]@willkie.com

-----Original Message-----
From: [redacted](Judiciary) <[redacted]@judiciary-rep.senate.gov>
To: neil.gorsuch@usdoj.gov <neil.gorsuch@usdoj.gov> [redacted]
<[redacted]@WILLKIE.COM>
Sent: Wed Sep 21 15:54:10 2005
Subject: Either of you around?

[redacted]
Counsel

United States Senate Subcommittee on Immigration, Border Security and Citizenship

US Senator John Cornyn, Chairman

www.cornyn.senate.gov

202-224-8582

I am good now. Thanks Gents...

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
202-224-8582

-----Original Message-----
From: [redacted] [mailto[redacted]@willkie.com]
Sent: Wednesday, September 21, 2005 4:06 PM
To: [redacted] Judiciary); neil.gorsuch@usdoj.gov
Subject: Re: Either of you around?

Sorry no. In Salt Lake City on a case today.

[redacted]
Willkie Farr & Gallagher LLP
1875 K St NW
Washington, DC 20006
(202) 303-1120
[redacted]@willkie.com

-----Original Message-----
From: [redacted] (Judiciary) <[redacted]@judiciary-rep.senate.gov>
To: neil.gorsuch@usdoj.gov <neil.gorsuch@usdoj.gov[redacted] <[redacted]@WILLKIE.COM>
Sent: Wed Sep 21 15:54:10 2005
Subject: Either of you around?

[redacted]
Counsel

United States Senate Subcommittee on Immigration, Border Security and Citizenship

US Senator John Cornyn, Chairman

www.cornyn.senate.gov

202-224-8582

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 21, 2005 4:13 PM
To: Seidel, Rebecca
Subject: FW: Either of you around?
Attachments: tmp.htm

Would you like to respond to this? I am around if needed, but don't particularly want to engage on items we don't support - except if they are interested in hearing our reasons for opposing.

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto[redacted]@judiciary-rep.senate.gov]
Sent: Wednesday, September 21, 2005 3:54 PM
To: Gorsuch, Neil M; [redacted]@willkie.com
Subject: Either of you around?

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
202-224-8582

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
202-224-8582

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 21, 2005 4:14 PM
To: Seidel, Rebecca
Subject: FW: Either of you around?
Attachments: tmp.htm

This just came in...

-----Original Message-----
From: [redacted]@WILLKIE.COM [mailto:[redacted]@WILLKIE.COM]
Sent: Wednesday, September 21, 2005 4:06 PM
To: Gorsuch, Neil M; Chip_Roy@judiciary-rep.senate.gov
Subject: Re: Either of you around?

Sorry no. In Salt Lake City on a case today.

[redacted]
Willkie Farr & Gallagher LLP
1875 K St NW
Washington, DC 20006
[redacted]

-----Original Message-----
From: [redacted] (Judiciary) <[redacted]@judiciary-rep.senate.gov>
To: neil.gorsuch@usdoj.gov <neil.gorsuch@usdoj.gov>; [redacted] <[redacted]@WILLKIE.COM>
Sent: Wed Sep 21 15:54:10 2005
Subject: Either of you around?

[redacted]
Counsel

United States Senate Subcommittee on Immigration, Border Security and Citizenship

US Senator John Cornyn, Chairman

www.cornyn.senate.gov

[redacted]

[redacted]

Sorry no. In Salt Lake City on a case today.

[redacted]
Willkie Farr & Gallagher LLP
1875 K St NW
Washington, DC 20006
[redacted]

-----Original Message-----
From: [redacted] Judiciary) [redacted] @judiciary-rep.senate.gov>
To: neil.gorsuch@usdoj.gov <neil.gorsuch@usdoj.gov>; [redacted] @WILLKIE.COM>
Sent: Wed Sep 21 15:54:10 2005
Subject: Either of you around?

[redacted]
Counsel

United States Senate Subcommittee on Immigration, Border Security and Citizenship

US Senator John Cornyn, Chairman

www.cornyn.senate.gov

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 21, 2005 4:16 PM
To: Davis, John S (ODAG)
Subject: Privacy Office

John, Where do we stand? Have you distributed the memo to the potentially affected components, or received reactions from them yet? At some pt soon, should we gather to consider reactions and weigh next steps?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Chip_Roy@judiciary-rep.senate.gov

From:	Chip_Roy@judiciary-rep.senate.gov
Sent:	Wednesday, September 21, 2005 4:30 PM
To:	Chip_Roy@judiciary-rep.senate.gov
Subject:	FW: RITA/LIABILITY/VOLUNTEERS: Cornyn introduces bill to protect disaster volunteers
Attachments:	tmp.htm

JOHN CORNYN

United States Senator - Texas

CONTACT: DON STEWART
(202) 224-0704 office, (202) 365-6702 cell FOR IMMEDIATE RELEASE September 21, 2005

CORNYN INTRODUCES BILL TO PROTECT DISASTER VOLUNTEERS

GIVE Act would protect volunteers from frivolous lawsuits

WASHINGTON-U.S. Sen. John Cornyn (R-Texas), a member of the Senate Judiciary Committee, introduced legislation on Wednesday to protect volunteers from liability when working on disaster recovery efforts. The Good Samaritan Liability Improvement and Volunteer Encouragement Act of 2005, or GIVE Act, provides special protections for disaster relief volunteers and those who facilitate their efforts.

"This legislation ensures that as preparations for Hurricane Rita and recovery from Hurricane Katrina continue, the thousands of volunteers who respond won't be fearful of frivolous litigation when they want to help a neighbor in need," Cornyn said. "So I hope this bill will encourage further volunteer efforts in our nation, and facilitate the generosity of the American people to assist in disaster responses."

Sens. Kay Bailey Hutchison (R-Texas), Trent Lott (R-Miss.), David Vitter (R-La.), Charles Grassley (R-Iowa), and John Thune (R-S.D.) are all original co-sponsors of the GIVE Act.

"The GIVE Act will ensure that one of our country's greatest assets - the willingness of the American people to give generously to their neighbors in need - is not inhibited by one of its greatest liabilities - a broken civil justice system," Cornyn said. "In the wake of Hurricane Katrina, we have seen this charitable spirit shine brighter than ever."

Cornyn noted that in the short time since Katrina hit the Gulf Coast, Americans have given more than $600 million to disaster relief efforts.
Millions of Americans have sent money, tools and equipment, clothing, food, and water, have volunteered medical or other services, and otherwise helped in whatever manner they could.

"Perhaps most heartwarming of all, thousands of Americans have opened their homes to those who lost everything. I am particularly proud of my home state of Texas - where more than 250,000 of our neighbors sought shelter - and where virtually all of them have been able to find it," Cornyn said. "But just as America enjoys a culture of giving and volunteering, she also faces a culture of litigation. And this 'sue first, ask questions later' culture has produced an environment of fear that often gives pause to those who would otherwise wish to lend a helping hand."

On a related note, Sen. Cornyn introduced the Respirator Access Assurance Act (S. 1406), or 'RAAA," in July, which will further support disaster recovery efforts by ensuring availability of necessary respiratory protective devices. It would prevent liability from any claim for defective design or warning if the respirator has received approval from the appropriate government regulatory body, the National Institute for Occupational Safety and Health, or "NIOSH." The legislation would not in any way affect litigation relating to a device not manufactured in compliance with the NIOSH-approved design and labeling.

See below for a summary of the GIVE Act:

The GIVE Act

The Cornyn legislation offers a comprehensive solution to the fear of litigation that unnecessarily burdens volunteers and often prevents the provision of necessary goods and services to victims of national disasters and to all those in need.

It will provide protection for volunteers across the nation, particularly those working in response to National disasters such as 9/11 or Hurricane Katrina. Specifically, the GIVE Act will provide that:

* Disaster relief volunteers, generally, are not liable for harm caused in carrying out their volunteer activities in connection with disaster relief unless their act or omission constitutes willful, knowing or reckless misconduct; * Medical and other professionals can volunteer their services for disaster relief services based on being licensed in their home state regardless of where the declared disaster occurred; * A disaster relief volunteer is protected from liability even if the volunteer is not working for a specific non profit organization; * Disaster relief volunteers can offer their services without subjecting their business partners or employers to liability; * Disaster relief volunteers are protected from punitive damages if actions are not willful, knowing or reckless, and non-economic damages are apportioned according to percentage of fault; * Non-profit organizations are not liable for the acts or omissions of their volunteers unless the organization has willfully disregarded or is recklessly indifferent to the safety of the individual harmed.
* All donors of goods or equipment - whether businesses, non-profits, or individuals - are not liable for harm caused by donating those items unless they acted with willful, knowing or reckless misconduct; and * All litigation that proceeds despite any protections under this Act or under the Volunteer Protection Act requires a high level of specificity and documentation in the claim and a review by a judge that the claim raises - as a matter of law - a genuine issue of material fact.
* The provisions of the Act will not supercede existing provisions of state and federal law that may provide greater protections for volunteers and expressly allows states to opt-out from the provisions of this act.

Volunteerism Has Long Been Associated with America

"When an American asks for the cooperation of his fellow citizens, it is seldom refused; and I have

often seen it afforded spontaneously, and with great good will." - Alexis de Tocqueville

* From its beginning, the United States has been a generous nation. As measured by financial contributions, giving by Americans is at an all-time high - totaling almost $250 Billion in 2004 - a 5 percent increase over the previous year. The chair of Giving USA notes that "about 70 to 80 percent of Americans contribute annually to at least one charity."
* Every year, millions of Americans volunteer their time and their own personal services to charity - in soup kitchens, in schools, at health clinics and wherever there is need.
* In the wake of the devastation caused by Hurricane Katrina, we have seen America's charitable spirit shine more than ever before. In the short time since the Hurricane hit the Gulf Coast, Americans have given more than $600 million to disaster relief efforts, sent needed supplies and opened their doors to those who have lost everything.
* Millions of Americans wish to donate food, send badly needed tools and equipment, contribute clothing, volunteer medical or other services and otherwise help in whatever manner they can when their neighbors face a national disaster like Katrina or 9/11.

Despite Some Protections Volunteers Face Risk of Liability and Litigation

* Eight years ago, the late Sen. Paul Coverdell (R-Ga.) sponsored and successfully worked to enact the Volunteer Protection Act of 1997 - legislation that protects Volunteers from many frivolous lawsuits. However, as helpful and well-intentioned as this legislation was, more needs to be done to sufficiently protect all those lending a hand to those in need.
* In response to Hurricane Katrina, the Red Cross and the Salvation Army have had difficulty coordinating efforts to set up emergency housing in private homes for evacuees, because of liability issues. - Quad City Times, September 20, 2005 * A jury in Milwaukee found the Catholic Archdiocese liable because a volunteer for a Catholic lay organization, driving her own car, ran a red light and caused an accident while delivering a statue of the Virgin Mary to an invalid person. Although the church does not direct the activities of this group, the jury decided the Archdiocese should pay $17 million to the victim. - Milwaukee Journal Sentinel, February 23, 2005 * In the midst of administering chest compressions to a dying woman several days after Hurricane Katrina struck, Dr. Mark N.
Perlmutter was ordered to stop by a federal official because he wasn't registered with the Federal Emergency Management Agency. "I begged him to let me continue," said Perlmutter, who left his home and practice as an orthopedic surgeon in Pennsylvania to come to Louisiana and volunteer to care for hurricane victims. "People were dying, and I was the only doctor on the tarmac where scores of non-responsive patients lay on stretchers. Two patients died in front of me... I asked him to let me stay until I was replaced by another doctor, but he refused. He said he was afraid of being sued."

Sen. Cornyn is a member of the following key Senate Committees: Armed Services; Judiciary; Budget; Small Business and Entrepreneurship; and Joint Economic. He is also the chairman of the subcommittees on Immigration, Border Security and Citizenship and Emerging Threats and Capabilities. He served previously as Texas Attorney General and Texas Supreme Court justice.

-30-

www.cornyn.senate.gov

JOHN CORNYN
United States Senator - Texas
CONTACT: DON STEWART
(202) 224-0704 office, (202) 365-6702 cell
FOR IMMEDIATE RELEASE
September 21, 2005

CORNYN INTRODUCES BILL TO PROTECT DISASTER VOLUNTEERS

GIVE Act would protect volunteers from frivolous lawsuits

WASHINGTON—U.S. Sen. John Cornyn (R-Texas), a member of the Senate Judiciary Committee, introduced legislation on Wednesday to protect volunteers from liability when working on disaster recovery efforts. *The Good Samaritan Liability Improvement and Volunteer Encouragement Act of 2005,* or *GIVE Act*, provides special protections for disaster relief volunteers and those who facilitate their efforts.

"This legislation ensures that as preparations for Hurricane Rita and recovery from Hurricane Katrina continue, the thousands of volunteers who respond won't be fearful of frivolous litigation when they want to help a neighbor in need," Cornyn said. "So I hope this bill will encourage further volunteer efforts in our nation, and facilitate the generosity of the American people to assist in disaster responses."

Sens. Kay Bailey Hutchison (R-Texas), Trent Lott (R-Miss.), David Vitter (R-La.), Charles Grassley (R-Iowa), and John Thune (R-S.D.) are all original co-sponsors of the GIVE Act.

"The GIVE Act will ensure that one of our country's greatest assets – the willingness of the American people to give generously to their neighbors in need – is not inhibited by one of its greatest liabilities – a broken civil justice system," Cornyn said. "In the wake of Hurricane Katrina, we have seen this charitable spirit shine brighter than ever."

Cornyn noted that in the short time since Katrina hit the Gulf Coast, Americans have given more than $600 million to disaster relief efforts. Millions of Americans have sent money, tools and equipment, clothing, food, and water, have volunteered medical or other services, and otherwise helped in whatever manner they could.

"Perhaps most heartwarming of all, thousands of Americans have opened their homes to those who lost everything. I am particularly proud of my home state of Texas – where more than 250,000 of our neighbors sought shelter – and where virtually all of them have been able to find it," Cornyn said. "But just as America enjoys a culture of giving and volunteering, she also faces a culture of litigation. And this 'sue first, ask questions later' culture has produced an environment of fear that often gives pause to those who would otherwise wish to lend a helping hand."

On a related note, Sen. Cornyn introduced the *Respirator Access Assurance Act* (S. 1406), or *'RAAA,"* in July, which will further support disaster recovery efforts by ensuring availability of necessary respiratory protective devices. It would prevent liability from any claim for defective design or warning if the respirator has received approval from the appropriate government regulatory body, the National Institute for Occupational Safety and Health, or "NIOSH." The legislation would not in any way affect litigation relating to a device not manufactured in compliance with the NIOSH-approved design and labeling.

See below for a summary of the GIVE Act:

The GIVE Act

The Cornyn legislation offers a comprehensive solution to the fear of litigation that unnecessarily burdens

volunteers and often prevents the provision of necessary goods and services to victims of national disasters and to all those in need.

It will provide protection for volunteers across the nation, particularly those working in response to National disasters such as 9/11 or Hurricane Katrina. Specifically, the GIVE Act will provide that:

- Disaster relief volunteers, generally, are not liable for harm caused in carrying out their volunteer activities in connection with disaster relief unless their act or omission constitutes willful, knowing or reckless misconduct;
- Medical and other professionals can volunteer their services for disaster relief services based on being licensed in their home state regardless of where the declared disaster occurred;
- A disaster relief volunteer is protected from liability even if the volunteer is not working for a specific non profit organization;
- Disaster relief volunteers can offer their services without subjecting their business partners or employers to liability;
- Disaster relief volunteers are protected from punitive damages if actions are not willful, knowing or reckless, and non-economic damages are apportioned according to percentage of fault;
- Non-profit organizations are not liable for the acts or omissions of their volunteers unless the organization has willfully disregarded or is recklessly indifferent to the safety of the individual harmed.
- All donors of goods or equipment – whether businesses, non-profits, or individuals – are not liable for harm caused by donating those items unless they acted with willful, knowing or reckless misconduct; and
- All litigation that proceeds despite any protections under this Act or under the Volunteer Protection Act requires a high level of specificity and documentation in the claim and a review by a judge that the claim raises – as a matter of law – a genuine issue of material fact.
- The provisions of the Act will not supercede existing provisions of state and federal law that may provide greater protections for volunteers and expressly allows states to opt-out from the provisions of this act.

Volunteerism Has Long Been Associated with America

"When an American asks for the cooperation of his fellow citizens, it is seldom refused; and I have often seen it afforded spontaneously, and with great good will." - Alexis de Tocqueville

- From its beginning, the United States has been a generous nation. As measured by financial contributions, giving by Americans is at an all-time high – totaling almost $250 Billion in 2004 – a 5 percent increase over the previous year. The chair of Giving USA notes that "about 70 to 80 percent of Americans contribute annually to at least one charity."
- Every year, millions of Americans volunteer their time and their own personal services to charity - in soup kitchens, in schools, at health clinics and wherever there is need.
- In the wake of the devastation caused by Hurricane Katrina, we have seen America's charitable spirit shine more than ever before. In the short time since the Hurricane hit the Gulf Coast, Americans have given more than $600 million to disaster relief efforts, sent needed supplies and opened their doors to those who have lost everything.
- Millions of Americans wish to donate food, send badly needed tools and equipment, contribute clothing, volunteer medical or other services and otherwise help in whatever manner they can when their neighbors face a national disaster like Katrina or 9/11.

Despite Some Protections Volunteers Face Risk of Liability and Litigation

- Eight years ago, the late Sen. Paul Coverdell (R-Ga.) sponsored and successfully worked to enact the *Volunteer Protection Act of 1997* – legislation that protects Volunteers from many frivolous lawsuits. However, as helpful and well-intentioned as this legislation was, more needs to be done to sufficiently protect all those lending a hand to those in need.

- In response to Hurricane Katrina, the Red Cross and the Salvation Army have had difficulty coordinating efforts to set up emergency housing in private homes for evacuees, because of liability issues. – *Quad City Times, September 20, 2005*
- A jury in Milwaukee found the Catholic Archdiocese liable because a volunteer for a Catholic lay organization, driving her own car, ran a red light and caused an accident while delivering a statue of the Virgin Mary to an invalid person. Although the church does not direct the activities of this group, the jury decided the Archdiocese should pay $17 million to the victim. – *Milwaukee Journal Sentinel, February 23, 2005*
- In the midst of administering chest compressions to a dying woman several days after Hurricane Katrina struck, Dr. Mark N. Perlmutter was ordered to stop by a federal official because he wasn't registered with the Federal Emergency Management Agency. "I begged him to let me continue," said Perlmutter, who left his home and practice as an orthopedic surgeon in Pennsylvania to come to Louisiana and volunteer to care for hurricane victims. "People were dying, and I was the only doctor on the tarmac where scores of non-responsive patients lay on stretchers. Two patients died in front of me… I asked him to let me stay until I was replaced by another doctor, but he refused. He said he was afraid of being sued."

Sen. Cornyn is a member of the following key Senate Committees: Armed Services; Judiciary; Budget; Small Business and Entrepreneurship; and Joint Economic. He is also the chairman of the subcommittees on Immigration, Border Security and Citizenship and Emerging Threats and Capabilities. He served previously as Texas Attorney General and Texas Supreme Court justice.

-30-

www.cornyn.senate.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 21, 2005 4:45 PM
To: Davis, John S (ODAG); Swenson, Lily F
Subject: RE: Privacy Office

Lily - can you please fill me in/

-----Original Message-----
From: Davis, John S (ODAG)
Sent: Wednesday, September 21, 2005 4:24 PM
To: Gorsuch, Neil M; Swenson, Lily F
Subject: Re: Privacy Office

Memo went out last Tuesday. Comments due next Tuesday. OIP roiled - see Lily for details of current situation. I assume the next step is finalizing the memo and convening a meeting of stakeholders - perhaps Thursday October 6 - to work towards a concencus recommendation? Thoughts? John ----------
---
John S. Davis
202/514-0049 (work)
[redacted]

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Davis, John S (ODAG) <John.S.Davis@SMOJMD.USDOJ.gov>
Sent: Wed Sep 21 16:15:31 2005
Subject: Privacy Office

John, Where do we stand? Have you distributed the memo to the potentially affected components, or received reactions from them yet? At some pt soon, should we gather to consider reactions and weigh next steps?

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Wednesday, September 21, 2005 4:51 PM
To:	Elwood, Courtney; Ullyot, Theodore; Hertling, Richard; Ansell, Frederick; Taylor, Jeffrey (OAG); McCallum, Robert (SMO); Bucholtz, Jeffrey (CIV)
Cc:	Seidel, Rebecca
Subject:	FW: RITA/LIABILITY/VOLUNTEERS: Cornyn introduces bill to protect disaster volunteers
Attachments:	tmp.htm

FYI - Looks like Cornyn has just introduced our liability protection bill, though with various additions. Grassley, Thune, Hutchinson, Lott, and Vitter are cosponsors. The House looks very close to introducing our bill in a cleaner form. NMG

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto[redacted]@judiciary-rep.senate.gov]
Sent: Wednesday, September 21, 2005 4:30 PM
To: [redacted]@judiciary-rep.senate.gov
Subject: FW: RITA/LIABILITY/VOLUNTEERS: Cornyn introduces bill to protect disaster volunteers

JOHN CORNYN

United States Senator - Texas

CONTACT: DON STEWART
(202) 224-0704 office[redacted]FOR IMMEDIATE RELEASE September 21, 2005

CORNYN INTRODUCES BILL TO PROTECT DISASTER VOLUNTEERS

GIVE Act would protect volunteers from frivolous lawsuits

WASHINGTON-U.S. Sen. John Cornyn (R-Texas), a member of the Senate Judiciary Committee, introduced legislation on Wednesday to protect volunteers from liability when working on disaster recovery efforts. The Good Samaritan Liability Improvement and Volunteer Encouragement Act of 2005, or GIVE Act, provides special protections for disaster relief volunteers and those who facilitate their efforts.

"This legislation ensures that as preparations for Hurricane Rita and recovery from Hurricane Katrina continue, the thousands of volunteers who respond won't be fearful of frivolous litigation when they want to help a neighbor in need," Cornyn said. "So I hope this bill will encourage further volunteer

efforts in our nation, and facilitate the generosity of the American people to assist in disaster responses."

Sens. Kay Bailey Hutchison (R-Texas), Trent Lott (R-Miss.), David Vitter (R-La.), Charles Grassley (R-Iowa), and John Thune (R-S.D.) are all original co-sponsors of the GIVE Act.

"The GIVE Act will ensure that one of our country's greatest assets - the willingness of the American people to give generously to their neighbors in need - is not inhibited by one of its greatest liabilities - a broken civil justice system," Cornyn said. "In the wake of Hurricane Katrina, we have seen this charitable spirit shine brighter than ever."

Cornyn noted that in the short time since Katrina hit the Gulf Coast, Americans have given more than $600 million to disaster relief efforts.
Millions of Americans have sent money, tools and equipment, clothing, food, and water, have volunteered medical or other services, and otherwise helped in whatever manner they could.

"Perhaps most heartwarming of all, thousands of Americans have opened their homes to those who lost everything. I am particularly proud of my home state of Texas - where more than 250,000 of our neighbors sought shelter - and where virtually all of them have been able to find it," Cornyn said. "But just as America enjoys a culture of giving and volunteering, she also faces a culture of litigation. And this 'sue first, ask questions later' culture has produced an environment of fear that often gives pause to those who would otherwise wish to lend a helping hand."

On a related note, Sen. Cornyn introduced the Respirator Access Assurance Act (S. 1406), or 'RAAA," in July, which will further support disaster recovery efforts by ensuring availability of necessary respiratory protective devices. It would prevent liability from any claim for defective design or warning if the respirator has received approval from the appropriate government regulatory body, the National Institute for Occupational Safety and Health, or "NIOSH." The legislation would not in any way affect litigation relating to a device not manufactured in compliance with the NIOSH-approved design and labeling.

See below for a summary of the GIVE Act:

The GIVE Act

The Cornyn legislation offers a comprehensive solution to the fear of litigation that unnecessarily burdens volunteers and often prevents the provision of necessary goods and services to victims of national disasters and to all those in need.

It will provide protection for volunteers across the nation, particularly those working in response to National disasters such as 9/11 or Hurricane Katrina. Specifically, the GIVE Act will provide that:

* Disaster relief volunteers, generally, are not liable for harm caused in carrying out their volunteer activities in connection with disaster relief unless their act or omission constitutes willful, knowing or reckless misconduct; * Medical and other professionals can volunteer their services for disaster relief services based on being licensed in their home state regardless of where the declared disaster occurred; * A disaster relief volunteer is protected from liability even if the volunteer is not working for a specific non profit organization; * Disaster relief volunteers can offer their services without subjecting their business partners or employers to liability; * Disaster relief volunteers are protected from punitive damages if actions are not willful, knowing or reckless, and non-

volunteers are protected from punitive damages if actions are not willful, knowing or reckless, and non-economic damages are apportioned according to percentage of fault; * Non-profit organizations are not liable for the acts or omissions of their volunteers unless the organization has willfully disregarded or is recklessly indifferent to the safety of the individual harmed.

* All donors of goods or equipment - whether businesses, non-profits, or individuals - are not liable for harm caused by donating those items unless they acted with willful, knowing or reckless misconduct; and * All litigation that proceeds despite any protections under this Act or under the Volunteer Protection Act requires a high level of specificity and documentation in the claim and a review by a judge that the claim raises - as a matter of law - a genuine issue of material fact.

* The provisions of the Act will not supercede existing provisions of state and federal law that may provide greater protections for volunteers and expressly allows states to opt-out from the provisions of this act.

Volunteerism Has Long Been Associated with America

"When an American asks for the cooperation of his fellow citizens, it is seldom refused; and I have often seen it afforded spontaneously, and with great good will." - Alexis de Tocqueville

* From its beginning, the United States has been a generous nation. As measured by financial contributions, giving by Americans is at an all-time high - totaling almost $250 Billion in 2004 - a 5 percent increase over the previous year. The chair of Giving USA notes that "about 70 to 80 percent of Americans contribute annually to at least one charity."

* Every year, millions of Americans volunteer their time and their own personal services to charity - in soup kitchens, in schools, at health clinics and wherever there is need.

* In the wake of the devastation caused by Hurricane Katrina, we have seen America's charitable spirit shine more than ever before. In the short time since the Hurricane hit the Gulf Coast, Americans have given more than $600 million to disaster relief efforts, sent needed supplies and opened their doors to those who have lost everything.

* Millions of Americans wish to donate food, send badly needed tools and equipment, contribute clothing, volunteer medical or other services and otherwise help in whatever manner they can when their neighbors face a national disaster like Katrina or 9/11.

Despite Some Protections Volunteers Face Risk of Liability and Litigation

* Eight years ago, the late Sen. Paul Coverdell (R-Ga.) sponsored and successfully worked to enact the Volunteer Protection Act of 1997 - legislation that protects Volunteers from many frivolous lawsuits. However, as helpful and well-intentioned as this legislation was, more needs to be done to sufficiently protect all those lending a hand to those in need.

* In response to Hurricane Katrina, the Red Cross and the Salvation Army have had difficulty coordinating efforts to set up emergency housing in private homes for evacuees, because of liability issues. - Quad City Times, September 20, 2005 * A jury in Milwaukee found the Catholic Archdiocese liable because a volunteer for a Catholic lay organization, driving her own car, ran a red light and caused an accident while delivering a statue of the Virgin Mary to an invalid person. Although the church does not direct the activities of this group, the jury decided the Archdiocese should pay $17 million to the victim. - Milwaukee Journal Sentinel, February 23, 2005 * In the midst of administering chest compressions to a dying woman several days after Hurricane Katrina struck, Dr. Mark N.

Perlmutter was ordered to stop by a federal official because he wasn't registered with the Federal Emergency Management Agency. "I begged him to let me continue," said Perlmutter, who left his home and practice as an orthopedic surgeon in Pennsylvania to come to Louisiana and volunteer to care for hurricane victims. "People were dying, and I was the only doctor on the tarmac where scores of non-

responsive patients lay on stretchers. Two patients died in front of me... I asked him to let me stay until I was replaced by another doctor, but he refused. He said he was afraid of being sued."

Sen. Cornyn is a member of the following key Senate Committees: Armed Services; Judiciary; Budget; Small Business and Entrepreneurship; and Joint Economic. He is also the chairman of the subcommittees on Immigration, Border Security and Citizenship and Emerging Threats and Capabilities. He served previously as Texas Attorney General and Texas Supreme Court justice.

-30-

www.cornyn.senate.gov

JOHN CORNYN
United States Senator - Texas
CONTACT: DON STEWART
[redacted] office, [redacted] cell
FOR IMMEDIATE RELEASE
September 21, 2005

CORNYN INTRODUCES BILL TO PROTECT DISASTER VOLUNTEERS

GIVE Act would protect volunteers from frivolous lawsuits

WASHINGTON—U.S. Sen. John Cornyn (R-Texas), a member of the Senate Judiciary Committee, introduced legislation on Wednesday to protect volunteers from liability when working on disaster recovery efforts. *The Good Samaritan Liability Improvement and Volunteer Encouragement Act of 2005,* or *GIVE Act*, provides special protections for disaster relief volunteers and those who facilitate their efforts.

"This legislation ensures that as preparations for Hurricane Rita and recovery from Hurricane Katrina continue, the thousands of volunteers who respond won't be fearful of frivolous litigation when they want to help a neighbor in need," Cornyn said. "So I hope this bill will encourage further volunteer efforts in our nation, and facilitate the generosity of the American people to assist in disaster responses."

Sens. Kay Bailey Hutchison (R-Texas), Trent Lott (R-Miss.), David Vitter (R-La.), Charles Grassley (R-Iowa), and John Thune (R-S.D.) are all original co-sponsors of the GIVE Act.

"The GIVE Act will ensure that one of our country's greatest assets – the willingness of the American people to give generously to their neighbors in need – is not inhibited by one of its greatest liabilities – a broken civil justice system," Cornyn said. "In the wake of Hurricane Katrina, we have seen this charitable spirit shine brighter than ever."

Cornyn noted that in the short time since Katrina hit the Gulf Coast, Americans have given more than $600 million to disaster relief efforts. Millions of Americans have sent money, tools and equipment, clothing, food, and water, have volunteered medical or other services, and otherwise helped in whatever manner they could.

"Perhaps most heartwarming of all, thousands of Americans have opened their homes to those who lost everything. I am particularly proud of my home state of Texas – where more than 250,000 of our neighbors sought shelter – and where virtually all of them have been able to find it," Cornyn said. "But just as America enjoys a culture of giving and volunteering, she also faces a culture of litigation. And this 'sue first, ask questions later' culture has produced an environment of fear that often gives pause to those who would otherwise wish to lend a helping hand."

On a related note, Sen. Cornyn introduced the *Respirator Access Assurance Act* (S. 1406), or *'RAAA,"* in July, which will further support disaster recovery efforts by ensuring availability of necessary respiratory protective devices. It would prevent liability from any claim for defective design or warning if the respirator has received approval from the appropriate government regulatory body, the National Institute for Occupational Safety and Health, or "NIOSH." The legislation would not in any way affect litigation relating to a device not manufactured in compliance with the NIOSH-approved design and labeling.

See below for a summary of the GIVE Act:

The GIVE Act

The Cornyn legislation offers a comprehensive solution to the fear of litigation that unnecessarily burdens

volunteers and often prevents the provision of necessary goods and services to victims of national disasters and to all those in need.

It will provide protection for volunteers across the nation, particularly those working in response to National disasters such as 9/11 or Hurricane Katrina. Specifically, the GIVE Act will provide that:

- Disaster relief volunteers, generally, are not liable for harm caused in carrying out their volunteer activities in connection with disaster relief unless their act or omission constitutes willful, knowing or reckless misconduct;
- Medical and other professionals can volunteer their services for disaster relief services based on being licensed in their home state regardless of where the declared disaster occurred;
- A disaster relief volunteer is protected from liability even if the volunteer is not working for a specific non profit organization;
- Disaster relief volunteers can offer their services without subjecting their business partners or employers to liability;
- Disaster relief volunteers are protected from punitive damages if actions are not willful, knowing or reckless, and non-economic damages are apportioned according to percentage of fault;
- Non-profit organizations are not liable for the acts or omissions of their volunteers unless the organization has willfully disregarded or is recklessly indifferent to the safety of the individual harmed.
- All donors of goods or equipment – whether businesses, non-profits, or individuals – are not liable for harm caused by donating those items unless they acted with willful, knowing or reckless misconduct; and
- All litigation that proceeds despite any protections under this Act or under the Volunteer Protection Act requires a high level of specificity and documentation in the claim and a review by a judge that the claim raises – as a matter of law – a genuine issue of material fact.
- The provisions of the Act will not supercede existing provisions of state and federal law that may provide greater protections for volunteers and expressly allows states to opt-out from the provisions of this act.

Volunteerism Has Long Been Associated with America

"When an American asks for the cooperation of his fellow citizens, it is seldom refused; and I have often seen it afforded spontaneously, and with great good will." - Alexis de Tocqueville

- From its beginning, the United States has been a generous nation. As measured by financial contributions, giving by Americans is at an all-time high – totaling almost $250 Billion in 2004 – a 5 percent increase over the previous year. The chair of Giving USA notes that "about 70 to 80 percent of Americans contribute annually to at least one charity."
- Every year, millions of Americans volunteer their time and their own personal services to charity - in soup kitchens, in schools, at health clinics and wherever there is need.
- In the wake of the devastation caused by Hurricane Katrina, we have seen America's charitable spirit shine more than ever before. In the short time since the Hurricane hit the Gulf Coast, Americans have given more than $600 million to disaster relief efforts, sent needed supplies and opened their doors to those who have lost everything.
- Millions of Americans wish to donate food, send badly needed tools and equipment, contribute clothing, volunteer medical or other services and otherwise help in whatever manner they can when their neighbors face a national disaster like Katrina or 9/11.

Despite Some Protections Volunteers Face Risk of Liability and Litigation

- Eight years ago, the late Sen. Paul Coverdell (R-Ga.) sponsored and successfully worked to enact the *Volunteer Protection Act of 1997* – legislation that protects Volunteers from many frivolous lawsuits. However, as helpful and well-intentioned as this legislation was, more needs to be done to sufficiently protect all those lending a hand to those in need.

- In response to Hurricane Katrina, the Red Cross and the Salvation Army have had difficulty coordinating efforts to set up emergency housing in private homes for evacuees, because of liability issues. – *Quad City Times, September 20, 2005*
- A jury in Milwaukee found the Catholic Archdiocese liable because a volunteer for a Catholic lay organization, driving her own car, ran a red light and caused an accident while delivering a statue of the Virgin Mary to an invalid person. Although the church does not direct the activities of this group, the jury decided the Archdiocese should pay $17 million to the victim. – *Milwaukee Journal Sentinel, February 23, 2005*
- In the midst of administering chest compressions to a dying woman several days after Hurricane Katrina struck, Dr. Mark N. Perlmutter was ordered to stop by a federal official because he wasn't registered with the Federal Emergency Management Agency. "I begged him to let me continue," said Perlmutter, who left his home and practice as an orthopedic surgeon in Pennsylvania to come to Louisiana and volunteer to care for hurricane victims. "People were dying, and I was the only doctor on the tarmac where scores of non-responsive patients lay on stretchers. Two patients died in front of me… I asked him to let me stay until I was replaced by another doctor, but he refused. He said he was afraid of being sued."

Sen. Cornyn is a member of the following key Senate Committees: Armed Services; Judiciary; Budget; Small Business and Entrepreneurship; and Joint Economic. He is also the chairman of the subcommittees on Immigration, Border Security and Citizenship and Emerging Threats and Capabilities. He served previously as Texas Attorney General and Texas Supreme Court justice.

-30-

www.cornyn.senate.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 21, 2005 4:51 PM
To: Seidel, Rebecca
Subject: RE: RITA/LIABILITY/VOLUNTEERS: Cornyn introduces bill to protect disaster volunteers

Thanks, I just want to make sure he doesn't think I am not responsive. If you could impress that on him when you speak, I'd be grateful. NMG

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, September 21, 2005 4:50 PM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV); Ansell, Frederick; Gorsuch, Neil M
Cc: Clinger, James H; Moschella, William
Subject: FW: RITA/LIABILITY/VOLUNTEERS: Cornyn introduces bill to protect disaster volunteers

it is done. Not sure yet what final draft looked like. Will send it to you when I get it. Neil, I had reached out to [redacted]er that email you got, but only got [redacted]oicemail.

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto[redacted]@judiciary-rep.senate.gov]
Sent: Wednesday, September 21, 2005 4:30 PM
To: [redacted]@judiciary-rep.senate.gov
Subject: FW: RITA/LIABILITY/VOLUNTEERS: Cornyn introduces bill to protect disaster volunteers

JOHN CORNYN

United States Senator - Texas

CONTACT: DON STEWART
(202) 224-0704 office, [redacted]FOR IMMEDIATE RELEASE September 21, 2005

CORNYN INTRODUCES BILL TO PROTECT DISASTER VOLUNTEERS

GIVE Act would protect volunteers from frivolous lawsuits

WASHINGTON-U.S. Sen. John Cornyn (R-Texas), a member of the Senate Judiciary Committee

WASHINGTON-U.S. Sen. John Cornyn (R-Texas), a member of the Senate Judiciary Committee, introduced legislation on Wednesday to protect volunteers from liability when working on disaster recovery efforts. The Good Samaritan Liability Improvement and Volunteer Encouragement Act of 2005, or GIVE Act, provides special protections for disaster relief volunteers and those who facilitate their efforts.

"This legislation ensures that as preparations for Hurricane Rita and recovery from Hurricane Katrina continue, the thousands of volunteers who respond won't be fearful of frivolous litigation when they want to help a neighbor in need," Cornyn said. "So I hope this bill will encourage further volunteer efforts in our nation, and facilitate the generosity of the American people to assist in disaster responses."

Sens. Kay Bailey Hutchison (R-Texas), Trent Lott (R-Miss.), David Vitter (R-La.), Charles Grassley (R-Iowa), and John Thune (R-S.D.) are all original co-sponsors of the GIVE Act.

"The GIVE Act will ensure that one of our country's greatest assets - the willingness of the American people to give generously to their neighbors in need - is not inhibited by one of its greatest liabilities - a broken civil justice system," Cornyn said. "In the wake of Hurricane Katrina, we have seen this charitable spirit shine brighter than ever."

Cornyn noted that in the short time since Katrina hit the Gulf Coast, Americans have given more than $600 million to disaster relief efforts.
Millions of Americans have sent money, tools and equipment, clothing, food, and water, have volunteered medical or other services, and otherwise helped in whatever manner they could.

"Perhaps most heartwarming of all, thousands of Americans have opened their homes to those who lost everything. I am particularly proud of my home state of Texas - where more than 250,000 of our neighbors sought shelter - and where virtually all of them have been able to find it," Cornyn said. "But just as America enjoys a culture of giving and volunteering, she also faces a culture of litigation. And this 'sue first, ask questions later' culture has produced an environment of fear that often gives pause to those who would otherwise wish to lend a helping hand."

On a related note, Sen. Cornyn introduced the Respirator Access Assurance Act (S. 1406), or 'RAAA," in July, which will further support disaster recovery efforts by ensuring availability of necessary respiratory protective devices. It would prevent liability from any claim for defective design or warning if the respirator has received approval from the appropriate government regulatory body, the National Institute for Occupational Safety and Health, or "NIOSH." The legislation would not in any way affect litigation relating to a device not manufactured in compliance with the NIOSH-approved design and labeling.

See below for a summary of the GIVE Act:

The GIVE Act

The Cornyn legislation offers a comprehensive solution to the fear of litigation that unnecessarily burdens volunteers and often prevents the provision of necessary goods and services to victims of national disasters and to all those in need.

It will provide protection for volunteers across the nation, particularly those working in response to National disasters such as 9/11 or Hurricane Katrina. Specifically, the GIVE Act will provide that:

* Disaster relief volunteers, generally, are not liable for harm caused in carrying out their volunteer activities in connection with disaster relief unless their act or omission constitutes willful, knowing or reckless misconduct; * Medical and other professionals can volunteer their services for disaster relief services based on being licensed in their home state regardless of where the declared disaster occurred; * A disaster relief volunteer is protected from liability even if the volunteer is not working for a specific non profit organization; * Disaster relief volunteers can offer their services without subjecting their business partners or employers to liability; * Disaster relief volunteers are protected from punitive damages if actions are not willful, knowing or reckless, and non-economic damages are apportioned according to percentage of fault; * Non-profit organizations are not liable for the acts or omissions of their volunteers unless the organization has willfully disregarded or is recklessly indifferent to the safety of the individual harmed.
* All donors of goods or equipment - whether businesses, non-profits, or individuals - are not liable for harm caused by donating those items unless they acted with willful, knowing or reckless misconduct; and * All litigation that proceeds despite any protections under this Act or under the Volunteer Protection Act requires a high level of specificity and documentation in the claim and a review by a judge that the claim raises - as a matter of law - a genuine issue of material fact.
* The provisions of the Act will not supercede existing provisions of state and federal law that may provide greater protections for volunteers and expressly allows states to opt-out from the provisions of this act.

Volunteerism Has Long Been Associated with America

"When an American asks for the cooperation of his fellow citizens, it is seldom refused; and I have often seen it afforded spontaneously, and with great good will." - Alexis de Tocqueville

* From its beginning, the United States has been a generous nation. As measured by financial contributions, giving by Americans is at an all-time high - totaling almost $250 Billion in 2004 - a 5 percent increase over the previous year. The chair of Giving USA notes that "about 70 to 80 percent of Americans contribute annually to at least one charity."
* Every year, millions of Americans volunteer their time and their own personal services to charity - in soup kitchens, in schools, at health clinics and wherever there is need.
* In the wake of the devastation caused by Hurricane Katrina, we have seen America's charitable spirit shine more than ever before. In the short time since the Hurricane hit the Gulf Coast, Americans have given more than $600 million to disaster relief efforts, sent needed supplies and opened their doors to those who have lost everything.
* Millions of Americans wish to donate food, send badly needed tools and equipment, contribute clothing, volunteer medical or other services and otherwise help in whatever manner they can when their neighbors face a national disaster like Katrina or 9/11.

Despite Some Protections Volunteers Face Risk of Liability and Litigation

* Eight years ago, the late Sen. Paul Coverdell (R-Ga.) sponsored and successfully worked to enact the Volunteer Protection Act of 1997 - legislation that protects Volunteers from many frivolous lawsuits. However, as helpful and well-intentioned as this legislation was, more needs to be done to sufficiently protect all those lending a hand to those in need.
* In response to Hurricane Katrina, the Red Cross and the Salvation Army have had difficulty coordinating efforts to set up emergency housing in private homes for evacuees, because of liability issues. - Quad City Times, September 20, 2005 * A jury in Milwaukee found the Catholic Archdiocese liable because a volunteer for a Catholic lay organization, driving her own car, ran a red light and caused an accident while delivering a statue of the Virgin Mary to an invalid person. Although

light and caused an accident while delivering a statue of the Virgin Mary to an invalid person. Although the church does not direct the activities of this group, the jury decided the Archdiocese should pay $17 million to the victim. - Milwaukee Journal Sentinel, February 23, 2005 * In the midst of administering chest compressions to a dying woman several days after Hurricane Katrina struck, Dr. Mark N.
Perlmutter was ordered to stop by a federal official because he wasn't registered with the Federal Emergency Management Agency. "I begged him to let me continue," said Perlmutter, who left his home and practice as an orthopedic surgeon in Pennsylvania to come to Louisiana and volunteer to care for hurricane victims. "People were dying, and I was the only doctor on the tarmac where scores of non-responsive patients lay on stretchers. Two patients died in front of me... I asked him to let me stay until I was replaced by another doctor, but he refused. He said he was afraid of being sued."

Sen. Cornyn is a member of the following key Senate Committees: Armed Services; Judiciary; Budget; Small Business and Entrepreneurship; and Joint Economic. He is also the chairman of the subcommittees on Immigration, Border Security and Citizenship and Emerging Threats and Capabilities. He served previously as Texas Attorney General and Texas Supreme Court justice.

-30-

www.cornyn.senate.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 21, 2005 5:04 PM
To: [redacted]@judiciary-rep.senate.gov'
Subject: RE: RITA/LIABILITY/VOLUNTEERS: Cornyn introduces bill to protect disaster volunteers

Thanks for passing this along!

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Wednesday, September 21, 2005 4:30 PM
To: [redacted]@judiciary-rep.senate.gov
Subject: FW: RITA/LIABILITY/VOLUNTEERS: Cornyn introduces bill to protect disaster volunteers

JOHN CORNYN

United States Senator - Texas

CONTACT: DON STEWART
(202) 224-0704 office [redacted] FOR IMMEDIATE RELEASE September 21, 2005

CORNYN INTRODUCES BILL TO PROTECT DISASTER VOLUNTEERS

GIVE Act would protect volunteers from frivolous lawsuits

WASHINGTON-U.S. Sen. John Cornyn (R-Texas), a member of the Senate Judiciary Committee, introduced legislation on Wednesday to protect volunteers from liability when working on disaster recovery efforts. The Good Samaritan Liability Improvement and Volunteer Encouragement Act of 2005, or GIVE Act, provides special protections for disaster relief volunteers and those who facilitate their efforts.

"This legislation ensures that as preparations for Hurricane Rita and recovery from Hurricane Katrina continue, the thousands of volunteers who respond won't be fearful of frivolous litigation when they want to help a neighbor in need," Cornyn said. "So I hope this bill will encourage further volunteer efforts in our nation, and facilitate the generosity of the American people to assist in disaster responses."

Sens. Kay Bailey Hutchison (R-Texas), Trent Lott (R-Miss.), David Vitter (R-La.), Charles Grassley (R-Iowa), and John Thune (R-S.D.) are all original co-sponsors of the GIVE Act.

"The GIVE Act will ensure that one of our country's greatest assets - the willingness of the American people to give generously to their neighbors in need - is not inhibited by one of its greatest liabilities - a broken civil justice system," Cornyn said. "In the wake of Hurricane Katrina, we have seen this charitable spirit shine brighter than ever."

Cornyn noted that in the short time since Katrina hit the Gulf Coast, Americans have given more than $600 million to disaster relief efforts.
Millions of Americans have sent money, tools and equipment, clothing, food, and water, have volunteered medical or other services, and otherwise helped in whatever manner they could.

"Perhaps most heartwarming of all, thousands of Americans have opened their homes to those who lost everything. I am particularly proud of my home state of Texas - where more than 250,000 of our neighbors sought shelter - and where virtually all of them have been able to find it," Cornyn said. "But just as America enjoys a culture of giving and volunteering, she also faces a culture of litigation. And this 'sue first, ask questions later' culture has produced an environment of fear that often gives pause to those who would otherwise wish to lend a helping hand."

On a related note, Sen. Cornyn introduced the Respirator Access Assurance Act (S. 1406), or 'RAAA," in July, which will further support disaster recovery efforts by ensuring availability of necessary respiratory protective devices. It would prevent liability from any claim for defective design or warning if the respirator has received approval from the appropriate government regulatory body, the National Institute for Occupational Safety and Health, or "NIOSH." The legislation would not in any way affect litigation relating to a device not manufactured in compliance with the NIOSH-approved design and labeling.

See below for a summary of the GIVE Act:

The GIVE Act

The Cornyn legislation offers a comprehensive solution to the fear of litigation that unnecessarily burdens volunteers and often prevents the provision of necessary goods and services to victims of national disasters and to all those in need.

It will provide protection for volunteers across the nation, particularly those working in response to National disasters such as 9/11 or Hurricane Katrina. Specifically, the GIVE Act will provide that:

* Disaster relief volunteers, generally, are not liable for harm caused in carrying out their volunteer activities in connection with disaster relief unless their act or omission constitutes willful, knowing or reckless misconduct; * Medical and other professionals can volunteer their services for disaster relief services based on being licensed in their home state regardless of where the declared disaster occurred; * A disaster relief volunteer is protected from liability even if the volunteer is not working for a specific non profit organization; * Disaster relief volunteers can offer their services without subjecting their business partners or employers to liability; * Disaster relief volunteers are protected from punitive damages if actions are not willful, knowing or reckless, and non-economic damages are apportioned according to percentage of fault; * Non-profit organizations are not liable for the acts or omissions of their volunteers unless the organization has willfully disregarded or is recklessly indifferent to the safety of the individual harmed.
* All donors of goods or equipment - whether businesses, non-profits, or individuals - are not liable for harm caused by donating those items unless they acted with willful, knowing or reckless

misconduct; and * All litigation that proceeds despite any protections under this Act or under the Volunteer Protection Act requires a high level of specificity and documentation in the claim and a review by a judge that the claim raises - as a matter of law - a genuine issue of material fact.
* The provisions of the Act will not supercede existing provisions of state and federal law that may provide greater protections for volunteers and expressly allows states to opt-out from the provisions of this act.

Volunteerism Has Long Been Associated with America

"When an American asks for the cooperation of his fellow citizens, it is seldom refused; and I have often seen it afforded spontaneously, and with great good will." - Alexis de Tocqueville

* From its beginning, the United States has been a generous nation. As measured by financial contributions, giving by Americans is at an all-time high - totaling almost $250 Billion in 2004 - a 5 percent increase over the previous year. The chair of Giving USA notes that "about 70 to 80 percent of Americans contribute annually to at least one charity."
* Every year, millions of Americans volunteer their time and their own personal services to charity - in soup kitchens, in schools, at health clinics and wherever there is need.
* In the wake of the devastation caused by Hurricane Katrina, we have seen America's charitable spirit shine more than ever before. In the short time since the Hurricane hit the Gulf Coast, Americans have given more than $600 million to disaster relief efforts, sent needed supplies and opened their doors to those who have lost everything.
* Millions of Americans wish to donate food, send badly needed tools and equipment, contribute clothing, volunteer medical or other services and otherwise help in whatever manner they can when their neighbors face a national disaster like Katrina or 9/11.

Despite Some Protections Volunteers Face Risk of Liability and Litigation

* Eight years ago, the late Sen. Paul Coverdell (R-Ga.) sponsored and successfully worked to enact the Volunteer Protection Act of 1997 - legislation that protects Volunteers from many frivolous lawsuits. However, as helpful and well-intentioned as this legislation was, more needs to be done to sufficiently protect all those lending a hand to those in need.
* In response to Hurricane Katrina, the Red Cross and the Salvation Army have had difficulty coordinating efforts to set up emergency housing in private homes for evacuees, because of liability issues. - Quad City Times, September 20, 2005 * A jury in Milwaukee found the Catholic Archdiocese liable because a volunteer for a Catholic lay organization, driving her own car, ran a red light and caused an accident while delivering a statue of the Virgin Mary to an invalid person. Although the church does not direct the activities of this group, the jury decided the Archdiocese should pay $17 million to the victim. - Milwaukee Journal Sentinel, February 23, 2005 * In the midst of administering chest compressions to a dying woman several days after Hurricane Katrina struck, Dr. Mark N.
Perlmutter was ordered to stop by a federal official because he wasn't registered with the Federal Emergency Management Agency. "I begged him to let me continue," said Perlmutter, who left his home and practice as an orthopedic surgeon in Pennsylvania to come to Louisiana and volunteer to care for hurricane victims. "People were dying, and I was the only doctor on the tarmac where scores of non-responsive patients lay on stretchers. Two patients died in front of me... I asked him to let me stay until I was replaced by another doctor, but he refused. He said he was afraid of being sued."

Sen. Cornyn is a member of the following key Senate Committees: Armed Services; Judiciary; Budget; Small Business and Entrepreneurship; and Joint Economic. He is also the chairman of the subcommittees on Immigration, Border Security and Citizenship and Emerging Threats and Capabilities

subcommittees on Immigration, Border Security and Citizenship and Emerging Threats and Capabilities. He served previously as Texas Attorney General and Texas Supreme Court justice.

-30-

www.cornyn.senate.gov

[redacted]@judiciary-rep.senate.gov

From: [redacted]@judiciary-rep.senate.gov
Sent: Wednesday, September 21, 2005 7:49 PM
To: Gorsuch, Neil M; Seidel, Rebecca; Clinger, James H
Subject: Landrieu joined - and bill number is S.1747
Attachments: tmp.htm

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 21, 2005 7:52 PM
To: [redacted]@judiciary-rep.senate.gov'
Subject: RE: Landrieu joined - and bill number is S.1747

Congratulations!

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto:[redacted]judiciary-rep.senate.gov]
Sent: Wednesday, September 21, 2005 7:49 PM
To: Gorsuch, Neil M; Seidel, Rebecca; Clinger, James H
Subject: Landrieu joined - and bill number is S.1747

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Wednesday, September 21, 2005 7:54 PM
To:	Gorsuch, Neil M; Elwood, Courtney; Ullyot, Theodore; Hertling, Richard; Ansell, Frederick; Taylor, Jeffrey (OAG); McCallum, Robert (SMO); Bucholtz, Jeffrey (CIV)
Subject:	FW: Landrieu joined - and bill number is S.1747
Attachments:	tmp.htm

FYI

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
[mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Wednesday, September 21, 2005 7:49 PM
To: Gorsuch, Neil M; Seidel, Rebecca; Clinger, James H
Subject: Landrieu joined - and bill number is S.1747

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

[redacted]
Counsel
United States Senate Subcommittee on Immigration, Border Security and Citizenship
US Senator John Cornyn, Chairman
www.cornyn.senate.gov
[redacted]

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Wednesday, September 21, 2005 9:51 PM
To: Gunn, Currie (SMO); Reyes, Luis (SMO)
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject: RE: ASG Surplus

I am not much inclined to spend the money unless we need the stuff that we would be buying. I thought that we could shift money around to where it was needed like another component which has busted through its budget, as long as it was less than $500K. Tracy: Help!!!! Can't we figure out some way to get money to where it is needed. Robt.

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Wednesday, September 21, 2005 1:49 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: ASG Surplus

I did some checking after speaking with Neil. According to JCON the last blackberry upgrade was a courtesy of JCON. All blackberry upgrades now will be at the expense of the component. You have to make certain the blackberry selected is supported by JCON. The new blackberry that has been tested for the rollout is the 7250. I need to verify this information with the blackberry team then we can proceed. All other software and hardware upgrades are taken care of through JCON. We should also be able to upgrade and include the voice/phone feature on the blackberry.

We can also order 2 additional laptops for this office and possibly desktop scanners. I am willing as is I am sure Aloma & Deborah to have scanners hooked to their desktop. I cannot think of any other items that would be of a great expense to help with the surplus.

We can do a count and get the paperwork going on new blackberry's.

Currie

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 22, 2005 8:44 AM
To: McCallum, Robert (SMO); Gunn, Currie (SMO); Reyes, Luis (SMO)
Cc: Henke, Tracy (SMO)
Subject: RE: ASG Surplus

One thing that might be helpful is new blackberries. The ones we use now are about 2 generations older than those used by our colleagues in the litigating divisions (and that are in widespread use in private practice). Now, to be sure, new is not always better. But the new 'berries have some features that many like -- a built in phone that utilizes your contact address book so all of your contacts phone numbers are at hand and you don't need to carry a separate cell phone; one monthly bill for phone and berry usage (cheaper in the long run); they can be used abroad as well as domestically; they are smaller and more compact. Not everyone may want a new berry; some folks do prefer carrying separate cell and berries. But even if we all purchased new berries, the cost wouldn't be more than a few thousand dollars.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, September 21, 2005 9:51 PM
To: Gunn, Currie (SMO); Reyes, Luis (SMO)
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject: RE: ASG Surplus

I am not much inclined to spend the money unless we need the stuff that we would be buying. I thought that we could shift money around to where it was needed like another component which has busted through its budget, as long as it was less than $500K. Tracy: Help!!!! Can't we figure out some way to get money to where it is needed. Robt.

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Wednesday, September 21, 2005 1:49 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: ASG Surplus

I did some checking after speaking with Neil. According to JCON the last blackberry upgrade was a courtesy of JCON. All blackberry upgrades now will be at the expense of the component. You have to make certain the blackberry selected is supported by JCON. The new blackberry that has been tested for the rollout is the 7250. I need to verify this information with the blackberry team then we can proceed. All other software and hardware upgrades are taken care of through JCON. We should also be able to upgrade and include the voice/phone feature on the blackberry.

We can also order 2 additional laptops for this office and possibly desktop scanners. I am willing as is I am sure Aloma & Deborah to have scanners hooked to their desktop. I cannot think of any other items that would be of a great expense to help with the surplus.

We can do a count and get the paperwork going on new blackberry's.

Currie

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 22, 2005 8:49 AM
To: Elwood, Courtney
Subject: RE: BRAC developments

I haven't heard from you on this recently and wanted to check in. Folks really worked hard and recognition of that in some appropriate way would be great.

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, September 13, 2005 1:36 PM
To: Nichols, Carl (CIV)
Cc: Gorsuch, Neil M
Subject: Re: BRAC developments

I actually thght of this on my way to work this am, and I meant to discuss with you when I saw you today. I am glad you raised it. How many people are on the team? Do you have any suggestions?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 13 13:23:59 2005
Subject: RE: BRAC developments

Courtney:
Now that we have some breathing room on these cases -- which resulted in several outstanding victories that permitted the transmission of the Report to the President and, hopefully, the transmission by the President to Congress of a "pure" Report (i.e., one unaffected by litigation) -- I wanted to raise w/ you whether there is anything that can be done to recognize the extraordinary effort of the team. Thanks, Carel

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, September 02, 2005 8:49 AM
To: Nichols, Carl (CIV)
Subject: RE: BRAC developments

Yes, but they deserve recognition for their efforts once this is over. Just remind me and I'll see what we can do

we can do.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Friday, September 02, 2005 8:44 AM
To: Elwood, Courtney
Subject: RE: BRAC developments

They are working around-the-clock, but it's pretty exciting stuff, and it's clear that the craziness can only last so long, so it's not the worst thing in the world.

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, September 02, 2005 6:00 AM
To: Nichols, Carl (CIV)
Subject: Re: BRAC developments

This sounds miserable for you and your team -- just before the holiday weekend. We'll have to think of something nice to do for folks once this is over.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
To: Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Ullyot, Theodore <Theodore.Ullyot@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 21:31:55 2005
Subject: Fw: BRAC developments

FYI

-----Original Message-----
From: Tannenbaum, Andrew (CIV) <ATannenb@CIV.USDOJ.GOV>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>; Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>; Kopp, Robert (CIV) <RKopp@CIV.USDOJ.GOV>; Letter, Douglas (CIV) <DLetter@CIV.USDOJ.GOV>; Byron, H. Thomas (CIV) <HByron@CIV.USDOJ.GOV>; Hunt, Jody (CIV) <JHunt@CIV.USDOJ.GOV>; Garvey, Vincent (CIV) <VGarvey@CIV.USDOJ.GOV>; Lepore, Matthew (CIV) <MLepore@CIV.USDOJ.GOV>; Meron, Daniel (CIV) <DMeron@CIV.USDOJ.GOV>; McIntosh, Scott (CIV) <smcintos@CIV.USDOJ.GOV>; Stewart, Malcolm L <Malcolm.L.Stewart@SMOJMD.USDOJ.gov>; Hungar, Thomas G <Thomas.G.Hungar@SMOJMD.USDOJ.gov>; Haas, Alexander (CIV) <AHaas@CIV.USDOJ.GOV>; Smith, Jeffrey (CIV) <jesmith@CIV.USDOJ.GOV>
Sent: Thu Sep 01 18:11:04 2005
Subject: BRAC developments

Briefs in CT and TN have been filed, and are attached. We received TRO/PI papers from IL, which I will forward, and the judge in that case has already set a TRO hearing for 10 a.m. Central Time tomorrow. We also have a TRO hearing in the TN case tomorrow at 9 a.m. Central Time. We had a status call with the court in MO this morning, and the judge asked that we try to file our PI opposition by COB tomorrow, and she may conduct a phone argument on Tuesday if she finds it necessary. CT PI hearing is still scheduled for Wed.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 22, 2005 8:54 AM
To: McCallum, Robert (SMO); Gunn, Currie (SMO); Reyes, Luis (SMO)
Cc: Henke, Tracy (SMO)
Subject: RE: ASG Surplus

I've only been a user of both the new and old versions and am certainly no techno guru - Lu and Curry do you know a guru?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Thursday, September 22, 2005 8:52 AM
To: Gorsuch, Neil M; Gunn, Currie (SMO); Reyes, Luis (SMO)
Cc: Henke, Tracy (SMO)
Subject: RE: ASG Surplus

If new ones are "better" and not just newer, then let's do it. Who is our techno guru on such value judgments? Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 22, 2005 8:44 AM
To: McCallum, Robert (SMO); Gunn, Currie (SMO); Reyes, Luis (SMO)
Cc: Henke, Tracy (SMO)
Subject: RE: ASG Surplus

+One thing that might be helpful is new blackberries. The ones we use now are about 2 generations older than those used by our colleagues in the litigating divisions (and that are in widespread use in private practice). Now, to be sure, new is not always better. But the new 'berries have some features that many like -- a built in phone that utilizes your contact address book so all of your contacts phone numbers are at hand and you don't need to carry a separate cell phone; one monthly bill for phone and berry usage (cheaper in the long run); they can be used abroad as well as domestically; they are smaller and more compact. Not everyone may want a new berry; some folks do prefer carrying separate cell and berries. But even if we all purchased new berries, the cost wouldn't be more than a few thousand dollars.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, September 21, 2005 9:51 PM
To: Gunn, Currie (SMO); Reyes, Luis (SMO)
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject: RE: ASG Surplus

I am not much inclined to spend the money unless we need the stuff that we would be buying. I thought that we could shift money around to where it was needed like another component which has busted through its budget, as long as it was less than $500K. Tracy: Help!!!! Can't we figure out some way to get money to where it is needed. Robt.

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Wednesday, September 21, 2005 1:49 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: ASG Surplus

I did some checking after speaking with Neil. According to JCON the last blackberry upgrade was a courtesy of JCON. All blackberry upgrades now will be at the expense of the component. You have to make certain the blackberry selected is supported by JCON. The new blackberry that has been tested for the rollout is the 7250. I need to verify this information with the blackberry team then we can proceed. All other software and hardware upgrades are taken care of through JCON. We should also be able to upgrade and include the voice/phone feature on the blackberry.

We can also order 2 additional laptops for this office and possibly desktop scanners. I am willing as is I am sure Aloma & Deborah to have scanners hooked to their desktop. I cannot think of any other items that would be of a great expense to help with the surplus.

We can do a count and get the paperwork going on new blackberry's.

Currie

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Thursday, September 22, 2005 8:55 AM
To: Gorsuch, Neil M
Subject: Read: ASG Surplus

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 22, 2005 8:55 AM
To: Elwood, Courtney
Subject: RE: BRAC developments

I'm glad to hear this and just wanted to touch base to make sure we didn't let it drop off the radar screen.

-----Original Message-----
From: Elwood, Courtney
Sent: Thursday, September 22, 2005 8:53 AM
To: Gorsuch, Neil M
Subject: Re: BRAC developments

We had the team up to meet with the AG -- last Friday, I believe. I think you weren't at the morning mtg when I mentioned it to Robert. Thanks for following up. And sorry I didn't get you the word.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Thu Sep 22 08:48:53 2005
Subject: RE: BRAC developments

I haven't heard from you on this recently and wanted to check in. Folks really worked hard and recognition of that in some appropriate way would be great.

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, September 13, 2005 1:36 PM
To: Nichols, Carl (CIV)
Cc: Gorsuch, Neil M
Subject: Re: BRAC developments

I actually thght of this on my way to work this am, and I meant to discuss with you when I saw you today. I am glad you raised it. How many people are on the team? Do you have any suggestions?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----

-----Original Message-----
From: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 13 13:23:59 2005
Subject: RE: BRAC developments

Courtney:
Now that we have some breathing room on these cases -- which resulted in several outstanding victories that permitted the transmission of the Report to the President and, hopefully, the transmission by the President to Congress of a "pure" Report (i.e., one unaffected by litigation) -- I wanted to raise w/ you whether there is anything that can be done to recognize the extraordinary effort of the team. Thanks, Carel

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, September 02, 2005 8:49 AM
To: Nichols, Carl (CIV)
Subject: RE: BRAC developments

Yes, but they deserve recognition for their efforts once this is over. Just remind me and I'll see what we can do.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Friday, September 02, 2005 8:44 AM
To: Elwood, Courtney
Subject: RE: BRAC developments

They are working around-the-clock, but it's pretty exciting stuff, and it's clear that the craziness can only last so long, so it's not the worst thing in the world.

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, September 02, 2005 6:00 AM
To: Nichols, Carl (CIV)
Subject: Re: BRAC developments

This sounds miserable for you and your team -- just before the holiday weekend. We'll have to think of something nice to do for folks once this is over.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
To: Yanes, Raul <Raul.Yanes@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Ullyot, Theodore

<Theodore.Ullyot@SMOJMD.USDOJ.gov>
Sent: Thu Sep 01 21:31:55 2005
Subject: Fw: BRAC developments

FYI

-----Original Message-----
From: Tannenbaum, Andrew (CIV) <ATannenb@CIV.USDOJ.GOV>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>; Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>; Kopp, Robert (CIV) <RKopp@CIV.USDOJ.GOV>; Letter, Douglas (CIV) <DLetter@CIV.USDOJ.GOV>; Byron, H. Thomas (CIV) <HByron@CIV.USDOJ.GOV>; Hunt, Jody (CIV) <JHunt@CIV.USDOJ.GOV>; Garvey, Vincent (CIV) <VGarvey@CIV.USDOJ.GOV>; Lepore, Matthew (CIV) <MLepore@CIV.USDOJ.GOV>; Meron, Daniel (CIV) <DMeron@CIV.USDOJ.GOV>; McIntosh, Scott (CIV) <smcintos@CIV.USDOJ.GOV>; Stewart, Malcolm L <Malcolm.L.Stewart@SMOJMD.USDOJ.gov>; Hungar, Thomas G <Thomas.G.Hungar@SMOJMD.USDOJ.gov>; Haas, Alexander (CIV) <AHaas@CIV.USDOJ.GOV>; Smith, Jeffrey (CIV) <jesmith@CIV.USDOJ.GOV>
Sent: Thu Sep 01 18:11:04 2005
Subject: BRAC developments

Briefs in CT and TN have been filed, and are attached. We received TRO/PI papers from IL, which I will forward, and the judge in that case has already set a TRO hearing for 10 a.m. Central Time tomorrow. We also have a TRO hearing in the TN case tomorrow at 9 a.m. Central Time. We had a status call with the court in MO this morning, and the judge asked that we try to file our PI opposition by COB tomorrow, and she may conduct a phone argument on Tuesday if she finds it necessary. CT PI hearing is still scheduled for Wed.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, September 22, 2005 9:00 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO); Gunn, Currie (SMO)
Cc: Henke, Tracy (SMO)
Subject: Re: ASG Surplus

Ken Zwick has expertise in both tech side and cost effectiveness. Will get his opinion.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
CC: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
Sent: Thu Sep 22 08:54:05 2005
Subject: RE: ASG Surplus

I've only been a user of both the new and old versions and am certainly no techno guru - Lu and Curry do you know a guru?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Thursday, September 22, 2005 8:52 AM
To: Gorsuch, Neil M; Gunn, Currie (SMO); Reyes, Luis (SMO)
Cc: Henke, Tracy (SMO)
Subject: RE: ASG Surplus

If new ones are "better" and not just newer, then let's do it. Who is our techno guru on such value judgments? Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 22, 2005 8:44 AM
To: McCallum, Robert (SMO); Gunn, Currie (SMO); Reyes, Luis (SMO)
Cc: Henke, Tracy (SMO)
Subject: RE: ASG Surplus

+One thing that might be helpful is new blackberries. The ones we use now are about 2 generations older than those used by our colleagues in the litigating divisions (and that are in widespread use in private practice). Now, to be sure, new is not always better. But the new 'berries have some features that many like -- a built in phone that utilizes your contact address book so all of your contacts phone numbers are at hand and you don't need to carry a separate cell phone; one monthly bill for phone and berry usage (cheaper in the long run); they can be used abroad as well as domestically; they are smaller and more compact. Not everyone may want a new berry; some folks do prefer carrying

separate cell and berries. But even if we all purchased new berries, the cost wouldn't be more than a few thousand dollars.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, September 21, 2005 9:51 PM
To: Gunn, Currie (SMO); Reyes, Luis (SMO)
Cc: Gorsuch, Neil M; Henke, Tracy (SMO)
Subject: RE: ASG Surplus

I am not much inclined to spend the money unless we need the stuff that we would be buying. I thought that we could shift money around to where it was needed like another component which has busted through its budget, as long as it was less than $500K. Tracy: Help!!!! Can't we figure out some way to get money to where it is needed. Robt.

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Wednesday, September 21, 2005 1:49 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: ASG Surplus

I did some checking after speaking with Neil. According to JCON the last blackberry upgrade was a courtesy of JCON. All blackberry upgrades now will be at the expense of the component. You have to make certain the blackberry selected is supported by JCON. The new blackberry that has been tested for the rollout is the 7250. I need to verify this information with the blackberry team then we can proceed. All other software and hardware upgrades are taken care of through JCON. We should also be able to upgrade and include the voice/phone feature on the blackberry.

We can also order 2 additional laptops for this office and possibly desktop scanners. I am willing as is I am sure Aloma & Deborah to have scanners hooked to their desktop. I cannot think of any other items that would be of a great expense to help with the surplus.

We can do a count and get the paperwork going on new blackberry's.

Currie

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, September 22, 2005 9:00 AM
To: Gorsuch, Neil M
Subject: Read: ASG Surplus

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, September 22, 2005 9:04 AM
To: Gorsuch, Neil M
Subject: Read: ASG Surplus

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Thursday, September 22, 2005 9:05 AM
To: Gorsuch, Neil M
Subject: Read: ASG Surplus

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Thursday, September 22, 2005 9:22 AM
To: Gorsuch, Neil M
Subject: Read: ASG Surplus

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Thursday, September 22, 2005 9:23 AM
To: Gorsuch, Neil M
Subject: Read: ASG Surplus

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 22, 2005 11:52 AM
To: Senger, Jeffrey M
Subject: RE: Civil Justice Stats

Will do as soon as I hear back from them.

-----Original Message-----
From: Senger, Jeffrey M
Sent: Thursday, September 22, 2005 11:44 AM
To: Gorsuch, Neil M
Subject: Civil Justice Stats

Hi, Neil. I checked my calendar for dates for lunch with the Chamber of Commerce folks, and I could do it October 3, 4, 6, 11, 12, or 13. Let me know what works for you. I have also left a message for [redacted] for times he could do a conference call.
Jeff

Shaw, Aloma A

Subject:	Indian Water Rights
Location:	Conference Call w/ Raul Yanes
Start:	Thursday, September 22, 2005 4:00 PM
End:	Thursday, September 22, 2005 4:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Kessler, Elizabeth A

When: Thursday, September 22, 2005 4:00 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Conference Call w/ Raul Yanes

~~*~*~*~*~*~*~*~*~*

Raul will call the main office number.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 22, 2005 5:05 PM
To: '[redacted]@opm.gov'
Subject: RE: Lunch

[redacted] It's on my calendar and I'm looking forward to it (though understand entirely if you need to reschedule). Shall we meet in the lobby? Best, Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: [redacted]@opm.gov [mailto:[redacted]@opm.gov]
Sent: Thursday, September 22, 2005 4:05 PM
To: Gorsuch, Neil M
Subject: Lunch

Neil - are we still on for lunch tomorrow? My calendar says noon at University Club on 16th Street. If this isn't good we can reschedule at your convenience.

[redacted]

General Counsel

U.S. Office of Personnel Management

Tel: [redacted]

Fax: (202) 606-2609

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
----------ro

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 22, 2005 5:15 PM
To: '[redacted]@src.senate.gov'
Subject: Re: CRS for GULF

I shall make sure this suggestion is considered. Thanks.

-----Original Message-----
From: [redacted]@src.senate.gov <[redacted]@src.senate.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Elizabeth_A._Sykes@who.eop.gov <Elizabeth_A._Sykes@who.eop.gov>
Sent: Tue Sep 20 11:05:42 2005
Subject: RE: CRS for GULF

One comment--If I didn't know she and her team were down there doing what they do then I bet no one else does either. There ought to be a press conference down there showcasing what CRS does and what the are specifically doing there. THe Dems ALWAYS use CRS against us--we can turn the tables here. CRS should be front and ceneter in terms of publicity--also because the folks down there need to know that CRS is available to them.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, September 19, 2005 7:57 PM
To: [redacted](Republican-Conf); Elizabeth_A._Sykes@who.eop.gov
Subject: Re: CRS for GULF

Sharee and her whole team have been deployed to the gulf and are basically living down there now, working hand in hand with FEMA, with the Department's full support. If there is more we can do, though, I know we would like to do it. NMG

-----Original Message-----
From: [redacted]@src.senate.gov <[redacted]@src.senate.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Elizabeth_A._Sykes@who.eop.gov <Elizabeth_A._Sykes@who.eop.gov>
Sent: Mon Sep 19 18:38:57 2005
Subject: CRS for GULF

Neil and Tevi,

Sherry Freeman is a terrific political appointee at DOJ where she heads up the Community Relations Service which has historically been THE major outreach effort by DOJ. The more I read about this, the

service which has historically been THE major outreach effort by DOJ. The more I read about this, the more I hear about it from our African-American constituency, the more I am convinced that the President or Claude Allen must take Sherry [redacted] and her folks down there to help file down the hard political edges. She is in a perfect position and our team doesn't use her enough.

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 22, 2005 5:17 PM
To: Moschella, William
Subject: When do you think

Tim F will be on floor?

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, September 22, 2005 5:18 PM
To: Kessler, Elizabeth A; Gorsuch, Neil M
Subject: OMB Bi-Weekly Meetings

Neil & Liz:
I spoke to Carla regarding the bi-weekly meetings/conference calls with OMB. She wasn't sure if Raul would continue as Jennifer did, so if either of you hear anything, let me know. The next meeting/conference call is set for tomorrow at 2:30. I'm assuming this will be canceled.
Aloma

Prestes, Brian

From: Prestes, Brian
Sent: Thursday, September 22, 2005 6:16 PM
To: Gorsuch, Neil M
Cc: Marshall, C. Kevin
Subject: Talking points on detainee legislation
Attachments: McCain DOD Interrogation Bill - Talkers (9-02-05) (FINAL).doc; McCain CID Bill - Talkers (9-02-05) (FINAL).doc

Neil,

Attached are talking points that we previously prepared on Sen. McCain's detainee amendments (1556 and 1557) to S. 1042.

Regards,

Brian S. Prestes
Office of Legal Counsel
United States Department of Justice
(202) 305-8918

"PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT"
(AMENDMENT NO. 1556 OFFERED BY SEN. McCAIN TO S. 1042)

Talking Points:

- **The Administration is committed to complying with all of its constitutional, statutory, and treaty obligations that apply to U.S. treatment of detainees.**
    - **The Convention Against Torture** requires the U.S. to (a) ensure that torture is a crime under U.S. laws when committed anywhere by a U.S. national, and (b) undertake to prevent in any territory under its jurisdiction acts of "cruel, inhuman or degrading treatment or punishment" as defined in the U.S. reservation.
    - **Treatment of detainees is also subject to other treaties and statutes**, which, depending on the circumstances, include the Geneva Conventions, the War Crimes Act, the Uniform Code of Military Justice, and various provisions of the federal criminal code, including the torture statute, as well as the general crimes of assault, maiming, murder, and manslaughter.
- **The President has directed that, as a matter of policy, the U.S. Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.**
- **The Administration is committed to investigating and punishing abuses of detainees.** In Iraq and Afghanistan, courts-martial have delivered swift justice to service members who abused detainees.
- **Within the limits of the law, the U.S. has adopted interrogation practices that have effectively detected and disrupted terrorist attacks against the U.S. and its allies.**
- **The amendment can only interfere with protecting the American people by restricting the President's ability to conduct war effectively under existing law.**

Summary of Legislation:

- This amendment prohibits "cruel, inhuman, or degrading treatment" of any individual, "regardless of nationality or physical location," under U.S. custody or control.
    - It defines "cruel, inhuman, or degrading treatment" by reference to the U.S. reservation to the Convention Against Torture.
    - It provides that "[n]othing in this section shall not [*sic*] be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section."
- This amendment provides for waiver by the President upon notice to specified committees of Congress.

"UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE"
(AMENDMENT NO. 1557 OFFERED BY SEN. McCAIN TO S. 1042)

Talking Points:

- **The Administration is committed to complying with all of its constitutional, statutory, and treaty obligations that apply to U.S. interrogation practices.**
    - **The Convention Against Torture** requires the U.S. to (a) ensure that torture is a crime under U.S. laws when committed anywhere by a U.S. national, and (b) undertake to prevent in any territory under its jurisdiction acts of "cruel, inhuman or degrading treatment or punishment" as defined in the U.S. reservation.
    - **DOD interrogation practices are also subject to numerous other treaties and statutes**, which, depending on the circumstances, include the Geneva Conventions, the War Crimes Act, the Uniform Code of Military Justice, and various provisions of the federal criminal code, including the torture statute as well as the general crimes of assault, maiming, murder, and manslaughter.
- **The President has directed that, as a matter of policy, the U.S. Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.**
- **The Administration is committed to investigating and punishing interrogation abuses.** In Iraq and Afghanistan, courts-martial have delivered swift justice to service members who abused detainees.
- **Within the limits of the law, the U.S. has adopted interrogation practices that have effectively detected and disrupted terrorist attacks against the U.S. and its allies.**
- **By tying DOD interrogation techniques to those in the Army Field Manual, the amendment straightjackets our Armed Forces and precludes them from using humane interrogation techniques that would otherwise be plainly lawful.**
- **The amendment can only interfere with protecting the American people by restricting the President's ability to conduct war effectively under existing law.**

Summary of Legislation:

- The amendment provides that no person under DOD custody shall be subject to "any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation." It does not apply to those under DOD control pursuant to U.S. criminal or immigration law.

Moschella, William

From: Moschella, William
Sent: Thursday, September 22, 2005 7:35 PM
To: Gorsuch, Neil M
Subject: RE: When do you think

I don't know. Specter is pissed at us right now.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 22, 2005 5:17 PM
To: Moschella, William
Subject: When do you think

Tim F will be on floor?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 22, 2005 8:44 PM
To: Moschella, William
Subject: Re: When do you think

Robert was just curious if you had any guesstimate. Thanks.

-----Original Message-----
From: Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Sep 22 19:35:00 2005
Subject: RE: When do you think

I don't know. Specter is pissed at us right now.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 22, 2005 5:17 PM
To: Moschella, William
Subject: When do you think

Tim F will be on floor?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 23, 2005 7:48 AM
To: Bucholtz, Jeffrey (CIV)
Subject: RE: FDLI speech this past Tue.

Thanks, as you know, I enjoyed reading this.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Thursday, September 22, 2005 9:58 PM
To: Coleman, Tim (ODAG); Sheldon T. Bradshaw (E-mail); Gorsuch, Neil M; Weidenfeld, Paul (USAEO); Thirolf, Eugene
Subject: FDLI speech this past Tue.

All: Not that I'm expecting any of you actually to read it, but just in case it might be helpful to you to have a copy of the speech I gave at the FDLI conference here two days ago, it's attached. (This version is what I actually said. It's not very different from the version I circulated in advance, but I did shorten, rearrange, and edit a bit.)

Jeff

<< File: FDLI Sept 20 speech.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 23, 2005 8:03 AM
To: Marc_Kesselman (E-mail); Allyson Ho (E-mail); [redacted] (E-mail)
Cc: Bucholtz, Jeffrey (CIV)
Subject: quick volunteer legislation update

As some of you may know, Sen. Cornyn introduced our bill -- with several additional provisions that strengthen liability protection for volunteers -- and has attracted Sens. Landrieu, Vitter, Grassley, Thune, Hutchinson, and Lott as co-sponsors. It's bill no. S 1747. The House version is being carried by Cong. Sensenbrenner and is much closer to our draft.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 23, 2005 8:09 AM
To: Prestes, Brian
Cc: Marshall, C. Kevin
Subject: RE: Talking points on detainee legislation

Thanks very much

-----Original Message-----
From: Prestes, Brian
Sent: Thursday, September 22, 2005 6:16 PM
To: Gorsuch, Neil M
Cc: Marshall, C. Kevin
Subject: Talking points on detainee legislation

Neil,

Attached are talking points that we previously prepared on Sen. McCain's detainee amendments (1556 and 1557) to S. 1042.

<< File: McCain DOD Interrogation Bill - Talkers (9-02-05) (FINAL).doc >> << File: McCain CID Bill - Talkers (9-02-05) (FINAL).doc >>

Regards,

Brian S. Prestes
Office of Legal Counsel
United States Department of Justice
(202) 305-8918

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 23, 2005 8:11 AM
To: Marshall, C. Kevin
Subject: RE:

Thanks very much

-----Original Message-----
From: Marshall, C. Kevin
Sent: Thursday, September 22, 2005 5:32 PM
To: Gorsuch, Neil M
Subject: FW:

Neil: These look to match the versions we have from before and should be considered more current than what DOD gave you.

-----Original Message-----
From: Owen, Peter B
Sent: Thursday, September 22, 2005 3:24 PM
To: Marshall, C. Kevin
Subject: FW:

Kevin,

These are the latest versions on Thomas. We are not aware of any other versions that are more authoritative.

Peter

-----Original Message-----
From: Chambers, Shane P
Sent: Thursday, September 22, 2005 3:09 PM
To: Owen, Peter B
Subject:

<< File: McCain's 1557.doc >> << File: McCain's 1556.doc >>

Shane P. Chambers
Office of Legislative Affairs
U.S. Department of Justice
Washington, D.C. 20530
(phone) 202.616.5637
(fax) 202.305.2643

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 23, 2005 9:37 AM
To: Brand, Rachel
Subject: BIA appeals

can I have a few minutes of your time to talk about how we do (or do not) review BIA appeals for the AG? it's an issue that's emerged in the last week and I suspect you have given it some thought already. thanks. nmg

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 23, 2005 9:43 AM
To: Shaw, Aloma A
Subject: RE: Car to University Club

thanks

-----Original Message-----
From: Shaw, Aloma A
Sent: Friday, September 23, 2005 9:41 AM
To: Gorsuch, Neil M
Subject: Car to University Club

The motorpool is not sure they can accommodate you at 11:45, however, they confirmed the 1:15 pickup. They have only two drivers today. If anything changes, they will give me a call.

Beach, Andrew

Subject:	Updated: Senior Management Meeting
Start:	Thursday, October 6, 2005 8:30 AM
End:	Thursday, October 6, 2005 8:50 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia

When: Thursday, October 06, 2005 8:30 AM-8:50 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Tasia Scolinos, Courtney Elwood, Neil Gorsuch, Bill Mercer, Jeff Oldham, Martha Pacold

Beach, Andrew

Subject:	Updated: Component Coordination Meeting
Start:	Thursday, October 6, 2005 8:50 AM
End:	Thursday, October 6, 2005 9:10 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Moschella, William; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia

When: Thursday, October 06, 2005 8:50 AM-9:10 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Jeff Taylor, Courtney Elwood, Tasia Scolinos, Bill Mercer, Neil Gorsuch, Jeff Oldham, Martha Pacold, Rachel Brand, Jan Williams, Will Moschella, Crystal Roberts

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 23, 2005 1:29 PM
To: Seidel, Rebecca; Bucholtz, Jeffrey (CIV); Hertling, Richard; Ansell, Frederick
Cc: Clinger, James H
Subject: RE: HOUSE - Disaster Relief Volunteer Protection Act

330 works fine for me

-----Original Message-----
From: Seidel, Rebecca
Sent: Friday, September 23, 2005 1:22 PM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV); Hertling, Richard; Ansell, Frederick
Cc: Clinger, James H
Subject: FW: HOUSE - Disaster Relief Volunteer Protection Act

Hey folks, I had started this email this morning and then got interrupted (big surprise). Are folks available around 3:30 to discuss with [redacted]? or perhaps we don't need to discuss if you all review and have a cohesive response for me to send him that would be great. See below from [redacted].

Jeff - to follow up on the call I had with you yesterday (Neil, this is what I called you about too) - [redacted] is still intent on having the House bill only focus on Disaster relief. [redacted] understands that our draft already protects organizations from vicarious liability, however, [redacted] thinks we need to have the same exception from that protection as they did in the VPA bill that passed by voice vote, for parrallell reference/ease of passage/better talking points. Please see below with [redacted]s discussion and [redacted] suggested edits and let me know your thoughts. Sorry I didn't send this earlier - is it possible for us to wrap up today? [redacted] needs to provide final draft to [redacted] higher ups before the weekend.

thanks for your help - sorry it is Friday!

-----Original Message-----
From: [redacted]@mail.house.gov [mailto:[redacted]@mail.house.gov]
Sent: Friday, September 23, 2005 9:29 AM
To: Seidel, Rebecca
Subject: FW: Disaster Relief Volunteer Protection Act

Rebecca, in order to maximize the chances that a more comprehensive disaster relief volunteer protection bill will pass the House with a strong majority, I think the language should be tweaked to do pretty much exactly what HR 3736 did (and remember we have the powerful precedent in that HR 3736 passed that House by VOICE VOTE), namely protect all volunteers (be they individuals, organizations, or other entities) from liability but only when the actions of such individuals, organizations, or other entities do not rise to the level of willful, wanton, or reckless misconduct.

Attached here is the text we all agreed on on Monday. It contains a "willful, wanton, and reckless" standard for volunteers themselves, and for governmental and intergovernmental entities. I think it best to simply amend the text we agreed on to apply that same standard as well to employers or partners of disaster relief volunteers (in subsection (b)) and also to host or enabling persons, entities, or organizations (in subsection (c)).
Why? First (again), because the concept of subjecting all entities to a willful, wanton, and reckless standard has already passed the House in HR 3736 by voice vote. Second, the base text attached here (without the amendments I propose below) subject us to the hostile argument that the bill as written gives employers and host organizations a complete free pass on liability EVEN IF SUCH EMPLOYERS AND HOST ORGANIZATIONS REQUIRE THEIR EMPLOYEES OR HOSTED VOLUNTEERS TO ACT UNDER POLICIES THAT CONSTITUTE WILLFUL, WANTON, AND RECKLESS MISCONDUCT. The "parade of horribles" opponents would come up with would be something along the lines of an imagined Red Cross policy that states "If a Red Cross worker sees a person who seems like they're about to die anyway, go ahead and kill them because they're just a distraction from saving other victims." I think you get the gist. Also, I would think that the protection of a "willful, wanton, and reckless misconduct" exception still gives employers and host organizations very significant protection from liability.

So, what do folks over at DOJ think of the following proposed amendments to the base text (which is attached to this email)?

At page 5, line 16, insert "injury (including personal injury, property damage or loss, and death) caused by an" after "any".

At page 5, line 18, insert "if the injury was not caused by willful, wanton, or reckless misconduct by such employer or business partner" after "services".

At page 5, line 24, insert "injury (including personal injury, property damage or loss, and death) caused by an" after "any".

At page 6, line 2, insert "if the injury was not caused by willful, wanton, or reckless misconduct by such person or entity" after "services".

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Friday, September 23, 2005 2:16 PM
To:	Shaw, Aloma A
Subject:	FW: President's Economic Adjustment Committee (EAC) Meeting Agenda & Reminder for 10/17 at 1:00 pm
Attachments:	tmp.htm; EAC Meeting Agenda 10-17-05.doc
Importance:	High

please can you calendar this?

-----Original Message-----
From: [redacted]@wso.whs.mil [mailto[redacted]@wso.whs.mil]
Sent: Friday, September 23, 2005 2:09 PM
To: [redacted]M; Gorsuch, Neil M; [redacted]@achp.gov;
[redacted]@mail.va.gov; [redacted]@mail.va.gov; [redacted]
DHS); [redacted]@ios.doi.gov; gblank@cea.eop.gov;
[redacted]@gsa.gov [redacted]@hhs.gov [redacted]@osd.mil;
[redacted]@hq.doe.gov; [redacted]@ed.gov; [redacted]@opm.gov;
[redacted]@hud.gov [redacted]@sba.gov;
Ruben_S._Barrales@who.eop.gov; [redacted]@state.gov;
[redacted]usda.gov [redacted]@eda.doc.gov [redacted]@cdfi.treas.gov;
[redacted]@epa.gov [redacted]@dol.gov; [redacted]@dot.gov;
[redacted]@osd.mil [redacted]@gsa.gov; [redacted]@osd.mil;
[redacted]@usps.gov; [redacted]@dol.gov;
[redacted]@faa.gov; [redacted]@dol.gov [redacted]@ios.doi.gov;
[redacted]DHS); [redacted]@wdc.usda.gov [redacted]@opm.gov;
[redacted]@sba.gov; Kathryn_E._Rust@who.eop.gov;
[redacted]@eda.doc.gov; sdaigle@cea.eop.gov; [redacted]@dol.gov;
[redacted]@dol.gov [redacted]@usda.gov;
[redacted]@va.gov [redacted]@ed.gov; [redacted]@hud.gov;
[redacted]@ed.gov; [redacted]@gsa.gov [redacted]@ios.doi.gov;
[redacted]@faa.gov [redacted]@marad.dot.gov;
[redacted]@ed.gov [redacted]@hq.doe.gov;
[redacted]@osd.mil; [redacted]@usda.gov;
[redacted]@wso.whs.mil; [redacted]@eda.doc.gov;
dfalaschetti@cea.eop.gov; John_G._Burke@who.eop.gov;
[redacted]@sba.gov [redacted]@va.gov; [redacted](DHS);
[redacted]@achp.gov; [redacted]@opm.gov [redacted]@hud.gov;
[redacted]@mail.va.gov; [redacted]@hhs.gov; [redacted]@dol.gov;
[redacted]@faa.gov; [redacted]@faa.gov;
[redacted]@wso.whs.mil; [redacted]@ed.gov;
[redacted]@gsa.gov [redacted]@fta.dot.gov;
[redacted]@fhwa.dot.gov [redacted]@dot.gov;
[redacted]@usps.gov; Terrence_Blackburne@omb.eop.gov;
[redacted]@state.gov [redacted]@state.gov [redacted]@epa.gov

Subject: President's Economic Adjustment Committee (EAC) Meeting Agenda
& Reminder for 10/17 at 1:00 pm
Importance: High

OLE_LINK1Agenda and Reminder

The President's Economic Adjustment Committee (EAC) will convene with the Advisory and Working Group Members on Monday, October 17, from 1:00pm-3:00pm, in the Horizon Room of the Ronald Reagan Building/International Trade Center, located at 1300 Pennsylvania Avenue, Washington, D.C. (on the Metro Orange/Blue Line at Federal Triangle Station). The meeting Agenda is attached.

Please note that during the Federal Agency Roundtable portion of the Agenda, Federal Agencies are invited to briefly comment on BRAC 05 preparations and activities to date, and to identify specific topics and issues that the EAC should undertake.

A staff member from the Office of Economic Adjustment will be contacting you to confirm your attendance plans. In addition, questions concerning the EAC meeting may be addressed to [redacted]

Thank you for your support of the President's Economic Adjustment Program.
We look forward to seeing you on October 17, 2005.

[redacted]
Project Manager
Office of Economic Adjustment
Office of the Secretary of Defense
400 Army Navy Drive, Suite 200
Arlington, Virginia 22202-4704
Phone: [redacted]
Website: www.oea.gov <http://www.oea.gov/>

This e-mail message may contain confidential and/or privileged information.
If you are not an addressee or otherwise authorized to receive this message, you should not use, copy, disclose or take any action based on this e-mail or any information contained in the message. If you have received this material in error, please advise the sender immediately by reply e-mail and delete this message

this message.

THE PRESIDENT'S
ECONOMIC ADJUSTMENT COMMITTEE

ADVISORY &
WORKING GROUP MEETING

OCTOBER 17, 2005
1:00pm – 3:00pm

HORIZON ROOM
Ronald Reagan Building / International Trade Center
1300 Pennsylvania Avenue
Washington, D.C. 20004

AGENDA

- **Welcome and Introductions – DoD, DoC & DoL**
- **BRAC 05 Overview – DoD**
- **Department of Labor BRAC Response – DoL**
- **Defense Economic Adjustment Program – (DoD-OEA)**
  - **Overview & Mission of the Economic Adjustment Committee**
  - **Executing the BRAC 05 Defense Economic Adjustment Program**
- **Federal Agency Roundtable Discussion**
- **Next Steps**
- **Adjourn**

Agenda and Reminder

The President's Economic Adjustment Committee (EAC) will convene with the Advisory and Working Group Members on **Monday, October 17, from 1:00pm-3:00pm, in the Horizon Room of the Ronald Reagan Building/International Trade Center, located at 1300 Pennsylvania Avenue, Washington, D.C.** (on the Metro Orange/Blue Line at Federal Triangle Station). The meeting Agenda is attached.

Please note that during the Federal Agency Roundtable portion of the Agenda, Federal Agencies are invited to briefly comment on BRAC 05 preparations and activities to date, and to identify specific topics and issues that the EAC should undertake.

A staff member from the Office of Economic Adjustment will be contacting you to confirm your attendance plans. In addition, questions concerning the EAC meeting may be addressed to [redacted]

Thank you for your support of the President's Economic Adjustment Program. We look forward to seeing you on **October 17, 2005**.

[redacted]
Office of the Secretary of Defense
[redacted]
Arlington, Virginia 22202-4704
Phone: [redacted]
Website: www.oea.gov

This e-mail message may contain confidential and/or privileged information. If you are not an addressee or otherwise authorized to receive this message, you should not use, copy, disclose or take any action based on this e-mail or any information contained in the message. If you have received this material in error, please advise the sender immediately by reply e-mail and delete this message.

From: Gorsuch, Neil M
Sent: Friday, September 23, 2005 2:23 PM
To: Sampson, Kyle
Subject: FW: ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTMENT OF KYLE SAMPSON AS CHIEF OF STAFF

Tracking:

Recipient	Read
Sampson, Kyle	Read: 9/23/2005 7:33 PM

Kyle, Many congratulations! This is most well deserved. Your service in this Department has few parallels in its distinction and your acute insights have been regular features of our morning meetings. We're all going to miss Ted (and Raul), but I'm very glad that you and I will continue working together. Many congratulations, again. NMG

-----Original Message-----
From: USDOJ- Office of Public Affairs
Sent: Friday, September 23, 2005 2:12 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTMENT OF KYLE SAMPSON AS CHIEF OF STAFF

Department of Justice

FOR IMMEDIATE RELEASE — AG
FRIDAY, SEPTEMBER 23, 2005 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTMENT OF KYLE SAMPSON AS CHIEF OF STAFF

WASHINGTON, D.C. - Attorney General Alberto R. Gonzales today announced the appointment of D. Kyle Sampson to serve as Chief of Staff at the Department of Justice. Sampson will succeed Theodore W. Ullyot, who will step down from the position to return to the private sector.

"Kyle is an outstanding lawyer, a strong manager, and a trusted counselor," said Attorney General Gonzales. "His service to the President and to me has been exceptional. I appreciate his leadership and loyalty, and I am pleased that he has agreed to serve as the Justice Department's Chief of Staff."

Kyle Sampson has served as Deputy Chief of Staff and Counselor to Attorney General Alberto R. Gonzales since February 2005. He also serves as Chairman of the Justice Department's Task Force on Intellectual Property and as a Special Assistant U.S. Attorney in the Eastern District of Virginia. He was appointed Counselor to Attorney General John Ashcroft in 2003.

Prior to joining the Department, Sampson served in the White House as Associate Counsel to President George W. Bush. From 1999 to 2001, Sampson served as Counsel to Senator Orrin G. Hatch on the Senate Judiciary Committee. Before entering public service, Sampson practiced law at the Salt Lake City law firm of Parr Waddoups Brown Gee & Loveless and clerked for Judge Karen J. Williams of the U.S. Court of Appeals for the Fourth Circuit. Sampson earned his law degree, with honors, from the University of Chicago Law

School, where he served as Articles Editor of the University of Chicago Law Review. He earned his undergraduate degree from Brigham Young University.

###

05-497

DOJ_NMG_ 0148374

Image not available for this document, ID: 0.7.10316.64027-000001

Department of Justice

From: Gorsuch, Neil M
Sent: Friday, September 23, 2005 2:25 PM
To: Reyes, Luis (SMO)
Subject: FW: ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTMENT OF KYLE SAMPSON AS CHIEF OF STAFF

Tracking:

Recipient	Read
Reyes, Luis (SMO)	Read: 9/23/2005 2:55 PM

Is it worth me (re)approaching Tasia?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 23, 2005 2:23 PM
To: Sampson, Kyle
Subject: FW: ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTMENT OF KYLE SAMPSON AS CHIEF OF STAFF

Kyle, Many congratulations! This is most well deserved. Your service in this Department has few parallels in its distinction and your acute insights have been regular features of our morning meetings. We're all going to miss Ted (and Raul), but I'm very glad that you and I will continue working together. Many congratulations, again. NMG

-----Original Message-----
From: USDOJ- Office of Public Affairs
Sent: Friday, September 23, 2005 2:12 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTMENT OF KYLE SAMPSON AS CHIEF OF STAFF

Department of Justice

FOR IMMEDIATE RELEASE — AG
FRIDAY, SEPTEMBER 23, 2005 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTMENT OF KYLE SAMPSON AS CHIEF OF STAFF

WASHINGTON, D.C. - Attorney General Alberto R. Gonzales today announced the appointment of D. Kyle Sampson to serve as Chief of Staff at the Department of Justice. Sampson will succeed Theodore W. Ullyot, who will step down from the position to return to the private sector.

"Kyle is an outstanding lawyer, a strong manager, and a trusted counselor," said Attorney General Gonzales. "His service to the President and to me has been exceptional. I appreciate his leadership and loyalty, and I am pleased that he has agreed to serve as the Justice Department's Chief of Staff."

Kyle Sampson has served as Deputy Chief of Staff and Counselor to Attorney General Alberto R. Gonzales since February 2005. He also serves as Chairman of the Justice Department's Task Force on Intellectual Property and as a Special Assistant U.S. Attorney in the Eastern District of Virginia. He was appointed Counselor to Attorney General John Ashcroft in 2003.

Prior to joining the Department, Sampson served in the White House as Associate Counsel to President George W. Bush. From 1999 to 2001, Sampson served as Counsel to Senator Orrin G. Hatch on the Senate Judiciary Committee. Before entering public service, Sampson practiced law at the Salt Lake City law firm of Parr Waddoups Brown Gee & Loveless and clerked for Judge Karen J. Williams of the U.S. Court of Appeals for the Fourth Circuit. Sampson earned his law degree, with honors, from the University of Chicago Law School, where he served as Articles Editor of the University of Chicago Law Review. He earned his undergraduate degree from Brigham Young University.

###

05-497

DOJ_NMG_ 0148378

Image not available for this document, ID: 0.7.10316.64025-000001

Department of Justice

Bhattacharyya, Rupa (CIV)

From: Bhattacharyya, Rupa (CIV)
Sent: Friday, September 23, 2005 2:29 PM
To: Gorsuch, Neil M
Subject: Read: FOIA weekly disclosures

Shaw, Aloma A

Subject:	Lunch w/ Bill Kelly & Harriet Myers
Location:	Caucus Room (The Eisenhower Room)
Start:	Friday, September 30, 2005 12:00 PM
End:	Friday, September 30, 2005 2:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Senger, Jeffrey M; Reyes, Luis (SMO); Henke, Tracy (SMO); Kessler, Elizabeth A

When: Friday, September 30, 2005 12:00 PM-2:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Caucus Room (The Eisenhower Room)

~~*~*~*~*~*~*~*~*~*

Attendees: Robert McCallum, Neil Gorsuch, Luis Reyes, Tracy Henke, Elizabeth Kessler, Jeffrey Senger, Bill Kelly, Harriet Myers (there are eight others from the counsel's office who will attend - their names will be provided upon receipt)

poc - Heather 456-2632

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 23, 2005 4:43 PM
To: Seidel, Rebecca; Ansell, Frederick
Cc: Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Subject: RE: House Volunteer Organization language

Though I just sent around another possibility, I believe this works equally well if it is combined with the other edits [redacted] sent us.

-----Original Message-----
From: Seidel, Rebecca
Sent: Friday, September 23, 2005 4:42 PM
To: Gorsuch, Neil M; Ansell, Frederick
Cc: Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Subject: FW: House Volunteer Organization language

Neil and Fred - per the phone call with [redacted] - here is a suggestion from [redacted] invites your thoughts.

-----Original Message-----
From: [redacted]@mail.house.gov [mailto[redacted]@mail.house.gov]
Sent: Friday, September 23, 2005 4:35 PM
To: Seidel, Rebecca
Subject: Language

Rebecca, could you please circulate the following to the group? It's my thought on how a new provision in the bill might apply to protect nonprofits. We can of course discuss other ideas from your end as well.

(d) LIABILITY OF NONPROFIT ORGANIZATIONS.- A nonprofit organization shall not be liable for any injury (including personal injury, property damage or loss, and death) caused by an act or omission in connection with such nonprofit organization's providing or facilitating the provision of disaster relief services if the injury was not caused by willful, wanton, or reckless misconduct by the nonprofit organization.

-----Original Message-----
From: Rebecca.Seidel@usdoj.gov [mailto:Rebecca.Seidel@usdoj.gov]
Sent: Friday, September 23, 2005 3:45 PM
To: [redacted]
Subject: RE: Hello Hello? Has the 3:30 Call Been Pushed Back?

calling you in just a few minutes - they are still discussing. 5 minutes.

-----Original Message-----
From: [redacted]@mail.house.gov [mailto:[redacted]@mail.house.gov]
Sent: Friday, September 23, 2005 3:39 PM
To: Seidel, Rebecca
Subject: Hello Hello? Has the 3:30 Call Been Pushed Back?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 23, 2005 4:48 PM
To: Bucholtz, Jeffrey (CIV)
Subject: House conf call

If you want a report, feel free to give me a ring...

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Friday, September 23, 2005 5:02 PM
To:	Seidel, Rebecca; Ansell, Frederick
Cc:	Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Subject:	RE: House Volunteer Organization language

Sorry. [redacted]s email of 9:29 am to you contains certain proposed edits (see bottom of that email) that would absolve employers and host organizations for SECONDARY liability if, but only if, they don't act willfully, wantonly, or recklessly. This new section 3(d) [redacted] proposes would also immunize nonprofits engaged in disaster relief from PRIMARY liability unless their conduct falls into one of those three categories. Taken together -- that is, [redacted]s proposed edits in the 9:29 am email PLUS this new section 3(d) -- would accomplish what [redacted] seems to want to accomplish. In fact, I think it's a little simpler than the language I just sent around.

-----Original Message-----
From: Seidel, Rebecca
Sent: Friday, September 23, 2005 4:56 PM
To: Gorsuch, Neil M; Ansell, Frederick
Cc: Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Subject: RE: House Volunteer Organization language

what "other edits [redacted] sent us"? are you referring to?

If this new section ([redacted]) is added to exactly what we agreed to on Monday - the pdf [redacted] sent us, does that work?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 23, 2005 4:43 PM
To: Seidel, Rebecca; Ansell, Frederick
Cc: Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Subject: RE: House Volunteer Organization language

Though I just sent around another possibility, I believe this works equally well if it is combined with the other edits [redacted] sent us.

-----Original Message-----
From: Seidel, Rebecca
Sent: Friday, September 23, 2005 4:42 PM
To: Gorsuch, Neil M; Ansell, Frederick
Cc: Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Subject: FW: House Volunteer Organization language

Neil and Fred - per the phone call with [redacted] - here is a suggestion from [redacted] invites your thoughts.

-----Original Message-----
From: [redacted]@mail.house.gov [mailto:[redacted]@mail.house.gov]
Sent: Friday, September 23, 2005 4:35 PM
To: Seidel, Rebecca
Subject: Language

Rebecca, could you please circulate the following to the group? It's my thought on how a new provision in the bill might apply to protect nonprofits. We can of course discuss other ideas from your end as well.

(d) LIABILITY OF NONPROFIT ORGANIZATIONS.- A nonprofit organization shall not be liable for any injury (including personal injury, property damage or loss, and death) caused by an act or omission in connection with such nonprofit organization's providing or facilitating the provision of disaster relief services if the injury was not caused by willful, wanton, or reckless misconduct by the nonprofit organization.

-----Original Message-----
From: Rebecca.Seidel@usdoj.gov [mailto:Rebecca.Seidel@usdoj.gov]
Sent: Friday, September 23, 2005 3:45 PM
To: [redacted]
Subject: RE: Hello Hello? Has the 3:30 Call Been Pushed Back?

calling you in just a few minutes - they are still discussing. 5 minutes.

-----Original Message-----
From: [redacted]@mail.house.gov [mailto:[redacted]@mail.house.gov]
Sent: Friday, September 23, 2005 3:39 PM
To: Seidel, Rebecca
Subject: Hello Hello? Has the 3:30 Call Been Pushed Back?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 23, 2005 5:11 PM
To: Seidel, Rebecca; Ansell, Frederick
Cc: Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Subject: RE: House Volunteer Organization language

None at all. If [redacted] wants to backtrack to absolve employeers and hosts from all secondary liability [redacted] should keep 3b and 3c as we wrote them. [redacted] new 3d will do the trick of protecting nonprofits from primary liability except for willful, wanton, and reckless misconduct.

-----Original Message-----
From: Seidel, Rebecca
Sent: Friday, September 23, 2005 5:10 PM
To: Gorsuch, Neil M; Ansell, Frederick
Cc: Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Subject: RE: House Volunteer Organization language

[redacted] is backtracking to our language that says no vicarious ([redacted] is fine with that), and add [redacted] 3(d) which says non profits not liable for their own acts, unless fits those categories of willful/wanton.

so what [redacted] s going with is the pdf [redacted] sent this morning (which is our language) plus that new 3(d) [redacted] just proposed.

Any concerns?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 23, 2005 5:02 PM
To: Seidel, Rebecca; Ansell, Frederick
Cc: Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Subject: RE: House Volunteer Organization language

Sorry. [redacted] s email of 9:29 am to you contains certain proposed edits (see bottom of that email) that would absolve employers and host organizations for SECONDARY liability if, but only if, they don't act willfully, wantonly, or recklessly. This new section 3(d) [redacted] proposes would also immunize nonprofits engaged in disaster relief from PRIMARY liability unless their conduct falls into one of those three categories. Taken together -- that is, [redacted] 's proposed edits in the 9:29 am email PLUS this new section 3(d) -- would accomplish what [redacted] seems to want to accomplish. In fact, I think it's a little simpler than the language I just sent around.

-----Original Message-----
From: Seidel, Rebecca
Sent: Friday, September 23, 2005 4:56 PM

To: Gorsuch, Neil M; Ansell, Frederick
Cc: Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Subject: RE: House Volunteer Organization language

what "other edits [redacted] sent us"? are you referring to?

If this new section [redacted] is added to exactly what we agreed to on Monday - the pdf [redacted] sent us, does that work?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 23, 2005 4:43 PM
To: Seidel, Rebecca; Ansell, Frederick
Cc: Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Subject: RE: House Volunteer Organization language

Though I just sent around another possibility, I believe this works equally well if it is combined with the other edits [redacted] sent us.

-----Original Message-----
From: Seidel, Rebecca
Sent: Friday, September 23, 2005 4:42 PM
To: Gorsuch, Neil M; Ansell, Frederick
Cc: Hertling, Richard; Bucholtz, Jeffrey (CIV); Clinger, James H
Subject: FW: House Volunteer Organization language

Neil and Fred - per the phone call with [redacted] - here is a suggestion from [redacted] [redacted] invites your thoughts.

-----Original Message-----
From: [redacted]@mail.house.gov [mailto:[redacted]@mail.house.gov]
Sent: Friday, September 23, 2005 4:35 PM
To: Seidel, Rebecca
Subject: Language

Rebecca, could you please circulate the following to the group? It's my thought on how a new provision in the bill might apply to protect nonprofits. We can of course discuss other ideas from your end as well.

(d) LIABILITY OF NONPROFIT ORGANIZATIONS.- A nonprofit organization shall not be liable for any injury (including personal injury, property damage or loss, and death) caused by an act or omission in connection with such nonprofit organization's providing or facilitating the provision of disaster relief services if the injury was not caused by willful, wanton, or reckless misconduct by the nonprofit organization.

-----Original Message-----
From: Rebecca.Seidel@usdoj.gov [mailto:Rebecca.Seidel@usdoj.gov]
Sent: Friday, September 23, 2005 3:45 PM

To: [redacted]
Subject: RE: Hello Hello? Has the 3:30 Call Been Pushed Back?

calling you in just a few minutes - they are still discussing. 5 minutes.

-----Original Message-----
From: [redacted]@mail.house.gov [mailto[redacted]@mail.house.gov]
Sent: Friday, September 23, 2005 3:39 PM
To: Seidel, Rebecca
Subject: Hello Hello? Has the 3:30 Call Been Pushed Back?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 23, 2005 7:22 PM
To: Gorsuch, Neil M
Subject: Not read: Detainee legislation

Sampson, Kyle

From:	Sampson, Kyle
Sent:	Friday, September 23, 2005 7:33 PM
To:	Gorsuch, Neil M
Subject:	Read: ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTMENT OF KYLE SAMPSON AS CHIEF OF STAFF

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 26, 2005 8:29 AM
To: '[redacted]@opm.gov'
Subject: RE: Lunch

[redacted]

It was my pleasure. I thoroughly enjoyed our chat and am always very glad to get to know a friend of [redacted]'s. Thank you, too, for the kind words about my mom.

If this office can ever be of help to you or OPM, don't hesitate to call.

Warm regards,

NMG

-----Original Message-----
From: [redacted]@opm.gov [mailto:[redacted]@opm.gov]
Sent: Monday, September 26, 2005 8:20 AM
To: Gorsuch, Neil M
Subject: Lunch

Neil - Thanks again for lunch Friday. It was good meeting you. And on a purely personal note, it was really good to be able to, if every so indirectly, [redacted]

I'm looking forward to our next get-together. And let's include [redacted]. He always seems to know the great places to go, see and be seen!

[redacted]

General Counsel

U.S. Office of Personnel Management

Tel: [redacted]

Fax: (202) 606-2609

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
----------ro

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 26, 2005 3:51 PM
To: Shaw, Aloma A
Subject: FW: Farewell Reception for Ted Ullyot
Attachments: TUinvite.wpd

please could you put this on my calendar and accept for me?

-----Original Message-----
From: Schreiber, Jayne
Sent: Monday, September 26, 2005 3:38 PM
To: McCallum, Robert (SMO); Alikhan, Arif (ODAG); Burton, Dawn (ODAG); Cooperstein, Theodore M; Coleman, Tim (ODAG); Connor, Mark; Davis, John S (ODAG); Dhillon, Uttam; Irving, John (ODAG); Margolis, David; McAtamney, James A; McFarland, Steven T (ODAG); Mercer, Bill (ODAG); Monheim, Thomas; Nash, Stuart (ODAG); O'Brien, Pat (ODAG); Philbin, Patrick (ODAG); Rybicki, James E; Taylor, Wendell L; Thiemann, Robyn (ODAG); Trono, Robert (ODAG); Gorsuch, Neil M; Henke, Tracy (SMO); Kessler, Elizabeth A; Senger, Jeffrey M; Wiggins, Mike; Reyes, Luis (SMO); Swenson, Lily F; Clement, Paul D; Bradbury, Steve; Fisher, Alice; Bianco, Joseph F.; Parsky, Laura; Swartz, Bruce; Warren, Mary Lee; Keisler, Peter D. (CIV); Barnett, Thomas O.; Johnson, Kelly A. (ENRD); O'Connor, Eileen J. (AAG/TAX); Schlozman, Brad (CRT); Brand, Rachel; Macklin, Kristi R; Hertling, Richard; Moschella, William; Scolinos, Tasia; Roehrkasse, Brian; Roberts, Crystal; Baker, James; Corts, Paul R; Battle, Michael (USAEO); 'ryanes@omb.eop.gov'
Subject: Farewell Reception for Ted Ullyot

Attorney General Alberto R. Gonzales

invites you to attend
a farewell reception in honor of

Theodore W. Ullyot
Chief of Staff to the Attorney General

on Thursday, the twenty-ninth day of September
at four o'clock

Room 5111
RFK Main Building

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 26, 2005 4:37 PM
To: McCallum, Robert (SMO); Reyes, Luis (SMO)
Subject: RE: A/c memo

Will do.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, September 26, 2005 4:10 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: FW: A/c memo

I have revised the 9-26 version slightly in the title and in one of the paragraphs. Neil: will you please review and send each along to Rachel, Margolis, Fisher, Battle, Kyle, and Mercer while letting them know that Karen wants to have until Wed. of this week to make comments and weigh in on the correct approach. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, September 26, 2005 3:34 PM
To: McCallum, Robert (SMO)
Cc: Reyes, Luis (SMO)
Subject: A/c memo

Robert - Here are the three versions we discussed: (1) Your memo of last week (9-22); (2) My stab at re-including language from Karin Immergut's draft (9-26); and (3) Karin's draft. If you'd like, I'd be happy to take a stab at a transmittal email to OAG for your consideration. NMG

<< File: DRAFTPRIVWAIVERMccrevis9-22-05.doc >> << File: DRAFTPRIVWAIVERMccrevis9-26-05.doc >> << File: Immergut Draft.wpd >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 26, 2005 5:24 PM
To: Shaw, Aloma A
Subject: can you set up dial in for me tomorrow at 430 - about 15 portals

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gunn, Currie (SMO)

Subject:	Canceled: Bi-weekly OJP Meeting
Location:	Main Room 5710
Start:	Tuesday, September 27, 2005 2:00 PM
End:	Tuesday, September 27, 2005 3:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Tuesday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Henke, Tracy (SMO); Schofield, Regina; Tzitzon, Nicholas; Daley, Cybele; Gorsuch, Neil M; Hart, Sarah V.; Greenfeld, Larry; Herraiz, Domingo S.; Gillis, John; Flores, Robert; Mercer, Bill (ODAG); Morgan, John
Optional Attendees:	Stokely, Tangent; Palma, Josephine; Fowler, Liane; Walker, Rhea; Madison, Cynthia; Penn, Lynn
Importance:	High

When: Tuesday, September 27, 2005 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

~~*~*~*~*~*~*~*~*~*

Meeting for 9/27 canceled.

Attendees: ASG Robert McCallum, Jr., Tracy Henke-OASG, Neil Gorsuch-OASG, Bill Mercer - ODAG, Regina Schofield-AAG-OJP, Nicholas Tziton-OJP, Cybele Daley-OJP, John Morgan-NIJ, Larry Greenfeld-BJS, Domingo Herraiz-BJA, John Gillis-OVC, Robert Flores-OJJDP

POC: Currie Gunn x4-9500
OJP POC: Jo Palma x5-9239

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 26, 2005 6:22 PM
To: Brand, Rachel
Subject: RE:

very useful

-----Original Message-----
From: Brand, Rachel
Sent: Monday, September 26, 2005 6:20 PM
To: Gorsuch, Neil M
Subject:

do you think it would be useful or counterproductive for me to include Kyle in the email I'm about to send re strengthening the memo?

****

Rachel L. Brand
Assistant Attorney General
Office of Legal Policy
U.S. Department of Justice
(202) 616-0038
Fax (202) 514-2424

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 26, 2005 7:29 PM
To: Gorsuch, Neil M
Subject: [redacted] email

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 27, 2005 10:05 AM
To: Bartolomeo, Kelly C
Subject: RE: Reminder-New Employee Ethics Training

How long will the training last?

-----Original Message-----
From: Bartolomeo, Kelly C
Sent: Tuesday, September 27, 2005 9:58 AM
To: Boardman, Marcia A.; Boardman, Michelle; Gunther, Debbie L.; Jaworski, Thomas J.; Pallotto, Adam; Greene, Kathryn A.; Hakanson, David M.; Moore, Miriam (ODAG); Oline, Adam; Aslan, Erin; Coleman, Betty; Gorsuch, Neil M; Hester, Pamela (ENRD); Aiken, John (ENRD); Nejad, Mitra; Gioffre, Kathleen D.; Mcpherson, Kenya; Luongo, Courtney; Boyne, Colleen; Marie, Allison (ENRD); Dukes, Thomas; Kolcio, I. Stephan; Agarwal, Asheesh; Anton, Georgina (ENRD); Harris, Brian R. (TAX); Cox, Howard; Coleman, La´Shell (CRT); MacLean, Alex (CRT); Hulbig, Adam F. (TAX); Smith, Kimberlie; Philyaw, Valencia E.; Goldfoot, Josh; Monheim, Thomas; McArthur, Patrick; Flavin, Alexander; Robinson, Sharlene (OJP); Chovanec, Kristen (ENRD); Delcore, Robert; Hagan, Corinne; Atlas-Terry, Mary; Webb, Kevin (ENRD); Meader, Deborah; Piaggione, Rocky (ENRD); Allaire, Jennifer (ENRD); Harris, Ondray (CRT); Clinger, James H; Banerjee, Carmen; Test, Jeffrey; Vega, Soraya (OIG); Miller, Kyle V. (OIG); Gullickson, Shawn; Gleason, Todd (ENRD); Kinsella, Megan; Cramer, Thomas M.
Cc: Persons, Timothy D
Subject: Reminder-New Employee Ethics Training

REMINDER!!!!! REMINDER!!!!!

This is a reminder that you are scheduled to attend new employee ethics training tomorrow, September 28, 2005 at **10 a.m. in Conference Room 1160, National Place Building, 1331 Pennsylvania Avenue, NW.**

Note:

The National Place Building is **not** the same as the National Press Building.

You may enter the National Place Building on either Pennsylvania Avenue or F and 13th Street. If arriving by Metro rail, the stop closest to the National Place Building is Metro Center on the Red line/Blue line. The DOJ shuttle bus also stops at the National Place Building via the Green or Black line.

This mandatory training is designed to ensure that new employees are aware of the federal conflict of interest laws and the executive branch standards of conduct.

Thanks!!!!

Kelly Bartolomeo
U.S. Department of Justice
Departmental Ethics Office
1331 F Street, NW, Suite 1050
[redacted] *(Phone)*
202-514-3117 (Fax)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 27, 2005 10:05 AM
To: Shaw, Aloma A
Subject: RE: can you set up dial in for me tomorrow at 430 - about 15 portals

Thanks, I will send it around.

-----Original Message-----
From: Shaw, Aloma A
Sent: Tuesday, September 27, 2005 9:31 AM
To: Gorsuch, Neil M
Subject: RE: can you set up dial in for me tomorrow at 430 - about 15 portals

Neil:
Here's the dial in number for your conference beginning at 4:30 - 5:30. I can circulate the number if you give me the names of all the participants.

Conference Number: [redacted]
Pass Code [redacted]

Aloma

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, September 26, 2005 5:24 PM
To: Shaw, Aloma A
Subject: can you set up dial in for me tomorrow at 430 - about 15 portals

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 27, 2005 11:04 AM
To: McAtamney, James A; Mercer, Bill (ODAG)
Subject: Avian Flu Deputies mtg

We're told that our central issue (compensation-liability scheme) won't come up at today's deputy's meeting. Robert was therefore wondering whether it would be appropriate to send me in his stead. What think you? If you prefer someone from ODAG to attend, I understand completely. NMG

Beach, Andrew

Subject:	Canceled: Senior Management Meeting
Start:	Monday, October 10, 2005 9:00 AM
End:	Monday, October 10, 2005 9:20 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia
Importance:	High

When: Monday, October 10, 2005 9:00 AM-9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Kyle Sampson, Jeff Taylor, Tasia Scolinos, Courtney Elwood, Neil Gorsuch, Bill Mercer, Jeff Oldham, Martha Pacold

Beach, Andrew

Subject:	Canceled: Component Coordination Meeting
Start:	Monday, October 10, 2005 9:20 AM
End:	Monday, October 10, 2005 9:40 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Moschella, William; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia
Importance:	High

When: Monday, October 10, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Kyle Sampson, Jeff Taylor, Courtney Elwood, Tasia Scolinos, Bill Mercer, Neil Gorsuch, Jeff Oldham, Martha Pacold, Rachel Brand, Jan Williams, Will Moschella, Crystal Roberts

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 27, 2005 4:23 PM
To: Shaw, Aloma A
Subject: RE: New items on your calendar

thanks

-----Original Message-----
From: Shaw, Aloma A
Sent: Tuesday, September 27, 2005 4:23 PM
To: Gorsuch, Neil M
Subject: New items on your calendar

I've place the following new items on your calendar:

9/28 - 2:00 - coffee with [redacted]

10/3/ - 3:00 - Indian Water Rights Meeting at the WH

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 27, 2005 4:54 PM
To: Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 27, 2005 5:20 PM
To: Gorsuch, Neil M
Subject: Re:

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Sep 27 16:53:46 2005
Subject:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 28, 2005 9:23 AM
To: O'Connor, Eileen J. (AAG/TAX)
Subject: RE: Long-Term Capital Victory: Second Circuit Summary Order Attached

Lee,

Congratulations, this is indeed a huge victory.

NMG

-----Original Message-----
From: O'Connor, Eileen J. (AAG/TAX)
Sent: Tuesday, September 27, 2005 5:57 PM
To: McCallum, Robert (SMO)
Cc: Reyes, Luis (SMO); Gorsuch, Neil M
Subject: Long-Term Capital Victory: Second Circuit Summary Order Attached

Complete victory in Long-Term Capital, including the 40% penalty. 4 page opinion attached.
This case was just argued in the 2nd Circuit last Thursday.
This is huge.

Lee O'C.

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Wednesday, September 28, 2005 9:24 AM
To:	McCallum, Robert (SMO)
Subject:	RE: Long-Term Capital Victory: Second Circuit Summary Order Attached

Opinion was attached.
-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, September 28, 2005 9:22 AM
To: O'Connor, Eileen J. (AAG/TAX)
Cc: Reyes, Luis (SMO); Gorsuch, Neil M; Elwood, Courtney; Mercer, Bill (ODAG)
Subject: RE: Long-Term Capital Victory: Second Circuit Summary Order Attached

Wow!!!!!! That was quick. Is there an opinion I can read? to whom do I need to email congrats? Let me know.
Robt.
-----Original Message-----
From: O'Connor, Eileen J. (AAG/TAX)
Sent: Tuesday, September 27, 2005 5:57 PM
To: McCallum, Robert (SMO)
Cc: Reyes, Luis (SMO); Gorsuch, Neil M
Subject: Long-Term Capital Victory: Second Circuit Summary Order Attached

Complete victory in Long-Term Capital, including the 40% penalty. 4 page opinion attached.
This case was just argued in the 2nd Circuit last Thursday.
This is huge.

Lee O'C.

Beach, Andrew

Subject:	Updated: Component Coordination Meeting
Start:	Thursday, September 29, 2005 8:50 AM
End:	Thursday, September 29, 2005 9:10 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Moschella, William; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Gorsuch, Neil M

When: Thursday, September 29, 2005 8:50 AM-9:10 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Courtney Elwood, Tasia Scolinos, Bill Mercer, Neil Gorsuch, Jeff Oldham, Martha Pacold, Rachel Brand, Jan Williams, Will Moschella, Crystal Roberts

Beach, Andrew

Subject:	Updated: Senior Management Meeting
Start:	Thursday, September 29, 2005 8:30 AM
End:	Thursday, September 29, 2005 8:50 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia

When: Thursday, September 29, 2005 8:30 AM-8:50 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Courtney Elwood, Bill Mercer, Neil Gorsuch, Tasia Scolinos, Jeff Oldham, Martha Pacold

Normand, Sarah

From: Normand, Sarah
Sent: Wednesday, September 28, 2005 11:31 AM
To: Gorsuch, Neil M
Subject: Read: AP Polling Issue

Long, Linda E

Subject:	Strategic Management Council Brown Bag Lunch
Location:	Room 4111
Start:	Wednesday, October 5, 2005 12:00 PM
End:	Wednesday, October 5, 2005 1:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Long, Linda E
Required Attendees:	Gorsuch, Neil M; Henke, Tracy (SMO); Kessler, Elizabeth A; Senger, Jeffrey M; Swenson, Lily F; Reyes, Luis (SMO)

When: Wednesday, October 05, 2005 12:00 PM-1:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 4111

~~*~*~*~*~*~*~*~*~*

Attendees: Bill Mercer, Arif Alikhan, Dawn Burton, Tim Coleman, Ted Cooperstein, Uttam Dhillon, John Irving, David Margolis, James McAtamney, Steve McFarland, Tom Monheim, Stuart Nash, Pat O'Brien, Patrick Philbin, James Rybicki, Wendell Taylor, Robyn Theimann, Bob Trono, Neil Gorsuch, Tracy Henke, Elizabeth Kessler, Jeff Senger, Lily Swenson, Luis Reyes
POC: Linda Long x 4-1904

Long, Linda E

Subject:	Updated: Joint DAG/ASG Brown Bag Lunch to Discuss the SMC
Location:	Room 4111
Start:	Wednesday, October 05, 2005 12:00 PM
End:	Wednesday, October 05, 2005 1:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Long, Linda E
Required Attendees:	Gorsuch, Neil M; Henke, Tracy (SMO); Kessler, Elizabeth A; Senger, Jeffrey M; Swenson, Lily F; Reyes, Luis (SMO)
Optional Attendees:	Alikhan, Arif (ODAG); Cooperstein, Theodore M; Irving, John (ODAG); Philbin, Patrick (ODAG); Trono, Robert (ODAG); Taylor, Wendell L; Mercer, Bill (ODAG); O'Brien, Pat (ODAG); Nash, Stuart (ODAG); Burton, Dawn (ODAG)

When: Wednesday, October 05, 2005 12:00 PM-1:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 4111

~~*~*~*~*~*~*~*~*~*

Attendees: Bill Mercer, Arif Alikhan, Dawn Burton, Tim Coleman, Ted Cooperstein, Uttam Dhillon, John Irving, David Margolis, James McAtamney, Steve McFarland, Tom Monheim, Stuart Nash, Pat O'Brien, Patrick Philbin, James Rybicki, Wendell Taylor, Robyn Theimann, Bob Trono, Neil Gorsuch, Tracy Henke, Elizabeth Kessler, Jeff Senger, Lily Swenson, Luis Reyes
POC: Linda Long x 4-1904

Beach, Andrew

Subject:	Canceled: Senior Management Meeting
Start:	Monday, October 03, 2005 9:00 AM
End:	Monday, October 03, 2005 9:20 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Ullyot, Theodore; Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia
Importance:	High

When: Monday, October 03, 2005 9:00 AM-9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Ted Ullyot, Kyle Sampson, Tasia Scolinos, Courtney Elwood, Neil Gorsuch, Bill Mercer, Jeff Oldham, Martha Pacold

Beach, Andrew

Subject:	Canceled: Component Coordination Meeting
Start:	Monday, October 03, 2005 9:20 AM
End:	Monday, October 03, 2005 9:40 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Moschella, William; Ullyot, Theodore; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia
Importance:	High

When: Monday, October 03, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Ted Ullyot, Kyle Sampson, Courtney Elwood, Tasia Scolinos, Bill Mercer, Neil Gorsuch, Jeff Oldham, Martha Pacold, Rachel Brand, Jan Williams, Will Moschella, Crystal Roberts

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 28, 2005 3:17 PM
To: McCallum, Robert (SMO)
Subject: RE: Phone Call

Strongly agree

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, September 28, 2005 3:17 PM
To: Mercer, Bill (ODAG); Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: FW: Phone Call

This sounds like something that I ought to do. Any comments or thoughts. Robt.

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, September 28, 2005 2:53 PM
To: McCallum, Robert (SMO)
Cc: Gunn, Currie (SMO)
Subject: Phone Call

McGregor Scott - U.S. Atty Sacramento
(916) 554-2730
re: would like to know if you can serve as the keynote speaker for the National Drug Endangered Children's Conference on Oct 4th in DC

Laura Birkmeyer (San Diego U.S. Atty office) will provide briefing information if you're able to participate - (619) 557-5481

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 28, 2005 4:04 PM
To: Hertling, Richard
Subject: spoke with dan; you're good to go; please coordinate with him

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 28, 2005 5:55 PM
To: Shaw, Aloma A
Subject: caucus room lunch friday

it seems that some of the associate counsel at the WH don't know that they're invited to lunch. could you call heather and make sure they distribute the invite to all of the counsel's office?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 29, 2005 8:25 AM
To: [redacted]
Cc: [redacted]@who.eop.gov'
Subject: RE: out sick today

[redacted] [redacted] I've already spoken with Dan Meron and I hope he is beginning to collect some of the data.

-----Original Message-----
From: [redacted]
Sent: Thursday, September 29, 2005 8:11 AM
To: Gorsuch, Neil M
Cc: [redacted]@who.eop.gov'
Subject: out sick today

[redacted] will start our project tomorrow rather than today. We should still have something by end of next week. [redacted] [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 29, 2005 9:41 AM
To: McCallum, Robert (SMO)
Subject: CWA

Speaking with John Mitnick this morning on other matters, he raised the CWA memo, asking when he and others might see it, noting that the CG seems to call him weekly on this. John noted that he doesn't expect the memo to be in final form or perfect; he and others would be happy to see a "rough draft."

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 29, 2005 11:37 AM
To: Reyes, Luis (SMO)
Subject: RE: No Quorum for Flanigan this morning at SJC

Yummm.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, September 29, 2005 11:36 AM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: No Quorum for Flanigan this morning at SJC

As you may had already heard.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 29, 2005 11:49 AM
To: Reyes, Luis (SMO)
Subject: RE: No Quorum for Flanigan this morning at SJC

deli is more than appropriate under the circumstances

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, September 29, 2005 11:43 AM
To: Gorsuch, Neil M
Subject: RE: No Quorum for Flanigan this morning at SJC

I threatened deli, but think we just have to hit the Caucus Room or Capital Grille some time next week....

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, September 29, 2005 11:37 AM
To: Reyes, Luis (SMO)
Subject: RE: No Quorum for Flanigan this morning at SJC

Yummm.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, September 29, 2005 11:36 AM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: No Quorum for Flanigan this morning at SJC

As you may had already heard.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 29, 2005 3:24 PM
To: Shaw, Aloma A; 'Heather_M._Roebke@who.eop.gov'
Subject: RE: Friday, September 30 Lunch Information at The Caucus Room

Heather, Thanks so much for your help in organizing this. I spoke yesterday to [redacted] and neither he nor [redacted] had heard about the lunch. I let them know the details, but would really appreciate it if you could please make sure that everyone knows they are invited. Best regards, Neil Gorsuch

-----Original Message-----
From: Shaw, Aloma A
Sent: Thursday, September 29, 2005 3:08 PM
To: Gorsuch, Neil M
Subject: FW: Friday, September 30 Lunch Information at The Caucus Room

-----Original Message-----
From: Heather_M._Roebke@who.eop.gov
[mailto:Heather_M._Roebke@who.eop.gov]
Sent: Thursday, September 29, 2005 11:59 AM
To: Shaw, Aloma A
Subject: RE: Friday, September 30 Lunch Information at The Caucus Room

Aloma,
I am so sorry it's taken me so long to get back with you. The office is going to go with the $24 option. This is a hectic time, so I'm not clear on how many attendees from Counsel's Office there will be.

This is still on for noon, correct?

Heather

-----Original Message-----
From: Aloma.A.Shaw@usdoj.gov [mailto:Aloma.A.Shaw@usdoj.gov]
Sent: Monday, September 26, 2005 3:27 PM
To: Roebke, Heather M.
Subject: RE: Friday, September 30 Lunch Information at The Caucus Room

Heather:
Please note the 3 dining lunch menu options attached ($24, $32, $48). Instead of having each guest select their choice of meal, please have them take a consensus on the meal option as a group. Each option gives the diner a selection of entree. Once the meal option is determined, please email or contact me at your earliest convenience. I have to provide this information to the restaurant by early Wednesday

Wednesday.

Thank you,
Aloma Shaw
(202) 616-9474

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, September 29, 2005 6:17 PM
To: McIntosh, Brent
Cc: Brand, Rachel
Subject: RE: A/C memo

Thanks, Brent. I appreciate having this and I know Robert will as well.

-----Original Message-----
From: McIntosh, Brent
Sent: Thursday, September 29, 2005 5:32 PM
To: Gorsuch, Neil M
Cc: Brand, Rachel
Subject: A/C memo

Neil:

Sorry for the delay in getting back to you. Here's a version we prepared in an attempt to remove the material that made the memo either (i) appear to condemn AUSAs' current practice or (ii) appear to be insensitive to the bar's concerns about the issue -- both of which we want to avoid. I hope this is of some value.

Brent

<< File: DRAFTPRIVWAIVER (OLP).doc >>

Shaw, Aloma A

Subject:	Updated: Lunch w/ Bill Kelly & Harriet Myers
Location:	Caucus Room (The Eisenhower Room)
Start:	Friday, September 30, 2005 12:00 PM
End:	Friday, September 30, 2005 2:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Senger, Jeffrey M; Reyes, Luis (SMO); Henke, Tracy (SMO); Kessler, Elizabeth A
Optional Attendees:	Fowler, Liane

When: Friday, September 30, 2005 12:00 PM-2:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Caucus Room (The Eisenhower Room)

~~*~*~*~*~*~*~*~*~*

Attendees from the Counsel's office: Harriet Miers, Bill Kelley, Jenny Brosnahan, Grant Dixton, Leslie Fahrenkopf, Richard Klingler, John Mitnick, Richard Painter, Ben Powell, Neomi Rao

Tentative:
Dabney Friedrich
Bob Hoyt

Attendees: Robert McCallum, Neil Gorsuch, Luis Reyes, Tracy Henke, Elizabeth Kessler, Jeffrey Senger, Bill Kelly, Harriet Myers (there are eight others from the counsel's office who will attend - their names will be provided upon receipt)

poc - Heather 456-2632

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 9:47 AM
To: McCallum, Robert (SMO); Beach, Andrew
Subject: RE: Mildred Seidman (TAX) 50 years of service/retirement party

Will do. Any, what time is the gathering scheduled?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Friday, September 30, 2005 9:34 AM
To: O'Connor, Eileen J. (AAG/TAX)
Cc: Gorsuch, Neil M
Subject: FW: Mildred Seidman (TAX) 50 years of service/retirement party

FYI. I presume that Andy will get you for the picture with her and the AG. I have determined that I will be speaking at the 8th Cir Jud. Conference in Colo. that day and won't be able to be present either. Can I do something with her prior to the party like Wed. of that week or possibly participate in the photo as well? I am alerting Neil so that he can attend the party and represent OASG. Robt.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, September 28, 2005 12:14 PM
To: Beach, Andrew
Subject: Re: Mildred Seidman (TAX) 50 years of service/retirement party

That would be a much appreciated gesture. You might get Lee O'Connor to be there as well. I will do my best to be at the party. Robt.

-----Original Message-----
From: Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Wed Sep 28 10:54:07 2005
Subject: Mildred Seidman (TAX) 50 years of service/retirement party

Robert,
I received your handwritten note on the request for the AG to attend Mildred Seidman's retirement party on October 21. The AG is scheduled to be on international travel that day. We will schedule a time for Mildred to come up to the AG's conference room for a photo prior to the date of the party.

Thanks.

Andy

Andrew Beach
Assistant to the Attorney General
& Director of Scheduling
US Department of Justice
951 Constitution Ave., NW
Washington, DC 20530
Tel: (202) 514-4195; FAX: (202) 307-2825
E-mail: andrew.beach@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 9:56 AM
To: Shaw, Aloma A
Subject: RE: Mr. McCallum would like you to chair the Grp 2 mtg at 10:30.

ok

-----Original Message-----
From: Shaw, Aloma A
Sent: Friday, September 30, 2005 9:49 AM
To: Gorsuch, Neil M
Subject: Mr. McCallum would like you to chair the Grp 2 mtg at 10:30.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 1:40 PM
To: Davis, John S (ODAG)
Subject: Privacy Office

John - Could you give me a ring about this? I want to share a thought from OAG. Thanks, NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 1:40 PM
To: Hertling, Richard
Subject: RE: I have voice mails in

Super, thanks very much

-----Original Message-----
From: Hertling, Richard
Sent: Friday, September 30, 2005 1:31 PM
To: Gorsuch, Neil M
Subject: I have voice mails in

to everyone I was going to contact, so am off to a slow start. But hopefully Dan chatted with everyone already and that may have gotten the process started. Anyway, I am here till 4:15 today. Will check in with you next week on the project. rah

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 2:19 PM
To: Sampson, Kyle; Mercer, Bill (ODAG); Elwood, Courtney
Cc: Kessler, Elizabeth A; Swenson, Lily F; Davis, John S (ODAG)
Subject: privacy office

Following up on our meeting this morning, I just got off the phone with John Davis. As you know, the privacy office alternatives memo was circulated to all affected components (OIP, CIV, CRIM, JMD, etc.) about 2 weeks ago, with an invitation for comments by yesterday (Thursday).

As a next step, would it make sense to convene next week another small-ish meeting (OAG, ODAG, OASG, OLP) to discuss the comments we've received? I know John Davis is in town Weds and Thurs. My thought would be that we could work through the comments received and, based on those comments, refine and narrow down our list of possible options (current we have about 7 on the table). Having done that, we might circulate again for comments before reaching a final recommendation for our principals.

Does this make sense? If so, what are your schedules like W and Th?

Best,

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 2:20 PM
To: McCallum, Robert (SMO)
Subject: FW: privacy office

FYI

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 2:19 PM
To: Sampson, Kyle; Mercer, Bill (ODAG); Elwood, Courtney
Cc: Kessler, Elizabeth A; Swenson, Lily F; Davis, John S (ODAG)
Subject: privacy office

Following up on our meeting this morning, I just got off the phone with John Davis. As you know, the privacy office alternatives memo was circulated to all affected components (OIP, CIV, CRIM, JMD, etc.) about 2 weeks ago, with an invitation for comments by yesterday (Thursday).

As a next step, would it make sense to convene next week another small-ish meeting (OAG, ODAG, OASG, OLP) to discuss the comments we've received? I know John Davis is in town Weds and Thurs. My thought would be that we could work through the comments received and, based on those comments, refine and narrow down our list of possible options (current we have about 7 on the table). Having done that, we might circulate again for comments before reaching a final recommendation for our principals.

Does this make sense? If so, what are your schedules like W and Th?

Best,

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 2:37 PM
To: Elwood, Courtney
Subject: RE: privacy office

Will do; thanks

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, September 30, 2005 2:32 PM
To: Gorsuch, Neil M
Subject: FW: privacy office

Hopefully we can arrange this meeting for Wednesday a.m.? Please have your asst schedule something with my asst, Cathy Bennett.

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, September 30, 2005 2:29 PM
To: Gorsuch, Neil M; Mercer, Bill (ODAG); Elwood, Courtney
Cc: Kessler, Elizabeth A; Swenson, Lily F; Davis, John S (ODAG)
Subject: RE: privacy office

Good idea. I would ask Courtney to cover for OAG.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 2:19 PM
To: Sampson, Kyle; Mercer, Bill (ODAG); Elwood, Courtney
Cc: Kessler, Elizabeth A; Swenson, Lily F; Davis, John S (ODAG)
Subject: privacy office

Following up on our meeting this morning, I just got off the phone with John Davis. As you know, the privacy office alternatives memo was circulated to all affected components (OIP, CIV, CRIM, JMD, etc.) about 2 weeks ago, with an invitation for comments by yesterday (Thursday).

As a next step, would it make sense to convene next week another small-ish meeting (OAG, ODAG, OASG, OLP) to discuss the comments we've received? I know John Davis is in town Weds and Thurs. My thought would be that we could work through the comments received and, based on those comments, refine and narrow down our list of possible options (current we have about 7 on the table). Having done that, we might circulate again for comments before reaching a final recommendation for our principals.

Does this make sense? If so, what are your schedules like W and Th?

Best,

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 2:37 PM
To: Sampson, Kyle
Subject: RE: privacy office

Will do

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, September 30, 2005 2:29 PM
To: Gorsuch, Neil M; Mercer, Bill (ODAG); Elwood, Courtney
Cc: Kessler, Elizabeth A; Swenson, Lily F; Davis, John S (ODAG)
Subject: RE: privacy office

Good idea. I would ask Courtney to cover for OAG.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 2:19 PM
To: Sampson, Kyle; Mercer, Bill (ODAG); Elwood, Courtney
Cc: Kessler, Elizabeth A; Swenson, Lily F; Davis, John S (ODAG)
Subject: privacy office

Following up on our meeting this morning, I just got off the phone with John Davis. As you know, the privacy office alternatives memo was circulated to all affected components (OIP, CIV, CRIM, JMD, etc.) about 2 weeks ago, with an invitation for comments by yesterday (Thursday).

As a next step, would it make sense to convene next week another small-ish meeting (OAG, ODAG, OASG, OLP) to discuss the comments we've received? I know John Davis is in town Weds and Thurs. My thought would be that we could work through the comments received and, based on those comments, refine and narrow down our list of possible options (current we have about 7 on the table). Having done that, we might circulate again for comments before reaching a final recommendation for our principals.

Does this make sense? If so, what are your schedules like W and Th?

Best,

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 2:38 PM
To: Shaw, Aloma A
Subject: FW: privacy office

Please could you schedule this for Weds in our office? Invitees should be:

Courtney
Mercer
John Davis, ODAG
Lily
Liz
Rachel Brand
Brent McIntosh
Richard Hertling

Thanks!

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, September 30, 2005 2:32 PM
To: Gorsuch, Neil M
Subject: FW: privacy office

Hopefully we can arrange this meeting for Wednesday a.m.? Please have your asst schedule something with my asst, Cathy Bennett.

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, September 30, 2005 2:29 PM
To: Gorsuch, Neil M; Mercer, Bill (ODAG); Elwood, Courtney
Cc: Kessler, Elizabeth A; Swenson, Lily F; Davis, John S (ODAG)
Subject: RE: privacy office

Good idea. I would ask Courtney to cover for OAG.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 2:19 PM
To: Sampson, Kyle; Mercer, Bill (ODAG); Elwood, Courtney
Cc: Kessler, Elizabeth A; Swenson, Lily F; Davis, John S (ODAG)
Subject: privacy office

Following up on our meeting this morning, I just got off the phone with John Davis. As you know, the privacy office alternatives memo was circulated to all affected components (OIP, CIV, CRIM, JMD, etc.) about 2 weeks ago, with an invitation for comments by yesterday (Thursday).

As a next step, would it make sense to convene next week another small-ish meeting (OAG, ODAG, OASG, OLP) to discuss the comments we've received? I know John Davis is in town Weds and Thurs. My thought would be that we could work through the comments received and, based on those comments, refine and narrow down our list of possible options (current we have about 7 on the table). Having done that, we might circulate again for comments before reaching a final recommendation for our principals.

Does this make sense? If so, what are your schedules like W and Th?

Best,

NMG

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, September 30, 2005 2:42 PM
To: Gorsuch, Neil M
Subject: Read: privacy office

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 4:13 PM
To: Shaw, Aloma A
Subject: RE: privacy office

ok

-----Original Message-----
From: Shaw, Aloma A
Sent: Friday, September 30, 2005 4:12 PM
To: Gorsuch, Neil M
Subject: RE: privacy office

Courney suggested the am. It doesn't work for you unless it's before 9:00. I'm working on the afternoon.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 2:38 PM
To: Shaw, Aloma A
Subject: FW: privacy office

Please could you schedule this for Weds in our office? Invitees should be:

Courtney
Mercer
John Davis, ODAG
Lily
Liz
Rachel Brand
Brent McIntosh
Richard Hertling

Thanks!

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, September 30, 2005 2:32 PM
To: Gorsuch, Neil M
Subject: FW: privacy office

Hopefully we can arrange this meeting for Wednesday a.m.? Please have your asst schedule something with my asst, Cathy Bennett.

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, September 30, 2005 2:29 PM
To: Gorsuch, Neil M; Mercer, Bill (ODAG); Elwood, Courtney
Cc: Kessler, Elizabeth A; Swenson, Lily F; Davis, John S (ODAG)
Subject: RE: privacy office

Good idea. I would ask Courtney to cover for OAG.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 2:19 PM
To: Sampson, Kyle; Mercer, Bill (ODAG); Elwood, Courtney
Cc: Kessler, Elizabeth A; Swenson, Lily F; Davis, John S (ODAG)
Subject: privacy office

Following up on our meeting this morning, I just got off the phone with John Davis. As you know, the privacy office alternatives memo was circulated to all affected components (OIP, CIV, CRIM, JMD, etc.) about 2 weeks ago, with an invitation for comments by yesterday (Thursday).

As a next step, would it make sense to convene next week another small-ish meeting (OAG, ODAG, OASG, OLP) to discuss the comments we've received? I know John Davis is in town Weds and Thurs. My thought would be that we could work through the comments received and, based on those comments, refine and narrow down our list of possible options (current we have about 7 on the table). Having done that, we might circulate again for comments before reaching a final recommendation for our principals.

Does this make sense? If so, what are your schedules like W and Th?

Best,

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 4:31 PM
To: Shaw, Aloma A
Subject: FW: privacy office

fyi

-----Original Message-----
From: Henderson, Charles V
Sent: Friday, September 30, 2005 4:30 PM
To: Gorsuch, Neil M
Cc: Mercer, Bill (ODAG)
Subject: FW: privacy office

Neil:
Bill would be available to meet on October 5, 10-12 and 2-3, and on October 6, 10:30-12:00 and 1:30-3:00. I hope that this helps.
Thanks,
-Charles

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Friday, September 30, 2005 3:00 PM
To: Henderson, Charles V
Subject: Fw: privacy office

Please let Neal know.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
To: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Davis, John S (ODAG) <John.S.Davis@SMOJMD.USDOJ.gov>
Sent: Fri Sep 30 14:54:25 2005
Subject: Re: privacy office

I'm in town.

CVH: can you let Neal know about open blocks of time on W and Th?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Davis, John S (ODAG) <John.S.Davis@SMOJMD.USDOJ.gov>
Sent: Fri Sep 30 14:28:36 2005
Subject: RE: privacy office

Good idea. I would ask Courtney to cover for OAG.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 2:19 PM
To: Sampson, Kyle; Mercer, Bill (ODAG); Elwood, Courtney
Cc: Kessler, Elizabeth A; Swenson, Lily F; Davis, John S (ODAG)
Subject: privacy office

Following up on our meeting this morning, I just got off the phone with John Davis. As you know, the privacy office alternatives memo was circulated to all affected components (OIP, CIV, CRIM, JMD, etc.) about 2 weeks ago, with an invitation for comments by yesterday (Thursday).

As a next step, would it make sense to convene next week another small-ish meeting (OAG, ODAG, OASG, OLP) to discuss the comments we've received? I know John Davis is in town Weds and Thurs. My thought would be that we could work through the comments received and, based on those comments, refine and narrow down our list of possible options (current we have about 7 on the table). Having done that, we might circulate again for comments before reaching a final recommendation for our principals.

Does this make sense? If so, what are your schedules like W and Th?

Best,

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 5:02 PM
To: Madan, Rafael A.
Subject: you should be hearing from marshall jarrett shortly; if you do not, please let me know

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 5:18 PM
To: Henke, Tracy (SMO)
Subject: FW: you should be hearing from marshall jarrett shortly; if you do not, please let me know

fyi

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 5:02 PM
To: Madan, Rafael A.
Subject: you should be hearing from marshall jarrett shortly; if you do not, please let me know

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 5:30 PM
To: 'Richard_W._Painter@who.eop.gov'
Subject: RE: thanks

Richard,

It was a genuine pleasure to meet you today. I enjoyed our chat very much; clearly we think alike! Apropos of our discussion, I thought you might find of interest a short paper I did for an FTC conference that was picked up by WLF early this year, before I made the jump to government. http://www.wlf.org/upload/GorsuchWP.pdf#search='gorsuch%20matey'

I do hope we get the chance to work together.

Warm regards,

NMG

-----Original Message-----
From: Richard_W._Painter@who.eop.gov
[mailto:Richard_W._Painter@who.eop.gov]
Sent: Friday, September 30, 2005 4:21 PM
To: Gorsuch, Neil M
Subject: thanks

Neil:

It was good meeting you today, and thanks for helping arrange the lunch, an important opportunity for our two offices to get together.

Please keep me posted on the matters we were discussing.

regards,

Richard

Richard W. Painter

Richard W. Painter
Associate Counsel to the President (Ethics) (202) 456-2608

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, September 30, 2005 6:47 PM
To: Reyes, Luis (SMO)
Subject: RE: Sorry I missed you

No rush; let's talk Monday. Good luck in Philly!

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, September 30, 2005 6:04 PM
To: Gorsuch, Neil M
Subject: Sorry I missed you

Stopped by but think I missed you. Only had one comment about last line of letter. Will touch base first thing monday or give me a call at your convenience [redacted] Have a great weekend sir!

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Friday, September 30, 2005 9:51 PM
To: Gorsuch, Neil M
Subject: Read: Sorry I missed you

Martinson, Wanda

Subject:	Updated: CANCELLED FOR 10/3/05 - OLP Policy Coordination Meeting
Location:	4234
Start:	Monday, October 3, 2005 2:00 PM
End:	Monday, October 3, 2005 3:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Martinson, Wanda
Required Attendees:	Moschella, William; Hertling, Richard; Acosta, Alex (CRT); Rhodes, Deborah; Seidel, Rebecca; Macklin, Kristi R; Nowacki, John; Scolinos, Tasia; Yanes, Raul; Elwood, Courtney; Henke, Tracy (SMO); Bounds, Ryan W (OLP); Roberts, Crystal; Stuart, Diane; Dhillon, Uttam; Comisac, Rena; Mercer, Bill (ODAG); Macklin, Kristi R; Schofield, Regina; Coughlin, Robert; Goodling, Monica (USAEO); Battle, Michael (USAEO); Gorsuch, Neil M; Reyes, Luis (SMO); Korn, Jennifer; McIntosh, Brent; Rhodes, Deborah; Clinger, James H
Optional Attendees:	'Voris, Natalie'; Fowler, Liane; Stokely, Tangent

When: Monday, October 03, 2005 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 4234

~~*~*~*~*~*~*~*~*~*

Beach, Andrew

Subject:	Canceled: Senior Management Meeting
Start:	Friday, October 7, 2005 9:00 AM
End:	Friday, October 7, 2005 9:20 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia
Importance:	High

When: Friday, October 07, 2005 9:00 AM-9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Kyle Sampson, Jeff Taylor, Tasia Scolinos, Courtney Elwood, Neil Gorsuch, Bill Mercer, Jeff Oldham, Martha Pacold

Beach, Andrew

Subject:	Canceled: Component Coordination Meeting
Start:	Thursday, October 13, 2005 9:20 AM
End:	Thursday, October 13, 2005 9:40 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Moschella, William; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia
Importance:	High

When: Thursday, October 13, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Kyle Sampson, Jeff Taylor, Courtney Elwood, Tasia Scolinos, Bill Mercer, Neil Gorsuch, Jeff Oldham, Martha Pacold, Rachel Brand, Jan Williams, Will Moschella, Crystal Roberts

Beach, Andrew

Subject:	Canceled: Senior Management Meeting
Start:	Thursday, October 13, 2005 9:00 AM
End:	Thursday, October 13, 2005 9:20 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia
Importance:	High

When: Thursday, October 13, 2005 9:00 AM-9:20 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Kyle Sampson, Jeff Taylor, Tasia Scolinos, Courtney Elwood, Neil Gorsuch, Bill Mercer, Jeff Oldham, Martha Pacold

Shaw, Aloma A

Subject:	Privacy Office Meeting
Location:	5710
Start:	Wednesday, October 05, 2005 2:00 PM
End:	Wednesday, October 05, 2005 3:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Elwood, Courtney; Mercer, Bill (ODAG); Swenson, Lily F; Kessler, Elizabeth A; Brand, Rachel; McIntosh, Brent; Hertling, Richard; Gorsuch, Neil M

When: Wednesday, October 05, 2005 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Attendees: Neil Gorsuch, Courtney Elwood, Bill Mercer, John Davis, Lily Fu Swenson, Elizabeth Kessler, Rahcel Brand, Brent McIntosh, Richard Hertling

poc: Aloma Shaw

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 4, 2005 8:15 AM
To: Rybicki, James E
Subject: RE: Wednesday Lunch Meeting

Thanks so much for arranging this. I'll eat anything put in front of me...

-----Original Message-----
From: Rybicki, James E
Sent: Monday, October 03, 2005 5:28 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M; Henke, Tracy (SMO); Kessler, Elizabeth A; Senger, Jeffrey M; Swenson, Lily F; Reyes, Luis (SMO); Alikhan, Arif (ODAG); Mercer, Bill (ODAG); Margolis, David; Burton, Dawn (ODAG); McAtamney, James A; Rybicki, James E; Irving, John (ODAG); O'Brien, Pat (ODAG); Philbin, Patrick (ODAG); Trono, Robert (ODAG); Thiemann, Robyn (ODAG); McFarland, Steven T (ODAG); Nash, Stuart (ODAG); Cooperstein, Theodore M; Monheim, Thomas; Coleman, Tim (ODAG); Dhillon, Uttam; Taylor, Wendell L; Alikhan, Arif (ODAG); Cooperstein, Theodore M; Irving, John (ODAG); Philbin, Patrick (ODAG); Trono, Robert (ODAG); Taylor, Wendell L; Mercer, Bill (ODAG); O'Brien, Pat (ODAG); Nash, Stuart (ODAG); Burton, Dawn (ODAG); Long, Linda E; Powell, SeLena Y; Connor, Mark
Subject: Wednesday Lunch Meeting

We are planning to order pizza for Wednesday's ODAG/ASG brown-bag lunch regarding the SMC. If you are interested in ordering, please e-mail me your preference for toppings by NLT 10am on Wednesday. We will order the pizza at around 11. I will let you know how much it will cost based on how many people participate.

Choices:
Plain
Pepperoni
Mushroom
Extra Cheese
Ham/Pineapple

Thanks,
Jim

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 4, 2005 8:16 AM
To: [redacted]@dodgc.osd.mil'; Brett_C._Gerry@who.eop.gov
Subject: RE: Update on Appropriations Bill

Thanks for the heads up. Which detainee amendments are included?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Monday, October 03, 2005 5:14 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: Update on Appropriations Bill
Importance: High

-----Original Message-----
From: [redacted] CIV, OSD-LA
Sent: Monday, October 03, 2005 17:06
To: [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] DoD OGC; [redacted] Ms DoD OGC [redacted] DoD OGC; [redacted] DoD OGC
Subject: Update on Appropriations Bill
Importance: High

The authorization bill has been offered as an amendment to the appropriations bill by Sen. Warner this afternoon. .

Along with the authorization bill, Warner proposed a "manager's package" of some 80 amendments (including detainee amendments) that he would like to incorporate into the authorization bill. Talk is still ongoing on whether a deal with Sen Frist Sen Reid would allow the authorization bill to return to the floor as a stand-alone bill.

Sen Stevens,chairman of the Defense Appropriations Subcommittee, said he would allow Warner's offering so long as a time agreement is reached that would ensure the appropriations bill passes the Senate by Friday.

I will keep you advised.

Respectfully,

[redacted]
Special Assistant to the Assistant Secretary of Defense
Legislative Affairs
1300 Defense Pentagon, Room 3D918

1500 Defense Pentagon, Room 5D918
Washington, D.C. 20310-1300
Phone: (703) 693-0305
Fax: (703) 697-8299
Cell: [redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 04, 2005 8:20 AM
To: Swenson, Lily F
Subject: RE: Twombley vacated and remanded

No huge surprise...

-----Original Message-----
From: Swenson, Lily F
Sent: Monday, October 03, 2005 4:00 PM
To: Gorsuch, Neil M; Bradbury, Steve
Subject: FW: Twombley vacated and remanded

FYI, from our past lives, in case you haven't seen it yet

-----Original Message-----
From: [redacted]@mayerbrownrowe.com [mailto:[redacted]@mayerbrownrowe.com]
Sent: Monday, October 03, 2005 2:36 PM
To: Swenson, Lily F
Subject: FW: Twombley vacated and remanded

Lily, for old times sake, this is hot off the presses. I haven't read it yet. Thought you'd be interested.

-----Original Message-----
From: [redacted] [mailto:[redacted]@khhte.com]
Sent: Monday, October 03, 2005 2:08 PM
To: NY TWOMBLY EXT JT DEF GRP
Subject: Twombley vacated and remanded

We just a short while ago got a message from the Second Circuit Clerk's office, saying that the decision had been handed down. We then obtained a copy of the decision, written by Judge Sack. While we haven't had time to study it carefully, the decision appears to hold principally that where plaintiff alleged a conspiracy and said what it involved, that's sufficient for Rule 8 purposes.

<<03-9213_opn.pdf>>

Gunn, Currie (SMO)

Subject:	Updated: Bi-weekly OJP Meeting
Location:	Main Room 5710
Start:	Tuesday, October 11, 2005 4:00 PM
End:	Tuesday, October 11, 2005 5:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Tuesday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Henke, Tracy (SMO); Schofield, Regina; Tzitzon, Nicholas; Daley, Cybele; Gorsuch, Neil M; Greenfeld, Larry; Herraiz, Domingo S.; Gillis, John; Flores, Robert; Tzitzon, Nicholas; Mercer, Bill (ODAG); Morgan, John
Optional Attendees:	Palma, Josephine; Fowler, Liane; Palma, Josephine; Walker, Rhea; Madison, Cynthia; Walker, Rhea; Penn, Lynn; Stokely, Tangent

When: Tuesday, October 11, 2005 4:00 PM-5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

~~*~*~*~*~*~*~*~*~*

Note time change for this meeting only.

Attendees: ASG Robert McCallum, Jr., Tracy Henke-OASG, Neil Gorsuch-OASG, Bill Mercer - ODAG, Regina Schofield-AAG-OJP, Nicholas Tziton-OJP, Cybele Daley-OJP, John Morgan-NIJ, Larry Greenfeld-BJS, Domingo Herraiz-BJA, John Gillis-OVC, Robert Flores-OJJDP

POC: Currie Gunn x4-9500
OJP POC: Jo Palma x5-9239

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 04, 2005 1:42 PM
To: Shaw, Aloma A
Subject: RE: added Indian Rgts meeting to your calendar - 10/19 11:00am

thx

-----Original Message-----
From: Shaw, Aloma A
Sent: Tuesday, October 04, 2005 1:39 PM
To: Gorsuch, Neil M
Subject: added Indian Rgts meeting to your calendar - 10/19 11:00am

Gorsuch, Neil M

Subject:	Judge Loren Smith's 20 Yr Anniversary on Bench
Location:	H & Vt 717 Madison
Start:	Friday, December 02, 2005 5:30 PM
End:	Friday, December 02, 2005 8:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 05, 2005 8:48 AM
To: [redacted]@gwb43.com'
Subject: RE: Praise for Supreme Court Justice Nominee Harriet Miers

She's a star and I'm confident will win folks over soon enough. Anything I can do to help, please let me know.

-----Original Message-----
From: [redacted]@gwb43.com [mailto[redacted]@gwb43.com]
Sent: Wednesday, October 05, 2005 8:37 AM
To[redacted]@gwb43.com
Subject: Praise for Supreme Court Justice Nominee Harriet Miers

Monday, October 03, 2005
What They're Saying About Nomination Of Harriet Miers To Supreme Court

Praise For Miers Nomination To Supreme Court:

Jay Sekulow, Chief Counsel, The American Center For Law And Justice: "We Look Forward To A Speedy Confirmation Process And Will Work Aggressively To Ensure That Harriet Miers Gets Full And Fair Consideration Before The Senate. We Call On Members Of The Senate To Reject The Partisan Political Rhetoric And Focus On The Judicial Philosophy Of This Conservative Mainstream Nominee." (American Center For Law And Justice, "CLJ Calls Harriet Miers - President Bush's Supreme Court Nominee - An 'Excellent' Choice Who Embraces The Constitution And The Rule Of Law," Press Release, 10/3/05)

Leonard Leo, Executive Vice President of the Federalist Society (On Leave): "In Nominating Harriet Miers, The President Has Once Again Kept His Commitment To Select Supreme Court Justices Who Are Very Well Qualified And Share His Philosophy Of Interpreting The Law, Not Legislating From The Bench." (Leonard Leo, Memo To Interested Parties Re: Nomination Of Harriet E. Miers, 10/3/05)

*

Leo: "She Has Also On A Number Of Occasions Demonstrated Her Commitment To Conservative Legal Principles And The Principles Of Judicial Restraint In Fairly Applying The Law, And Not Making Public Policy From The Bench." (Leonard Leo, Memo To Interested Parties Re: Nomination Of Harriet E. Miers, 10/3/05)

Senate Minority Leader Harry Reid (D-NV): "I Like Harriet Miers, As White House Counsel She Has Worked With Me In A Courteous And Professional Manner." (Sen. Harry Reid, Press Release, 10/3/05)

*

Reid: "I Am Also Impressed With The Fact That [Meirs] Was A Trailblazer For Woman As A Managing Partner Of Major Dallas Law Firm And The First Women President Of The Texas Bar Association." (Sen. Harry Reid, Press Release, 10/3/05)

Association." (Sen. Harry Reid, Press Release, 10/3/05)

*

Reid: "In My View, The Supreme Court Would Benefit From The Addition Of A Justice Who Has Real Experience As A Practicing Lawyer. The Current Justices Have All Been Chosen From Lower Federal Courts, A Nominee With Relevant Non-Judicial Experience Would Bring A Different And Useful Prospective To The Court." (Sen. Harry Reid, Press Release, 10/3/05)

President Of The Dallas Bar Association, Tim Mountz: "I Think Harriet Miers Would Make An Excellent Judge And For A Number Of Reasons. One Is, Although Harriet Was A Very Good Advocate For Her Clients, She Also Tended To Try To Operate By Consensus Whenever Possible. So I Think That She Would Be A Good Supreme Court Justice For That Reason." (MSNBC's "News Live," 10/3/05)

NBC's Tim Russert: "Harry Reid, The Leader Of The Democrats In The Senate Has Said Favorable Things About Ms. Miers In The Past." (NBC's "Today," 10/3/05)

*

Russert: "It Is Also Interesting, Historically ... Of The 110 People Who Have Sat On The Supreme Court, Only Half Have Been Sitting Judges When Selected ... History Is Filled With People With Backgrounds Similar To Harriet Miers." (NBC's "Today," 10/3/05)

ABC's Manuel Madrano: "[N]ot Only The First Female To Lead A Major Dallas Texas Law Firm But The First Female To Lead The Texas Bar Association. Overall, A Very Interesting Pick." (ABC's "GoodMorning America," 10/3/05)

CNN's Jeff Toobin: "[Miers] Had Been A Top Corporate Lawyer In Texas. She Was -- Was Head Of The Dallas Bar, Head Of The Texas Bar. Those Are Impressive Positions ..." (CNN's "American Morning," 10/3/05)

CNN's Dana Bash: "We're Told By A Senior Official That A Part Of The Reason They Say That Mr. Bush Felt Comfortable At This Point Nominating Harriet Miers Is Because She Was Recommended To Him Not Just By Republicans But Also By Democrats." (CNN's "American Morning," 10/3/05)

*

Bash: "A Senior Official Said That The President Took Seriously An Admonition By The Chairman Of The Judiciary Committee And The Senate And The Top Democrat He Should Think Outside Of The Appeals Court, Think Outside The Monastery As Senator Pat Leahy Of Vermont Has Put It ..." (CNN's "American Morning," 10/3/05)

Sen. Chuck Schumer (D-NY): "[W]hen I Choose Judges In New York, I Look For Practical Experience. And So The Fact That She Hasn't Been A Judge Before, To Me Is Actually A Positive, Not A Negative." (Sen. Charles Schumer, Press Conference, 10/3/05)

CBS' John Roberts: "The President Conducts A Nationwide Extensive Search For The Best Person For The Job To Be The Nominee To Be Associate Justice To Replace Justice Sandra Day O'Connor And Finds Her Down The Hall." (CBS' "The Early Show," 10/3/05)

The Washington Post's Fred Barbash: "[Harriet Miers] Has More Experience, I Think, Than People Are Crediting Her With." (MSNBC's "News Live," 10/3/05)

Previous Praise For Harriet Miers:

Miers Was Awarded The Sandra Day O'Connor Award For Professional Excellence By The Texas Center For Legal Ethics And Professionalism In 2005. (Texas Center For Legal Ethics And Professionalism Website, www.txethics.org <http://www.txethics.org/oconnorinformationcourses.asp> , Accessed 10/3/05

"[In 1997] She Was Named To The [National Law Journal's] List Of 100 Most Powerful Attorneys." ("50 Top Women Lawyers," The National Law Journal, 3/30/98)

"[Miers] Received A Distinguished Alumni Award From The SMU Law School In 1997." (SMU Website, www.smu.edu/newsinfo/releases/00171.html, Accessed 9/29/05)

In 1998, National Law Journal Named Harriet Miers One Of The Fifty Most Influential Women Lawyers In America. ("50 Top Women Lawyers," The National Law Journal, 3/30/98)

In 2000, National Law Journal Named Harriet Miers One Of The One Hundred Most Influential Lawyers In America. ("The Most Influential Lawyers In America," The National Law Journal, 6/12/00)

"Miers Was Given The Women Of Excellence Award By Women's Enterprise Magazine In 1997 ..." (Bush-Cheney, Press Release, 1/5/01)

"The Women And The Law Section Of The State Bar Of Texas Has Awarded Its 1993 Sarah T. Hughes Women Lawyers Of Achievement Award To Louise Raggio And State Bar President Harriet Miers." (Bruce Vincent, "Honors," Texas Lawyer, 3/22/93)

"Harriet Miers, President Of Dallas' Locke Purnell Rain Harrell, Was One Of 20 Other Women Nominated For The [1996 Texas Trailblazer Award]." (Tara Wilkinson, "Newsmakers," Texas Lawyers, 10/28/96)

Antonio Alvarado, Former Director Of The Texas State Bar: 'She Is An Indefatigable Leader, A Lawyer's Lawyer With A Keen Intellect,' Said Antonio Alvarado, Executive Director Of The State Bar. 'She Brings . . . The Highest Ethical Conduct, And We Will Be Well-Served Having Her In This Public Service Role.'" (Gary Susswein, "In Naming Miers As An Aide, Bush Keeps A Trusted Lawyer At His Side," Austin American-Statesman, 1/6/01)

Former Partner R. Bruce Laboon: "Harriet Is Not A Person That Gets Frustrated Easily. She Doesn't Lose Her Temper. She Is Very Cool And Calm In A Storm." (Miriam Rozen, "Bush's Gatekeeper," Texas Lawyer, 3/24/03)

*

Laboon: "We've All Known For A Long Time What A Talent She Is, And Now The President Knows." ("Inadmissible," Texas Lawyer, 7/14/03)

U.S. District Judge Ed Kinkeade Of Dallas: "She Truly Believes In Doing Right ... No One Can Say She Took The [Texas] Lottery [Commission] Position Because It Was Fun. It Was Something That Was Honorable, And She Did A Great Job." (Miriam Rozen, "Bush's Gatekeeper," Texas Lawyer, 3/24/03)

Former Co-Worker Thomas Connop: "Harriet Is A Hard Worker, Personable, A Client-Oriented Attorney Who Is Extremely Thorough And Not Flamboyant." (T.R. Goldman, "Down To The Last Detail," Legal Times, 12/15/04)

*

Miers Former Co-Worker Jerry Clements, Of Dallas, TX: "She Just Overcame Any Obstacles With Hard Work And Dedication And Being A Very Good Trial Lawyer." (Michael A. Fletcher, "Quiet But Ambitious White House Counsel Makes Life Of Law," The Washington Post, 6/21/05)

White House Staff Secretary Brett Kavanaugh: "She Is Very Thorough And Very Hard-Working And Very Conscientious And Very Careful, Which Is Why She Was A Good Choice For Staff Secretary And Why She's A Good Choice As Counsel..." (T.R. Goldman, "Down To The Last Detail," Legal Times, 12/15/04)

Texas Supreme Court Justice Nathan Hecht: "Her Clients -- Including Now Maybe The Most Important Client She Ever Had -- Have Implicit Faith In Her Judgments ... She Is Very Sensible." (Gary Susswein, "In Naming Miers As An Aide, Bush Keeps A Trusted Lawyer At His Side," Austin American-Statesman, 1/6/01)

"Miers, 51, Is Well Known As A Tough Commercial Litigator Who Has Juggled An Exhaustive List Of Civic Activities While Racking Up A String Of Professional Firsts, Including First Woman President Of The Dallas Bar In 1985 And First Woman President Of The State Bar In 1992-93." (Susan Hightower, "Harriet Miers Extends String Of Firsts With Locke Purnell Post," Texas Lawyer, 12/16/96)

Monday, October 03, 2005
What They're Saying About Nomination Of Harriet Miers To Supreme Court: Volume II

Praise For Miers' Nomination To Supreme Court:

Vice President Dick Cheney: "I Think [President Bush Has] Found A Good One In Harriet Miers. I Think She'll Do A Great Job." (Vice President Dick Cheney, Telephonic Interview By Rush Limbaugh, The Rush Limbaugh Show, 10/3/05)

*

Cheney: "[I]'m Confident That She Has A Conservative Judicial Philosophy ..." (Vice President Dick Cheney, Telephonic Interview By Rush Limbaugh, The Rush Limbaugh Show, 10/3/05) *

Cheney: "She Believes Very Deeply In The Importance Of Interpreting The Constitution And The Law As It's Written. She Won't Legislate From The Federal Bench." (Vice President Dick Cheney, Telephonic Interview By Rush Limbaugh, The Rush Limbaugh Show, 10/3/05)

James C. Dobson, Focus On The Family Chairman: "We Welcome The President's Nomination Of Harriet Miers To The U.S. Supreme Court. ... Harriet Miers Appears To Be An Outstanding Nominee For The Supreme Court." (Focus On The Family Action, "Dobson Welcomes Miers' Nomination," Press Release, 10/3/05)

Sen. Ben Nelson (D-NE): "It Appears The President Has Made A Sound Choice In Harriet Miers. From Every Indication It Seems That She Has The Qualifications And Experience To Serve On The Supreme Court. Based On Her Background And Experience, If Confirmed, She Would Undoubtedly Bring A New Perspective And Balance To The Court." (Sen. Ben Nelson, "Nelson Statement On The Nomination Of Harriett Miers To Serve As Associate Justice Of The Supreme Court," Press Release, 10/3/05)

*

Sen. Nelson: "The President Should Be Commended For Taking Such Care And Time To Nominate Someone Who Could Garner The Same Broad Bipartisan Support That John Roberts Did." (Sen. Ben Nelson, "Nelson Statement On The Nomination Of Harriett Miers To Serve As Associate Justice Of The Supreme Court," Press Release, 10/3/05)

*

Sen. Nelson: "I'd Like To Thank The President For The Effort He Made Reaching Out To Me And Many Of My Colleagues To Discuss This Nomination." (Sen. Ben Nelson, "Nelson Statement On The Nomination Of Harriett Miers To Serve As Associate Justice Of The Supreme Court," Press Release, 10/3/05)

Chuck Colson, Founder And Chairman Of Prison Fellowship Ministries: "You Look At The Sum Total Of Her Record And See Someone Whose Very Much In Line With The President's Thinking, And I Trust George Bush On This. He Gave Us Roberts, Who Is A Clearly One Of The Best Appointees To The Court In My Lifetime, And I Think Harriet's Going To Be A Perfect Vote On That Court Along With Roberts." (Fox News' "Your World," 10/3/05)

Sen. Lindsey Graham (R-SC): "President Bush Has Made A Solid Pick For The Supreme Court. ... Her Legal Experience Combined With Her Life Experience Makes Her A Solid Choice. ... In My Opinion, There Will Be No Filibuster As She Is A Mainstream Conservative Who Will Be A Strict Constructionist On The Supreme Court. " (Sen. Lindsey Graham, Press Release, 10/3/05)

CNN's Ed Henry: "[I]n The Words Of Veteran Republican Senator John Warner, A Key Swing Vote On All This, It Appears The President Hit A Second Straight Home Run." (CNN's "The Situation Room," 10/3/05)

*

Henry: "[T]here Was Some Interesting Praise From Top Democrats Like Chuck Schumer And Diane Feinstein Who Voted Against Roberts Saying She Does Not See Any Negatives With This Nomination And More Importantly The Senate Democratic Leader Also Had Very Warm Words And In Fact He Is The Man Who Initially Raised The Name Of Harriet Miers Directly To The President." (CNN's "The Situation Room," 10/3/05) *

Henry: "[T]his May Not Have Been An Orthodox Pick, But From Right To Left, A Lot Of Praise For It." (CNN's "The Situation Room," 10/3/05)

Wendy Long, Former Law Clerk To Justice Clarence Thomas: "She's Going To Modestly And Strictly Interpret The Constitution And Laws. It's A Lot Of What We Heard From John Roberts." (CNN's "Live Today," 10/3/05)

*

Long: "I've Met Her During The Course Of The Administration. She's A Very Bright Woman, But She's Modest And Understated. She's Very Prudent. She's Discrete. All Those Are Important Qualities For A Judge." (CNN's "Live Today," 10/3/05)

Spence Abraham, Committee For Justice, Co-Chair: "I Have Had The Chance To Work Closely With Harriet Miers For The Past Four Years And Am Confident That She Will Bring The Same Integrity And Intelligence To The Court Which She Has Displayed In The Important Legal And Governmental Posts She Has Held." (Committee For Justice, "CFJ Congratulates President On Miers Nomination," Press Release, 10/3/05)

MSNBC's Mike Viqueira: "In Other Words, He May Have Here A Nominee That Is Acceptable To

MSNBC's Mike Viqueira: "In Other Words, He May Have Here A Nominee That Is Acceptable To Virtually All Republicans, And Enough Democrats In The Senate To Confirm This Nominee, Harriet Miers." (MSNBC's "News Live," 10/3/05)

MSNBC's Pete Williams: "Well, For Groups Who Want To Oppose Her, There's Nothing To Hang Their Hat On This Morning." (MSNBC's "News Live," 10/3/05)

*

Williams: "There's Some Suggestion That What The Democrats May Be Saying Is That, She's Quote-Unquote Not Qualified For The Job. But At The Same Time That Will Put Them In A Bit Of A Difficult Position. Because Some Congressional Democrats Have Said, What We Need Is More Diversity, A Breadth Of Experience On The Court. Like Days Past, When More Of The Supreme Court Justices Did Not Come From The Federal Bench Farm Team." (MSN BC's "News Live," 10/3/05)

Christian Coalition: "Christian Coalition Of America Is Pleased That President Bush Named A Replacement For Justice O'Connor To The Supreme Court Who He Says Will Not Legislate From The Bench. Even Though She Has No Judicial Experience, She Has Spent Many Years Of Her Career Serving As The Personal Attorney To The President And Supporting His Conservative Agenda While Serving As An Attorney In The White House." (Christian Coalition, Press Release, 10/3/05)

*

Christian Coalition President, Roberta Combs: "As A Woman, I Am Honored That The President Would Appoint Another Woman To The Supreme Court. Ms. Miers Has An Excellent Career Record And Has Accomplished Many Firsts For Women. She Was The First Woman To Be Elected The Texas State Bar Association And The First Woman To Be Hired In Her Law Firm And To Become President Of The Law Firm. I Trust That She Will Be An Excellent Addition To The High Court And All Americans Will Be Proud Of Her." (Christian Coalition, Press Release, 10/3/05)

NPR's Juan Williams: "The President Once Said That She's A Pit Bull In A Size Six Shoe ... I Think It Hints At Her Tenacity And Her Intellect. You Don't Rise Up To Head The Bar In Texas, To Run For The Number Two Spot In Terms Of The ABA Without Being Someone Who Impresses Your Legal Colleagues As Absolutely One Of The Best. And She's One Of The Best By All Measures, Liberal Or Conservative." (Fox News' "Fox News Live," 10/3/05)

Former Associate Deputy Attorney General And Clerk To Justice O'Connor Andrew McBride: "Harriet Miers Like Justice O'Connor, A Decade Or Two After, Is A Trail Blazer, Is Someone Who Was An Example To Women In The Law." (Fox News' "Fox News Live," 10/3/05)

Former Harriet Miers Colleague Karin Torgerson: "I Think What She Will Bring To Her Job Is The Ability To Study Everything That Comes Before Her And To Boil Down The Facts ... And Apply The Constitution To Those Facts And Circumstances." (Fox News' "Fox News Live," 10/3/05)

Former Attorney General Dick Thornburgh: "She Has Had A Distinguished Record In The Private Practice Of The law. She Has Held Public Office. That's A Refreshing Change From The Long String Of Justice Nominees Who Have Come Strictly From The Federal Judiciary." (Fox News' "Fox News Live," 10/3/05)

William Owens, President Coalition Of African-American Pastors: "We Are Pleased With The President's Nomination Of Harriet Miers To The U. S. Supreme Court. The President Pledged To Appoint Judges Who Will Apply The Law Rather Than Make Up New Law, And We Believe He Has Not Disappointed Us So Far." (Coalition of African-American Pastors, Press Release, 10/3/05)

*

Owens: "Harriet Miers Is An Excellent Choice And The Coalition Of African-American Pastors Is Very Happy With This Selection." (Coalition of African-American Pastors, Press Release, 10/3/05)

Tuesday, October 04, 2005
What They're Saying About Nomination Of Harriet Miers To Supreme Court: Volume III

Praise For Miers' Nomination To Supreme Court:

Texas Supreme Court Justice Nathan Hecht: "She's Very Conservative. I Don't Know, Scale 1 To 100, Up There Somewhere. She Works Well With Other People. Everybody Says She's A Very Fair-Minded Person. She Definitely Shares The President's Values." (ABC's "Nightline," 10/3/05)

Sen. Kay Bailey Hutchison (R-TX): "She Has Been My Friend For A Long Time. We Graduated From Law School In Roughly The Same Era. Both Of Us Had A Hard Time Getting Jobs, Because The Big Law Firms Did Not Hire Women At That Time To Be Partners, And In The Partner Track, And She Overcame That With A Determination, And A Positive Attitude." (ABC's "Nightline," 10/3/05)

CNN's John King: "[Miers Has] Been A Driving Force Behind The Renomination Of Conservative Judges Like Priscilla Owen, Janice Rogers Brown, All Judges Who Have High Approval Ratings From Social Conservatives." (CNN's "Lou Dobbs Tonight," 10/3/05)

National Review's Rich Lowry: "I Think She'll Be Confirmed Easily." (ABC's "Nightline," 10/3/05)

Texas Lawyer's John Council: "Well, What I've Been Doing All Day Long Is Talking To Lawyers In Texas Who Know Harriet Miers And Have Worked With Her ... When I Talked To These Lawyers, They Said, Look, This Is A Perfect Pick For The Court. She's Not An Ideologue, She's Highly Intelligent And She's Got The Trust Of The President. ... This Is From Republicans And Democrats Alike." (MSNBC's "The Abrams Report," 10/3/05)

USA Today: "Neither Miers' Lack Of Judicial Experience Nor Her Ties To Bush Need Be Disqualifying. ... Like O'Connor, Miers, 60, Has Been A Precedent-Setter For Women In The Male-Dominated Legal Field." (Editorial, "Bush Chooses An Even More Mysterious Court Nominee," USA Today, 10/4/05)

CNN's Ed Henry: "[I]t Appears The President, Just As He Did With John Roberts, Found Someone Maybe In The Middle Who Might Be Able To Reach Across The Aisle And Get Wide Bipartisan Support." (CNN's "Lou Dobbs Tonight," 10/3/05)

*

Henry: "More Telling Is That Leading Democrats Who Voted Against Chief Justice John Roberts Offered Cautious Praise For Miers." (CNN's "Lou Dobbs Tonight," 10/3/05)

Former White House Associate Counsel And Deputy Assistant Attorney General Noel Francisco: "I Don't Think That Anybody Can Seriously Question Harriet Miers' Commitment To The Principles Of Judicial Restraint And The Rule Of Law." (CNN's "Larry King Live," 10/3/05)

National Journal's Stuart Taylor: "The More I Read About [Harriet Miers] In The ... Papers This Morning And Talk To People, The More Impressive A Person She Looks To Me." (MSNBC's "Imus In The

And Talk To People, The More Impressive A Person She Looks To Me." (MSNBC's "Imus In The Morning," 10/4/05)

*

Taylor: "In Fact, I Think As Harry Reid Said, Democratic Leader, Being A Practicing Lawyer With No Judicial Experience Is Probably A Plus In This Instance." (MSNBC's "Imus In The Morning," 10/4/05)

*

Taylor: "People Talk A Lot About Diversity In Terms Of Race And Sex, But I Think Diversity In Experience Is Also Important, And She Brings Some Of That To The Court." (MSNBC's "Imus In The Morning," 10/4/05)

The [Elmira, NY] Star-Gazette: "Her Legal Skills Suggest That She Is A Talented, Respected Lawyer ..." (Editorial, "The President's Pick," The [Elmira, NY] Star-Gazette, 10/4/05)

Pepperdine University Chairman And Professor Of Constitutional Law Douglas W. Kmiec: "[M]iers Is Exactly Like Roberts In One Crucial Aspect: They Are Both Steadfast Adherents To A Judicial Ethic Of No Personally Imposed Points Of View." (Douglas W. Kmiec, Op-Ed, "An 'Honest Broker'," The Washington Post, 10/4/05)

*

Kmiec: "Miers's Résumé Is One Of Hard Work And Service To Corporate Clients Such As Microsoft And To Those Too Poor To Afford A Lawyer." (Douglas W. Kmiec, Op-Ed,"An 'Honest Broker'," The Washington Post, 10/4/05)

*

Kmiec: "Miers Has A Reputation ... As An 'Honest Broker.'" (Douglas W. Kmiec, Op-Ed, "An 'Honest Broker'," The Washington Post, 10/4/05)

Fox News' Kiran Chetry: "She's Going To Be Confirmed, Absolutely In Your Mind?" Julian Epstein: "Yes." ... Rich Galen: "Without Even A Hard Fight." (Fox News' "Fox And Friends,'" 10/4/05)

Chicago Sun-Times' Robert Novak: "[Miers] Is As Safe A Bet For Senate Confirmation As Any Nominee Who Would Be Expected To Follow A Conservative Line On The Court. Barring Some Mistake She Makes In The Confirmation Process, She Looks Likely To Be Confirmed Without A Filibuster." (Robert Novak, Op-Ed, "Dems Offer Praise, Republicans Optimistic," Chicago Sun-Times, 10/4/05)

The [Trenton, NJ] Times: "Harriet Miers Obviously Is A Woman Of Unusual Ability And Achievement." (Editorial, "Unknown Quantity," The [Trenton, NJ] Times, 10/4/05)

<outbind://54-000000008E934E085915B14F97EC7EC23789A4C8070067C18C681679B348AA78F921FBBD0F8200000000478E000079FB43121F5D284F95FFBABCB90FB11500000004D75B0000/http://www.gop.com/images/printLogo.gif>
Tuesday, October 04, 2005
What They're Saying About Nomination Of Harriet Miers To Supreme Court: Volume IV

Praise For Miers' Nomination To Supreme Court:

The Houston Chronicle: "According To Texans Who Know White House Counsel And Supreme Court Nominee Harriet Miers Both Professionally And Personally, The 60-Year-Old Former Corporate Lawyer Embodies A Mix Of Qualities Rare In Washington's Cutthroat Atmosphere: Forceful Intelligence, Extreme Discretion And A Principled Civility." (Editorial, "A Lone Star Pick," The Houston Chronicle, 10/4/05)

*

The Houston Chronicle: "In John Roberts And Now Harriet Miers, President Bush Has Selected Qualified Nominees Of Integrity And Talent Acceptable To A Wide Consensus Of Americans And Worthy Of Our Support." (Editorial, "A Lone Star Pick," The Houston Chronicle, 10/4/05)

Houston Chronicle's Janet Elliot: "I Think A Lot Of People Were Surprised. But When They Thought About It, They Realized That It Makes Sense For The President To Pick Her. She Is Similar To Some Of The Justices He Named To The Texas Supreme Court When He Was Governor And That She Appears To Be A Conservative But Not An Activist Judge." (MSNBC's "News Live," 10/4/05)

*

Elliot: "Republicans And Democratic Lawyers Who Know Her, Speak Of Her Intelligence, Her Integrity And Her Tenacity. They Say That She Will Do Very Well During The Confirmation Process." (MSNBC's "News Live," 10/4/05)

Former Dallas City Manager And Colleague Of Harriet Miers, Jan Hart Black: "I Think She Had An Incredible Sense Of Fairness And A Very Strong Sense Of Ethics. She Worked Very Well With Her Colleagues." (MSNBC's "News Live," 10/4/05)

Former Colleague Of Harriet Miers Michael Toner: "Everything In Harriet Miers' Background As A Lawyer Is One Of Absolute Excellence. She Is A Lawyer's Lawyer, Tremendous Legal Career Over Many Decades And One Of The Big Strengths I Think She Is Going To Bring Is The Fact That She's Worked In Prior Practice For Many Years, She's Not From Washington, D.C., She's Not From A Cloistered Academic Background. Instead She's Practiced In The Real World And Lived In The Real World." (Fox News' "Fox News Live," 10/4/05)

*

Toner: "She Is A Very Serious, Extraordinarily Dedicated Attorney Throughout Her Career And Everyone Who Has Worked With Harriet Miers Believes That She Is An Absolute Straight Shooter, Very Independent Minded, Extremely Impartial In Her Judgments ... [And Has An] Excellent Temperament ..." (Fox News' "Fox News Live," 10/4/05)

President Of Dallas Bar Association And Former Colleague Of Harriet Miers Tim Mountz: "There Are Certain Things About Harriet That Have Not Changed At All Over That Period Of Time. She's Always Been A Tremendous Leader. She Has Always Been A Very Gifted Lawyer, And She Has Always Been Known For Her Integrity ..." (Fox News' "Fox News Live," 10/4/05)

*

Mountz: "There Is No Question That She Is A Trail Blazer, A Bit Of A Pioneer. ... I Agree With The Comments That Have Been Made That She Has A Tremendous Amount Of Respect For The Rule Of Law ..." (Fox News' "Fox News Live," 10/4/05)

Jerry Clements, Friend Of Harriet Miers And Lawyer At Locke Liddell & Sapp: "[I]'m Confident Based Upon What The President Has Said This Morning And What I Know About Harriet, That Her Philosophy And Her Conservative Views Are Consistent With President Bush's." (MSNBC's "Connected: Coast To

Coast," 10/4/05)

Former Colleague And Former Texas Supreme Court Judge John Hill Jr.: "If What You Are Look For Is Someone Who Will Make A Decision Based Upon A Thorough Examination Of The Facts And An Application Of The Law To Those Facts, Without Fear Of Favor, Harriet Miers Is The Person That You Will Like." (Fox News' "Dayside," 10/4/05)

*

Hill Jr.: "I Think That She Is Clearly A Conservative." (Fox News' "Dayside," 10/4/05)

Former Editor At Large For The Dallas Morning News Rena Pederson: "One Of The Things That's Refreshing About Harriet's Success Is She Didn't Get There With Sharp Elbow, She Didn't Get There By Running Other People Over Or Knocking Them Out Of The Way She Got There Out Of Sheer Hard Work And Talent." (CNN's "Live From," 10/4/05)

*

Pederson: "[H]arriet Is One Of The Top Lawyers In The Country. She Was Rated One Of The Top 100 Lawyers In The Country ... She's One Of The Superstars In The Legal Profession. In Legal Circles, If You Say Harriet, They Know Who It Is." (CNN's "Live From," 10/4/05)

WABC Radio's Mark Simone: "I Think One Thing People Have To Realize, The Fact That She Was Never A Judge, The Fact That She's Not A Constitutional Scholar, Those Are Her Qualifications Here, That's Why She Was Chosen. And You Know, People Point Out That Many Of Our Best Justices Were Never Judges Before. And It's A Lot Of Them, It's 40% Of Our Justices Were Never Judges Before." (MSNBC's "News Live," 10/4/05)

Mike Davis, Associate Political Director
The White House Office of Political Affairs 202-456-7016 (direct)
202-641-4251 (cell)
202-456-6521 (fax)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 5, 2005 1:03 PM
To: Hunt, Jody (CIV)
Subject: katrina foia issue

Jody - Recvd your vm. I agree Betsy's views would be valuable and will wait to hear from you until after you've had a chance to speak with her. Many thanks, NMG

Shaw, Aloma A

Subject:	Call to Lonnie Brown
Location:	Neil's Office
Start:	Thursday, October 06, 2005 4:00 PM
End:	Thursday, October 06, 2005 4:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Reyes, Luis (SMO)

When: Thursday, October 06, 2005 4:00 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Neil's Office

~~*~*~*~*~*~*~*~*~*

Call Lonnie on (706) 542-1675

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 5, 2005 3:16 PM
To: McCallum, Robert (SMO)
Subject: Privacy office

When you have 5 mins, can I fill you in on where we stand?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 05, 2005 3:19 PM
To: McCallum, Robert (SMO)
Subject: RE: Privacy office

Will do, thanks.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, October 05, 2005 3:19 PM
To: Gorsuch, Neil M
Subject: Re: Privacy office

I should be back by 4pm and so poke your head in then. Robt.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Wed Oct 05 15:16:04 2005
Subject: Privacy office

When you have 5 mins, can I fill you in on where we stand?

From: Gorsuch, Neil M
Sent: Wednesday, October 05, 2005 5:16 PM
To: Elwood, Courtney
Subject: FW: ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTMENT OF COURTNEY SIMMONS ELWOOD AS DEPUTY CHIEF OF STAFF

Tracking:

Recipient	Read
Elwood, Courtney	Read: 10/5/2005 5:25 PM

Courtney, Congratulations! I've really enjoyed working with you at DoJ over the last several months and seen first hand how well deserved this is. This is great news for the Department and the Administration. Hope you take a moment tonight to celebrate. Warmest wishes, Neil

-----Original Message-----
From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 05, 2005 4:13 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTMENT OF COURTNEY SIMMONS ELWOOD AS DEPUTY CHIEF OF STAFF

Department of Justice

FOR IMMEDIATE RELEASE — AG
WEDNESDAY, OCTOBER 5, 2005 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTMENT OF COURTNEY SIMMONS ELWOOD AS DEPUTY CHIEF OF STAFF

WASHINGTON, D.C. - Attorney General Alberto R. Gonzales today announced the appointment of Courtney Simmons Elwood to serve as Deputy Chief of Staff at the Department of Justice. Elwood succeeds Kyle Sampson, who now serves as the Department's Chief of Staff.

Elwood has served as Counselor to the Attorney General since February 2005. Prior to joining the Department, she served as Deputy Counsel to the Vice President from 2003 to 2005, and as Associate Counsel to the President from 2001 to 2002. She practiced law at the Washington, D.C., firm of Kellogg, Huber, Hansen, Todd & Evans from 1996 to 2001, after clerking for Chief Justice William Rehnquist of the U.S. Supreme Court and Judge J. Michael Luttig of the U.S. Court of Appeals for the Fourth Circuit. Elwood earned her law degree from the Yale Law School, where she served on the editorial board of the Yale Law Journal. She earned her undergraduate degree, *summa cum laude*, from Washington and Lee University.

###

05-523

DOJ_NMG_ 0148479

DOJ_NMG_ 0148480

Image not available for this document, ID: 0.7.10316.62952-000001

Image not available for this document, ID: 0.7.10316.62952-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 05, 2005 5:26 PM
To: Martinson, Wanda; Brand, Rachel; McIntosh, Brent; Kessler, Elizabeth A; Swenson, Lily F; Mercer, Bill (ODAG); Davis, John S (ODAG)
Subject: 3pm tomorrow

Spoke with Robert and he had one thought for us to consider and one trap for us to run before we talk with [redacted] I'd like to share those ideas with you very briefly tomorrow (15 mins) at 3pm in our office (5710). In the interim, Lily and Liz, please do press ahead with the memo and I think we should be in a position to speak with [redacted] early next week.

-----Original Message-----
From: Martinson, Wanda
Sent: Wednesday, October 05, 2005 3:39 PM
To: Gorsuch, Neil M
Subject: Rachel Brand - 3pm tomorrow

Rachel said you had asked if she was available at 3pm tomorrow (Thurs, Oct 6). She's asked me to move something on her calendar -- so she is free. Will someone send a calendar invitation ... or otherwise give me info for her calendar?

Thanks,
Wanda

Wanda Martinson
Special Assistant
to AAG Rachel Brand
Office of Legal Policy
202-514-9148

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 05, 2005 5:27 PM
To: Elwood, Courtney
Subject: RE: ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTMENT OF COURTNEY SIMMONS ELWOOD AS DEPUTY CHIEF OF STAFF

I say them because they're true - and you definitely should.

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, October 05, 2005 5:25 PM
To: Gorsuch, Neil M
Subject: Re: ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTMENT OF COURTNEY SIMMONS ELWOOD AS DEPUTY CHIEF OF STAFF

You're very dear to say such nice things. [redacted] Thanks for your support.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Wed Oct 05 17:15:35 2005
Subject: FW: ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTMENT OF COURTNEY SIMMONS ELWOOD AS DEPUTY CHIEF OF STAFF

Courtney, Congratulations! I've really enjoyed working with you at DoJ over the last several months and seen first hand how well deserved this is. This is great news for the Department and the Administration. Hope you take a moment tonight to celebrate. Warmest wishes, Neil

-----Original Message-----
From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 05, 2005 4:13 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTMENT OF COURTNEY SIMMONS ELWOOD AS DEPUTY CHIEF OF STAFF

FOR IMMEDIATE RELEASE AG
WEDNESDAY, OCTOBER 5, 2005 (202) 514-2007 WWW.USDOJ.GOV TDD (202) 514-1888

ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTMENT OF COURTNEY SIMMONS ELWOOD AS DEPUTY CHIEF OF STAFF

WASHINGTON, D.C. - Attorney General Alberto R. Gonzales today announced the appointment of Courtney Simmons Elwood to serve as Deputy Chief of Staff at the Department of Justice. Elwood succeeds Kyle Sampson, who now serves as the Department's Chief of Staff.

Elwood has served as Counselor to the Attorney General since February 2005. Prior to joining the Department, she served as Deputy Counsel to the Vice President from 2003 to 2005, and as Associate Counsel to the President from 2001 to 2002. She practiced law at the Washington, D.C., firm of Kellogg, Huber, Hansen, Todd & Evans from 1996 to 2001, after clerking for Chief Justice William Rehnquist of the U.S. Supreme Court and Judge J. Michael Luttig of the U.S. Court of Appeals for the Fourth Circuit. Elwood earned her law degree from the Yale Law School, where she served on the editorial board of the Yale Law Journal. She earned her undergraduate degree, summa cum laude, from Washington and Lee University.

###

05-523

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Wednesday, October 5, 2005 5:29 PM
To:	Elwood, Courtney; Taylor, Jeffrey (OAG); Sampson, Kyle; Brand, Rachel
Cc:	Bradbury, Steve
Subject:	FW: Update on Appropriations Bill
Attachments:	tmp.htm; SA2004Graham.pdf; SA1892Dubrin.pdf; SA1977McCain.pdf

FYI

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Wednesday, October 05, 2005 4:38 PM
To: Bradbury, Steve; Gorsuch, Neil M; [redacted]@who.eop.gov
Subject: FW: Update on Appropriations Bill

-----Original Message-----
From: [redacted]CIV, OSD-LA
Sent: Wednesday, October 05, 2005 16:38
To: [redacted]DoD OGC; [redacted] DoD OGC; [redacted]
CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] DoD
OGC; [redacted] DoD OGC; [redacted] CIV, OSD-POLICY; [redacted]
SAF/OS; [redacted] CAPT, OSD-CIO; [redacted] (OARDEC)';
[redacted]
Subject: Update on Appropriations Bill

Three roll call votes will begin at 7:30pm. The first vote will be in relation to the Warner amendment #1955 defense of germaneness. The second vote will be in relation to the Bayh amendment #1933 regarding wheeled vehicle procurement. The third vote will be in relation to the McCain amendment #1977 regarding detainees.

Attached are all of the detainee related amendments. TY

Respectfully,

[redacted]

Cell: (703) 380-9563

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

O:\HEN\HEN05A03.xml S.L.C.

AMENDMENT NO. Calendar No.

Purpose: To affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment under any circumstances.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

H.R. 2863

AMENDMENT No. 1892

Making
the
oth

By Durbin

To: H.R. 2863

for
for

Refer

2
Page(s)

id

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. DURBIN

Viz:

On page 220, after line 25, insert the following:

SEC. 8116. PROHIBITION ON TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.

(a) IN GENERAL.—None of the funds appropriated or otherwise made available by this Act shall be obligated or expended to subject any person in the custody or under the physical control of the United States to torture or cruel, inhuman, or degrading treatment or punishment.

(b) DEFINITIONS.—As used in this section—

(1) the term "torture" has the meaning given that term in section 2340(1) of title 18, United States Code; and

(2) the term "cruel, inhuman, or degrading treatment or punishment" means conduct that would constitute cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution of the United States if the conduct took place in the United States.

O:\ARM\ARM05J53.LC S.L.O.

John McCain

AMENDMENT NO. ____ Calendar No. ____

Purpose: Relating to persons under the detention, custody, or control of the United States Government.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

H.R. 2863

Makin t c

AMENDMENT No. 1977 e for i for

By McCain

To: H.R. 2863

Refer 3 ____

Page(s)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MCCAIN, Mr. Graham, Mr. Hagel, Mr. Smith, Ms. Collins

Viz:

At the appropriate place, insert the following:

SEC. ___. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation

September 29, 2005

not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(b) APPLICABILITY.—Subsection (a) shall not apply to with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(c) CONSTRUCTION.—Nothing in this section shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

SEC. ___. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) LIMITATION ON SUPERSEDURE.—The provisions of this section shall not be superseded, except by a provi-

DOJ_NMG_ 0148491

sion of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term "cruel, inhuman, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

DOJ_NMG_ 0148492

O:\ARM\ARM05J17.xml S.L.C.

AMENDMENT NO. Calendar No.

Purpose: To authorize the President to utilize the Combatant Status Review Tribunals and Administrative Review Board to determine the status of detainees held at Guantanamo Bay, Cuba.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

H.R. 2863

AMENDMENT No. 2004

Mak By Graham - McCain se for
To: HR 2863 id for

Ref 3 and
Page(s)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRAHAM and Mr. McCain

Viz:

At the appropriate place, insert the following:

SEC. .(a) AUTHORITY TO UTILIZE COMBATANT STATUS REVIEW TRIBUNALS AND ADMINISTRATIVE REVIEW BOARD TO DETERMINE STATUS OF DETAINEES AT GUANTANAMO BAY, CUBA.—The President is authorized to utilize the Combatant Status Review Tribunals and a noticed Administrative Review Board, and the procedures thereof as specified in subsection (b), currently in oper-

DOJ_NMG_ 0148493

ation at Guantanamo Bay, Cuba, in order to determine the status of the detainees held at Guantanamo Bay, including whether any such detainee is a lawful enemy combatant or an unlawful enemy combatant.

(b) PROCEDURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the procedures specified in this subsection are the procedures that were in effect in the Department of Defense for the conduct of the Combatant Status Review Tribunal and the Administrative Review Board on July 1, 2005.

(2) EXCEPTION.—The exceptions provided in this paragraph for the procedures specified in paragraph (1) are as follows:

(A) To the extent practicable, the Combatant Status Review Tribunal shall determine, by a preponderance of the evidence, whether statements derived from persons held in foreign custody were obtained without undue coercion.

(B) The Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advise and consent of the Senate.

DOJ_NMG_ 0148494

(3) MODIFICATION OF PROCEDURES.—The President may modify the procedures and requirements set forth under paragraphs (1) and (2). Any modification of such procedures or requirements may not go into effect until 30 days after the date on which the President notifies the congressional defense committees of the modification.

(c) DEFINITIONS.—In this section:

(1) The term "lawful enemy combatant" means person engaging in war or other armed conflict against the United States or its allies on behalf of a state party to the Geneva Convention Relative to the Treatment of Prisoners of War, dated August 12, 1949, who meets the criteria of a prisoner of war under Article 4 of that Convention.

(2) The term "unlawful enemy combatant", with respect to noncitizens of the United States, means a person (other than a person described in paragraph (1)) engaging in war, other armed conflict, or hostile acts against the United States or its allies, [redacted] regardless of location.

-----Original Message-----
From: [redacted] CIV, OSD-LA
Sent: Wednesday, October 05, 2005 16:38
To: [redacted] DoD OGC; [redacted] DoD OGC; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] CIV, OSD-POLICY; [redacted] OSD-CIO; [redacted] (OARDEC)'; [redacted] OARDEC'
Subject: Update on Appropriations Bill

Three roll call votes will begin at 7:30pm. The first vote will be in relation to the Warner amendment #1955 defense of germaneness. The second vote will be in relation to the Bayh amendment #1933 regarding wheeled vehicle procurement. The third vote will be in relation to the McCain amendment #1977 regarding detainees.

Attached are all of the detainee related amendments. TY

Respectfully,

[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

Beach, Andrew

Subject:	Updated: Senior Management Meeting
Start:	Thursday, October 06, 2005 8:30 AM
End:	Thursday, October 06, 2005 8:50 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:20 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia

When: Thursday, October 06, 2005 8:30 AM-8:50 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: ASG Robert McCallum, Kyle Sampson, Jeff Taylor, Tasia Scolinos, Courtney Elwood, Neil Gorsuch, Bill Mercer, Jeff Oldham, Martha Pacold

Beach, Andrew

Subject:	Updated: Component Coordination Meeting
Start:	Thursday, October 06, 2005 8:50 AM
End:	Thursday, October 06, 2005 9:10 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Moschella, William; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia

When: Thursday, October 06, 2005 8:50 AM-9:10 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Kyle Sampson, Jeff Taylor, Courtney Elwood, Tasia Scolinos, Bill Mercer, Neil Gorsuch, Jeff Oldham, Martha Pacold, Rachel Brand, Jan Williams, Will Moschella, Crystal Roberts

Webb, Lauren

Subject:	Privacy Office
Location:	OLA Small Conference Room (1607)
Start:	Thursday, October 6, 2005 5:00 PM
End:	Thursday, October 6, 2005 5:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Webb, Lauren
Required Attendees:	Gorsuch, Neil M; Seidel, Rebecca

When: Thursday, October 06, 2005 5:00 PM-5:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: OLA Small Conference Room (1607)

~~*~*~*~*~*~*~*~*~*

Neil,

Does 5pm work for you? Will plans to attend the confirmation hearing for the AAG Nominees and wanted to allow plenty of time for it.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Thursday, October 06, 2005 8:14 AM
To: Gorsuch, Neil M
Subject: Read:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 06, 2005 8:20 AM
To: Elwood, Courtney
Subject: RE: Privacy Options Memo

I've got a 10 to 1130 mtg, but could stop by your office thereafter if that works.

-----Original Message-----
From: Elwood, Courtney
Sent: Thursday, October 06, 2005 8:16 AM
To: Gorsuch, Neil M
Subject: RE: Privacy Options Memo

Kyle wants to talk to me after the morning meetings, so can we get together at 10:00? or some other time?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, October 06, 2005 8:06 AM
To: Elwood, Courtney
Subject: FW: Privacy Options Memo

Here it is

-----Original Message-----
From: Davis, John S. (USAVAE)
Sent: Monday, September 26, 2005 11:26 AM
To: Moschella, William; Brand, Rachel; Baker, James; Hitch, Vance (OCIO); Frisch, Stuart; Corts, Paul R; Keisler, Peter D. (CIV); Fisher, Alice; Huff, Richard L; Metcalfe, Daniel J; [redacted]@ic.fbi.gov
Cc: Safavi, Nancy; Davis, John S (ODAG); Plante, Jeanette (JMD); Sampson, Kyle; Gorsuch, Neil M; Swenson, Lily F; Mercer, Bill (ODAG)
Subject: Privacy Options Memo

Attached is a revision of the DOJ Privacy Office options memo that I circulated to your components on September 13. I have revised the memo primarily with respect to factual descriptions of the Office of Information and Privacy and its functions. The restructuring options remain essentially the same. Please use this revised version as we move forward, and disregard the prior version.

In addition, I am extending by two days the deadline for comments.
Please provide any comments to me by COB Thursday, September 29.

Finally, I hope to schedule an intercomponent meeting on this subject for October 5 or October 6. In

Finally, I hope to schedule an intercomponent meeting on this subject for October 5 or October 6. In your response to me, please designate a contact person who could represent your component at such a meeting.

Thanks.

John Davis

<<revised privacy options mem.wpd>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 06, 2005 8:28 AM
To: Boente, Dana J. (TAX); Reyes, Luis (SMO); Mercer, Bill (ODAG)
Cc: McCallum, Robert (SMO)
Subject: RE:

Thanks, Dana. FYI re: Barry from the morning's clips. Seems like Mr Barry rather 'actively' disregarded repeated IRS urgings to file returns...

IRS Had Warned Marion Barry About Taxes Since 2002. The Washington Post (10/6, B1, Leonnig, Woodlee) reports, "The Internal Revenue Service launched a criminal investigation into Marion Barry's tax history after urging him for at least three years to file his tax returns, according to two officials familiar with the probe." The Post continues, "The IRS sent delinquency notices to Barry, a D.C. Council member and former mayor, as early as 2002 and eventually assigned fraud investigators to the case, the officials said. The agency was focused on Barry's failure to file federal income tax returns since 1998 and decided early this year to refer the matter to the U.S. attorney's office, the officials said." The Post adds, "During the past few weeks, prosecutors have been presenting information about Barry's income, bank accounts and tax history to a grand jury empaneled in U.S. District Court, according to another source who has been briefed on the case. This source, like the two officials, spoke on condition of anonymity because of the sensitive stage of the probe. ... The U.S. attorney's office and Barry have been in plea negotiations, according to the two officials. The discussions call for Barry agreeing to plead guilty to the misdemeanor charge of failure to file his returns, the sources have said, and on prosecutors agreeing to recommend that Barry serve no jail time. ... Any deal between Barry and prosecutors would have to be approved by the Justice Department before it was signed, because it involves a criminal prosecution of a tax matter. If the parties all agreed, the plea agreement would go before a federal judge for final approval. Barry, 69, could be in court within the next several days, according to the sources."

-----Original Message-----
From: Boente, Dana J. (TAX)
Sent: Wednesday, October 05, 2005 9:10 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO); Mercer, Bill (ODAG)
Subject:

Neil, Bill, Lu: The Tax Division has received information that the USAO-SDCA is going to request authorization to indict Congressman Randall "Duke" Cunningham for filing false income tax returns (26 U.S.C. Section 7206(1)) for the years 2003 and 2004. The Tax Division is currently conducting a review of the proposed charges. The tax charges are part of a larger proposed indictment which includes charges for bribery of public officials and money laundering. A report submitted by the USAO states that they have identified over $3 million in bribes. The USAO is requesting authorization for an October 20 indictment date. Please contact me if I can provide further information.

Martinson, Wanda

Subject:	Updated: OLP Policy Coordination Meeting
Location:	4234
Start:	Monday, April 4, 2005 2:00 PM
End:	Monday, April 4, 2005 3:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Martinson, Wanda
Required Attendees:	Moschella, William; Hertling, Richard; Acosta, Alex (CRT); Rhodes, Deborah; Seidel, Rebecca; Macklin, Kristi R; Nowacki, John; Scolinos, Tasia; Yanes, Raul; Elwood, Courtney; Henke, Tracy (SMO); Bounds, Ryan W (OLP); Roberts, Crystal; Stuart, Diane; Dhillon, Uttam; Comisac, Rena; Mercer, Bill (ODAG); Macklin, Kristi R; Schofield, Regina; Coughlin, Robert; Goodling, Monica (USAEO); Battle, Michael (USAEO); Gorsuch, Neil M; Reyes, Luis (SMO); Korn, Jennifer; McIntosh, Brent; Rhodes, Deborah; Clinger, James H
Optional Attendees:	'Voris, Natalie'; Fowler, Liane; Stokely, Tangent

When: Occurs every Monday effective 4/4/05 until 10/7/05 from 2:00 PM to 3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 4234

~~*~*~*~*~*~*~*~*~*

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 06, 2005 11:49 AM
To: McCallum, Robert (SMO)
Subject: RE: Judges' Pro Bono Reception on Oct. 20

I'd obviously be honored to do this if I am the right person but entirely understand if they want someone else.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Thursday, October 06, 2005 11:11 AM
To: Klein, Laura F
Cc: Gorsuch, Neil M
Subject: Re: Judges' Pro Bono Reception on Oct. 20

Laura: I have been asked by the AG to give remarks *t the 8th Cir Jud conference on Oct 21 am and so will be in the air going there on the afternoon of Oct. 20th. I will find someone to attend like my PDASG neil Gorsuch and an AAG. I will be in touch. Please give my regrets to Judge Hogan and Ginsburg. Robt.

-----Original Message-----
From: Klein, Laura F <Laura.Klein@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Oct 06 10:23:54 2005
Subject: Judges' Pro Bono Reception on Oct. 20

Hello Robert -
I don't mean to bother you, but do you know whether you'll be able to attend the Federal Government Pro Bono Recognition Reception hosted by the federal judges on Oct. 20? The judges' committee has asked me to follow up with invitees because the response rate has been low. I know you said you were unsure whether you'd be able to go and, if your schedule doesn't permit you to attend this time, I understand. If that is the case, could you help me to find someone from DOJ leadership who could attend in your place? I think it would be awkward if no senior official from DOJ were to attend since we set the standard for pro bono efforts in the federal government. Perhaps an AAG?

I do hope you can attend. Thank you for your help!
Laura

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 06, 2005 12:10 PM
To: Bucholtz, Jeffrey (CIV)
Subject: FW: Update on Appropriations Bill
Attachments: tmp.htm; SA2004Graham.pdf; SA1892Dubrin.pdf; SA1977McCain.pdf

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Wednesday, October 05, 2005 4:38 PM
To: Bradbury, Steve; Gorsuch, Neil M; [redacted]@who.eop.gov
Subject: FW: Update on Appropriations Bill

-----Original Message-----
From: [redacted] CIV, OSD-LA
Sent: Wednesday, October 05, 2005 16:38
To: [redacted] DoD OGC; [redacted] DoD OGC; [redacted]
CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] DoD
OGC; [redacted] DoD OGC; [redacted] CIV, OSD-POLICY; [redacted]
SAF/OS; [redacted] OSD-CIO; [redacted] (OARDEC)';
[redacted]
Subject: Update on Appropriations Bill

Three roll call votes will begin at 7:30pm. The first vote will be in relation to the Warner amendment #1955 defense of germaneness. The second vote will be in relation to the Bayh amendment #1933 regarding wheeled vehicle procurement. The third vote will be in relation to the McCain amendment #1977 regarding detainees.

Attached are all of the detainee related amendments. TY

Respectfully,

[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

O:\HEN\HEN05A03.xml S.L.C.

AMENDMENT NO. Calendar No.

Purpose: To affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment under any circumstances.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

H.R. 2863

AMENDMENT No. 1892

Making
the
oth

By Durbin

To: H.R. 2863

Refer

2
Page(s)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. DURBIN

Viz:

On page 220, after line 25, insert the following:

SEC. 8116. PROHIBITION ON TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.

(a) IN GENERAL.—None of the funds appropriated or otherwise made available by this Act shall be obligated or expended to subject any person in the custody or under the physical control of the United States to torture or cruel, inhuman, or degrading treatment or punishment.

(b) DEFINITIONS.—As used in this section—

(1) the term "torture" has the meaning given that term in section 2340(1) of title 18, United States Code; and

(2) the term "cruel, inhuman, or degrading treatment or punishment" means conduct that would constitute cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution of the United States if the conduct took place in the United States.

DOJ_NMG_ 0148509

O:\ARM\ARM05J53.LC S.L.O.

John McCain

AMENDMENT NO. ____ Calendar No. ____

Purpose: Relating to persons under the detention, custody, or control of the United States Government.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

H.R. 2863

Makin t c

AMENDMENT No. 1977 e for i for

By McCain

To: H.R. 2863

Refer 3 ____

Page(s)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MCCAIN, Mr. Graham, Mr. Hagel, Mr. Smith, Ms. Collins

Viz:

At the appropriate place, insert the following:

SEC. ___. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation

DOJ_NMG_ 0148510

not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(b) APPLICABILITY.—Subsection (a) shall not apply to with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(c) CONSTRUCTION.—Nothing in this section shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

SEC. ___. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) LIMITATION ON SUPERSEDURE.—The provisions of this section shall not be superseded, except by a provi-

DOJ_NMG_ 0148511

sion of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term "cruel, inhuman, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

DOJ_NMG_ 0148512

O:\ARM\ARM05J17.xml S.L.C.

AMENDMENT NO. Calendar No.

Purpose: To authorize the President to utilize the Combatant Status Review Tribunals and Administrative Review Board to determine the status of detainees held at Guantanamo Bay, Cuba.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

H.R. 2863

AMENDMENT No. 2004

Mak By Graham - McCain se for
To: HR 2863 id for

Ref 3 and
Page(s)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRAHAM and Mr. McCain

Viz:

At the appropriate place, insert the following:

SEC. .(a) AUTHORITY TO UTILIZE COMBATANT STATUS REVIEW TRIBUNALS AND ADMINISTRATIVE REVIEW BOARD TO DETERMINE STATUS OF DETAINEES AT GUANTANAMO BAY, CUBA.—The President is authorized to utilize the Combatant Status Review Tribunals and a noticed Administrative Review Board, and the procedures thereof as specified in subsection (b), currently in oper-

DOJ_NMG_0148513

ation at Guantanamo Bay, Cuba, in order to determine the status of the detainees held at Guantanamo Bay, including whether any such detainee is a lawful enemy combatant or an unlawful enemy combatant.

(b) PROCEDURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the procedures specified in this subsection are the procedures that were in effect in the Department of Defense for the conduct of the Combatant Status Review Tribunal and the Administrative Review Board on July 1, 2005.

(2) EXCEPTION.—The exceptions provided in this paragraph for the procedures specified in paragraph (1) are as follows:

(A) To the extent practicable, the Combatant Status Review Tribunal shall determine, by a preponderance of the evidence, whether statements derived from persons held in foreign custody were obtained without undue coercion.

(B) The Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advise and consent of the Senate.

DOJ_NMG_0148514

(3) MODIFICATION OF PROCEDURES.—The President may modify the procedures and requirements set forth under paragraphs (1) and (2). Any modification of such procedures or requirements may not go into effect until 30 days after the date on which the President notifies the congressional defense committees of the modification.

(c) DEFINITIONS.—In this section:

(1) The term "lawful enemy combatant" means person engaging in war or other armed conflict against the United States or its allies on behalf of a state party to the Geneva Convention Relative to the Treatment of Prisoners of War, dated August 12, 1949, who meets the criteria of a prisoner of war under Article 4 of that Convention.

(2) The term "unlawful enemy combatant", with respect to noncitizens of the United States, means a person (other than a person described in paragraph (1)) engaging in war, other armed conflict, or hostile acts against the United States or its allies, [redacted] regardless of location.

-----Original Message-----
From: [redacted], CIV, OSD-LA
Sent: Wednesday, October 05, 2005 16:38
To: [redacted]

Subject: Update on Appropriations Bill

Three roll call votes will begin at 7:30pm. The first vote will be in relation to the Warner amendment #1955 defense of germaneness. The second vote will be in relation to the Bayh amendment #1933 regarding wheeled vehicle procurement. The third vote will be in relation to the McCain amendment #1977 regarding detainees.

Attached are all of the detainee related amendments. TY

Respectfully,

[redacted]
Special Assistant to the Assistant Secretary of Defense
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
[redacted]
Fax: (703) 697-8299
[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 06, 2005 2:48 PM
To: Kim, Wan (CRT); Bradbury, Steve; Barnett, Thomas O.
Subject: Good Luck!

May today be smooth sailing and a great lifetime experience. I will have my fingers crossed for each of you. All the best, NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 06, 2005 3:55 PM
To: Reyes, Luis (SMO)
Cc: Shaw, Aloma A
Subject: RE: Am stuck on hill

Aloma, please can you reschedule? Think Lu and I really should do this together.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, October 06, 2005 3:48 PM
To: Gorsuch, Neil M
Cc: Shaw, Aloma A
Subject: Am stuck on hill

Neil, am at Wan's hearing which is going long. Do you want to handle the Lonnie Brown hearing or should we reschedule? Sorry about this boss.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 06, 2005 4:03 PM
To: Klein, Laura F
Cc: McCallum, Robert (SMO)
Subject: RE: Judges' Pro Bono Reception on Oct. 20

Laura, I'd be happy to go and also to rope in an AAG or two within our purview. If you would send me details so that I might explain the meeting to some of the AAGs, I will get right on it. Thanks, NMG

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Thursday, October 06, 2005 11:11 AM
To: Klein, Laura F
Cc: Gorsuch, Neil M
Subject: Re: Judges' Pro Bono Reception on Oct. 20

Laura: I have been asked by the AG to give remarks *t the 8th Cir Jud conference on Oct 21 am and so will be in the air going there on the afternoon of Oct. 20th. I will find someone to attend like my PDASG neil Gorsuch and an AAG. I will be in touch. Please give my regrets to Judge Hogan and Ginsburg. Robt.

-----Original Message-----
From: Klein, Laura F <Laura.Klein@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Thu Oct 06 10:23:54 2005
Subject: Judges' Pro Bono Reception on Oct. 20

Hello Robert -
I don't mean to bother you, but do you know whether you'll be able to attend the Federal Government Pro Bono Recognition Reception hosted by the federal judges on Oct. 20? The judges' committee has asked me to follow up with invitees because the response rate has been low. I know you said you were unsure whether you'd be able to go and, if your schedule doesn't permit you to attend this time, I understand. If that is the case, could you help me to find someone from DOJ leadership who could attend in your place? I think it would be awkward if no senior official from DOJ were to attend since we set the standard for pro bono efforts in the federal government. Perhaps an AAG?

I do hope you can attend. Thank you for your help!
Laura

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 06, 2005 5:56 PM
To: Elwood, Courtney; Bradbury, Steve; Brand, Rachel
Subject: Graham Amendment Accepted
Attachments: tmp.htm

Fyi. Graham's amendment (2004) passed today. We've been asked by DOD to provide a possible alternative to the Graham procedures and provisions for possible use when conference is eventually scheduled. We have a little time and I will use it to work something up with input from CIV; we'll be sure to circulate it internally before deciding whether and what to share with DoD.

-----Original Message-----
From: [redacted]
Sent: Thursday, October 06, 2005 14:59
To: [redacted]
Subject: Graham Amendment Accepted

Graham amendment 2004 was accepted as germane and passed. Next stop is the conference committee. TY

Respectfully,

[redacted]
Special Assistant to the Assistant Secretary of Defense
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
[redacted]
Fax: (703) 697-8299
[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 6, 2005 5:56 PM
To: Mercer, Bill (ODAG)
Subject: RE: Who covers EOUST for you?

Lily.

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Thursday, October 06, 2005 5:53 PM
To: Gorsuch, Neil M
Subject: Who covers EOUST for you?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 6, 2005 5:58 PM
To: Barnett, Thomas O.; Bradbury, Steve; Kim, Wan (CRT)
Subject: RE: Good Luck!

Rebecca and Lu came back with glowing reports on all of you. Congratulations!

-----Original Message-----
From: Barnett, Thomas O.
Sent: Thursday, October 06, 2005 5:19 PM
To: Bradbury, Steve; Gorsuch, Neil M; Kim, Wan (CRT)
Subject: Re: Good Luck!

Wan got the tough questions and did great.

-----Original Message-----
From: Bradbury, Steve <Steve.Bradbury@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>; Barnett, Thomas O. <Thomas.Barnett@ATR.USDOJ.gov>
Sent: Thu Oct 06 16:11:36 2005
Subject: Re: Good Luck!

Thank you! Kim and Tom got lots of questions and did fantastic. I got only two friendly questions from Sen. Cornyn. Painless for me.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>; Bradbury, Steve <Steve.Bradbury@SMOJMD.USDOJ.gov>; Barnett, Thomas O. <Thomas.Barnett@ATR.USDOJ.gov>
Sent: Thu Oct 06 14:47:33 2005
Subject: Good Luck!

May today be smooth sailing and a great lifetime experience. I will have my fingers crossed for each of you. All the best, NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 06, 2005 6:27 PM
To: Senger, Jeffrey M
Subject: RE: HR3736, Katrina Volunteer Protection (House-Passed) (Control -9858)

Thanks.

-----Original Message-----
From: Senger, Jeffrey M
Sent: Thursday, October 06, 2005 6:26 PM
To: Gorsuch, Neil M
Subject: FW: HR3736, Katrina Volunteer Protection (House-Passed) (Control -9858)

Neil, you may have already seen this, but FYI.
Jeff

-----Original Message-----
From: Silas, Adrien
Sent: Thursday, October 06, 2005 6:08 PM
To: Gunn, Currie; Senger, Jeffrey; Shaw, Aloma
Subject: FW: HR3736, Katrina Volunteer Protection (House-Passed) (Control -9858)

FYI:

-----Original Message-----
From: Silas, Adrien
Sent: Thursday, October 06, 2005 6:06 PM
To: Rybicki, James E
Cc: Wilson, Karen L; Seidel, Rebecca; Clinger, James H
Subject: HR3736, Katrina Volunteer Protection (House-Passed) (Control -9858)

Any objection to submitting the following draft Justice Department comments (submitted by OLP, OLC, and CIV) on the above to OMB? FYI, I have attached the underlying bill text. OMB had requested our comments by close of business today.

<< File: HR3736.pdf >>

While we support the goal of enhancing the protection of emergency volunteers from liability, we have serious concerns about H.R. 3736.

I. Constitutional Concerns

We doubt that this legislation falls within the enumerated powers of Congress. *See* U.S. Const. art 1, sec. 8; *United States v. Lopez*, 514 U.S. 549, 552 (1995) ("The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.") (quoting The Federalist No. 45, pp. 292-293 (C. Rossiter ed. 1961). For example, nothing in this legislation suggests a nexus between interstate commerce and the need to immunize volunteers from State tort law liability. *See* U.S. Const. art 1, sec. 8 (conferring upon

Congress the power "to regulate commerce among the several states"). And the Framers of the Constitution considered and rejected a proposal by James Madison that would have given Congress a freestanding power to annul State laws. Therefore, we recommend either that the immunity from suit extend only to liability that might arise under Federal law or that the preemption of State law apply only to liability for acts that occur in interstate commerce.

II. Other Concerns

With exceptions, H.R. 3736 would exempt from liability persons or entities who, "in response to harm caused by Hurricane Katrina of 2005," render aid "to any individual." We believe that the bill is both too narrow and too broad.

First, the bill applies only to Hurricane Katrina, which means that when the next significant disaster occurs, there will be no applicable law that will encourage volunteers to help. We strongly favor broader, more generally applicable liability reform for volunteers (and governmental donors of goods) in the context of disasters, such as those found in title I of S. 1747.

Second, one could imagine that someone inspired by the needs that Katrina caused and the rescue efforts that followed would decide generally to become a volunteer. In the course of that volunteer work, *e.g.*, volunteering to help people in a nursing home - people who are there for reasons unrelated to Katrina - the individual injured someone. The volunteer could argue that he rendered aid "in response to harm caused by Hurricane Katrina."

Third and more important, subsection 2(a) would make immunity turn on the volunteer's "good faith." "Good faith" is a subjective mental state and thus almost never susceptible to determination at the pleading stage. In the past, the "qualified immunity" applicable to government officials in the constitutional tort context turned on their good faith. This worked badly because plaintiffs simply alleged bad faith, survived a motion to dismiss, and proceeded to the discovery phase. The Supreme Court eventually clarified that qualified immunity is objective rather than subjective, and defendants enjoy much greater practical protection from discovery as a result. To reintroduce subjective good faith or bad faith as the touchstone for immunity would be most undesirable.

Fourth, the subparagraph 2(a)(1) would provide no protection if the volunteer's conduct was "willful, wanton, reckless or criminal." This formulation may result in less protection for volunteers than the drafters intended. We assume that the drafters intended to preserve liability where the volunteer acted with a sufficiently bad mental state. However, "willful" conduct might be read to refer merely to conduct that is intentional rather than accidental; it denotes no bad mental state. Second, some criminal conduct, such as violation of the Food, Drug and Cosmetic Act, requires no *mens rea*. Strict liability crimes such as this should not serve to exclude an individual from the bill's protection against liability. To clarify the scope of the protection conferred, we suggest changing "willful, wanton, reckless or criminal conduct" to "willful, knowing, or reckless misconduct."

Fifth, the bill would create an exception to the avoidance of liability if the aid "was not caused by willful, wanton, reckless, or criminal conduct of that person or entity."

Sixth, the bill would provide no protection for the business partner or employer of a volunteer.

Seventh, the bill would provide protection where a person "without a preexisting duty or expectation of compensation" provided aid. Numerous doctors will have a preexisting duty to render medical assistance to those who need it. Since the bill specifically aims to provide liability protection for "aid (including medical treatment and rescue assistance)", there is no reason to require that the volunteer not have a preexisting duty. However, the bill's exclusion from protection of those who expect compensation for their services should be retained.

Eighth, the obvious intent of the bill is that it prevent liability for suits arising out of Katrina victim assistance after August 2005. However, the bill should provide immunity from suit as well as from liability. The bill is silent as to applicability. Therefore, the presumption is that the legislation applies prospectively only. Instead, the legislation should clarify that it would apply to all suits brought for underlying conduct within its scope that occurred on or after August 29, 2005.

Finally, the wording of subsection 2(a) is uses the term "qualified immunity" to describe the liability protection that it confers upon volunteers. However, "qualified immunity" is a term of art that has a very different meaning than what is intended here, so the use of that phrase risks confusion. We recommend changing the heading of section 2(a) from "qualified immunity from suit" to "liability protection" or the like.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 6, 2005 6:31 PM
To: [redacted]@dodgc.osd.mil'
Cc: [redacted]@osd.mil
Subject: RE: Graham Amendment Accepted

Thanks - what was the vote?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Thursday, October 06, 2005 6:28 PM
To: Gorsuch, Neil M
Cc: [redacted]@osd.mil
Subject: RE: Graham Amendment Accepted

I've been told that the one sent yesterday (with deletions) is the one that passed.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, October 06, 2005 18:22
To: [redacted]@dodgc.osd.mil
Subject: RE: Graham Amendment Accepted

Is the version of 2004 that passed the same as the one you sent earlier (it had some handwritten deletions on it)? If not, do you have a copy of the as-passed amendment?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Thursday, October 06, 2005 3:04 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: Graham Amendment Accepted

-----Original Message-----
From: Marrone, Christian, CIV, OSD-LA
Sent: Thursday, October 06, 2005 14:59
To: [redacted]DoD OGC; [redacted]DoD OGC; [redacted]RADM (OARDEC)'; [redacted]DoD OGC; [redacted]CIV, OSD-POLICY; [redacted]CIV, OSD-POLICY; [redacted]CIV, OSD-POLICY; [redacted]DoD OGC; [redacted]DoD OGC
Subject: Graham Amendment Accepted

Graham amendment 2004 was accepted as germane and passed. Next stop is the conference committee. TY

Respectfully,

[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 6, 2005 7:16 PM
To: [redacted]@osd.mil'; [redacted]@dodgc.osd.mil
Subject: RE: Graham Amendment Accepted

Thank you

-----Original Message-----
From: [redacted]@osd.mil [mailto:[redacted]@osd.mil]
Sent: Thursday, October 06, 2005 6:32 PM
To: Gorsuch, Neil M [redacted]@dodgc.osd.mil
Subject: Re: Graham Amendment Accepted

It passed by voice vote. TY
Respectfully,

[redacted]

CAUTION: This message may contain information protected
by the attorney client, attorney work product, deliberative
process, or other privilege. No dissemination of this email
message is authorized without the prior written approval of the
Office of the Assistant Secretary of Defense for Legislative
Affairs. The guidance contained in this email message is unofficial.
If official guidance is required, a written request must be submitted.
The Office of the Assistant Secretary of Defense for Legislative Affairs
provides no assurance as to the integrity of this message's content after
it has been sent to and received by the intended mail recipient.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>
CC: [redacted]@osd.mil [redacted]@osd.mil>
Sent: Thu Oct 06 18:30:53 2005
Subject: RE: Graham Amendment Accepted

Thanks - what was the vote?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Thursday, October 06, 2005 6:28 PM
To: Gorsuch, Neil M
Cc: [redacted]@osd.mil
Subject: RE: Graham Amendment Accepted

I've been told that the one sent yesterday (with deletions) is the one that passed.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, October 06, 2005 18:22
To: [redacted]@dodgc.osd.mil
Subject: RE: Graham Amendment Accepted

Is the version of 2004 that passed the same as the one you sent earlier (it had some handwritten deletions on it)? If not, do you have a copy of the as-passed amendment?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Thursday, October 06, 2005 3:04 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: Graham Amendment Accepted

-----Original Message-----
From: [redacted] OSD-LA
Sent: Thursday, October 06, 2005 14:59
To: [redacted] DoD OGC; [redacted]DoD OGC; [redacted] RADM (OARDEC)' [redacted]DoD OGC; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] DoD OGC; [redacted]DoD OGC
Subject: Graham Amendment Accepted

Graham amendment 2004 was accepted as germane and passed. Next stop is the conference committee. TY

Respectfully,

[redacted]

[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 06, 2005 7:28 PM
To: Kessler, Elizabeth A
Subject: RE: Duck Valley

Didn't realize this involved a hill mtg so I am not inclined to be involved; seems more like an OLA show.

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Thursday, October 06, 2005 2:59 PM
To: Gorsuch, Neil M
Subject: FW: Duck Valley

-----Original Message-----
From: Alexander, Craig (ENRD)
Sent: Thursday, October 06, 2005 10:44 AM
To: Clinger, James H; Seidel, Rebecca; Kessler, Elizabeth A; Sobeck, Eileen (ENRD); Johnson, Kelly A. (ENRD)
Subject: RE: Duck Valley

Jim & Rebecca--

Enclosed are the following background materials:

1) My edits to a bootleg version of Interior's testimony on Duck Valley;

2) OMB's instructions to DOI on what the testimony should include; and

3) Briefing paper on Indian water settlements.

I am still looking for the draft Duck Valley settlement legislation.

--Craig

<< File: #33024-v1-Duck_valley_testimony_9_22_05.DOC >> << File: #32953-v1-Duck_Valley_OMB_points.DOC >> << File: #31597-v5-Water_stats.WPD >>

From: Clinger, James H
Sent: Thursday, October 06, 2005 10:22 AM
To: Seidel, Rebecca; Kessler, Elizabeth A; Alexander, Craig (ENRD); Sobeck, Eileen (ENRD); Johnson, Kelly A. (ENRD)
Subject: RE: Duck Valley

I will try to set up a pre-call with David Anderson for sometime between 3:30 and 5:00 this afternoon. Who besides Craig and Liz would like to participate? Thanks.

-----Original Message-----
From: Seidel, Rebecca
Sent: Thursday, October 06, 2005 10:13 AM
To: Kessler, Elizabeth A; Alexander, Craig (ENRD); Sobeck, Eileen (ENRD); Johnson, Kelly A. (ENRD)
Cc: Clinger, James H
Subject: RE: Duck Valley

yes absolutely OLA should be on the call. I am looping in Jim Clinger, our new deputy who now has

ENRD instead of me. He is available to be on the call. Craig is kindly bringing us up to speed now (on phone). Thanks.

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Thursday, October 06, 2005 10:05 AM
To: Alexander, Craig (ENRD); Sobeck, Eileen (ENRD); Johnson, Kelly A. (ENRD); Seidel, Rebecca
Subject: RE: Duck Valley

Sounds good. I'm cc'ing Rebecca to loop in OLA.

Rebecca: Can you let us know who should handle this for OLA? I'm thinking it makes sense to have an OLA person on the call with Craig - but I defer to you on that.

Craig: Why don't you try to herd all of us cats in a pre-meeting? I can do tomorrow before 10 am or today after 3:30.

-----Original Message-----
From: Alexander, Craig (ENRD)
Sent: Thursday, October 06, 2005 9:58 AM
To: Kessler, Elizabeth A; Sobeck, Eileen (ENRD); Johnson, Kelly A. (ENRD)
Subject: Duck Valley

I just got a call from David Anderson's office at OMB. David is on a call with Sen. Crapo's staff tomorrow at 10 am. David wanted Kelly on the call. Since Kelly is out of town, David's scheduler called me. I am happy to participate, but I thought we better talk about this first since it would involve talking to the Hill about an IRS case.

--Craig

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 7, 2005 8:32 AM
To: Eisenberg, John
Subject: RE: lunch

John, Why don't we reschedule? I can do next Thursday or the 18-19.

-----Original Message-----
From: Eisenberg, John
Sent: Friday, October 07, 2005 7:35 AM
To: Gorsuch, Neil M
Subject: lunch

Neil:

We are scheduled for lunch on Tuesday. I now have a meeting at 1pm that day that apparently cannot be moved. If you can get away a little before noon, this should be fine. Otherwise, we can, of course, reschedule.

Thanks,

John

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 8:32 AM
To: Moschella, William
Cc: Clinger, James H
Subject: RE: heads up

Thanks for the heads up

-----Original Message-----
From: Moschella, William
Sent: Friday, October 07, 2005 7:32 AM
To: Gorsuch, Neil M
Cc: Clinger, James H
Subject: Fw: heads up

FYI

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]@mail.house.gov <[redacted]@mail.house.gov>
Sent: Thu Oct 06 19:36:31 2005
Subject: heads up

Quick heads up ...

Tonight, Mrs. Harman will be introducing a House companion to the McCain amendment that passed the Senate last night 90-9. The proposal has strong bipartisan support. The legislation prohibits cruel, inhuman, and degrading treatment and requires that DOD interrogators employ the Army Field Manual.

A more formal press release will follow tomorrow.

[redacted]

[redacted]

[redacted]

Permanent Select Committee on Intelligence

U.S. House of Representatives

Washington, DC 20515

Main: [redacted]

[redacted]@mail.house.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 8:39 AM
To: O'Connor, Eileen J. (AAG/TAX); Keisler, Peter D. (CIV)
Subject: FW: Federal Government Pro Bono Reception
Attachments: McCallum.pdf

Lee and Peter,

Because of a conflict, Robert has asked me to attend the federal govt pro bono recognition reception hosted by Chief Judges Ginsburg and Hogan on Oct 20, at 5:30, in the federal courthouse (judge's dining room). I was hoping that, to bolster DOJ's presence and confirm its commitment to this cause, you might attend as well. As you know, one of our own, John Cruden, is heading the DC Bar this year and has made govt lawyer pro bono a major part of his agenda. If you could please let me know whether you're able to attend, I will handle the rsvp.

Many thanks,

NMG

-----Original Message-----
From: Klein, Laura F
Sent: Thursday, October 06, 2005 9:32 PM
To: Gorsuch, Neil M
Subject: FW: Federal Government Pro Bono Reception

Neil -
Attached is the email invitation sent to the agency representatives in the Interagency Pro Bono Working Group. Attached to that email is a pdf version of the official invitation sent to Robert (I was cc'd). Please let me know if you have any questions.
Thanks!
Laura

-----Original Message-----
From: [redacted]@milchev.com [mailto:[redacted]@milchev.com]
Sent: Thursday, September 29, 2005 3:30 PM
To: Klein, Laura F
Subject: Federal Government Pro Bono Reception

As your agency's representative on the Inter-Agency Pro Bono Working Group, you are cordially invited to attend the Federal Government Pro Bono Recognition Reception on October 20, at 5:30 pm, in the E. Barrett Prettyman Courthouse. Attached to this e-mail is a PDF version of the letter of invitation sent earlier this week to the head of your agency. Please reply to this e-mail, or RSVP to [redacted] at [redacted]@crowell.com, or to Laura Klein of the Department of Justice. Thank you.

[redacted]
Pro Bono Counsel
Miller & Chevalier, Chartered
Suite 900
655 Fifteenth Street, NW
Washington, D.C. 20005
[redacted]
fax: 202.628.0858
email: [redacted]@milchev.com

This electronic message contains information which may be legally confidential and/or privileged. This information is intended solely for the individual or entity named above and access by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copying, distribution, or use of the contents is prohibited and may be unlawful. If you have received this electronic transmission in error, please reply immediately to the sender that you have received the message in error, and delete it. Thank you.

<<McCallum.pdf>>

Judicial Conference of the District of Columbia Circuit
Standing Committee on Pro Bono Legal Services

E. Barrett Prettyman United States Courthouse
333 Constitution Ave., N.W., Room 4826
Washington, DC 20001

(202)216-7340

September 26, 2005

VIA FACSIMILE

The Honorable Robert D. McCallum
Associate Attorney General
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Mr. McCallum:

As Co-Chair of the DC Circuit Judicial Conference Standing Committee on Pro Bono Legal Services, and on behalf of Chief Judges Douglas Ginsburg and Thomas F. Hogan, I am writing to invite you to attend the Federal Government Pro Bono Recognition Reception with judges of the DC Circuit courts on October 20, 2005, at the E. Barrett Prettyman United States Courthouse at 333 Constitution Avenue, N.W., beginning at 5:30 pm.

The DC Circuit Judicial Conference has long encouraged pro bono service by lawyers admitted to its courts. In 1998, the DC Circuit Judicial Conference recommended that lawyers perform 50 hours of pro bono legal service annually to fulfill their professional ethical obligations under Rule 6.1 of the District of Columbia Rules of Professional Responsibility. This 50 hour annual goal is mirrored in the A.B.A.'s rule 6.1, in a 1997 Resolution of the District of Columbia Courts, and in the ethical rules of a number of jurisdictions, including Maryland. Several federal agencies, including the Department of Justice, have set the same goals for their attorneys.

Government lawyers face special challenges when they seek to perform pro bono legal work. Agencies such as yours, which have a representative on the Interagency Pro Bono Working Group or which have written pro bono policies and programs in place, have taken important steps to help government lawyers provide much-needed pro bono legal services. I hope you will be able to join Chief Judges Ginsburg and Hogan, and other judges of the DC Courts on October 20 at this special event to recognize the importance of the pro bono legal work done by federal government lawyers.

Please RSVP no later than October 3, 2005, to Committee Member [redacted] at [redacted] or [redacted]@crowell.com. If you have any questions, please feel free to contact me at [redacted], or [redacted]@milchev.com, or [redacted]

Sincerely,

[redacted]

Co-Chair, DC Circuit Judicial Conference
Standing Committee on Pro Bono Legal Services

cc: Laura Klein
Department of Justice Pro Bono
Program Manager, Head of the
Interagency Pro Bono Working Group

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 7, 2005 8:42 AM
To: Klein, Laura F
Subject: FW: Federal Government Pro Bono Reception
Attachments: McCallum.pdf

Lauram

FYI. I will let you know when I hear back from Lee and Peter. Shall I rsvp that I'm attending in Robert's stead or have you already done so? Also, given your involvement in pro bono here at the department, could you point me to resources/ideas for doing a little pro bono work myself? Many thanks, NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 8:39 AM
To: O'Connor, Eileen J. (AAG/TAX); Keisler, Peter D. (CIV)
Subject: FW: Federal Government Pro Bono Reception

Lee and Peter,

Because of a conflict, Robert has asked me to attend the federal govt pro bono recognition reception hosted by Chief Judges Ginsburg and Hogan on Oct 20, at 5:30, in the federal courthouse (judge's dining room). I was hoping that, to bolster DOJ's presence and confirm its commitment to this cause, you might attend as well. As you know, one of our own, John Cruden, is heading the DC Bar this year and has made govt lawyer pro bono a major part of his agenda. If you could please let me know whether you're able to attend, I will handle the rsvp.

Many thanks,

NMG

-----Original Message-----
From: Klein, Laura F
Sent: Thursday, October 06, 2005 9:32 PM
To: Gorsuch, Neil M
Subject: FW: Federal Government Pro Bono Reception

Neil -
Attached is the email invitation sent to the agency representatives in the Interagency Pro Bono Working Group. Attached to that email is a pdf version of the official invitation sent to Robert (I was cc'd). Please let me know if you have any questions.
Thanks!
Laura

-----Original Message-----
From: [redacted]@milchev.com [mailto[redacted]@milchev.com]
Sent: Thursday, September 29, 2005 3:30 PM
To: Klein, Laura F
Subject: Federal Government Pro Bono Reception

As your agency's representative on the Inter-Agency Pro Bono Working Group, you are cordially invited to attend the Federal Government Pro Bono Recognition Reception on October 20, at 5:30 pm, in the E. Barrett Prettyman Courthouse. Attached to this e-mail is a PDF version of the letter of invitation sent earlier this week to the head of your agency. Please reply to this e-mail, or RSVP to [redacted] at [redacted]@crowell.com, or to Laura Klein of the Department of Justice. Thank you.

[redacted]
Pro Bono Counsel
Miller & Chevalier, Chartered
Suite 900
655 Fifteenth Street, NW
Washington, D.C. 20005
[redacted]
fax: 202.628.0858
email: [redacted]@milchev.com

This electronic message contains information which may be legally confidential and/or privileged. This information is intended solely for the individual or entity named above and access by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copying, distribution, or use of the contents is prohibited and may be unlawful. If you have received this electronic transmission in error, please reply immediately to the sender that you have received the message in error, and delete it. Thank you.

<<McCallum.pdf>>

Judicial Conference of the District of Columbia Circuit
Standing Committee on Pro Bono Legal Services

E. Barrett Prettyman United States Courthouse
333 Constitution Ave., N.W., Room 4826
Washington, DC 20001

(202)216-7340

September 26, 2005

VIA FACSIMILE

The Honorable Robert D. McCallum
Associate Attorney General
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Mr. McCallum:

As Co-Chair of the DC Circuit Judicial Conference Standing Committee on Pro Bono Legal Services, and on behalf of Chief Judges Douglas Ginsburg and Thomas F. Hogan, I am writing to invite you to attend the Federal Government Pro Bono Recognition Reception with judges of the DC Circuit courts on October 20, 2005, at the E. Barrett Prettyman United States Courthouse at 333 Constitution Avenue, N.W., beginning at 5:30 pm.

The DC Circuit Judicial Conference has long encouraged pro bono service by lawyers admitted to its courts. In 1998, the DC Circuit Judicial Conference recommended that lawyers perform 50 hours of pro bono legal service annually to fulfill their professional ethical obligations under Rule 6.1 of the District of Columbia Rules of Professional Responsibility. This 50 hour annual goal is mirrored in the A.B.A.'s rule 6.1, in a 1997 Resolution of the District of Columbia Courts, and in the ethical rules of a number of jurisdictions, including Maryland. Several federal agencies, including the Department of Justice, have set the same goals for their attorneys.

Government lawyers face special challenges when they seek to perform pro bono legal work. Agencies such as yours, which have a representative on the Interagency Pro Bono Working Group or which have written pro bono policies and programs in place, have taken important steps to help government lawyers provide much-needed pro bono legal services. I hope you will be able to join Chief Judges Ginsburg and Hogan, and other judges of the DC Courts on October 20 at this special event to recognize the importance of the pro bono legal work done by federal government lawyers.

Please RSVP no later than October 3, 2005, to Committee Member [redacted] at [redacted] or [redacted]@crowell.com. If you have any questions, please feel free to contact me at [redacted], or [redacted]@milchev.com, or [redacted].

Sincerely,

[redacted]

Co-Chair, DC Circuit Judicial Conference
Standing Committee on Pro Bono Legal Services

cc: Laura Klein
Department of Justice Pro Bono
Program Manager, Head of the
Interagency Pro Bono Working Group

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 7, 2005 8:42 AM
To: Eisenberg, John
Subject: RE: lunch

Great; I will look forward to it.

-----Original Message-----
From: Eisenberg, John
Sent: Friday, October 07, 2005 8:37 AM
To: Gorsuch, Neil M
Subject: RE: lunch

Let's go for Thursday. Thanks, Oct. 13.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 8:32 AM
To: Eisenberg, John
Subject: RE: lunch

John, Why don't we reschedule? I can do next Thursday or the 18-19.

-----Original Message-----
From: Eisenberg, John
Sent: Friday, October 07, 2005 7:35 AM
To: Gorsuch, Neil M
Subject: lunch

Neil:

We are scheduled for lunch on Tuesday. I now have a meeting at 1pm that day that apparently cannot be moved. If you can get away a little before noon, this should be fine. Otherwise, we can, of course, reschedule.

Thanks,

John

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 7, 2005 8:47 AM
To: Rybicki, James E; Bucholtz, Jeffrey (CIV)
Subject: RE: S1761, Gulf Coast Recovery (Control -9862)

No comments here, thanks.

-----Original Message-----
From: Rybicki, James E
Sent: Thursday, October 06, 2005 9:22 PM
To: Gorsuch, Neil M
Subject: Fw: S1761, Gulf Coast Recovery (Control -9862)

-----Original Message-----
From: Silas, Adrien <Adrien.Silas@SMOJMD.USDOJ.gov>
To: Rybicki, James E <James.E.Rybicki@SMOJMD.USDOJ.gov>
CC: Wilson, Karen L <Karen.L.Wilson@SMOJMD.USDOJ.gov>; Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Clinger, James H <James.H.Clinger@SMOJMD.USDOJ.gov>; Gunn, Currie <Currie.Gunn@SMOJMD.USDOJ.gov>; Senger, Jeffrey <Jeffrey.M.Senger@SMOJMD.USDOJ.gov>; Shaw, Aloma <Aloma.A.Shaw@SMOJMD.USDOJ.gov>
Sent: Thu Oct 06 19:21:57 2005
Subject: S1761, Gulf Coast Recovery (Control -9862)

Any ODAG objection to submitting the following draft Justice Department comments (submitted by OLP, CIV, ENRD, and CRM) on the above to OMB? FYI, I have attached the underlying bill text. OMB had requested our comments by close of business today.

The Department of Justice has the following comments on S. 1761, the "Gulf Coast Recovery Act." For the reasons set forth below, we oppose the bill.

S. 1761 would provide substantial liability protection for contractors engaged in disaster relief work arising from Hurricane Katrina and future disasters requiring Federal assistance of $15 billion or more. The bill's definition of "government contract" includes contracts between persons and entities with Federal, State, or local governments, including all subcontractors under such contracts. See subsection 3(2). The covered work under such contracts would include "construction, demolition, repair, clean-up, alteration, remediation, and related engineering." Id.

Section 4. Specifically, subsection 4(a) says, "a person or entity awarded a government contract to perform rescue, recovery, repair, or reconstruction work in any portion of a disaster zone shall not, as a

perform rescue, recovery, repair, or reconstruction work in any portion of a disaster zone shall not, as a result of the performance of that work, be subject to liability that any private party may seek to impose under any provision of Federal law ... that (1) is administered by [EPA, DOT, Corps]; and (2) otherwise permits the filing of a lawsuit by a private individual." Section 4 would provide such contractors complete protection from liability arising under most Federal statutes and regulations. This would appear to bar any tort liability that might arise from, e.g., violations of EPA pollution rules, OSHA construction site regulations, or HUD or FEMA regulations pertaining to which mobile homes are safe for hurricane zones. We are not aware of a need or a justification for such expansive liability protection for contractors (which generally are able to purchase insurance against liability).

Section 5. Section 5 would provide contractors substantial liability protections for claims other that liability arising under most Federal statutes and regulations. It would create a Federal cause of action, with exclusive Federal-court jurisdiction, for claims relating to the performance of a government contract (whether oral or written) in a disaster zone for the listed activities. Recalling that "government contract" is defined to include contracts between private citizens and entities and State and local governments, the creation of a Federal cause of action here would appear to be in significant tension with principles of federalism. That covered contracts could be oral further underscores the extraordinary breadth of this section. Subparagraph 5(a)(3) apparently would limit the newly-minted Federal claims to claims against the person or entity awarded the government contract, even though the injury may well have been caused by a different person or entity.

Subsection 5(d) of the bill would establish a government contractor defense. A government contractor defense as established under the Supreme Court's Boyle decision normally shields a government contractor from tort liability when it complies with the specifications that the Government has established for awarding the contract. In subparagraph 5(d)(1) the bill purports to create a rebuttable presumption of a government contractor defense where the Chief of Engineers certifies that the contract is necessary for the recovery of a disaster zone. However, subparagraph 5(d)(3) provides that the presumption can be overcome "only by evidence showing that a person or entity awarded a government contract acted fraudulently or with willful misconduct in submitting information to the Chief of Engineers in conjunction with the consideration by the Chief of Engineers of the government contract."

Subsection 5(d) would make the government contractor defense presumptively applicable to claims relating to the performance of contracts that the Chief of Engineers certifies as being "necessary for the recovery of a disaster zone." However, under subparagraph 5(d)(4), all that would be required to obligate the Chief of Engineers to so certify would be that a majority of the work under the contract involved the activities listed in 5(a)(1)(A-E). It appears that the bill contemplates that a contractor would approach the Chief of Engineers after being sued and then would ask the Chief of Engineers to make this certification in the context of the lawsuit. We question whether it is wise policy to make a Federal official such an overt gatekeeper in litigation, tasked with deciding whether particular defendants are entitled to the presumptive government contractor defense (over the objection of the plaintiff, who is likely to make his or her own view known to the Chief of Engineers).

In addition, section 5(d)(2)(B) makes the government contractor defense applicable to certain subcontracts under contracts certified by the Chief of Engineers. The Chief of Engineers would not appear to have any occasion to consider such subcontracts in any respect, either at the time of award or even in response to a certification request during litigation. And there appears to be no way to rebut the presumptive applicability of the defense to such subcontracts, since the subcontractor does not need to seek a certification from the Chief of Engineers and thus would have no occasion to defraud the Chief of Engineers. We do not understand why it is appropriate to confer this Federal defense on subcontractors without any Federal review whatever at any stage.

Moreover, the scope of protection is far broader than the standard operation of the government contractor defense. It would allow recovery even when the contractor recklessly submitted inaccurate information to obtain the contract. Moreover, it would allow the government contractor defense to apply even where the contractor did not comply with the contractual terms - even if it intentionally failed to comply with those terms. Under the bill, the only relevant conduct that could prevent applicability of the government contractor defense would be in connection with being awarded the contract. Performance of the contract in accordance with the standards the Government establishes, the normal basis for providing the government contractor defense, would not be required.

It is true that section 5(e)(3) provides that the government contractor defense provision does not "affect[] the liability of any person or entity for recklessness or willful misconduct." Under this provision, injured persons could bring suits (albeit in Federal court and governed by subsection 5(a)) against contractors alleging recklessness or willful misconduct, so this carve-out limits to some extent the dramatic scope of the protections conferred by this bill. Still, however, section 5 would bar claims for shoddy (but not "reckless") construction or design of replacement homes, roads, or power lines. The bill apparently would bar suits arising from garden-variety negligence such as auto accidents if the accident occurs while the driver is working under a government contract. Such expansive protection from liability removes a powerful incentive for contractors to exercise due care. We believe that this bill is extremely generous to contractors at the expense of injured persons, without any demonstrated need or justification. To avoid unnecessary injury, and to adhere to the rationale for a government contractor defense, the bill should allow the rebuttable presumption to be overcome by evidence that the contractor at least recklessly failed to comply with the contract specifications.

We note that because "government contract" would include contracts with State and local governments (as well as subcontracts under such contracts), it would appear that most covered contractors would not submit any information to the Chief of Engineers in connection with the initial award of the contract or in connection with its performance. Rather, this provision seems to contemplate that the government contractor defense would apply unless the contractor defrauded the Chief of Engineers into issuing a (likely post-hoc) certification that the contract was "necessary for the recovery of a disaster zone" under subparagraph 5(d)(4), since that would be the only situation in which the Chief of Engineers would engage in any "consideration . . . of the government contract."

And because the bill as currently written would allow a contractor to avoid liability even if it willfully failed to comply with the contract specifications, the bill is confusing by stating in subparagraph 5(e)(3) that "[n]othing in subsection (b), (c), or (d) affects the liability of any person or entity for recklessness or willful misconduct." The plain language of the bill cannot be reconciled with this statement. At the very least, this contradiction creates an unresolvable ambiguity.

Additionally, the provision seems designed to preclude private suits under environmental regulatory statutes (Clean Air Act, Clean Water Act, etc) and CERCLA (cost recovery). We have some concern that, in limited circumstances, the language might support an argument that the Federal government itself might be precluded from bringing an appropriate action. This is particularly troubling given the long reach of the bill - it would reach all the way into the "reconstruction" phase, which could be years later (e.g., construction of a new building).

One way to address this concern, would be to amend the language of the provision to state that the contractor "shall not ... be subject to SUIT BY any private party [ ] under any provision of Federal law ...." This would focus on the bill's intent - avoiding private suits - without affecting federal enforcement or cost recovery.

Finally, we recommend adding legislative history clarifying that the bill is not intended to shield any contractor from criminal liability for fraud or other offenses.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 8:47 AM
To: Rybicki, James E; Bucholtz, Jeffrey (CIV)
Subject: RE: HR3736, Katrina Volunteer Protection (House-Passed) (Control -9858)

Ok with this, too.

-----Original Message-----
From: Rybicki, James E
Sent: Thursday, October 06, 2005 9:22 PM
To: Mercer, Bill (ODAG); Gorsuch, Neil M
Cc: Burton, Dawn (ODAG)
Subject: Re: HR3736, Katrina Volunteer Protection (House-Passed)
(Control -9858)

Got it.

Neil: I will send you two others that are related that I just received. Thanks.

-----Original Message-----
From: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
To: Rybicki, James E <James.E.Rybicki@SMOJMD.USDOJ.gov>; Gorsuch, Neil M
<Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Burton, Dawn (ODAG) <Dawn.Burton@SMOJMD.USDOJ.gov>
Sent: Thu Oct 06 21:11:49 2005
Subject: RE: HR3736, Katrina Volunteer Protection (House-Passed) (Control -9858)

Neal has been very involved here. Let's see if he wants to handle for the SMOs.

-----Original Message-----
From: Rybicki, James E
Sent: Thursday, October 06, 2005 6:09 PM
To: Mercer, Bill (ODAG)
Cc: Burton, Dawn (ODAG)
Subject: Fw: HR3736, Katrina Volunteer Protection (House-Passed)
(Control -9858)

Who in ODAG should clear this?

-----Original Message-----
From: Silas, Adrien <Adrien.Silas@SMOJMD.USDOJ.gov>
To: Rybicki, James E <James.E.Rybicki@SMOJMD.USDOJ.gov>
CC: Wilson, Karen L <Karen.L.Wilson@SMOJMD.USDOJ.gov>; Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Clinger, James H <James.H.Clinger@SMOJMD.USDOJ.gov>
Sent: Thu Oct 06 18:06:28 2005
Subject: HR3736, Katrina Volunteer Protection (House-Passed) (Control -9858)

Any objection to submitting the following draft Justice Department comments (submitted by OLP, OLC, and CIV) on the above to OMB? FYI, I have attached the underlying bill text. OMB had requested our comments by close of business today.

While we support the goal of enhancing the protection of emergency volunteers from liability, we have serious concerns about H.R. 3736.

I. Constitutional Concerns

We doubt that this legislation falls within the enumerated powers of Congress. See U.S. Const. art 1, sec. 8; United States v. Lopez, 514 U.S. 549, 552 (1995) ("The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.") (quoting The Federalist No. 45, pp. 292-293 (C. Rossiter ed. 1961). For example, nothing in this legislation suggests a nexus between interstate commerce and the need to immunize volunteers from State tort law liability. See U.S. Const. art 1, sec. 8 (conferring upon Congress the power "to regulate commerce among the several states"). And the Framers of the Constitution considered and rejected a proposal by James Madison that would have given Congress a freestanding power to annul State laws. Therefore, we recommend either that the immunity from suit extend only to liability that might arise under Federal law or that the preemption of State law apply only to liability for acts that occur in interstate commerce.

II. Other Concerns

With exceptions, H.R. 3736 would exempt from liability persons or entities who, "in response to harm caused by Hurricane Katrina of 2005," render aid "to any individual." We believe that the bill is both too narrow and too broad.

First, the bill applies only to Hurricane Katrina, which means that when the next significant disaster occurs, there will be no applicable law that will encourage volunteers to help. We strongly favor broader, more generally applicable liability reform for volunteers (and governmental donors of goods) in the context of disasters, such as those found in title I of S. 1747.

Second, one could imagine that someone inspired by the needs that Katrina caused and the rescue efforts that followed would decide generally to become a volunteer. In the course of that volunteer work, e.g., volunteering to help people in a nursing home - people who are there for reasons unrelated to Katrina - the individual injured someone. The volunteer could argue that he rendered aid "in response to harm caused by Hurricane Katrina."

Third and more important, subsection 2(a) would make immunity turn on the volunteer's "good

faith." "Good faith" is a subjective mental state and thus almost never susceptible to determination at the pleading stage. In the past, the "qualified immunity" applicable to government officials in the constitutional tort context turned on their good faith. This worked badly because plaintiffs simply alleged bad faith, survived a motion to dismiss, and proceeded to the discovery phase. The Supreme Court eventually clarified that qualified immunity is objective rather than subjective, and defendants enjoy much greater practical protection from discovery as a result. To reintroduce subjective good faith or bad faith as the touchstone for immunity would be most undesirable.

Fourth, the subparagraph 2(a)(1) would provide no protection if the volunteer's conduct was "willful, wanton, reckless or criminal." This formulation may result in less protection for volunteers than the drafters intended. We assume that the drafters intended to preserve liability where the volunteer acted with a sufficiently bad mental state. However, "willful" conduct might be read to refer merely to conduct that is intentional rather than accidental; it denotes no bad mental state. Second, some criminal conduct, such as violation of the Food, Drug and Cosmetic Act, requires no mens rea. Strict liability crimes such as this should not serve to exclude an individual from the bill's protection against liability. To clarify the scope of the protection conferred, we suggest changing "willful, wanton, reckless or criminal conduct" to "willful, knowing, or reckless misconduct."

Fifth, the bill would create an exception to the avoidance of liability if the aid "was not caused by willful, wanton, reckless, or criminal conduct of that person or entity."

Sixth, the bill would provide no protection for the business partner or employer of a volunteer.

Seventh, the bill would provide protection where a person "without a preexisting duty or expectation of compensation" provided aid. Numerous doctors will have a preexisting duty to render medical assistance to those who need it. Since the bill specifically aims to provide liability protection for "aid (including medical treatment and rescue assistance)", there is no reason to require that the volunteer not have a preexisting duty. However, the bill's exclusion from protection of those who expect compensation for their services should be retained.

Eighth, the obvious intent of the bill is that it prevent liability for suits arising out of Katrina victim assistance after August 2005. However, the bill should provide immunity from suit as well as from liability. The bill is silent as to applicability. Therefore, the presumption is that the legislation applies prospectively only. Instead, the legislation should clarify that it would apply to all suits brought for underlying conduct within its scope that occurred on or after August 29, 2005.

Finally, the wording of subsection 2(a) is uses the term "qualified immunity" to describe the liability protection that it confers upon volunteers. However, "qualified immunity" is a term of art that has a very different meaning than what is intended here, so the use of that phrase risks confusion. We recommend changing the heading of section 2(a) from "qualified immunity from suit" to "liability protection" or the like.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 1:20 PM
To: Klein, Laura F
Subject: RE: Federal Government Pro Bono Reception

That, alas, is my title. Quite a mouthful. Looks like Lee won't be able to attend, but Peter is considering. I will keep you apprised. As to pro bono work, the clinic sounds like the way to go. Can you sign me up for Dec 10?

-----Original Message-----
From: Klein, Laura F
Sent: Friday, October 07, 2005 11:04 AM
To: Gorsuch, Neil M
Subject: RE: Federal Government Pro Bono Reception

Thanks, Neil. I'll go ahead and RSVP for you. Is your full title Principal Deputy Associate Attorney General? And I'll let them know that we hope to have an AAG attend as well.

I'm thrilled to hear that you are interested in pro bono work. You can check out our website on DOJ Net for lots of information. Go to http:/10.173.2.12/jmd/ps/volunteer/ or go to DOJ Net and click on "Volunteering" in the lefthand column. You'll see a list of Pro Bono Topics on the left. There's a list of current pro bono opportunities and a link to descriptions of various legal service providers in our area that are generally appropriate for government attorneys. Also, DOJ brings a group of volunteer attorneys to the DC Bar Pro Bono Program's Advice & Referral Clinic four times each year. Robert has participated in it. It is a free legal clinic open on the second Saturday morning of each month. We will be going again on December 10. The Antitrust Division has its own separate commitment to staff the clinic and will be going on November 12. I've attached a brief description of the clinic for you. If you are interested in that opportunity, let me know. If you are more interested in taking on representation, there are some opportunities listed in the current pro bono opportunities on the website, but I can tell you of others as well. Just let me know.

Let me know if you have more questions. And thank again!
Laura

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 8:42 AM
To: Klein, Laura F
Subject: FW: Federal Government Pro Bono Reception

Lauram

Lauram

FYI. I will let you know when I hear back from Lee and Peter. Shall I rsvp that I'm attending in Robert's stead or have you already done so? Also, given your involvement in pro bono here at the department, could you point me to resources/ideas for doing a little pro bono work myself? Many thanks, NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 8:39 AM
To: O'Connor, Eileen J. (AAG/TAX); Keisler, Peter D. (CIV)
Subject: FW: Federal Government Pro Bono Reception

Lee and Peter,

Because of a conflict, Robert has asked me to attend the federal govt pro bono recognition reception hosted by Chief Judges Ginsburg and Hogan on Oct 20, at 5:30, in the federal courthouse (judge's dining room). I was hoping that, to bolster DOJ's presence and confirm its commitment to this cause, you might attend as well. As you know, one of our own, John Cruden, is heading the DC Bar this year and has made govt lawyer pro bono a major part of his agenda. If you could please let me know whether you're able to attend, I will handle the rsvp.

Many thanks,

NMG

-----Original Message-----
From: Klein, Laura F
Sent: Thursday, October 06, 2005 9:32 PM
To: Gorsuch, Neil M
Subject: FW: Federal Government Pro Bono Reception

Neil -
Attached is the email invitation sent to the agency representatives in the Interagency Pro Bono Working Group. Attached to that email is a pdf version of the official invitation sent to Robert (I was cc'd). Please let me know if you have any questions.
Thanks!
Laura

-----Original Message-----
From: [redacted]@milchev.com [mailto:[redacted]@milchev.com]
Sent: Thursday, September 29, 2005 3:30 PM
To: Klein, Laura F
Subject: Federal Government Pro Bono Reception

As your agency's representative on the Inter-Agency Pro Bono Working Group, you are cordially invited to attend the Federal Government Pro Bono Recognition Reception on October 20, at 5:30 pm, in the E. Barrett Prettyman Courthouse. Attached to this e-mail is a PDF version of the letter of invitation sent earlier this week to the head of your agency. Please reply to this e-mail, or RSVP to [redacted] at

[redacted]@crowell.com, or to Laura Klein of the Department of Justice. Thank you.

[redacted]
Pro Bono Counsel
Miller & Chevalier, Chartered
Suite 900
655 Fifteenth Street, NW
Washington, D.C. 20005
[redacted]
fax: 202.628.0858
email: [redacted]@milchev.com

This electronic message contains information which may be legally confidential and/or privileged. This information is intended solely for the individual or entity named above and access by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copying, distribution, or use of the contents is prohibited and may be unlawful. If you have received this electronic transmission in error, please reply immediately to the sender that you have received the message in error, and delete it. Thank you.

<<McCallum.pdf>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 7, 2005 1:21 PM
To: Kim, Wan (CRT)
Subject: FW: Federal Government Pro Bono Reception
Attachments: McCallum.pdf

Wan,

Because of a conflict, Robert has asked me to attend the federal govt pro bono recognition reception hosted by Chief Judges Ginsburg and Hogan on Oct 20, at 5:30, in the federal courthouse (judge's dining room). I was hoping that, to bolster DOJ's presence and confirm its commitment to this cause, you might attend as well. As you know, one of our own, John Cruden, is heading the DC Bar this year and has made govt lawyer pro bono a major part of his agenda. If you could please let me know whether you're able to attend, I will handle the rsvp.

Many thanks,

NMG

-----Original Message-----
From: Klein, Laura F
Sent: Thursday, October 06, 2005 9:32 PM
To: Gorsuch, Neil M
Subject: FW: Federal Government Pro Bono Reception

Neil -
Attached is the email invitation sent to the agency representatives in the Interagency Pro Bono Working Group. Attached to that email is a pdf version of the official invitation sent to Robert (I was cc'd). Please let me know if you have any questions.
Thanks!
Laura

-----Original Message-----
From: [redacted]@milchev.com [mailto:[redacted]@milchev.com]
Sent: Thursday, September 29, 2005 3:30 PM
To: Klein, Laura F
Subject: Federal Government Pro Bono Reception

As your agency's representative on the Inter-Agency Pro Bono Working Group, you are cordially invited to attend the Federal Government Pro Bono Recognition Reception on October 20, at 5:30 pm, in the E. Barrett Prettyman Courthouse. Attached to this e-mail is a PDF version of the letter of invitation sent earlier this week to the head of your agency. Please reply to this e-mail, or RSVP to [redacted] at [redacted]@crowell.com, or to Laura Klein of the Department of Justice. Thank you.

[redacted]
Pro Bono Counsel
Miller & Chevalier, Chartered
Suite 900
655 Fifteenth Street, NW
Washington, D.C. 20005
[redacted]
fax: 202.628.0858
email: [redacted]@milchev.com

This electronic message contains information which may be legally confidential and/or privileged. This information is intended solely for the individual or entity named above and access by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copying, distribution, or use of the contents is prohibited and may be unlawful. If you have received this electronic transmission in error, please reply immediately to the sender that you have received the message in error, and delete it. Thank you.

<<McCallum.pdf>>

Judicial Conference of the District of Columbia Circuit
Standing Committee on Pro Bono Legal Services

E. Barrett Prettyman United States Courthouse
333 Constitution Ave., N.W., Room 4826
Washington, DC 20001

(202)216-7340

September 26, 2005

VIA FACSIMILE

The Honorable Robert D. McCallum
Associate Attorney General
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Mr. McCallum:

As Co-Chair of the DC Circuit Judicial Conference Standing Committee on Pro Bono Legal Services, and on behalf of Chief Judges Douglas Ginsburg and Thomas F. Hogan, I am writing to invite you to attend the Federal Government Pro Bono Recognition Reception with judges of the DC Circuit courts on October 20, 2005, at the E. Barrett Prettyman United States Courthouse at 333 Constitution Avenue, N.W., beginning at 5:30 pm.

The DC Circuit Judicial Conference has long encouraged pro bono service by lawyers admitted to its courts. In 1998, the DC Circuit Judicial Conference recommended that lawyers perform 50 hours of pro bono legal service annually to fulfill their professional ethical obligations under Rule 6.1 of the District of Columbia Rules of Professional Responsibility. This 50 hour annual goal is mirrored in the A.B.A.'s rule 6.1, in a 1997 Resolution of the District of Columbia Courts, and in the ethical rules of a number of jurisdictions, including Maryland. Several federal agencies, including the Department of Justice, have set the same goals for their attorneys.

Government lawyers face special challenges when they seek to perform pro bono legal work. Agencies such as yours, which have a representative on the Interagency Pro Bono Working Group or which have written pro bono policies and programs in place, have taken important steps to help government lawyers provide much-needed pro bono legal services. I hope you will be able to join Chief Judges Ginsburg and Hogan, and other judges of the DC Courts on October 20 at this special event to recognize the importance of the pro bono legal work done by federal government lawyers.

Please RSVP no later than October 3, 2005, to Committee Member [redacted] or [redacted]@crowell.com. If you have any questions, please feel free to contact me at [redacted], or [redacted]@milchev.com, or [redacted].

Sincerely,

[redacted]

Co-Chair, DC Circuit Judicial Conference
Standing Committee on Pro Bono Legal Services

cc: Laura Klein
Department of Justice Pro Bono
Program Manager, Head of the
Interagency Pro Bono Working Group

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Friday, October 07, 2005 1:24 PM
To:	Rybicki, James E; Silas, Adrien
Cc:	Bucholtz, Jeffrey (CIV); Ansell, Frederick; Mitchell, Jonathan(OLC); Mercer, Bill (ODAG)
Subject:	s 1747
Attachments:	volunteer liability findings.wpd

James and Adrien,

Attached is a revised version of comments on S 1747 reflecting my revisions and those of OLC, OLP, and Jeff B. for CIV. I think you're good to go.

Thanks,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

The Department of Justice supports and has the following comments on S. 1747, the "Good Samaritan Liability Improvement and Volunteer Encouragement Act of 2005" or the "GIVE Act of 2005."

I. Constitutional Considerations

This bill aims to limit State-law tort liability for the acts of volunteers and "good Samaritans," and also seeks to impose Federal regulations on State-court procedures. The constitutionality of this legislation depends on whether it falls within the enumerated powers of Congress. *See* U.S. Const. art 1, sec. 8; *United States v. Lopez*, 514 U.S. 549, 552 (1995) ("The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.") (quoting The Federalist No. 45, pp. 292-293 (C. Rossiter ed. 1961). To minimize any risk of judicial invalidation, we recommend certain changes as detailed below.

A. Section 2's findings seek to demonstrate that the bill is a valid exercise of Congress' power under the Commerce Clause. We think that these findings could be improved to address the Supreme Court's concerns about the limits of the commerce power. *See United States v. Morrison*, 529 U.S. 598, 614-616 (2000). The Court has emphasized that the Commerce Power may not be used to give Congress a general police power. *See United States v. Morrison*, 529 U.S. 598, 617 (2000); *United States v. Lopez*, 514 U.S. 549, 566 (1995). In areas of "traditional state regulation," such as the suppression of violent crime, the Court has held that effects on interstate commerce do not suffice to authorize congressional legislation. *See Morrison*, 529 U.S. at 617-618 ("We accordingly reject the argument that Congress may regulate noneconomic, violent criminal conduct based solely on that conduct's aggregate effect on interstate commerce. . . . We can think of no better example of the police power, which the Founders denied the National Government and reposed in the States, than the suppression of violent crime and vindication of its victims."). The Court has also made clear that Congress' power to regulate intrastate activities that "substantially affect interstate commerce derives from the Necessary and Proper clause rather than the Commerce clause alone. See, e.g., Gonzales v. Raich, 125 S. Ct. 2195, 2208-2209 (2005); Katzenbach v. McClung, 379 U.S. 294, 301-302 (1964); United States v. Wrightwood Dairy Co., 315 U.S. 110, 119 (1942).

The likelihood that federal courts would uphold this law would be increased if Congress were to make the following changes to the findings that would help to describe how the bill's limitations on tort liability are both "necessary" and "proper."

(a) Finding (2) would be strengthened by adding "and to transport goods in interstate commerce to effectuate the provision of their services" before "is deterred."

(b) Finding (3) could be rewritten: "Volunteer disaster relief work constitutes economic activity. Fear of tort liability deters potential volunteers from rendering economic assistance in interstate commerce, resulting either in diminished economic activity of the substitution of fewer and higher cost programs than would be obtainable if volunteers were participating."

(c) Finding (4) would be assisted by striking "provision of" and inserting "interstate travel

of volunteers and the goods the volunteers would transport to provide".

(d) Findings (6) through (12) would benefit by adding "tortious" before "acts" and by adding at the end, "reducing the otherwise available quantity of interstate travel and goods that would be provided by volunteers."

(e) Findings (14) through (18) could be changed by adding at the end ",and the use of roads and other channels and instrumentalities of interstate commerce."

(f) A new finding (22) could be inserted: "Volunteers who provide disaster relief services and commit tortious acts do so against people and property that have traveled in interstate commerce. People in disaster areas will be less likely to use the channels and instrumentalities of commerce to flee disasters if they know that fear of liability for tortious acts performed against them or their property would reduce the provision of disaster relief services."

(g) A new finding (23) could be added: "Disaster relief services that are provided in intrastate commerce and tort liability surrounding such services in the aggregate substantially affect interstate economic activity."

(h) A new finding (24) could be added: "Therefore, the following provisions are necessary and proper in order to reduce burdens on the channels and instrumentalities of interstate commerce, to encourage the provision of goods and services in interstate commerce, and to encourage interstate travel by potential volunteers and victims that might otherwise be impaired by tort liability by addressing tort liability by volunteers who provide disaster relief services."

B. Section 2 also asserts that this bill is authorized by Congress's section 5 power. But the bill's findings state only that "liability reform for volunteers, [sic] will . . . uphold constitutionally protected due process rights." The bill says nothing about what those "constitutionally protected due process rights" might be. Although the Supreme Court has invalidated grossly excessive awards of punitive damages by invoking the doctrine of "substantive due process," *see, e.g., BMW v. Gore*, 517 U.S. 559 (2000), this legislation goes beyond the Court-recognized limits.

If this bill is to qualify as valid legislation under section 5, it must be justified as a "prophylactic" rule, which must be both "congruent" and "proportionate" between the constitutional injury to be prevented and the means adopted to that end. *See City of Boerne v. Flores*, 512 U.S. 507, 520 (1997); *Nevada Dept. of Human Resources v. Hibbs*, 538 U.S. 721 (2003). Yet section 2 does not contain adequate legislative findings explaining why limitations on State-law tort liability for the acts of "good Samaritans" are necessary to prevent *actual* violations of the Constitution, such as the "grossly excessive" punitive damages in *BMW*, nor is any such connection apparent. We therefore recommend the deletion of the "findings" in section 2(21)(D)(i) and (ii).

C. Sections 107, 202(3), 203(c), seek to regulate State court procedures. The Supreme Court's decision in *Jinks v. Richland County*, 538 U.S. 456 (2003), strongly suggests,

although it does not hold, that the regulation of certain State court procedures is outside the scope of Congress' authority. *Jinks* considered a constitutional challenge to 28 U.S.C. § 1367(d), a Federal statute that tolled the statute of limitations for certain actions filed in State courts. The Court rejected the respondents' claim that § 1367(d) regulated the "procedures" in State court, and held that "the tolling of limitation period falls on the 'substantive' side of the line." 538 U.S. at 465. More importantly, the Court said that "we do not think that state-law limitations periods fall into the category of 'procedure' *immune from congressional regulation*," *id.* at 464-465 (Emphasis added), indicating the Court indeed views the "procedures" used in State court as "immune from congressional regulation." The *Jinks* opinion also cited with approval a 1989 memorandum from the Office of Legal Counsel that cast doubt on the authority of Congress to "prescribe directly the state court procedures to be followed in products liability cases." 538 U.S. at 464 (quoting *Congresional Authority to Require State Courts to Use Certain Procedures in Products Liability Cases*, 13 Op. Off. Legal Counsel 372, 373-374 (1989)). For these reasons, we recommend the deletion of section 107, 202(3) , and 203(c). (The opt-out provided in sections 109 and 203(e) does not, in our view, resolve these federalism concerns).

II. Other considerations

A. Title I

We strongly support title I of the bill ("Disaster Relief Volunteer Protection"). This title would provide liability protections to disaster relief volunteers and to governmental and inter-governmental entities that donate disaster relief goods.

Section 101 includes definitions of key terms like "disaster relief volunteer," "disaster relief goods," "disaster relief services," and "declared disaster." The definition of "disaster relief volunteer" makes clear that, if the volunteer is providing services for which a State requires a license (e.g., medical services), the volunteer need only be certified in one State and need not be certified in the particular State in which he or she provides disaster relief services. This is intended to ensure that doctors and other licensed professionals from around the Nation may volunteer to provide disaster relief services where those services are needed.

Section 102 states the general rule that a disaster relief volunteer is not liable for harm caused by acts or omissions within the scope of the volunteer's providing or facilitating the provision of disaster relief services in connection with a declared disaster, except for harm caused by willful, knowing, or reckless misconduct. It also would create one exception to that general rule, preserving ordinary liability rules for car accidents (consistent with the Volunteer Protection Act of 1997, 42 U.S.C.§ 14501 *et seq*.). This general liability protection rule is intended to encourage people to provide volunteer services in the event of a declared disaster, while still taking appropriate account of the public's interest in deterring misconduct by such volunteers.

Section 103 would bar vicarious liability of employers and business partners of disaster relief volunteers for such volunteers' disaster relief services. This is intended to encourage employers to agree to allow their employees to take leave to provide volunteer services in the event of a declared disaster.

Section 104 would bar vicarious liability of hosts or enabling persons, entities, or organizations that work with, accept services from, or open their facilities to, disaster relief volunteers for such volunteers' disaster relief services. This is intended to encourage such enabling entities and organizations to facilitate volunteers' provision of disaster relief services.

Section 105 states the general rule that a governmental or inter-governmental entity that donates disaster relief goods to a Federal agency in connection with a declared disaster is not liable for harm caused by such goods, except for harm caused by willful, knowing, or reckless misconduct. This is intended to encourage State and local governments, inter-governmental entities, and (where appropriate) foreign governments to donate goods that may be needed in connection with a declared disaster.

Section 106 would establish a clear-and-convincing standard of proof for punitive damages and provide for several, proportionate (as opposed to joint-and-several) liability for non-economic damages.

Section 107 would require a plaintiff to present evidence along with his or her complaint to show that the volunteer or governmental or inter-governmental entity defendant engaged in the requisite willful, knowing, or reckless misconduct. It would require a court to assess the sufficiency of the plaintiff's evidence of misconduct before the case could proceed to the discovery phase. Ordinary rules of notice pleading often permit meritless suits to advance beyond the pleading stage and into discovery, and where a defendant must incur the expense and burden of discovery, even meritless suits often have settlement value. While we are not certain that this provision will have a significant effect in practice, it aims to ensure adherence to the liability limitations created by this title by limiting their circumvention through the pleading of unsupported allegations. To the extent that this provision applies to state courts, it raises certain constitutional concerns discussed above.

Section 108 would provide for a supplemental declaration by the President, the Secretary of Health and Human Services, or the Secretary of Homeland Security in the event of a declared disaster. In such a supplemental declaration, the declarant may take into account the particular facts and circumstances at hand in determining the appropriate temporal and geographic scope of the declared disaster for purposes of this title as well as in declaring other conditions that may be in the public interest.

Section 109 would allow States to opt out of this title under certain circumstances and for certain purposes.

Section 110 would clarify that the protections of title I are in addition to, and not in lieu of, any protections that a volunteer or governmental or inter-governmental entity might possess under the Volunteer Protection Act or any other provision of law.

B. Title II

While we support Title I of this bill, which is narrowly tailored to encourage much-

needed services and donations in the special context of declared disasters, we note that Title II is more broadly applicable. Title II would apply to volunteers in general, not simply in the uniquely important context of declared disasters in which recent events have demonstrated that encouraging voluntarism is especially important to the public interest. Accordingly, while we are not opposed to Title II, we believe it would be unfortunate if congressional opposition to the broader Title II ended up preventing enactment of the narrower Title I.

Title II would amend the Volunteer Protection Act of 1997 (42 U.S.C. § 14501 et seq.) in several respects. Section 202 would grant broad liability protection to nonprofit organizations for the torts of their volunteers as defined in § 14503(a), absent willful disregard or reckless indifference by the organization. While we support protecting nonprofit organizations that accept disaster relief services from volunteers in connection with a declared disaster, see section 104, supra, it is less clear that there is a pressing need for section 202's extensive protection in less extraordinary contexts.

Other provisions would grant general liability protection to those who provide facilities to nonprofit organizations (subparagraph 203(a)(2)) or provide them with motor vehicles or aircraft (subparagraph 203(a)(3)). The protection from liability for the provision of facilities, motor vehicles, or aircraft would apply even where the provider was paid by the organization for that use. See §§ 203(a)(2)(B)(ii) and (a)(3)(B)(ii). We are not aware of a need to lower the standard of care for the maintenance of buildings, property, or means of transportation simply because they are to be used by a nonprofit organization, particularly where the entity protected by these provisions was paid by the nonprofit organization.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 2:22 PM
To: Neumayr, Mary (ENRD); Kessler, Elizabeth A
Cc: McCallum, Robert (SMO); Reyes, Luis (SMO); Johnson, Kelly A. (ENRD)
Subject: RE: CWA & Munitions Memo

These look fine.

-----Original Message-----
From: Neumayr, Mary (ENRD)
Sent: Friday, October 07, 2005 2:19 PM
To: Gorsuch, Neil M; Kessler, Elizabeth A
Cc: McCallum, Robert (SMO); Reyes, Luis (SMO); Johnson, Kelly A. (ENRD)
Subject: FW: CWA & Munitions Memo

Attached FYI are the DOD comments on the draft ENRD munitions memo. The proposed revisions are relatively minor clarifications and/or corrections and DOD advised me orally this morning that they had no proposed changes to the letter. I have not yet received anything back from any of the other agencies. Thanks,

Mary

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Friday, October 07, 2005 10:44 AM
To: Neumayr, Mary (ENRD)
Cc: [redacted]@dodgc.osd.mil
Subject: CWA & Munitions Memo

Mary -

Thank you for providing us an opportunity to review and comment upon this draft memo. Attached please find a redline/strikeout version reflecting our modest suggestions.

If you'd like to discuss our suggestions with us, please feel free to call [redacted] at your convenience.

[redacted]

[redacted]
Acting Deputy General Counsel
(Environment & Installations)
[redacted]

[redacted]; Fax x4507

CAUTION: This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privileges. Do not disseminate without prior approval from the Office of the DoD General Counsel.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 3:04 PM
To: Hunt, Jody (CIV)
Cc: Shapiro, Elizabeth (CIV)
Subject: RE: Sorry for the delay . . .

Sure
-----Original Message-----
From: Hunt, Jody (CIV)
Sent: Friday, October 07, 2005 2:54 PM
To: Gorsuch, Neil M
Cc: Shapiro, Elizabeth (CIV)
Subject: RE: Sorry for the delay . . .
Importance: High

Betsy is on a conference call. Can we try you at around 3:20 ish??

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 3:09 PM
To: Neumayr, Mary (ENRD)
Subject: FW: CWA & Munitions Memo

please can you act as keeper of the comments, rolling them, once approved, into the final doc?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Friday, October 07, 2005 2:44 PM
To: Gorsuch, Neil M; Neumayr, Mary (ENRD); Kessler, Elizabeth A
Cc: Reyes, Luis (SMO); Johnson, Kelly A. (ENRD)
Subject: RE: CWA & Munitions Memo

agreed. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 2:22 PM
To: Neumayr, Mary (ENRD); Kessler, Elizabeth A
Cc: McCallum, Robert (SMO); Reyes, Luis (SMO); Johnson, Kelly A. (ENRD)
Subject: RE: CWA & Munitions Memo

These look fine.

-----Original Message-----
From: Neumayr, Mary (ENRD)
Sent: Friday, October 07, 2005 2:19 PM
To: Gorsuch, Neil M; Kessler, Elizabeth A
Cc: McCallum, Robert (SMO); Reyes, Luis (SMO); Johnson, Kelly A. (ENRD)
Subject: FW: CWA & Munitions Memo

Attached FYI are the DOD comments on the draft ENRD munitions memo. The proposed revisions are relatively minor clarifications and/or corrections and DOD advised me orally this morning that they had no proposed changes to the letter. I have not yet received anything back from any of the other agencies. Thanks,

Mary

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]

From: [redacted]@dodgc.osd.mil [mailto [redacted]@dodgc.osd.mil]
Sent: Friday, October 07, 2005 10:44 AM
To: Neumayr, Mary (ENRD)
Cc: [redacted]@dodgc.osd.mil
Subject: CWA & Munitions Memo

Mary -

Thank you for providing us an opportunity to review and comment upon this draft memo. Attached please find a redline/strikeout version reflecting our modest suggestions.

If you'd like to discuss our suggestions with us, please feel free to call [redacted] at your convenience.

[redacted]

[redacted]
Acting Deputy General Counsel
(Environment & Installations)
[redacted] Fax x4507

CAUTION: This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privileges. Do not disseminate without prior approval from the Office of the DoD General Counsel.

Gorsuch, Neil M

Subject:	Pro bono outing
Start:	Saturday, December 10, 2005 9:30 AM
End:	Saturday, December 10, 2005 12:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 3:37 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE:

Thanks, [redacted]

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, October 07, 2005 3:12 PM
To: Gorsuch, Neil M
Subject: FW:

Here's what my LA folks say is the final.

-----Original Message-----
From: [redacted] CIV, OSD-LA
Sent: Friday, October 07, 2005 14:55
To: [redacted] DoD OGC; [redacted] DoD OGC; [redacted] OARDEC)'; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] DoD OGC
Cc: [redacted] DoD OGC; [redacted] CIV, OSD-LA; [redacted] Col, OSD-LA
Subject:

The attached version is the final version of Graham's SA 2004. Apparently, no one except for [redacted] (and [redacted], including me and the SASC legal staff, were aware of the modifications. TY

Respectfully,

[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a

Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 3:38 PM
To: Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV)
Subject: FW:
Attachments: tmp.htm; SA2004Graham.doc

DoD looked again and they agree that the version of Graham's bill that you sent is now the operative one.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Friday, October 07, 2005 3:12 PM
To: Gorsuch, Neil M
Subject: FW:

Here's what my LA folks say is the final.

-----Original Message-----
From: [redacted] OSD-LA
Sent: Friday, October 07, 2005 14:55
To: [redacted] DoD OGC; [redacted] DoD OGC; [redacted] (OARDEC)'; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] DoD OGC
Cc: [redacted] DoD OGC; [redacted] OSD-LA; [redacted] OSD-LA
Subject:

The attached version is the final version of Graham's SA 2004. Apparently, no one except for Graham (and [redacted], including me and the SASC legal staff, were aware of the modifications. TY

Respectfully,

[redacted]
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
Phone: (703) 693-0305
Fax: (703) 697-8299
Cell: (703) 380-9563

CAUTION: This message may contain information protected by the attorney client, attorney work

product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

S.AMDT.2004
Amends: H.R.2863
Sponsor: Sen Graham, Lindsey [SC] (submitted 10/4/2005) (proposed 10/5/2005)

AMENDMENT PURPOSE:
To require the President to submit the procedures for the Combatant Status Review Tribunals and Administrative Review Boards to determine the status of detainees held at Guantanamo Bay, Cuba.

Amendment SA 2004 as modified agreed to in Senate by Unanimous Consent

SEC. __.
(a) **Submission of Procedures for Combatant Status Review Tribunals and Administrative Review Boards To Determine Status of Detainees at Guantanamo Bay, Cuba**.--Not later than 180 days after the date of enactment of this Act the President shall submit to the congressional defense committees and committees on Judiciary in the House and Senate the procedures for the Combatant Status Review Tribunals and noticed Administrative Review Boards, in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay, including whether any such detainee is a lawful enemy combatant or an unlawful enemy combatant.

(b) **Procedures**.--The procedures submitted to Congress pursuant to subsection (a) shall ensure that--

(1) in making a determination of status under such procedures, the Combatant Status Review Tribunal and Annual Review Boards may not consider statements derived from persons that, as determined by the Tribunals or Boards, by the preponderance of the evidence, were obtained with undue coercion.

(2) the Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advise and consent of the Senate.

(c) **MODIFICATION OF PROCEDURES**.--The President shall submit to Congress any modification to the procedures submitted under subsection (a) no less than 30 days before the date on which such modifications go into effect.

Here's what my LA folks say is the final.

-----Original Message-----
From: [redacted] OSD-LA
Sent: Friday, October 07, 2005 14:55
To: [redacted] DoD OGC; [redacted] DoD OGC; [redacted] (OARDEC)'; [redacted]
OSD-POLICY; [redacted] OSD-POLICY; [redacted] DoD OGC
Cc: [redacted] DoD OGC; [redacted] OSD-LA; [redacted] OSD-LA
Subject:

The attached version is the final version of Graham's SA 2004. Apparently, no one except for Graham (and [redacted]), including me and the SASC legal staff, were aware of the modifications. TY

Respectfully,

[redacted]
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
Phone: (703) 693-0305
Fax: (703) 697-8299
Cell: (703) 380-9563

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 3:39 PM
To: Kim, Wan (CRT)
Subject: RE: Federal Government Pro Bono Reception

You think Brad might be interested?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 1:21 PM
To: Kim, Wan (CRT)
Subject: FW: Federal Government Pro Bono Reception

Wan,

Because of a conflict, Robert has asked me to attend the federal govt pro bono recognition reception hosted by Chief Judges Ginsburg and Hogan on Oct 20, at 5:30, in the federal courthouse (judge's dining room). I was hoping that, to bolster DOJ's presence and confirm its commitment to this cause, you might attend as well. As you know, one of our own, John Cruden, is heading the DC Bar this year and has made govt lawyer pro bono a major part of his agenda. If you could please let me know whether you're able to attend, I will handle the rsvp.

Many thanks,

NMG

-----Original Message-----
From: Klein, Laura F
Sent: Thursday, October 06, 2005 9:32 PM
To: Gorsuch, Neil M
Subject: FW: Federal Government Pro Bono Reception

Neil -
Attached is the email invitation sent to the agency representatives in the Interagency Pro Bono Working Group. Attached to that email is a pdf version of the official invitation sent to Robert (I was cc'd). Please let me know if you have any questions.
Thanks!
Laura [redacted]

-----Original Message-----
From: [redacted]@milchev.com [mailto:[redacted]@milchev.com]
Sent: Thursday, September 29, 2005 3:30 PM
To: Klein, Laura F
Subject: Federal Government Pro Bono Reception

Subject: Federal Government Pro Bono Reception

As your agency's representative on the Inter-Agency Pro Bono Working Group, you are cordially invited to attend the Federal Government Pro Bono Recognition Reception on October 20, at 5:30 pm, in the E. Barrett Prettyman Courthouse. Attached to this e-mail is a PDF version of the letter of invitation sent earlier this week to the head of your agency. Please reply to this e-mail, or RSVP to [redacted] at [redacted]@crowell.com, or to Laura Klein of the Department of Justice. Thank you.

[redacted]
Pro Bono Counsel
Miller & Chevalier, Chartered
Suite 900
655 Fifteenth Street, NW
Washington, D.C. 20005
[redacted]
fax: 202.628.0858
email: [redacted]@milchev.com

This electronic message contains information which may be legally confidential and/or privileged. This information is intended solely for the individual or entity named above and access by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copying, distribution, or use of the contents is prohibited and may be unlawful. If you have received this electronic transmission in error, please reply immediately to the sender that you have received the message in error, and delete it. Thank you.

<<McCallum.pdf>>

Schlozman, Brad (CRT)

From: Schlozman, Brad (CRT)
Sent: Friday, October 07, 2005 4:08 PM
To: Gorsuch, Neil M
Subject: Read: Federal Government Pro Bono Reception

Jenkins, Linda A

Subject:	Canceled: Component Coordination Meeting
Start:	Friday, October 28, 2005 9:20 AM
End:	Friday, October 28, 2005 9:40 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:20 AM to 9:40 AM
Meeting Status:	Not yet responded
Organizer:	Jenkins, Linda A
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Moschella, William; Elwood, Courtney; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia
Importance:	High

When: Friday, October 28, 2005 9:20 AM-9:40 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Associate AG Robert McCallum, Kyle Sampson, Jeff Taylor, Courtney Elwood, Tasia Scolinos, Bill Mercer, Neil Gorsuch, Jeff Oldham, Martha Pacold, Rachel Brand, Jan Williams, Will Moschella, Crystal Roberts

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 4:09 PM
To: Schlozman, Brad (CRT)
Cc: Kim, Wan (CRT)
Subject: Federal Government Pro Bono Reception

Brad,

Because of a conflict, Robert has asked me to attend the federal govt pro bono recognition reception hosted by Chief Judges Ginsburg and Hogan on Oct 20, at 5:30, in the federal courthouse (judge's dining room). I was hoping that, to bolster DOJ's presence and confirm its commitment to this cause, you might attend as well. As you know, one of our own, John Cruden, is heading the DC Bar this year and has made govt lawyer pro bono a major part of his agenda. If you could please let me know whether you're able to attend, I will handle the rsvp.

Many thanks,

NMG

-----Original Message-----
From: Klein, Laura F
Sent: Thursday, October 06, 2005 9:32 PM
To: Gorsuch, Neil M
Subject: FW: Federal Government Pro Bono Reception

Neil -
Attached is the email invitation sent to the agency representatives in the Interagency Pro Bono Working Group. Attached to that email is a pdf version of the official invitation sent to Robert (I was cc'd). Please let me know if you have any questions.
Thanks!
Laura

-----Original Message-----
From: [redacted]@milchev.com [mailto:[redacted]@milchev.com]
Sent: Thursday, September 29, 2005 3:30 PM
To: Klein, Laura F
Subject: Federal Government Pro Bono Reception

As your agency's representative on the Inter-Agency Pro Bono Working Group, you are cordially invited to attend the Federal Government Pro Bono Recognition Reception on October 20, at 5:30 pm, in the E. Barrett Prettyman Courthouse. Attached to this e-mail is a PDF version of the letter of invitation sent earlier this week to the head of your agency. Please reply to this e-mail, or RSVP to [redacted] at [redacted]@crowell.com, or to Laura Klein of the Department of Justice. Thank you.

[redacted]
Pro Bono Counsel
Miller & Chevalier, Chartered
Suite 900
655 Fifteenth Street, NW
Washington, D.C. 20005
[redacted]
fax: 202.628.0858
email: [redacted]@milchev.com

This electronic message contains information which may be legally confidential and/or privileged. This information is intended solely for the individual or entity named above and access by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copying, distribution, or use of the contents is prohibited and may be unlawful. If you have received this electronic transmission in error, please reply immediately to the sender that you have received the message in error, and delete it. Thank you.

<<McCallum.pdf>>

Beach, Andrew

Subject:	Strategic Initiatives
Location:	OAG Conference Room 5228
Start:	Tuesday, October 11, 2005 1:30 PM
End:	Tuesday, October 11, 2005 2:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica (USAEO); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Sellers, Kiahna (OAG)

When: Tuesday, October 11, 2005 1:30 PM-2:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: OAG Conference Room 5228

~~*~*~*~*~*~*~*~*~*

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 4:56 PM
To: Gunn, Currie (SMO)
Subject: RE: Pls cal[redacted] - they won the case, DOJ lost. Would like to speak w/you about this [redacted] She spoke w/you earlier regaring this.

thanks for taking this. it's an earful more than i need right now and can defer till next week!

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Friday, October 07, 2005 4:55 PM
To: Gorsuch, Neil M
Subject: Pls cal[redacted] - they won the case, DOJ lost. Would like to speak w/you about this [redacted] She spoke w/you earlier regaring this.

Beach, Andrew

Subject:	AG's Strategic Initiatives
Start:	Wednesday, October 19, 2005 11:15 AM
End:	Wednesday, October 19, 2005 12:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Wednesday from 11:15 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Sellers, Kiahna (OAG)

When: Occurs every 2 week(s) on Wednesday effective 10/19/05 until 12/21/05 from 11:15 AM to 12:00 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers

Beach, Andrew

Subject:	Updated: AG's Strategic Initiatives
Start:	Wednesday, October 19, 2005 10:15 AM
End:	Wednesday, October 19, 2005 11:00 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Wednesday from 11:15 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG)

When: Wednesday, October 19, 2005 10:15 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 5:23 PM
To: Keisler, Peter D. (CIV); O'Connor, Eileen J. (AAG/TAX)
Cc: Calvert, Chris (CIV)
Subject: RE: Federal Government Pro Bono Reception

Thanks very much, Peter. I will let them know and will stop by your office a bit in advance if you'd like to walk over together. NMG

-----Original Message-----
From: Keisler, Peter D. (CIV)
Sent: Friday, October 07, 2005 5:14 PM
To: Gorsuch, Neil M; O'Connor, Eileen J. (AAG/TAX)
Cc: Calvert, Chris (CIV)
Subject: RE: Federal Government Pro Bono Reception

Neil: I'd be happy to go. Peter

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 8:39 AM
To: O'Connor, Eileen J. (AAG/TAX); Keisler, Peter D. (CIV)
Subject: FW: Federal Government Pro Bono Reception

Lee and Peter,

Because of a conflict, Robert has asked me to attend the federal govt pro bono recognition reception hosted by Chief Judges Ginsburg and Hogan on Oct 20, at 5:30, in the federal courthouse (judge's dining room). I was hoping that, to bolster DOJ's presence and confirm its commitment to this cause, you might attend as well. As you know, one of our own, John Cruden, is heading the DC Bar this year and has made govt lawyer pro bono a major part of his agenda. If you could please let me know whether you're able to attend, I will handle the rsvp.

Many thanks,

NMG

-----Original Message-----
From: Klein, Laura F
Sent: Thursday, October 06, 2005 9:32 PM
To: Gorsuch, Neil M
Subject: FW: Federal Government Pro Bono Reception

Neil -
Attached is the email invitation sent to the agency representatives in the Interagency Pro Bono Working Group. Attached to that email is a pdf version of the official invitation sent to Robert (I was cc'd). Please let me know if you have any questions.
Thanks!
Laura

-----Original Message-----
From: [redacted]@milchev.com [mailto[redacted]@milchev.com]
Sent: Thursday, September 29, 2005 3:30 PM
To: Klein, Laura F
Subject: Federal Government Pro Bono Reception

As your agency's representative on the Inter-Agency Pro Bono Working Group, you are cordially invited to attend the Federal Government Pro Bono Recognition Reception on October 20, at 5:30 pm, in the E. Barrett Prettyman Courthouse. Attached to this e-mail is a PDF version of the letter of invitation sent earlier this week to the head of your agency. Please reply to this e-mail, or RSVP to [redacted] at [redacted]@crowell.com, or to Laura Klein of the Department of Justice. Thank you.

[redacted]
Pro Bono Counsel
Miller & Chevalier, Chartered
Suite 900
655 Fifteenth Street, NW
Washington, D.C. 20005
[redacted]
fax: 202.628.0858
email: [redacted]@milchev.com

This electronic message contains information which may be legally confidential and/or privileged. This information is intended solely for the individual or entity named above and access by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copying, distribution, or use of the contents is prohibited and may be unlawful. If you have received this electronic transmission in error, please reply immediately to the sender that you have received the message in error, and delete it. Thank you.

<<McCallum.pdf>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 5:24 PM
To: Klein, Laura F
Subject: RE: Federal Government Pro Bono Reception

Laura, Peter Keisler will join me. Brad Schlozman may as well. Could you let the powers that be know? Many thanks. NMG

-----Original Message-----
From: Klein, Laura F
Sent: Friday, October 07, 2005 11:04 AM
To: Gorsuch, Neil M
Subject: RE: Federal Government Pro Bono Reception

Thanks, Neil. I'll go ahead and RSVP for you. Is your full title Principal Deputy Associate Attorney General? And I'll let them know that we hope to have an AAG attend as well.

I'm thrilled to hear that you are interested in pro bono work. You can check out our website on DOJ Net for lots of information. Go to http:/10.173.2.12/jmd/ps/volunteer/ or go to DOJ Net and click on "Volunteering" in the lefthand column. You'll see a list of Pro Bono Topics on the left. There's a list of current pro bono opportunities and a link to descriptions of various legal service providers in our area that are generally appropriate for government attorneys. Also, DOJ brings a group of volunteer attorneys to the DC Bar Pro Bono Program's Advice & Referral Clinic four times each year. Robert has participated in it. It is a free legal clinic open on the second Saturday morning of each month. We will be going again on December 10. The Antitrust Division has its own separate commitment to staff the clinic and will be going on November 12. I've attached a brief description of the clinic for you. If you are interested in that opportunity, let me know. If you are more interested in taking on representation, there are some opportunities listed in the current pro bono opportunities on the website, but I can tell you of others as well. Just let me know.

Let me know if you have more questions. And thank again!
Laura

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 8:42 AM
To: Klein, Laura F
Subject: FW: Federal Government Pro Bono Reception

Lauram

FYI. I will let you know when I hear back from Lee and Peter. Shall I rsvp that I'm attending in Robert's stead or have you already done so? Also, given your involvement in pro bono here at the department, could you point me to resources/ideas for doing a little pro bono work myself? Many thanks, NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 8:39 AM
To: O'Connor, Eileen J. (AAG/TAX); Keisler, Peter D. (CIV)
Subject: FW: Federal Government Pro Bono Reception

Lee and Peter,

Because of a conflict, Robert has asked me to attend the federal govt pro bono recognition reception hosted by Chief Judges Ginsburg and Hogan on Oct 20, at 5:30, in the federal courthouse (judge's dining room). I was hoping that, to bolster DOJ's presence and confirm its commitment to this cause, you might attend as well. As you know, one of our own, John Cruden, is heading the DC Bar this year and has made govt lawyer pro bono a major part of his agenda. If you could please let me know whether you're able to attend, I will handle the rsvp.

Many thanks,

NMG

-----Original Message-----
From: Klein, Laura F
Sent: Thursday, October 06, 2005 9:32 PM
To: Gorsuch, Neil M
Subject: FW: Federal Government Pro Bono Reception

Neil -
Attached is the email invitation sent to the agency representatives in the Interagency Pro Bono Working Group. Attached to that email is a pdf version of the official invitation sent to Robert (I was cc'd). Please let me know if you have any questions.
Thanks!
Laura

-----Original Message-----
From: [redacted]@milchev.com [mailto:[redacted]@milchev.com]
Sent: Thursday, September 29, 2005 3:30 PM
To: Klein, Laura F
Subject: Federal Government Pro Bono Reception

As your agency's representative on the Inter-Agency Pro Bono Working Group, you are cordially invited to attend the Federal Government Pro Bono Recognition Reception on October 20, at 5:30 pm, in the E. Barrett Prettyman Courthouse. Attached to this e-mail is a PDF version of the letter of invitation sent earlier this week to the head of your agency. Please reply to this e-mail, or RSVP to [redacted] at [redacted]@crowell.com, or to Laura Klein of the Department of Justice. Thank you.

[redacted]
Pro Bono Counsel
Miller & Chevalier, Chartered
Suite 900
655 Fifteenth Street, NW
Washington, D.C. 20005
[redacted]
fax: 202.628.0858
email: [redacted]@milchev.com

This electronic message contains information which may be legally confidential and/or privileged. This information is intended solely for the individual or entity named above and access by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copying, distribution, or use of the contents is prohibited and may be unlawful. If you have received this electronic transmission in error, please reply immediately to the sender that you have received the message in error, and delete it. Thank you.

<<McCallum.pdf>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 6:50 PM
To: Schlozman, Brad (CRT)
Cc: Kim, Wan (CRT)
Subject: RE: Federal Government Pro Bono Reception

No pressure, but it would be good for us to show the flag with some component heads. And as you know, I have the strangest title with the greatest number of mystifying modifiers in the building. It might also be fun. Peter K. will be joining too.

-----Original Message-----
From: Schlozman, Brad (CRT)
Sent: Friday, October 07, 2005 6:24 PM
To: Gorsuch, Neil M
Cc: Kim, Wan (CRT)
Subject: RE: Federal Government Pro Bono Reception

I will attend with you if you'd like. I'll put it on my calendar. Thx

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 4:09 PM
To: Schlozman, Brad (CRT)
Cc: Kim, Wan (CRT)
Subject: Federal Government Pro Bono Reception

Brad,

Because of a conflict, Robert has asked me to attend the federal govt pro bono recognition reception hosted by Chief Judges Ginsburg and Hogan on Oct 20, at 5:30, in the federal courthouse (judge's dining room). I was hoping that, to bolster DOJ's presence and confirm its commitment to this cause, you might attend as well. As you know, one of our own, John Cruden, is heading the DC Bar this year and has made govt lawyer pro bono a major part of his agenda. If you could please let me know whether you're able to attend, I will handle the rsvp.

Many thanks,

NMG

-----Original Message-----
From: Klein, Laura F
Sent: Thursday, October 06, 2005 9:32 PM
To: Gorsuch, Neil M

Subject: FW: Federal Government Pro Bono Reception

Neil -
Attached is the email invitation sent to the agency representatives in the Interagency Pro Bono Working Group. Attached to that email is a pdf version of the official invitation sent to Robert (I was cc'd). Please let me know if you have any questions.
Thanks!
Laura

-----Original Message-----
From: [redacted]@milchev.com [mailto:[redacted]@milchev.com]
Sent: Thursday, September 29, 2005 3:30 PM
To: Klein, Laura F
Subject: Federal Government Pro Bono Reception

As your agency's representative on the Inter-Agency Pro Bono Working Group, you are cordially invited to attend the Federal Government Pro Bono Recognition Reception on October 20, at 5:30 pm, in the E. Barrett Prettyman Courthouse. Attached to this e-mail is a PDF version of the letter of invitation sent earlier this week to the head of your agency. Please reply to this e-mail, or RSVP to [redacted] at [redacted]@crowell.com, or to Laura Klein of the Department of Justice. Thank you.

[redacted]
Pro Bono Counsel
Miller & Chevalier, Chartered
Suite 900
655 Fifteenth Street, NW
Washington, D.C. 20005
[redacted]
fax: 202.628.0858
email: [redacted]@milchev.com

This electronic message contains information which may be legally confidential and/or privileged. This information is intended solely for the individual or entity named above and access by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copying, distribution, or use of the contents is prohibited and may be unlawful. If you have received this electronic transmission in error, please reply immediately to the sender that you have received the message in error, and delete it. Thank you.

<<McCallum.pdf>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 7, 2005 6:57 PM
To: Schlozman, Brad (CRT)
Subject: RE: Federal Government Pro Bono Reception

Great - and thanks.

-----Original Message-----
From: Schlozman, Brad (CRT)
Sent: Friday, October 07, 2005 6:52 PM
To: Gorsuch, Neil M
Subject: RE: Federal Government Pro Bono Reception

It's marked in indelible ink on my calendar. (Of course, I do keep white-out nearby for emergencies.)

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 6:50 PM
To: Schlozman, Brad (CRT)
Cc: Kim, Wan (CRT)
Subject: RE: Federal Government Pro Bono Reception

No pressure, but it would be good for us to show the flag with some component heads. And as you know, I have the strangest title with the greatest number of mystifying modifiers in the building. It might also be fun. Peter K. will be joining too.

-----Original Message-----
From: Schlozman, Brad (CRT)
Sent: Friday, October 07, 2005 6:24 PM
To: Gorsuch, Neil M
Cc: Kim, Wan (CRT)
Subject: RE: Federal Government Pro Bono Reception

I will attend with you if you'd like. I'll put it on my calendar. Thx

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 4:09 PM
To: Schlozman, Brad (CRT)
Cc: Kim, Wan (CRT)
Subject: Federal Government Pro Bono Reception

Brad,

Because of a conflict, Robert has asked me to attend the federal govt pro bono recognition reception hosted by Chief Judges Ginsburg and Hogan on Oct 20, at 5:30, in the federal courthouse (judge's dining room). I was hoping that, to bolster DOJ's presence and confirm its commitment to this cause, you might attend as well. As you know, one of our own, John Cruden, is heading the DC Bar this year and has made govt lawyer pro bono a major part of his agenda. If you could please let me know whether you're able to attend, I will handle the rsvp.

Many thanks,

NMG

-----Original Message-----
From: Klein, Laura F
Sent: Thursday, October 06, 2005 9:32 PM
To: Gorsuch, Neil M
Subject: FW: Federal Government Pro Bono Reception

Neil -
Attached is the email invitation sent to the agency representatives in the Interagency Pro Bono Working Group. Attached to that email is a pdf version of the official invitation sent to Robert (I was cc'd). Please let me know if you have any questions.
Thanks!
Laura

-----Original Message-----
From: [redacted]@milchev.com [mailto:[redacted]@milchev.com]
Sent: Thursday, September 29, 2005 3:30 PM
To: Klein, Laura F
Subject: Federal Government Pro Bono Reception

As your agency's representative on the Inter-Agency Pro Bono Working Group, you are cordially invited to attend the Federal Government Pro Bono Recognition Reception on October 20, at 5:30 pm, in the E. Barrett Prettyman Courthouse. Attached to this e-mail is a PDF version of the letter of invitation sent earlier this week to the head of your agency. Please reply to this e-mail, or RSVP to [redacted] at [redacted]@crowell.com, or to Laura Klein of the Department of Justice. Thank you.

[redacted]
Pro Bono Counsel
Miller & Chevalier, Chartered
Suite 900
655 Fifteenth Street, NW
Washington, D.C. 20005
[redacted]
fax: 202.628.0858
email: [redacted]@milchev.com

This electronic message contains information which may be legally confidential and/or privileged. This information is intended solely for the individual or entity named above and access by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copying, distribution, or use of the contents is prohibited and may be unlawful. If you have received this electronic transmission in error, please reply immediately to the sender that you have received the message in error, and delete it. Thank you.

<<McCallum.pdf>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 7, 2005 6:59 PM
To: Klein, Laura F
Subject: RE: Federal Government Pro Bono Reception

Brad has now confirmed that he will go.

-----Original Message-----
From: Klein, Laura F
Sent: Friday, October 07, 2005 5:37 PM
To: Gorsuch, Neil M
Subject: RE: Federal Government Pro Bono Reception

Wonderful! Thank you! Have a nice weekend. Laura

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 5:24 PM
To: Klein, Laura F
Subject: RE: Federal Government Pro Bono Reception

Laura, Peter Keisler will join me. Brad Schlozman may as well. Could you let the powers that be know? Many thanks. NMG

-----Original Message-----
From: Klein, Laura F
Sent: Friday, October 07, 2005 11:04 AM
To: Gorsuch, Neil M
Subject: RE: Federal Government Pro Bono Reception

Thanks, Neil. I'll go ahead and RSVP for you. Is your full title Principal Deputy Associate Attorney General? And I'll let them know that we hope to have an AAG attend as well.

I'm thrilled to hear that you are interested in pro bono work. You can check out our website on DOJ Net for lots of information. Go to http:/10.173.2.12/jmd/ps/volunteer/ or go to DOJ Net and click on "Volunteering" in the lefthand column. You'll see a list of Pro Bono Topics on the left. There's a list of current pro bono opportunities and a link to descriptions of various legal service providers in our area that are generally appropriate for government attorneys. Also, DOJ brings a group of volunteer attorneys to the DC Bar Pro Bono Program's Advice & Referral Clinic four times each year. Robert has participated in it. It is a free legal clinic open on the second Saturday morning of each month. We will be going again on December 10. The Antitrust Division has its own separate commitment to staff the clinic and will be going on November 12. I've attached a brief description of the clinic for you. If you

clinic and will be going on November 12. I've attached a brief description of the clinic for you. If you are interested in that opportunity, let me know. If you are more interested in taking on representation, there are some opportunities listed in the current pro bono opportunities on the website, but I can tell you of others as well. Just let me know.

Let me know if you have more questions. And thank again!
Laura

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 8:42 AM
To: Klein, Laura F
Subject: FW: Federal Government Pro Bono Reception

Lauram

FYI. I will let you know when I hear back from Lee and Peter. Shall I rsvp that I'm attending in Robert's stead or have you already done so? Also, given your involvement in pro bono here at the department, could you point me to resources/ideas for doing a little pro bono work myself? Many thanks, NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 8:39 AM
To: O'Connor, Eileen J. (AAG/TAX); Keisler, Peter D. (CIV)
Subject: FW: Federal Government Pro Bono Reception

Lee and Peter,

Because of a conflict, Robert has asked me to attend the federal govt pro bono recognition reception hosted by Chief Judges Ginsburg and Hogan on Oct 20, at 5:30, in the federal courthouse (judge's dining room). I was hoping that, to bolster DOJ's presence and confirm its commitment to this cause, you might attend as well. As you know, one of our own, John Cruden, is heading the DC Bar this year and has made govt lawyer pro bono a major part of his agenda. If you could please let me know whether you're able to attend, I will handle the rsvp.

Many thanks,

NMG

-----Original Message-----
From: Klein, Laura F
Sent: Thursday, October 06, 2005 9:32 PM
To: Gorsuch, Neil M
Subject: FW: Federal Government Pro Bono Reception

Neil -
Attached is the email invitation sent to the agency representatives in the Interagency Pro Bono Working Group. Attached to that email is a pdf version of the official invitation sent to Robert (I was cc'd). Please let me know if you have any questions.
Thanks!
Laura

-----Original Message-----
From: [redacted]@milchev.com [mailto:[redacted]@milchev.com]
Sent: Thursday, September 29, 2005 3:30 PM
To: Klein, Laura F
Subject: Federal Government Pro Bono Reception

As your agency's representative on the Inter-Agency Pro Bono Working Group, you are cordially invited to attend the Federal Government Pro Bono Recognition Reception on October 20, at 5:30 pm, in the E. Barrett Prettyman Courthouse. Attached to this e-mail is a PDF version of the letter of invitation sent earlier this week to the head of your agency. Please reply to this e-mail, or RSVP to [redacted] at [redacted]@crowell.com, or to Laura Klein of the Department of Justice. Thank you.

[redacted]
Pro Bono Counsel
Miller & Chevalier, Chartered
Suite 900
655 Fifteenth Street, NW
Washington, D.C. 20005
[redacted]
fax: 202.628.0858
email: [redacted]@milchev.com

This electronic message contains information which may be legally confidential and/or privileged. This information is intended solely for the individual or entity named above and access by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copying, distribution, or use of the contents is prohibited and may be unlawful. If you have received this electronic transmission in error, please reply immediately to the sender that you have received the message in error, and delete it. Thank you.

<<McCallum.pdf>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 7, 2005 7:01 PM
To: McCallum, Robert (SMO)
Subject: FW: Federal Government Pro Bono Reception

FYI - Both Peter K. and Brad S. have now confirmed they will attend with me. So DoJ will be well represented.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 1:20 PM
To: Klein, Laura F
Subject: RE: Federal Government Pro Bono Reception

That, alas, is my title. Quite a mouthful. Looks like Lee won't be able to attend, but Peter is considering. I will keep you apprised. As to pro bono work, the clinic sounds like the way to go. Can you sign me up for Dec 10?

-----Original Message-----
From: Klein, Laura F
Sent: Friday, October 07, 2005 11:04 AM
To: Gorsuch, Neil M
Subject: RE: Federal Government Pro Bono Reception

Thanks, Neil. I'll go ahead and RSVP for you. Is your full title Principal Deputy Associate Attorney General? And I'll let them know that we hope to have an AAG attend as well.

I'm thrilled to hear that you are interested in pro bono work. You can check out our website on DOJ Net for lots of information. Go to http:/10.173.2.12/jmd/ps/volunteer/ or go to DOJ Net and click on "Volunteering" in the lefthand column. You'll see a list of Pro Bono Topics on the left. There's a list of current pro bono opportunities and a link to descriptions of various legal service providers in our area that are generally appropriate for government attorneys. Also, DOJ brings a group of volunteer attorneys to the DC Bar Pro Bono Program's Advice & Referral Clinic four times each year. Robert has participated in it. It is a free legal clinic open on the second Saturday morning of each month. We will be going again on December 10. The Antitrust Division has its own separate commitment to staff the clinic and will be going on November 12. I've attached a brief description of the clinic for you. If you are interested in that opportunity, let me know. If you are more interested in taking on representation, there are some opportunities listed in the current pro bono opportunities on the website, but I can tell you of others as well. Just let me know.

Let me know if you have more questions. And thank again!
Laura

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 8:42 AM
To: Klein, Laura F
Subject: FW: Federal Government Pro Bono Reception

Lauram

FYI. I will let you know when I hear back from Lee and Peter. Shall I rsvp that I'm attending in Robert's stead or have you already done so? Also, given your involvement in pro bono here at the department, could you point me to resources/ideas for doing a little pro bono work myself? Many thanks, NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 8:39 AM
To: O'Connor, Eileen J. (AAG/TAX); Keisler, Peter D. (CIV)
Subject: FW: Federal Government Pro Bono Reception

Lee and Peter,

Because of a conflict, Robert has asked me to attend the federal govt pro bono recognition reception hosted by Chief Judges Ginsburg and Hogan on Oct 20, at 5:30, in the federal courthouse (judge's dining room). I was hoping that, to bolster DOJ's presence and confirm its commitment to this cause, you might attend as well. As you know, one of our own, John Cruden, is heading the DC Bar this year and has made govt lawyer pro bono a major part of his agenda. If you could please let me know whether you're able to attend, I will handle the rsvp.

Many thanks,

NMG

-----Original Message-----
From: Klein, Laura F
Sent: Thursday, October 06, 2005 9:32 PM
To: Gorsuch, Neil M
Subject: FW: Federal Government Pro Bono Reception

Neil -
Attached is the email invitation sent to the agency representatives in the Interagency Pro Bono Working Group. Attached to that email is a pdf version of the official invitation sent to Robert (I was cc'd). Please let me know if you have any questions.
Thanks!
Laura

-----Original Message-----

From: [redacted]@milchev.com [mailto:[redacted]@milchev.com]
Sent: Thursday, September 29, 2005 3:30 PM
To: Klein, Laura F
Subject: Federal Government Pro Bono Reception

As your agency's representative on the Inter-Agency Pro Bono Working Group, you are cordially invited to attend the Federal Government Pro Bono Recognition Reception on October 20, at 5:30 pm, in the E. Barrett Prettyman Courthouse. Attached to this e-mail is a PDF version of the letter of invitation sent earlier this week to the head of your agency. Please reply to this e-mail, or RSVP to [redacted] at [redacted]@crowell.com, or to Laura Klein of the Department of Justice. Thank you.

[redacted]
Pro Bono Counsel
Miller & Chevalier, Chartered
Suite 900
655 Fifteenth Street, NW
Washington, D.C. 20005
[redacted]
fax: 202.628.0858
email: [redacted]@milchev.com

This electronic message contains information which may be legally confidential and/or privileged. This information is intended solely for the individual or entity named above and access by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copying, distribution, or use of the contents is prohibited and may be unlawful. If you have received this electronic transmission in error, please reply immediately to the sender that you have received the message in error, and delete it. Thank you.

<<McCallum.pdf>>

Otus2005, Ag

Subject:	Senior Management Meeting
Start:	Tuesday, November 1, 2005 10:00 AM
End:	Tuesday, November 1, 2005 10:30 AM
Recurrence:	Weekly
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG)

AG's Conference Room
DOJ: Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Roberts

Beach, Andrew

From: Beach, Andrew
Sent: Tuesday, November 22, 2005 10:08 AM
To: Otus2005, Ag
Subject: Canceled: Senior Management Meeting
Importance: High

AG's Conference Room
DOJ: Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Roberts

From:

Sent: Wednesday, February 15, 2017 6:18 PM

To: McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); McNulty, Paul J; Goodling, Monica

Subject: Updated: Senior Management Meeting

When: Wednesday, November 23, 2005 9:30 AM-10:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Roberts

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 8:44 AM
To: McCallum, Robert (SMO); Reyes, Luis (SMO)
Subject: RE: A/c memo

One real possibility is that OAG could move quickly to appoint someone in the Dept who could act as DAG pending nomination. If so, that would counsel in us moving quickly now. But I think that's a good idea in all events. I've prompted Kyle on this issue a few times and sense that, with everything happening, he hasn't had the chance to focus on the issue; he seems to have let this slide. I suggest that you ask the AG for the chance to brief him one-on-one about the issue as soon as possible.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Sunday, October 09, 2005 4:40 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: RE: A/c memo

The time issues relating to this issue have now changed and so let's caucus up next week and see what time frame we should be considering now. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, September 26, 2005 4:44 PM
To: McCallum, Robert (SMO); Reyes, Luis (SMO)
Subject: FW: A/c memo

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, September 26, 2005 4:44 PM
To: Brand, Rachel; McIntosh, Brent; Margolis, David; Fisher, Alice; Sampson, Kyle; Battle, Michael (USAEO); Mercer, Bill (ODAG)
Subject: A/c memo

All,

To aid in wrapping up the a/c waiver memo discussion, Robert has asked me to forward to you three drafts: (1) the most recently circulated draft of Sept. 22; (2) a draft we understand Karin Immergut has prepared; (3) a draft Robert has prepared incorporating certain language from Karin's draft that represents our current thinking on the best approach.

By way of update, Karin has asked Robert for an extra day for comments, so we will finish this process on Wednesday.

If, in the interim, you have any final thoughts or comments, please let Robert or me know.

NMG

<< File: DRAFTPRIVWAIVERMccrevis9-22-05.doc >> << File: Immergut Draft.wpd >> << File: DRAFTPRIVWAIVERMccrevis9-26-05.doc >>

Gunn, Currie (SMO)

Subject:	Updated: Antitrust Bi-weekly
Location:	5710
Start:	Wednesday, October 12, 2005 4:00 PM
End:	Wednesday, October 12, 2005 5:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Tuesday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Delrahim, Makan; McDonald, Bruce; McCallum, Robert (SMO); Barnett, Thomas O.; Heyer, Ken; Hammond, Scott; Reyes, Luis (SMO); Swenson, Lily F; Gorsuch, Neil M; Barnett, Thomas O.; Swenson, Lily F; Masoudi, Gerald

When: Wednesday, October 12, 2005 4:00 PM-5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Note time and date change for this meeting only.

Attendees: ASG Robert McCallum, Lily Swenson, Neil Gorsuch, Hew Pate, Ken Heyer, Makan Delrahim, Bruce McDonald, Scott Hammond, Thomas Barnett, Gerald Masoudi

POC: Currie Gunn x4-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 10:24 AM
To: Gunn, Currie (SMO); Henke, Tracy (SMO)
Subject: RE: Do you want to chair the OJP Bi-weekly today? Robert is not available.

tracy and i can handle it

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Tuesday, October 11, 2005 10:07 AM
To: Henke, Tracy (SMO); Gorsuch, Neil M
Subject: Do you want to chair the OJP Bi-weekly today? Robert is not available.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 10:37 AM
To: McCallum, Robert (SMO)
Cc: Reyes, Luis (SMO)
Subject: components mtg summary

4 items of note; bare bones summary here; if you want more detail, just let me know -

1. ATR. Will do press release on Thurs announcing settlement in DRAM investigation. $300M.

2. CRT. New Orleans incident involved not just 3 local police, but also 2 FBI agents, though the FBI agents apparently were not involved in pre-arrest alleged beating, only after that. CRT is working with the FBI to investigate the incident. It is also monitoring the state investigation into the conduct of the local police officials (and may of course bring charges itself after the state investigation closes).

3. EOUSA anticipates a NYT FOIA request aimed at determining how many credit counselors have been qualified. Cliff anticipates that certain folks will seek to use the information to argue for a nationwide waiver of the credit counseling requirement. He believes, however, that the number and quality of credit counselors nationally is good and getting better.

4. CRS. Reports that it is having trouble working with FEMA in LA, but working relationship is great in MS. Sharee says there's no problem yet meriting our involvement, but she will keep us informed.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 10:43 AM
To: McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle
Subject: FW: STATEMENT OF THE UNITED STATES CONCERNING APPROVAL OF THE SETTLEMENT OF ROSNER V. UNITED STATES LAWSUIT

FYI. The Gold Train statement (below) was issued today in connection with the approved settlement.

-----Original Message-----
From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 11, 2005 10:39 AM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF THE UNITED STATES CONCERNING APPROVAL OF THE SETTLEMENT OF ROSNER V. UNITED STATES LAWSUIT

Statement of the United States Concerning Approval of the Settlement of Rosner v. United States Lawsuit

The Jewish communities in lands controlled by the wartime Hungarian government suffered unspeakable crimes during the Holocaust at the hands of the Nazis and their Hungarian collaborators. The United States expresses its sympathy and solidarity with these victims and hopes that the settlement approved by the District Court will provide meaningful assistance to those survivors.

More than 175,000 Americans lost their lives combating the scourge of Nazism, and countless more were injured. Under very difficult conditions and at enormous personal sacrifice, American and allied troops defeated a determined enemy, liberated concentration camps, and fed, clothed and provided medical care to millions of starving and sick refugees, Jewish and non-Jewish alike. After the war, the United States Government and its citizens initiated unprecedented programs to aid, repatriate, and resettle Jewish and non-Jewish refugees.

In 1945, in the midst of the chaos of the immediate postwar period, U.S. forces captured what is now known as the Hungarian Gold Train from the Hungarian pro-Nazis. That train contained some of the personal property plundered from the Jewish communities of so-called "Greater Hungary," an area that included territories that had been seized from neighboring countries. Some non-Jewish property was on the train as well. The train, when captured by U.S. forces, was found to contain, among other things, boxes of jewelry, cutlery, thousands of wedding rings, and other personal property commingled without regard to the identity of their owners.

Many of the Jews from whom this property had been stolen were either killed or

displaced in the war, and the United States Government at the time found that it had no practical way to identify the property or return it to the individuals from whom it had been stolen, as meaningful traces of individual ownership had been largely obliterated by the Hungarian pro-Nazis. The United States likewise concluded that it could not identify even the national origin of individual items, since the train contained property plundered from Jewish residents of territories that belonged to a number of different countries. Further, transferring the train's contents to the postwar Hungarian government would, in effect, have recognized as legitimate Axis Hungary's annexation of portions of neighboring countries. There was also good reason to doubt that the Hungarian government would return any property to the surviving Jews of Hungary (many of whom were, in any event, no longer in Hungary and would never return there). Indeed, shortly after World War II, the French returned to Hungary certain property that was associated with the Gold Train prior to its capture by the United States, but the post-war communist Hungarian government denied that the property was Jewish in origin and virtually none of the property was returned to its Jewish owners.

The U.S. Government, recognizing the tragic origin of the Gold Train property, sought to use it to help surviving victims. In 1948, after consulting with leading Jewish organizations, and with their approval, the United States transferred the property to the International Refugee Organization ("IRO"). The IRO sold the property at auction and the proceeds were applied for the benefit of victims. Ninety percent of the proceeds were passed to preeminent Jewish relief organizations - including the Jewish Agency for Palestine and the American Jewish Joint Distribution Committee - to be used for the rehabilitation and resettlement of Jewish refugees. The remaining ten percent assisted non-Jewish refugees. None of the proceeds was kept by the United States.

The United States Government takes seriously any allegation that its conduct may have contributed in any way to the suffering or anguish of Hungarian Holocaust survivors, and the United States has thoroughly examined its conduct with respect to the Hungarian Gold Train property. It has also consulted with eminent scholars in the field. On the basis of its examination and consultation, the United States has concluded that, although the conduct of its personnel was appropriate in most respects, it was contrary to U.S. policy and the standards expected of its soldiers in two important areas.

First, some military personnel failed to return Gold Train property that had been requisitioned by the military during the initial post-war period. The requisitioned property included, among other things, typewriters, rugs, cutlery, and linens that were used by American military personnel in offices and official residences in post-war Europe. Although records survive reflecting the return of certain requisitioned Gold Train property to the U.S.-run warehouse from which it had been removed, the United States acknowledges that, in contravention of law and United States policy, some of its military personnel did not return that

property upon their departure from Europe, but instead that property was either abandoned, retained or damaged beyond repair.

Second, some property was stolen from the warehouse in which the Gold Train property (as well as other property) was stored before the auction, and at least some of the thefts were perpetrated by members of the United States armed forces. Certain of the wrongdoers were apprehended, prosecuted and punished, but only a portion of the stolen property was recovered.

The United States regrets the improper conduct of certain of its military personnel and seeks in this settlement to provide meaningful assistance to those Hungarian Holocaust survivors still living who qualify as financially needy.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 10:44 AM
To: [redacted] E-mail); [redacted] -mail); [redacted] (E-mail); Brett Gerry (E-mail)
Subject: FW: STATEMENT OF THE UNITED STATES CONCERNING APPROVAL OF THE SETTLEMENT OF ROSNER V. UNITED STATES LAWSUIT

FYI. As I previously indicated, the Gold Train statement is being released today in connection with the court approved settlement. NMG

-----Original Message-----
From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 11, 2005 10:39 AM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF THE UNITED STATES CONCERNING APPROVAL OF THE SETTLEMENT OF ROSNER V. UNITED STATES LAWSUIT

Statement of the United States Concerning Approval of the Settlement of Rosner v. United States Lawsuit

The Jewish communities in lands controlled by the wartime Hungarian government suffered unspeakable crimes during the Holocaust at the hands of the Nazis and their Hungarian collaborators. The United States expresses its sympathy and solidarity with these victims and hopes that the settlement approved by the District Court will provide meaningful assistance to those survivors.

More than 175,000 Americans lost their lives combating the scourge of Nazism, and countless more were injured. Under very difficult conditions and at enormous personal sacrifice, American and allied troops defeated a determined enemy, liberated concentration camps, and fed, clothed and provided medical care to millions of starving and sick refugees, Jewish and non-Jewish alike. After the war, the United States Government and its citizens initiated unprecedented programs to aid, repatriate, and resettle Jewish and non-Jewish refugees.

In 1945, in the midst of the chaos of the immediate postwar period, U.S. forces captured what is now known as the Hungarian Gold Train from the Hungarian pro-Nazis. That train contained some of the personal property plundered from the Jewish communities of so-called "Greater Hungary," an area that included territories that had been seized from neighboring countries. Some non-Jewish property was on the train as well. The train, when captured by U.S. forces, was found to contain, among other things, boxes of jewelry, cutlery, thousands of wedding rings, and other personal property commingled without regard to the identity of their owners.

Many of the Jews from whom this property had been stolen were either killed or displaced in the war, and the United States Government at the time found that it had no practical way to identify the property or return it to the individuals from whom it had been stolen, as meaningful traces of individual ownership had been largely obliterated by the Hungarian pro-Nazis. The United States likewise concluded that it could not identify even the national origin of individual items, since the train contained property plundered from Jewish residents of territories that belonged to a number of different countries. Further, transferring the train's contents to the postwar Hungarian government would, in effect, have recognized as legitimate Axis Hungary's annexation of portions of neighboring countries. There was also good reason to doubt that the Hungarian government would return any property to the surviving Jews of Hungary (many of whom were, in any event, no longer in Hungary and would never return there). Indeed, shortly after World War II, the French returned to Hungary certain property that was associated with the Gold Train prior to its capture by the United States, but the post-war communist Hungarian government denied that the property was Jewish in origin and virtually none of the property was returned to its Jewish owners.

The U.S. Government, recognizing the tragic origin of the Gold Train property, sought to use it to help surviving victims. In 1948, after consulting with leading Jewish organizations, and with their approval, the United States transferred the property to the International Refugee Organization ("IRO"). The IRO sold the property at auction and the proceeds were applied for the benefit of victims. Ninety percent of the proceeds were passed to preeminent Jewish relief organizations - including the Jewish Agency for Palestine and the American Jewish Joint Distribution Committee - to be used for the rehabilitation and resettlement of Jewish refugees. The remaining ten percent assisted non-Jewish refugees. None of the proceeds was kept by the United States.

The United States Government takes seriously any allegation that its conduct may have contributed in any way to the suffering or anguish of Hungarian Holocaust survivors, and the United States has thoroughly examined its conduct with respect to the Hungarian Gold Train property. It has also consulted with eminent scholars in the field. On the basis of its examination and consultation, the United States has concluded that, although the conduct of its personnel was appropriate in most respects, it was contrary to U.S. policy and the standards expected of its soldiers in two important areas.

First, some military personnel failed to return Gold Train property that had been requisitioned by the military during the initial post-war period. The requisitioned property included, among other things, typewriters, rugs, cutlery, and linens that were used by American military personnel in offices and official residences in post-war Europe. Although records survive reflecting the return of certain requisitioned Gold Train property to the U.S.-run warehouse from which it had been removed, the United States acknowledges that, in

contravention of law and United States policy, some of its military personnel did not return that property upon their departure from Europe, but instead that property was either abandoned, retained or damaged beyond repair.

Second, some property was stolen from the warehouse in which the Gold Train property (as well as other property) was stored before the auction, and at least some of the thefts were perpetrated by members of the United States armed forces. Certain of the wrongdoers were apprehended, prosecuted and punished, but only a portion of the stolen property was recovered.

The United States regrets the improper conduct of certain of its military personnel and seeks in this settlement to provide meaningful assistance to those Hungarian Holocaust survivors still living who qualify as financially needy.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 10:51 AM
To: Shaw, Aloma A
Subject: few more cases when you get a chance

380 US 424
487 us 312
100 fed appx. 828 (Gilber v Barnhart)

Beach, Andrew

Subject:	Updated: Strategic Initiatives
Location:	OAG Conf Rm 5228
Start:	Monday, October 17, 2005 1:30 PM
End:	Monday, October 17, 2005 2:30 PM
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 1:30 PM to 2:30 PM
Meeting Status:	Accepted
Organizer:	Beach, Andrew
Required Attendees:	Beach, Andrew; Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG); Nelson, CarrieBeach, Andrew; Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG); Nelson, Carrie

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Carrie Nelson

Beach, Andrew

From: Beach, Andrew
Sent: Friday, October 28, 2005 12:22 PM
To: Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG); Nelson, Carrie; Goodling, Monica; Fisher, Alice
Subject: Updated: Strategic Initiatives

When: Tuesday, November 01, 2005 9:30 AM-10:30 AM (GMT-05:00) Eastern Time (US & Canada).
Where: OAG Conf Rm 5228

~~*~*~*~*~*~*~*~*~*

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Carrie Nelson
, Alice Fisher

Beach, Andrew

From:	Beach, Andrew
Sent:	Monday, December 12, 2005 10:40 AM
To:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG); Nelson, Carrie; Goodling, Monica; Fisher, Alice; McNeil, Tucker (OPA); Hertling, Richard
Subject:	Updated: Strategic Initiatives

When: Monday, December 12, 2005 1:50 PM-2:40 PM (GMT-05:00) Eastern Time (US & Canada).
Where: OAG Conf Rm 5228

~~*~*~*~*~*~*~*~*~*

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Richard Hertling for Rachel Brand, Tasia Scolinos, Jenny Korn for Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Tucker McNeil

Beach, Andrew

From: Beach, Andrew
Sent: Friday, December 16, 2005 1:27 PM
To: Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG); Nelson, Carrie; Goodling, Monica; Fisher, Alice; McNeil, Tucker (OPA)
Subject: Updated: Strategic Initiatives

When: Monday, December 19, 2005 1:00 PM-2:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: OAG Conf Rm 5228

~~*~*~*~*~*~*~*~*~*

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Tucker McNeil

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Tuesday, October 11, 2005 4:09 PM
To:	Frisch, Stuart; Swenson, Lily F; Kessler, Elizabeth A; Davis, John S (ODAG)
Cc:	Tang, Evelyn
Subject:	RE: Revised draft of privacy/civil liberties

I am not sure about the mention of setting up a "task force." I haven't heard of any suggestion along those lines and thus wouldn't promise it. To reflect more precisely the actual process as I understand it, I might edit the last two sentences of the first para to read something along these lines, though I leave wordsmithing up to you: To date, an internal working group set up by the Department's leadership has outlined different options for the establishment and implementation of such an organization, and submitted those options for review by various affected components within the Department. The working group is in the process of reviewing comments from the affected components and finalizing its recommendation to the Attorney General.

-----Original Message-----
From: Frisch, Stuart
Sent: Tuesday, October 11, 2005 1:04 PM
To: Gorsuch, Neil M; Swenson, Lily F; Kessler, Elizabeth A
Cc: Tang, Evelyn
Subject: FW: Revised draft of privacy/civil liberties
Importance: High

All,
I'm sending this to you at John Davis's request. Please note the short deadline.
Stu Frisch

-----Original Message-----
From: Frisch, Stuart
Sent: Tuesday, October 11, 2005 12:39 PM
To: Metcalfe, Daniel J; Rybicki, James E; Davis, John S. (USAVAE); Wondolowski, Walter J
Cc: Corts, Paul R; Allen, Michael (JMD); Lofthus, Lee J; Orr, David M; Tang, Evelyn
Subject: RE: Revised draft of privacy/civil liberties
Importance: High

All,
Below, for comment, is a revised draft of a report to the appropriations committees on implementation of an office of privacy and civil liberties. Please respond ASAP, and, in any case, before tomorrow morning, Wednesday, Oct. 12.
Stu

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 4:23 PM
To: Rybicki, James E; Mercer, Bill (ODAG)
Subject: RE: S1761, Gulf Coast Recovery (Control -9862)

Ok with me

-----Original Message-----
From: Rybicki, James E
Sent: Tuesday, October 11, 2005 4:10 PM
To: Mercer, Bill (ODAG); Gorsuch, Neil M
Subject: FW: S1761, Gulf Coast Recovery (Control -9862)

Bill/Neil:

OLA has asked for the status on our clearance of these comments. Are they clear to send to OMB?

Thanks,
Jim

-----Original Message-----
From: Silas, Adrien
Sent: Friday, October 07, 2005 5:46 PM
To: Gorsuch, Neil M; Mercer, Bill (ODAG)
Cc: Bucholtz, Jeffrey (CIV); Libutti, Tim (CIV); Ansell, Frederick; Hertling, Richard; Gunn, Currie (SMO); Senger, Jeffrey M; Shaw, Aloma A; Rybicki, James E; Wilson, Karen L; Seidel, Rebecca; Clinger, James H
Subject: S1761, Gulf Coast Recovery (Control -9862)

Any objection to submitting the following draft supplemental Justice Department comments (submitted by CIV) on the above to OMB? FYI, I have attached the underlying bill text.

<< File: S1761.wpd >>

The Justice Department has the following additional comments on S. 1761, the Gulf Coast Recovery Act:

The bill is intended to clarify the liability of government contractors with respect to claims made against them related to the performance of contracts issued in response to Hurricane Katrina or in response to future natiural disasters of a similar general magnitude of damages as Hurricane Katrina. Because the proposed legislation addresses the potential claims of PRIVATE INDIVIDUALS AGAINST GOVERNMENT CONTRACTORS, it is not immediately apparent how the changes to the law might affect Contract Disputes Act ("CDA") litigation of contractor and Government claims in the United States Court of Federal Claims or the boards of contract appeals.

We have concerns about section 5(d)(1), which provides, in lawsuits "filed for claims arising out of, relating to, or resulting from the performance of a [disaster-zone certified]

contract," a rebuttable presumption that all elements of the government contractor defense are satisfied. The "government contractor defense" is a defense that a Federal government contractor would normally raise in response to a products-liability type tort claim in situations where the contractor had performed to a very specific government-provided design specifications. Although the government contractor defense is a tort defense that would normally not have any applicability to CDA contract disputes, some of the required elements of the government contractor defense - in particular, the need to establish rigid DESIGN characteristics in the government specifications - overlap with or at least relate to the elements of several claims or defenses (*e.g.*, breach of warranty of specifications, commercial impracticability) which are often raised by contractors in CDA contract disputes. To avoid any possibility that this section would change the current government contracts law, we believe that the current bill should be rewritten to clearly state that nothing in section 5(d)(1) changes the current law regarding a disaster-zone certified contractor's burden of proof for establishing any claim or defense related to CDA litigation in the Court of Federal Claims or the boards of contract appeals. This qualification should be stated expressly in subsection 5(d) and/or stated with the other exclusions provided for in subsection 5(e).

In addition, we recommend two other changes to the language of section 5. First, with respect to the new Federal right of action, provided in subsection 5(a), we believe that the language regarding district court's jurisdiction (subsection (4)) should be defined more clearly. As currently drafted, subsection 5(a) might be interpreted broadly enough to permit non-diversity, loss of property suits brought by subcontractors or suppliers against "disaster zone certified" prime contractors, in situations where no Miller Act jurisdiction would exist. Second, subparagraph 5(d)(4), regarding the "exclusive responsibility" of the Chief of Engineers to review contracts for certification as a "disaster zone contract," does not state clearly whether that certification would be subject to judicial review under any standard. We believe that this should be clarified in the bill, especially as it appears (based upon the section 3 definition of "government contract") that the Chief of Engineers would be requested to certify STATE AND LOCAL government contracts as well as Federal contracts.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 4:26 PM
To: McDowell, Cynthia
Subject: RE: TICKET READY FOR PICKUP - TODAY - for Presidential Ceremony held tomorrow

Cynthia, As it turns out, I will not be able to attend. My apologies for the inconvenience. I do hope someone else might be able to use the ticket. NMG

-----Original Message-----
From: McDowell, Cynthia
Sent: Tuesday, October 11, 2005 2:28 PM
To: Apisson, Elizabeth M; Cohen, Brian; Cohn, Jonathan (CIV); Boente, Dana (USAVAE); Hofer, Patrick F. (TAX); Curtis, Ben (CRT); Gorsuch, Neil M; Herraiz, Domingo S.; Goodling, Monica (USAEO); Gober, Chris; Hagle, Timothy; Metcalf, Mark H (CRT); Peed, Carl; MacLean, Alex (CRT); McNally, Edward; Korn, Jennifer; Lesch, Jaclyn; Keehner, Laura; Peabody, Payson R. (TAX); Sellers, Kiahna (OAG); Sanchez, William J (CRT); Roe, Price (OCIO); Swenson, Lily F; Roberts, Crystal; Warren, Julie; Magnuson, Cynthia; Seidel, Rebecca; Smith, Kimberly A; Reyes, Luis (SMO)
Cc: Williams, Jan
Subject: TICKET READY FOR PICKUP - TODAY - for Presidential Ceremony held tomorrow
Importance: High

Dear Political Appointees who RSVP'd,

Please stop by TODAY for your ticket to tomorrow's Presidential ceremony, *A Visit with President George W. Bush* to be held on Wednesday, October 12, 2005, at the DAR Constitution Hall, 1776 D Street, NW, Washington.

I will be in my office until 6:00 PM today.
If you cannot stop by, please phone or email me to arrange picking up your ticket.

As you know:
- You should arriave at the 18th Street entrance.
- Attendees the event doors open at 11:45 a.m. and attendees must arrive no later than 1:15 p.m.
- Tickets are non-transferable.
- A photo ID is required.
- Umbrellas and cameras are permitted.

Enjoy!

Regards,
Cynthia

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317 - Law Library Suite
Washington, D.C. 20530
Tel: [redacted] Fax [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 4:35 PM
To: Neumayr, Mary (ENRD)
Subject: RE: DRAFT MUNITIONS RECOMMENDATION MEMO

thanks so much!
-----Original Message-----
From: Neumayr, Mary (ENRD)
Sent: Tuesday, October 11, 2005 4:23 PM
To: Gorsuch, Neil M
Subject: FW: DRAFT MUNITIONS RECOMMENDATION MEMO

Per your request, attached is the draft memo in Word.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 5:11 PM
To: Corts, Paul R
Subject: FW: Revised draft of privacy/civil liberties

-----Original Message-----
From: Davis, John S (ODAG)
Sent: Tuesday, October 11, 2005 4:17 PM
To: Gorsuch, Neil M
Subject: Re: Revised draft of privacy/civil liberties

Neil, this subject is what I called to talk to you about. The components have been promised reasonable process with respect to the design of the privacy office, and I am concerned that there are differing expectations that should be considered as we move forward. Are you free to call now - [redacted]
John

John S. Davis
202/514-0049 (work)
[redacted](cell)

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Frisch, Stuart <Stuart.Frisch@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>; Davis, John S (ODAG) <John.S.Davis@SMOJMD.USDOJ.gov>
CC: Tang, Evelyn <Evelyn.Tang@SMOJMD.USDOJ.gov>
Sent: Tue Oct 11 16:08:42 2005
Subject: RE: Revised draft of privacy/civil liberties

I am not sure about the mention of setting up a "task force." I haven't heard of any suggestion along those lines and thus wouldn't promise it. To reflect more precisely the actual process as I understand it, I might edit the last two sentences of the first para to read something along these lines, though I leave wordsmithing up to you: To date, an internal working group set up by the Department's leadership has outlined different options for the establishment and implementation of such an organization, and submitted those options for review by various affected components within the Department. The working group is in the process of reviewing comments from the affected components and finalizing its recommendation to the Attorney General.

-----Original Message-----
From: Frisch, Stuart
Sent: Tuesday, October 11, 2005 1:04 PM
To: Gorsuch, Neil M; Swenson, Lily F; Kessler, Elizabeth A
Cc: Tang, Evelyn

Cc: Tang, Evelyn
Subject: FW: Revised draft of privacy/civil liberties
Importance: High

All,
I'm sending this to you at John Davis's request. Please note the short deadline.
Stu Frisch

-----Original Message-----
From: Frisch, Stuart
Sent: Tuesday, October 11, 2005 12:39 PM
To: Metcalfe, Daniel J; Rybicki, James E; Davis, John S. (USAVAE);
Wondolowski, Walter J
Cc: Corts, Paul R; Allen, Michael (JMD); Lofthus, Lee J; Orr, David M;
Tang, Evelyn
Subject: RE: Revised draft of privacy/civil liberties
Importance: High

All,
Below, for comment, is a revised draft of a report to the appropriations committees on implementation of an office of privacy and civil liberties. Please respond ASAP, and, in any case, before tomorrow morning, Wednesday, Oct. 12.
Stu

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 5:56 PM
To: Prestes, Brian
Subject: RE: Detainee Legislation

Can you send me what you have?

-----Original Message-----
From: Prestes, Brian
Sent: Tuesday, October 11, 2005 5:45 PM
To: Gorsuch, Neil M
Subject: FW: Detainee Legislation

Neil,

Should we be reviewing the attached comments in light of the amendments as passed in the Senate and now contained as sections 8154, 8155, and 8163 of the Senate-passed version of H.R. 2863 (which I understand to be headed to conference)? These provisions, as they passed the Senate, contain some differences from our copies of Amendment Nos. 1977 and 2004.

Brian S. Prestes
Office of Legal Counsel
United States Department of Justice
(202) 305-8918

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 5:29 PM
To: Bradbury, Steve; Brand, Rachel; Elwood, Courtney; Mercer, Bill (ODAG)
Cc: Bucholtz, Jeffrey (CIV); Nichols, Carl (CIV)
Subject: Detainee Legislation

As you know, DoD has asked for our thoughts on ways to improve the detainee legislation during conference, indicating that it expects the conference could get active as early as next week. Attached is a draft I have prepared in coordination with Jeff and Carl that I know would benefit greatly from your review. Many thanks, NMG

<< File: Habeas amendment.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 6:10 PM
To: McCallum, Robert (SMO); Gunn, Currie (SMO)
Subject: RE: Group II Leadership on Friday, October 14.

Will do

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, October 11, 2005 6:09 PM
To: Gunn, Currie (SMO); Gorsuch, Neil M
Subject: RE: Group II Leadership on Friday, October 14.

Neil to chair. Robt.

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Tuesday, October 11, 2005 6:07 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: Group II Leadership on Friday, October 14.

Tracy informed me that she will be out on Friday. Mr. McCallum is out as well. Will Neil chair Group II or do we want to cancel?

Currie

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 6:28 PM
To: Prestes, Brian
Subject: RE: Detainee Legislation

These provisions appear identical to the McCain 1977 and Graham 2004 that I circulated.

-----Original Message-----
From: Prestes, Brian
Sent: Tuesday, October 11, 2005 5:57 PM
To: Gorsuch, Neil M
Subject: RE: Detainee Legislation

<< File: senate_passed_bill.pdf >>

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 5:56 PM
To: Prestes, Brian
Subject: RE: Detainee Legislation

Can you send me what you have?

-----Original Message-----
From: Prestes, Brian
Sent: Tuesday, October 11, 2005 5:45 PM
To: Gorsuch, Neil M
Subject: FW: Detainee Legislation

Neil,

Should we be reviewing the attached comments in light of the amendments as passed in the Senate and now contained as sections 8154, 8155, and 8163 of the Senate-passed version of H.R. 2863 (which I understand to be headed to conference)? These provisions, as they passed the Senate, contain some differences from our copies of Amendment Nos. 1977 and 2004.

Brian S. Prestes
Office of Legal Counsel
United States Department of Justice
(202) 305-8918

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 5:29 PM
To: Bradbury, Steve; Brand, Rachel; Elwood, Courtney; Mercer, Bill (ODAG)
Cc: Bucholtz, Jeffrey (CIV); Nichols, Carl (CIV)
Subject: Detainee Legislation

As you know, DoD has asked for our thoughts on ways to improve the detainee legislation during conference, indicating that it expects the conference could get active as early as next week. Attached is

a draft I have prepared in coordination with Jeff and Carl that I know would benefit greatly from your review. Many thanks, NMG

<< File: Habeas amendment.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 6:29 PM
To: Prestes, Brian
Subject: RE: Detainee Legislation

You are correct. I'd very much appreciate your comments before we send anything to DoD. When do you expect to have them?

-----Original Message-----
From: Prestes, Brian
Sent: Tuesday, October 11, 2005 6:26 PM
To: Gorsuch, Neil M
Subject: RE: Detainee Legislation

Am I correct to assume that the comments have not yet gone outside DOJ? We see some issues and we are preparing comments. We'd like the opportunity to pass those comments by you before this gets sent out.

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 5:56 PM
To: Prestes, Brian
Subject: RE: Detainee Legislation

Can you send me what you have?

-----Original Message-----
From: Prestes, Brian
Sent: Tuesday, October 11, 2005 5:45 PM
To: Gorsuch, Neil M
Subject: FW: Detainee Legislation

Neil,

Should we be reviewing the attached comments in light of the amendments as passed in the Senate and now contained as sections 8154, 8155, and 8163 of the Senate-passed version of H.R. 2863 (which I understand to be headed to conference)? These provisions, as they passed the Senate, contain some differences from our copies of Amendment Nos. 1977 and 2004.

Brian S. Prestes
Office of Legal Counsel
United States Department of Justice
(202) 305-8918

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 5:29 PM
To: Bradbury, Steve; Brand, Rachel; Elwood, Courtney; Mercer, Bill (ODAG)
Cc: Bucholtz, Jeffrey (CIV); Nichols, Carl (CIV)
Subject: Detainee Legislation

As you know, DoD has asked for our thoughts on ways to improve the detainee legislation during conference, indicating that it expects the conference could get active as early as next week. Attached is a draft I have prepared in coordination with Jeff and Carl that I know would benefit greatly from your review. Many thanks, NMG

<< File: Habeas amendment.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 6:32 PM
To: Prestes, Brian
Subject: RE: Detainee Legislation

I think that may explain it, but in any event my draft comments are directed to the same legislation you have so, happily, we are all on the same page.

-----Original Message-----
From: Prestes, Brian
Sent: Tuesday, October 11, 2005 6:31 PM
To: Gorsuch, Neil M
Subject: RE: Detainee Legislation

Section 8163 of the Senate passed bill is different from the last version of Amendment No. 2004 that I have (my most recent copy contains a fax header stating "Oct-04-2005 16:18"), but its possible I did not have the most recent version of Amendment No. 2004.

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 6:28 PM
To: Prestes, Brian
Subject: RE: Detainee Legislation

These provisions appear identical to the McCain 1977 and Graham 2004 that I circulated.

-----Original Message-----
From: Prestes, Brian
Sent: Tuesday, October 11, 2005 5:57 PM
To: Gorsuch, Neil M
Subject: RE: Detainee Legislation

<< File: senate_passed_bill.pdf >>

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 5:56 PM
To: Prestes, Brian
Subject: RE: Detainee Legislation

Can you send me what you have?

-----Original Message-----
From: Prestes, Brian
Sent: Tuesday, October 11, 2005 5:45 PM
To: Gorsuch, Neil M
Subject: FW: Detainee Legislation

Neil,

Should we be reviewing the attached comments in light of the amendments as passed in the Senate and now contained as sections 8154, 8155, and 8163 of the Senate-passed version of H.R.

2863 (which I understand to be headed to conference)? These provisions, as they passed the Senate, contain some differences from our copies of Amendment Nos. 1977 and 2004.

Brian S. Prestes
Office of Legal Counsel
United States Department of Justice
(202) 305-8918

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 5:29 PM
To: Bradbury, Steve; Brand, Rachel; Elwood, Courtney; Mercer, Bill (ODAG)
Cc: Bucholtz, Jeffrey (CIV); Nichols, Carl (CIV)
Subject: Detainee Legislation

As you know, DoD has asked for our thoughts on ways to improve the detainee legislation during conference, indicating that it expects the conference could get active as early as next week. Attached is a draft I have prepared in coordination with Jeff and Carl that I know would benefit greatly from your review. Many thanks, NMG

<< File: Habeas amendment.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 6:33 PM
To: Prestes, Brian
Subject: RE: Detainee Legislation

Thanks.

-----Original Message-----
From: Prestes, Brian
Sent: Tuesday, October 11, 2005 6:33 PM
To: Gorsuch, Neil M
Subject: RE: Detainee Legislation

We expect to have our comments to you by tomorrow pm.

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 6:29 PM
To: Prestes, Brian
Subject: RE: Detainee Legislation

You are correct. I'd very much appreciate your comments before we send anything to DoD. When do you expect to have them?

-----Original Message-----
From: Prestes, Brian
Sent: Tuesday, October 11, 2005 6:26 PM
To: Gorsuch, Neil M
Subject: RE: Detainee Legislation

Am I correct to assume that the comments have not yet gone outside DOJ? We see some issues and we are preparing comments. We'd like the opportunity to pass those comments by you before this gets sent out.

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 5:56 PM
To: Prestes, Brian
Subject: RE: Detainee Legislation

Can you send me what you have?

-----Original Message-----
From: Prestes, Brian
Sent: Tuesday, October 11, 2005 5:45 PM
To: Gorsuch, Neil M
Subject: FW: Detainee Legislation

Neil,

Should we be reviewing the attached comments in light of the amendments as passed in the Senate and now contained as sections 8154, 8155, and 8163 of the Senate-passed version of H.R. 2863 (which I understand to be headed to conference)? These provisions, as they passed the

Senate, contain some differences from our copies of Amendment Nos. 1977 and 2004.

Brian S. Prestes
Office of Legal Counsel
United States Department of Justice
(202) 305-8918

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, October 07, 2005 5:29 PM
To: Bradbury, Steve; Brand, Rachel; Elwood, Courtney; Mercer, Bill (ODAG)
Cc: Bucholtz, Jeffrey (CIV); Nichols, Carl (CIV)
Subject: Detainee Legislation

As you know, DoD has asked for our thoughts on ways to improve the detainee legislation during conference, indicating that it expects the conference could get active as early as next week. Attached is a draft I have prepared in coordination with Jeff and Carl that I know would benefit greatly from your review. Many thanks, NMG

<< File: Habeas amendment.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 6:35 PM
To: [redacted] (E-mail) [redacted] (E-mail)
Subject: Detainee legislation

[redacted] We should have comments for your use in conference by cob tomorrow or early Thursday if that timing is ok. If you need something sooner, though, let me know. Best, NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, October 11, 2005 7:17 PM
To: Shaw, Aloma A
Subject: please can you download and print out a copy of the

tenth circuit's local rules?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 8:16 AM
To: Sampson, Kyle
Cc: Elwood, Courtney
Subject: RE: outline of possible speech

Will do

-----Original Message-----
From: Sampson, Kyle
Sent: Wednesday, October 12, 2005 7:10 AM
To: Gorsuch, Neil M
Cc: Elwood, Courtney
Subject: outline of possible speech

on legal victories in the war on terror
for our strategic initiatives meeting with the AG on Wed, 10/19 has been suggested to me that you coordinate with clement

Seidel, Rebecca

Subject:	Accepted: Privacy Office
Location:	Will's office
Start:	Wednesday, October 12, 2005 4:00 PM
End:	Wednesday, October 12, 2005 4:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Seidel, Rebecca

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 8:24 AM
To: Elwood, Courtney
Cc: Bennett, Catherine T
Subject: RE: outline of possible speech

Of course. You name it.

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, October 12, 2005 8:22 AM
To: Gorsuch, Neil M
Cc: Bennett, Catherine T
Subject: RE: outline of possible speech

Neil: I am afraid I am going to again have to reschedule lunch. The AG's schedule got moved around today, and he's added a couple of things that I need to attend. My apologies. Can we try for another day? CSE

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 8:16 AM
To: Sampson, Kyle
Cc: Elwood, Courtney
Subject: RE: outline of possible speech

Will do

-----Original Message-----
From: Sampson, Kyle
Sent: Wednesday, October 12, 2005 7:10 AM
To: Gorsuch, Neil M
Cc: Elwood, Courtney
Subject: outline of possible speech

on legal victories in the war on terror
for our strategic initiatives meeting with the AG on Wed, 10/19 has been suggested to me that you coordinate with clement

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 8:51 AM
To: McCallum, Robert (SMO)
Subject: FW: NEW PLAN: Senior Management Meeting and Component Coordination Meetings to be combined

fyi

-----Original Message-----
From: Beach, Andrew
Sent: Friday, October 07, 2005 3:12 PM
To: Gunn, Currie (SMO); Washington, Tracy T; Walker, Shelia M; Bennett, Catherine T; Shaw, Aloma A; Henderson, Charles V; Webb, Lauren; Roper, Matt M; Martinson, Wanda; Roberts, Crystal; Oldham, Jeffrey L; Pacold, Martha M; Long, Linda E; Scolinos, Tasia; Taylor, Jeffrey (OAG); Elwood, Courtney; Goodling, Monica (USAEO); Williams, Jan; Gorsuch, Neil M; Mercer, Bill (ODAG); Brand, Rachel; Moschella, William
Cc: Meadows, Bessie L; Schreiber, Jayne; Sours, Raquel; Sellers, Kiahna (OAG); Jenkins, Linda A
Subject: NEW PLAN: Senior Management Meeting and Component Coordination Meetings to be combined

Effective Tuesday, October 11, the Senior Management Meeting and the Component Coordination Meetings will be combined into one meeting called Senior Management Meeting which will be held from 9:00 - 9:30 AM each day.

I am going to send out a CANCELLATION NOTICE for all current entries for both Senior Management and Component Coordination and will set up a new recurring meeting called Senior Management Meeting.
Please double check and remove all of what will be outdated entries for those meetings from your/your principal's calendar.

Subject: Senior Management Meeting
Start: Tue 10/11/05 9:00 AM
End: Tue 10/11/05 9:30 AM

PARTICIPANTS:
DOJ: ASG Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Roberts

PLEASE ASK YOUR PRINCIPAL TO ARRIVE 4-5 MINUTES EARLY FOR THESE MEETINGS ON A REGULAR BASIS. THANKS.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 11:02 AM
To: Marshall, C. Kevin
Cc: Prestes, Brian; Willen, Brian
Subject: RE: Coordination on detainee legislation

Ok by me.

-----Original Message-----
From: Marshall, C. Kevin
Sent: Wednesday, October 12, 2005 10:49 AM
To: Gorsuch, Neil M
Cc: Prestes, Brian; Willen, Brian
Subject: Coordination on detainee legislation

Neil,

OLC has received through our normal bill-comment channels (OMB via OLA) the DOD appropriation bill as a whole for comment. Comments are due at 1:00 today. We don't want to duplicate (or depart from) the comments you're working on (which we are editing and should have back to you today) but also don't want OMB or anyone else to think that we have no issues with the McCain and Graham additions.

Therefore, unless you prefer something else, we plan to include the following disclaimer, or something to the same effect, in our comments on the bill: "We have reviewed sections 8154, 8155, and 8163, which address detention and interrogation in the present war. OLC understands that any DOJ comments on these sections will be provided by the Associate Attorney General's office. We therefore have provided our comments on these sections to that office and are not separately commenting on them now."

C. Kevin Marshall
U.S. Department of Justice
Office of Legal Counsel
(202) 514-3713 (phone)
(202) 514-0539 (fax)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 11:04 AM
To: McCallum, Robert (SMO); Reyes, Luis (SMO)
Subject: RE: CFIUS hearing

Happy to help. Should I schedule a meeting with Will and perhaps Lara Parsky to discuss where to begin?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, October 12, 2005 10:59 AM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: FW: CFIUS hearing

FYI. I may need your help in prep for this very technical CRM area in which Treasury will be taking the lead role. Robt.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, October 12, 2005 10:57 AM
To: Sampson, Kyle
Cc: Taylor, Jeffrey (OAG); Mercer, Bill (ODAG); Fisher, Alice; Parsky, Laura; Moschella, William
Subject: RE: CFIUS hearing

Sign me up. Will: When, where, and let's schedule up the prep with Laura and whomever else to get me ready. Who will prep the written testimony and when will I get it for review? Robt.

-----Original Message-----
From: Sampson, Kyle
Sent: Wednesday, October 12, 2005 10:47 AM
To: McCallum, Robert (SMO)
Cc: Taylor, Jeffrey (OAG); Mercer, Bill (ODAG); Fisher, Alice; Parsky, Laura; Moschella, William
Subject: CFIUS hearing

Robert, the AG requests that you be the Department's witness at the upcoming CFIUS hearing.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 11:39 AM
To: McCallum, Robert (SMO)
Subject: RE: CFIUS hearing

ok, i will hold off scheduling anything for the moment
-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, October 12, 2005 11:08 AM
To: Gorsuch, Neil M
Subject: FW: CFIUS hearing

FYI. It is underway. Robt.
-----Original Message-----
From: Fisher, Alice
Sent: Wednesday, October 12, 2005 11:06 AM
To: Sampson, Kyle; McCallum, Robert (SMO)
Cc: Moschella, William; Mercer, Bill (ODAG); Taylor, Jeffrey (OAG); Parsky, Laura; Roth, Monique; Friedrich, Matthew
Subject: RE: CFIUS hearing

We will prepare the testimony draft and preparation materials for you. I will get back to you today on turnaround time.

From: McCallum, Robert (SMO)
Sent: Wednesday, October 12, 2005 11:01 AM
To: Sampson, Kyle
Cc: Parsky, Laura; Fisher, Alice; Taylor, Jeffrey (OAG); Mercer, Bill (ODAG); Moschella, William
Subject: RE: CFIUS hearing

Sign me up. Will: When, where, and let's schedule up the prep with Laura and whomever else to get me ready. Who will prep the written testimony and when will I get it for review? Robt.

-----Original Message-----
From: Sampson, Kyle
Sent: Wednesday, October 12, 2005 10:47 AM
To: McCallum, Robert (SMO)
Cc: Taylor, Jeffrey (OAG); Mercer, Bill (ODAG); Fisher, Alice; Parsky, Laura; Moschella, William
Subject: CFIUS hearing

Robert, the AG requests that you be the Department's witness at the upcoming CFIUS hearing.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 12:33 PM
To: Brand, Rachel
Subject: RE:

Sorry, Robt had asked me to do so.

-----Original Message-----
From: Brand, Rachel
Sent: Wednesday, October 12, 2005 12:33 PM
To: Gorsuch, Neil M
Subject:

Lee said you had called Bill Kelley re the tax shelter issue. If you have an issue re any judicial nomination, pls go through me. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 1:15 PM
To: Brand, Rachel
Subject: RE:

And I'm genuinely very sorry to have added to the problem. I didn't realize the communication flow here and certainly don't want to add any difficulties to your (considerable) plate. I will stay out of the "kitchen" going forward.

Just so you know, all I told Bill K. was that TAX considers the shelters to be questionable and WH press office should refrain from public statements suggesting otherwise. He said he would take the matter from here.

-----Original Message-----
From: Brand, Rachel
Sent: Wednesday, October 12, 2005 1:09 PM
To: Gorsuch, Neil M
Subject: RE:

Fair enough.
It's just complicated enough already with adding more cooks to the kitchen. Thx.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 12:33 PM
To: Brand, Rachel
Subject: RE:

Sorry, Robt had asked me to do so.

-----Original Message-----
From: Brand, Rachel
Sent: Wednesday, October 12, 2005 12:33 PM
To: Gorsuch, Neil M
Subject:

Lee said you had called Bill Kelley re the tax shelter issue. If you have an issue re any judicial nomination, pls go through me. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 4:33 PM
To: [redacted]@dodgc.osd.mil'; Moschella, William; Bradbury, Steve
Subject: RE: Meeting w/ Jim Tomorrow

I can do either. Will? Steve?

-----Original Message-----
From [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Wednesday, October 12, 2005 4:18 PM
To: Gorsuch, Neil M
Subject: Meeting w/ Jim Tomorrow

Would you prefer 3:30 or 5:00?

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

Seidel, Rebecca

Subject:	Accepted: Updated: Privacy Office
Location:	Will's office
Start:	Wednesday, October 12, 2005 5:00 PM
End:	Wednesday, October 12, 2005 5:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Seidel, Rebecca

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 4:52 PM
To: Seidel, Rebecca
Subject: RE: Graham Amendment

So we are on for 5pm?

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, October 12, 2005 4:42 PM
To: Clinger, James H
Cc: Gorsuch, Neil M
Subject: FW: Graham Amendment

forwarding to Jim - he is our deputy on detainee issues. thanks Neil.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 4:40 PM
To: William J. Haynes (E-mail); [redacted] (E-mail)
Cc: Moschella, William; Seidel, Rebecca; Bradbury, Steve
Subject: Graham Amendment

As promised, attached are DoJ's collective comments on the Graham amendment for use with the Hill. Look forward to speaking soon on strategy going forward.

<< File: Graham Amendment Comments 3.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 5:03 PM
To: Seidel, Rebecca
Subject: RE: Graham Amendment

ok - thx

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, October 12, 2005 5:03 PM
To: Gorsuch, Neil M
Subject: RE: Graham Amendment

I think Will is on his way back to office now. I will buzz you around 5:15 and see if I can snag him.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 4:52 PM
To: Seidel, Rebecca
Subject: RE: Graham Amendment

So we are on for 5pm?

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, October 12, 2005 4:42 PM
To: Clinger, James H
Cc: Gorsuch, Neil M
Subject: FW: Graham Amendment

forwarding to Jim - he is our deputy on detainee issues. thanks Neil.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 4:40 PM
To: William J. Haynes (E-mail); [redacted] (E-mail)
Cc: Moschella, William; Seidel, Rebecca; Bradbury, Steve
Subject: Graham Amendment

As promised, attached are DoJ's collective comments on the Graham amendment for use with the Hill. Look forward to speaking soon on strategy going forward.

<< File: Graham Amendment Comments 3.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 5:03 PM
To: Seidel, Rebecca
Subject: RE: Graham Amendment

51434

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, October 12, 2005 5:03 PM
To: Gorsuch, Neil M
Subject: RE: Graham Amendment

what is your direct dial?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 5:03 PM
To: Seidel, Rebecca
Subject: RE: Graham Amendment

ok - thx

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, October 12, 2005 5:03 PM
To: Gorsuch, Neil M
Subject: RE: Graham Amendment

I think Will is on his way back to office now. I will buzz you around 5:15 and see if I can snag him.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 4:52 PM
To: Seidel, Rebecca
Subject: RE: Graham Amendment

So we are on for 5pm?

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, October 12, 2005 4:42 PM
To: Clinger, James H
Cc: Gorsuch, Neil M
Subject: FW: Graham Amendment

forwarding to Jim - he is our deputy on detainee issues. thanks Neil.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 4:40 PM
To: William J. Haynes (E-mail); Frank Jimenez (E-mail)
Cc: Moschella, William; Seidel, Rebecca; Bradbury, Steve
Subject: Graham Amendment

As promised, attached are DoJ's collective comments on the Graham amendment for use with the Hill. Look forward to speaking soon on strategy going forward.

<< File: Graham Amendment Comments 3.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 5:20 PM
To: [redacted]@dodgc.osd.mil'; Bradbury, Steve; Moschella, William; Seidel, Rebecca; [redacted] Shaw, Aloma A
Subject: RE: Detainee legislation

Since this is all [redacted] has, I think we should take it unless anyone else has a problem. If so, please speak up now. Aloma, could you arrange a car for 3pm to the Pentagon?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Wednesday, October 12, 2005 5:14 PM
To: Gorsuch, Neil M
Subject: Fw: Detainee legislation

3:30 is all he has now.

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted], CAPT, DoD OGC <[redacted]@dodgc.osd.mil>
To: [redacted] Mr, DoD OGC <[redacted]@dodgc.osd.mil>
Sent: Wed Oct 12 17:12:53 2005
Subject: RE: Detainee legislation

1700 is not possible anymore (he has a meeting with the DSD)

-----Original Message-----
From: [redacted], Mr, DoD OGC
Sent: Wednesday, October 12, 2005 16:58
To: [redacted], CAPT, DoD OGC
Subject: Re: Detainee legislation

Talked to [redacted]- she gave us 1530 or 1700 - see next e-mail.

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted], CAPT, DoD OGC <[redacted]@dodgc.osd.mil>
To: [redacted], Mr, DoD OGC <[redacted]@dodgc.osd.mil>
Sent: Wed Oct 12 16:47:06 2005
Subject: RE: Detainee legislation

[redacted]-How long will this take? We have 30 minutes at 1530 tomorrow. If you need more time I could see about cancelling GC ops. VR/[redacted]

-----Original Message-----
From: [redacted], Mr, DoD OGC
Sent: Wednesday, October 12, 2005 12:10
To: [redacted], CIV, OSD-LA; [redacted], CAPT, DoD OGC
Cc: [redacted], Hon, DoD OGC; [redacted], Mr, DoD OGC
Subject: RE: Detainee legislation

P.S. Neil now recommends a meeting between us and DOJ (including DOJ/LA).
[redacted], is there a time on [redacted] schedule tomorrow? (DOJ requests anything after mid-morning.)
[redacted], DOJ wants to know when the conference is scheduled for and who the conferees are. Do we know?

-----Original Message-----
From: [redacted], Mr, DoD OGC
Sent: Wednesday, October 12, 2005 12:03
To: [redacted], CIV, OSD-LA
Cc: [redacted], Hon, DoD OGC; [redacted], CAPT, DoD OGC
Subject: RE: Detainee legislation

DOJ will have language for us NLT tomorrow a.m. You and I should meet with Jim as soon as it's in to review it. We also need to clear it with [redacted] at CIA.

-----Original Message-----
From: [redacted], CIV, OSD-LA
Sent: Wednesday, October 12, 2005 11:43
To: [redacted], Mr, DoD OGC
Cc: [redacted], Hon, DoD OGC
Subject: RE: Detainee legislation

Great! Please let me know how you wish to proceed.

Respectfully,

[redacted]
Special Assistant to the Assistant Secretary of Defense
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
Phone: (703) 693-0305
Fax: (703) 697-8299
Cell: [redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

-----Original Message-----
From: [redacted], Mr, DoD OGC
Sent: Wednesday, October 12, 2005 11:44 AM
To: [redacted], CIV, OSD-LA
Cc: [redacted] Hon, DoD OGC
Subject: RE: Detainee legislation

Neil and I have just been told separately that this is not what the WH wants. We HAVE been given authorization to engage on the Graham amendment - and not just authorization . . . they WANT us to engage - to eliminate, if possible, but if not, to fix. DoD, not DOJ, has the lead, which may be what led to DOJ/LA's confusion. But the key point for us is that we have a green light to engage on Graham. Please do not forward.

-----Original Message-----
From: [redacted], CIV, OSD-LA
Sent: Wednesday, October 12, 2005 09:56
To: [redacted], Mr, DoD OGC
Cc: [redacted] Hon, DoD OGC
Subject: RE: Detainee legislation

[redacted]
Just for situational awareness - we do not have the green light from the White House to work with Conference Committee on the Graham or McCain amendments. I do think it will be helpful to have DoJ's comments. DoJ leg affairs contact me yesterday about both amendments and I communicated to them that at the present time we are not allowed to do anything. I will keep you advised. TY

Respectfully

Respectfully,

[redacted]
Special Assistant to the Assistant Secretary of Defense
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
Phone: (703) 693-0305
Fax: (703) 697-8299
Cell: [redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

-----Original Message-----
From: [redacted], Mr, DoD OGC
Sent: Tuesday, October 11, 2005 6:37 PM
To: [redacted], CIV, OSD-LA
Subject: FW: Detainee legislation

FYI

-----Original Message-----
From: [redacted], Mr, DoD OGC
Sent: Tuesday, October 11, 2005 18:37
To: 'Neil.Gorsuch@usdoj.gov'; [redacted], Hon, DoD OGC
Subject: RE: Detainee legislation

I think that's fine. Thanks. Neil.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, October 11, 2005 18:34
To: [redacted] (E-mail); [redacted] (E-mail)
Subject: Detainee legislation

Jim, Frank: We should have comments for your use in conference by cob tomorrow or early Thursday if that timing is ok. If you need something sooner, though, let me know. Best, NMG

Neil M. Gorsuch

Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gunn, Currie (SMO)

Subject:	Updated: OASG Staff Meeting
Location:	Conference Room 5710
Start:	Thursday, October 13, 2005 1:00 PM
End:	Thursday, October 13, 2005 2:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Tuesday and Thursday from 5:00 PM to 6:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Kessler, Elizabeth A; Senger, Jeffrey M; Reyes, Luis (SMO); Henke, Tracy (SMO); Wiggins, Mike; Gunn, Currie (SMO); Swenson, Lily F; Wiggins, Mike; Gorsuch, Neil M
Optional Attendees:	Shaw, Aloma A

When: Thursday, October 13, 2005 1:00 PM-2:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Conference Room 5710

~~*~*~*~*~*~*~*~*~*

Note meeting time change. This meeting only.

Attendees: ASG Robert McCallum, Elizabeth Kessler-OASG, Tracy Henke-OASG, Mike Wiggins-OASG, Jeff Senger-OASG, Luis Reyes-OASG, Lily Fu Swenson-OASG

POC: Currie Gunn x4-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 5:39 PM
To: Seidel, Rebecca
Cc: Clinger, James H
Subject: RE: Detainee legislation

We'd like to get OLA involved and coordinated with DOD OLA. I leave it to you whom to send.

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, October 12, 2005 5:35 PM
To: Gorsuch, Neil M
Cc: Clinger, James H
Subject: RE: Detainee legislation

I just looked at Will's schedule for tomorrow, he has a 4pm meeting on the National Security Division working group I think he has to go to. Is Jim up to speed? Is this something Peter Owen in our office is involved in or are you keeping it at the leadership level?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 5:20 PM
To: 'jimenezf@dodgc.osd.mil'; Bradbury, Steve; Moschella, William;
Seidel, Rebecca; Clinger, James H; Shaw, Aloma A
Subject: RE: Detainee legislation

Since this is all Jim has, I think we should take it unless anyone else has a problem. If so, please speak up now. Aloma, could you arrange a car for 3pm to the Pentagon?

-----Original Message-----
From: jimenezf@dodgc.osd.mil [mailto:jimenezf@dodgc.osd.mil]
Sent: Wednesday, October 12, 2005 5:14 PM
To: Gorsuch, Neil M
Subject: Fw: Detainee legislation

3:30 is all he has now.

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted], CAPT, DoD OGC <[redacted]@dodgc.osd.mil>
To: [redacted] Mr, DoD OGC <[redacted]@dodgc.osd.mil>
Sent: Wed Oct 12 17:12:53 2005
Subject: RE: Detainee legislation

1700 is not possible anymore (he has a meeting with the DSD)

-----Original Message-----
From: [redacted], Mr, DoD OGC
Sent: Wednesday, October 12, 2005 16:58
To: [redacted], CAPT, DoD OGC
Subject: Re: Detainee legislation

Talked to [redacted]- she gave us 1530 or 1700 - see next e-mail.

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted], CAPT, DoD OGC <[redacted]@dodgc.osd.mil>
To: [redacted] Mr, DoD OGC <[redacted]@dodgc.osd.mil>
Sent: Wed Oct 12 16:47:06 2005
Subject: RE: Detainee legislation

[redacted]-How long will this take? We have 30 minutes at 1530 tomorrow. If you need more time I could see about cancelling GC ops. VR,[redacted]

-----Original Message-----
From: [redacted], Mr, DoD OGC
Sent: Wednesday, October 12, 2005 12:10
To: [redacted], CIV, OSD-LA; [redacted], CAPT, DoD OGC
Cc: [redacted] Hon, DoD OGC; [redacted], Mr, DoD OGC
Subject: RE: Detainee legislation

P.S. Neil now recommends a meeting between us and DOJ (including DOJ/LA).
[redacted] is there a time on [redacted]s schedule tomorrow? (DOJ requests anything after mid-morning.)
[redacted] DOJ wants to know when the conference is scheduled for and who the conferees are. Do we know?

-----Original Message-----
From: [redacted], Mr, DoD OGC
Sent: Wednesday, October 12, 2005 12:03
To: [redacted], CIV, OSD-LA
Cc: [redacted], Hon, DoD OGC; [redacted], CAPT, DoD OGC
Subject: RE: Detainee legislation

DOJ will have language for us NLT tomorrow a.m. You and I should meet with [redacted] as soon as it's in to review it. We also need to clear it with [redacted] at CIA.

-----Original Message-----
From: [redacted], CIV, OSD-LA
Sent: Wednesday, October 12, 2005 11:43
To: [redacted], Mr, DoD OGC
Cc: [redacted], Hon, DoD OGC
Subject: RE: Detainee legislation

Great! Please let me know how you wish to proceed.

Respectfully,

[redacted]
Special Assistant to the Assistant Secretary of Defense
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
Phone: (703) 693-0305
Fax: (703) 697-8299
Cell: [redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

-----Original Message-----
From: [redacted], Mr, DoD OGC
Sent: Wednesday, October 12, 2005 11:44 AM
To: [redacted], CIV, OSD-LA
Cc: [redacted], Hon, DoD OGC
Subject: RE: Detainee legislation

Neil and I have just been told separately that this is not what the WH wants. We HAVE been given authorization to engage on the Graham amendment - and not just authorization . . . they WANT us to engage - to eliminate, if possible, but if not, to fix. DoD, not DOJ, has the lead, which may be what led to DOJ/LA's confusion. But the key point for us is that we have a green light to engage on Graham. Please do not forward.

-----Original Message-----
From: [redacted], CIV, OSD-LA
Sent: Wednesday, October 12, 2005 09:56
To: [redacted] Mr, DoD OGC
Cc: [redacted] Hon, DoD OGC
Subject: RE: Detainee legislation

[redacted]

Just for situational awareness - we do not have the green light from the White House to work with Conference Committee on the Graham or McCain amendments. I do think it will be helpful to have DoJ's comments. DoJ leg affairs contact me yesterday about both amendments and I communicated to them that at the present time we are not allowed to do anything. I will keep you advised. TY

Respectfully,

[redacted]
Special Assistant to the Assistant Secretary of Defense
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
Phone: (703) 693-0305
Fax: (703) 697-8299
Cell: [redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

-----Original Message-----
From: [redacted] Mr, DoD OGC
Sent: Tuesday, October 11, 2005 6:37 PM
To: [redacted], CIV, OSD-LA
Subject: FW: Detainee legislation

FYI

-----Original Message-----
From: [redacted], Mr, DoD OGC
Sent: Tuesday, October 11, 2005 18:37
To: 'Neil.Gorsuch@usdoj.gov'; [redacted], Hon, DoD OGC
Subject: RE: Detainee legislation

I think that's fine. Thanks. Neil.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, October 11, 2005 18:34
To: [redacted]
Subject: Detainee legislation

[redacted]: We should have comments for your use in conference by cob tomorrow or early Thursday if that timing is ok. If you need something sooner, though, let me know. Best, NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Seidel, Rebecca

Subject:	Updated: Privacy Office
Location:	Will's office
Start:	Wednesday, October 12, 2005 5:40 PM
End:	Wednesday, October 12, 2005 6:10 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Seidel, Rebecca
Required Attendees:	Moschella, William; Gorsuch, Neil M

When: Wednesday, October 12, 2005 5:40 PM-6:10 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Will's office

~~*~*~*~*~*~*~*~*~*

trying for 5:30 as I believe Will will be back from Hill momentarily.

Gorsuch, Neil M

Subject: FW: Updated: Privacy Office
Location: Will's office

Start: Wednesday, October 12, 2005 5:40 PM
End: Wednesday, October 12, 2005 6:10 PM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Gorsuch, Neil M
Required Attendees: Seidel, Rebecca

Why don't you and Will just phone me when he returns?

-----Original Appointment-----
From: Seidel, Rebecca
Sent: Wednesday, October 12, 2005 5:40 PM
To: Seidel, Rebecca; Moschella, William; Gorsuch, Neil M
Subject: Updated: Privacy Office
When: Wednesday, October 12, 2005 5:40 PM-6:10 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Will's office

trying for 5:30 as I believe Will will be back from Hill momentarily.

Gorsuch, Neil M

Subject:	Detainee legislation
Location:	Pentagon
Start:	Thursday, October 13, 2005 3:00 PM
End:	Thursday, October 13, 2005 4:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gorsuch, Neil M
Required Attendees:	Moschella, William; Bradbury, Steve

Car at 10th Street Entrance at 3pm -- Meet with [redacted], et al. at Pentagon at 3:30

Gorsuch, Neil M

Subject: FW: Detainee legislation
Location: Pentagon

Start: Thursday, October 13, 2005 3:00 PM
End: Thursday, October 13, 2005 4:30 PM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Gorsuch, Neil M
Required Attendees: Shaw, Aloma A

I've sent out a calendar request for the pentagon mtg tomorrow if you could please arrange the car - thanks!

-----Original Appointment-----
From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 6:17 PM
To: Moschella, William; Bradbury, Steve
Subject: Detainee legislation
When: Thursday, October 13, 2005 3:00 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Pentagon

Car at 10th Street Entrance at 3pm -- Meet with [redacted], et al. at Pentagon at 3:30

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 6:19 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: Meeting w/ Jim Tomorrow

Frank, Steve Bradbury (OLC), Will Moschella (OLA) and I will be there at 330. I assume your OLA folks will also attend? NMG

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Wednesday, October 12, 2005 4:18 PM
To: Gorsuch, Neil M
Subject: Meeting w/ Jim Tomorrow

Would you prefer 3:30 or 5:00?

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 13, 2005 8:46 AM
To: Elwood, Courtney
Subject: RE: outline of possible speech

Absolutely

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, October 12, 2005 8:52 PM
To: Gorsuch, Neil M
Subject: RE: outline of possible speech

Are you free for lunch next Friday, the 21st??

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 8:24 AM
To: Elwood, Courtney
Cc: Bennett, Catherine T
Subject: RE: outline of possible speech

Of course. You name it.

-----Original Message-----
From: Elwood, Courtney
Sent: Wednesday, October 12, 2005 8:22 AM
To: Gorsuch, Neil M
Cc: Bennett, Catherine T
Subject: RE: outline of possible speech

Neil: I am afraid I am going to again have to reschedule lunch. The AG's schedule got moved around today, and he's added a couple of things that I need to attend. My apologies. Can we try for another day? CSE

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 8:16 AM
To: Sampson, Kyle
Cc: Elwood, Courtney
Subject: RE: outline of possible speech

Will do

-----Original Message-----
From: Sampson, Kyle
Sent: Wednesday, October 12, 2005 7:10 AM
To: Gorsuch, Neil M
Cc: Elwood, Courtney
Subject: outline of possible speech

on legal victories in the war on terror
for our strategic initiatives meeting with the AG on Wed, 10/19 has been suggested to me that you coordinate with clement

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 13, 2005 8:53 AM
To: Burton, Faith; McCallum, Robert (SMO)
Cc: Moschella, William; Sampson, Kyle; Mercer, Bill (ODAG)
Subject: RE: Your Schedule for Oct. 20th

Faith, I'm resending to Robert; the earlier email was directed to his "double" in the Department who shares a very similar name. NMG

-----Original Message-----
From: Burton, Faith
Sent: Wednesday, October 12, 2005 5:49 PM
To: McCallum Jr, Robert L (LEO)
Cc: Moschella, William; Sampson, Kyle; Mercer, Bill (ODAG); Gorsuch, Neil M
Subject: Your Schedule for Oct. 20th

Robert, the Senate Banking Hearing on CFIUS has now been scheduled for the 20th (next Thurs.) and we understand that you are currently scheduled to leave that morning for Denver to speak to the 8th Cir. Judicial Conference. How do you want to proceed?

Bennett, Catherine T

Subject:	Lunch w/Neil Gorsuch
Start:	Friday, October 21, 2005 12:00 PM
End:	Friday, October 21, 2005 1:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Bennett, Catherine T
Required Attendees:	Gorsuch, Neil M

When: Friday, October 21, 2005 12:00 PM-1:00 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 13, 2005 9:31 AM
To: Swenson, Lily F
Subject: question

could you give me a ring when you have a minute? many thanks

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 13, 2005 9:40 AM
To: Seidel, Rebecca
Subject: Volunteer Liability Legislation

Where do our bills stand in the Senate and House?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 13, 2005 9:42 AM
To: Marshall, C. Kevin
Subject: RE: Car to Pentagon

Don't think you need to prepare anything. We are going to talk through the substance of our suggested changes to the Graham detainee provision and how we might try to effect those changes in conference. DoD GC and OLA will attend along with you, me, and DOJ OLA.

-----Original Message-----
From: Marshall, C. Kevin
Sent: Thursday, October 13, 2005 9:32 AM
To: Gorsuch, Neil M
Subject: FW: Car to Pentagon

Neil: What info do you need?

C. Kevin Marshall
U.S. Department of Justice
Office of Legal Counsel
(202) 514-3713 (phone)
(202) 514-0539 (fax)

From: Bradbury, Steve
Sent: Thursday, October 13, 2005 9:21 AM
To: Marshall, C. Kevin
Subject: Car to Pentagon

Kevin: Neil has arranged for a car at 3pm at the 10th St gate to take you guys over to the Pentagon for this afternoon's meeting. You'll need to make sure, probably through Neil's office, that DoD has your security information for entry into the Pentagon. Thanks for covering this!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 13, 2005 9:43 AM
To: Seidel, Rebecca
Subject: RE: Volunteer Liability Legislation

Ok. If there's anything you can think of that the Dept or WH could do to push it, I'd appreciate your thoughts.

-----Original Message-----
From: Seidel, Rebecca
Sent: Thursday, October 13, 2005 9:42 AM
To: Gorsuch, Neil M
Subject: Re: Volunteer Liability Legislation

No movement yet. I will know more on Monday.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
Sent: Thu Oct 13 09:40:02 2005
Subject: Volunteer Liability Legislation

Where do our bills stand in the Senate and House?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 13, 2005 9:43 AM
To: Marshall, C. Kevin
Subject: RE: Car to Pentagon

No

-----Original Message-----
From: Marshall, C. Kevin
Sent: Thursday, October 13, 2005 9:43 AM
To: Gorsuch, Neil M
Subject: RE: Car to Pentagon

You don't need any security info from me, as w/ a White House visit?

C. Kevin Marshall
U.S. Department of Justice
Office of Legal Counsel
(202) 514-3713 (phone)
(202) 514-0539 (fax)

From: Gorsuch, Neil M
Sent: Thursday, October 13, 2005 9:42 AM
To: Marshall, C. Kevin
Subject: RE: Car to Pentagon

Don't think you need to prepare anything. We are going to talk through the substance of our suggested changes to the Graham detainee provision and how we might try to effect those changes in conference. DoD GC and OLA will attend along with you, me, and DOJ OLA.

-----Original Message-----
From: Marshall, C. Kevin
Sent: Thursday, October 13, 2005 9:32 AM
To: Gorsuch, Neil M
Subject: FW: Car to Pentagon

Neil: What info do you need?

C. Kevin Marshall
U.S. Department of Justice
Office of Legal Counsel
(202) 514-3713 (phone)
(202) 514-0539 (fax)

From: Bradbury, Steve
Sent: Thursday, October 13, 2005 9:21 AM

To: Marshall, C. Kevin
Subject: Car to Pentagon

Kevin: Neil has arranged for a car at 3pm at the 10th St gate to take you guys over to the Pentagon for this afternoon's meeting. You'll need to make sure, probably through Neil's office, that DoD has your security information for entry into the Pentagon. Thanks for covering this!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 13, 2005 9:44 AM
To: [redacted] (E-mail)
Subject: Mtg

Just fyi - I will be bringing with me Will Moschella from OLA and Kevin Marshall from OLC. Best, NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 13, 2005 10:00 AM
To: Gunn, Currie (SMO); Burton, Faith
Cc: McCallum, Robert (SMO); Long, Linda E
Subject: RE: Your Schedule for Oct. 20th

While nothing is yet firmly scheduled on the Hill, and while the duration of hearings are entirely up to members, Faith tentatively thinks that the hearing on the 20th will begin at 10 and end by 1. So Robert should be able to make a late afternoon flight without difficulty and make his speech on the 21st.

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Thursday, October 13, 2005 9:50 AM
To: Gorsuch, Neil M; Burton, Faith
Cc: McCallum, Robert (SMO); Long, Linda E
Subject: RE: Your Schedule for Oct. 20th

He is scheduled to speak at 10:45 a.m. on Friday, October 21. Linda Long in the Deputies office has been handling the plans for this event and I have passed it along to her. FYI the travel plans were changed to and earlier flight in the day b/c the detail had gotten word that some of the later flights had been canceled and the one he was previously scheduled on was effected by that airline change.

Currie

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, October 13, 2005 9:23 AM
To: Gunn, Currie (SMO); Burton, Faith
Cc: McCallum, Robert (SMO)
Subject: Fw: Your Schedule for Oct. 20th

Currie - when is the speech before ca8 and what are the flight options to colo springs?

Faith - what time do they want to hold the hearing?

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Burton, Faith <Faith.Burton@SMOJMD.USDOJ.gov>
CC: Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>; Sampson, Kyle

<Kyle.Sampson@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
Sent: Thu Oct 13 08:56:23 2005
Subject: RE: Your Schedule for Oct. 20th

Get with Currie and get me a later flight to Colo. When is the hearing and how long will it last? Which is the higher priority if there is an irreconcilable conflict: 8th Cir remarks or CFIUS? Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, October 13, 2005 8:53 AM
To: Burton, Faith; McCallum, Robert (SMO)
Cc: Moschella, William; Sampson, Kyle; Mercer, Bill (ODAG)
Subject: RE: Your Schedule for Oct. 20th

Faith, I'm resending to Robert; the earlier email was directed to his "double" in the Department who shares a very similar name. NMG

-----Original Message-----
From: Burton, Faith
Sent: Wednesday, October 12, 2005 5:49 PM
To: McCallum Jr, Robert L (LEO)
Cc: Moschella, William; Sampson, Kyle; Mercer, Bill (ODAG); Gorsuch, Neil M
Subject: Your Schedule for Oct. 20th

Robert, the Senate Banking Hearing on CFIUS has now been scheduled for the 20th (next Thurs.) and we understand that you are currently scheduled to leave that morning for Denver to speak to the 8th Cir. Judicial Conference. How do you want to proceed?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 13, 2005 10:01 AM
To: Moschella, William; Marshall, C. Kevin
Subject: FW: Today's meeting
Attachments: tmp.htm

What say you?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Thursday, October 13, 2005 9:55 AM
To: Gorsuch, Neil M
Cc: [redacted]@dodgc.osd.mil
Subject: Today's meeting

Mr. Gorsuch-[redacted] now has a meeting with the Secretary at 3:30. Can you and the rest of the folks from DOJ make a 2:00 meeting instead? VR/[redacted]

[redacted]

Mr. Gorsuch [redacted] now has a meeting with the Secretary at 3:30. Can you and the rest of the folks from DOJ make a 2:00 meeting instead? VR [redacted]

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 13, 2005 10:46 AM
To: Moschella, William; Marshall, C. Kevin
Subject: RE: Today's meeting

I will let DoD know that we're ok for 2 and schedule car for 1:30. I expect meeting to take 1-1.5 hours.

-----Original Message-----
From: Moschella, William
Sent: Thursday, October 13, 2005 10:08 AM
To: Gorsuch, Neil M; Marshall, C. Kevin
Subject: RE: Today's meeting

sure -- how long will this take. I have a 2 p.m. on the Hill but could reschedule it.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, October 13, 2005 10:01 AM
To: Moschella, William; Marshall, C. Kevin
Subject: FW: Today's meeting

What say you?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Thursday, October 13, 2005 9:55 AM
To: Gorsuch, Neil M
Cc: [redacted]@dodgc.osd.mil
Subject: Today's meeting

Mr. Gorsuch-[redacted]now has a meeting with the Secretary at 3:30. Can you and the rest of the folks from DOJ make a 2:00 meeting instead? VR/[redacted]

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, October 13, 2005 10:48 AM
To: [redacted]@dodgc.osd.mil'
Cc: [redacted]@dodgc.osd.mil; Shaw, Aloma A; Moschella, William; Marshall, C. Kevin
Subject: RE: Today's meeting

We can do 2pm.

Aloma, Please can you reschedule car for 1:30?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Thursday, October 13, 2005 9:55 AM
To: Gorsuch, Neil M
Cc: [redacted]@dodgc.osd.mil
Subject: Today's meeting

Mr. Gorsuch-[redacted] now has a meeting with the Secretary at 3:30. Can you and the rest of the folks from DOJ make a 2:00 meeting instead? VR/[redacted]

[redacted]

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, October 13, 2005 12:57 PM
To:	O'Connor, Eileen J. (AAG/TAX); McCallum, Robert (SMO)
Cc:	Reyes, Luis (SMO); Boente, Dana J. (TAX); Gunn, Currie (SMO)
Subject:	RE: SEC Chairman

This seems to me a very good idea for Robert - and it would perhaps make sense for some of us lower downs to meet the GC's office.

-----Original Message-----
From: O'Connor, Eileen J. (AAG/TAX)
Sent: Thursday, October 13, 2005 12:45 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M; Reyes, Luis (SMO); Boente, Dana J. (TAX)
Subject: SEC Chairman

Robert - I'd like to schedule a meet and greet with Chairman Cox. Have you had one yet? Are you interested?

Lee O'C.

Martinson, Wanda

Subject:	OLP Policy Coordination Meeting
Location:	4234
Start:	Monday, October 17, 2005 2:30 PM
End:	Monday, October 17, 2005 3:30 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 2:30 PM to 3:30 PM
Meeting Status:	Not yet responded
Organizer:	Martinson, Wanda
Required Attendees:	Moschella, William; Hertling, Richard; Seidel, Rebecca; Macklin, Kristi R; Nowacki, John; Scolinos, Tasia; Elwood, Courtney; Henke, Tracy (SMO); Bounds, Ryan W (OLP); Roberts, Crystal; Stuart, Diane; Dhillon, Uttam; Mercer, Bill (ODAG); Schofield, Regina; Coughlin, Robert; Goodling, Monica (USAEO); Battle, Michael (USAEO); Gorsuch, Neil M; Reyes, Luis (SMO); Korn, Jennifer; McIntosh, Brent; Clinger, James H; Schlozman, Brad (CRT); Taylor, Jeffrey (OAG); Hailey, Robert; Palma, Josephine; Leung, Jessica; Hagy, David, W.; Elston, Michael

When: Occurs every Monday effective 10/17/05 from 2:30 PM to 3:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 4234

~~*~*~*~*~*~*~*~*~*

Attendees: Michael Battle, Ryan Bounds, Rachel Brand, James Clinger, Bob Coughlin, Uttam Dhillon, Mike Elston,
Courtney Elwood, Monica Goodling, Neil Gorsuch, Tracy Henke, Richard Hertling, Wan Kim, Jennifer Korn, Kristi Macklin, Brent McIntosh, Bill Mercer, John Nowacki, Luis Reyes, Crystal Roberts, Regina Schofield or David Hagy, Brad Schlozman, Tasia Scolinos, Rebecca Seidel, Diane Stuart, Jeff Taylor

Otus2005, Ag

Subject:	Updated: AG's Strategic Initiatives
Start:	Wednesday, October 19, 2005 11:00 AM
End:	Wednesday, October 19, 2005 12:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Wednesday from 11:00 AM to 12:00 PM
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG); Nelson, CarrieSampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG); Nelson, Carrie

AG's Conference Room
Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Carrie Nelson

Beach, Andrew

From: Beach, Andrew
Sent: Monday, November 21, 2005 3:27 PM
To: Otus2005, Ag; Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG); Nelson, Carrie; McCallum, Robert (SMO); McNulty, Paul J; Fisher, Alice; Goodling, Monica
Subject: Canceled: AG's Strategic Initiatives
Importance: High

AG's Conference Room
Attending: Paul McNulty, Robert McCallum, Alice Fisher, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Carrie Nelson

Beach, Andrew

From:	Beach, Andrew
Sent:	Monday, October 17, 2005 11:10 AM
To:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG); Nelson, Carrie; McCallum, Robert (SMO); Brand, Rachel
Subject:	Updated: AG's Strategic Initiatives

When: Wednesday, October 19, 2005 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
Attending: Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers

Beach, Andrew

From:	Beach, Andrew
Sent:	Tuesday, November 01, 2005 11:54 AM
To:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG); Nelson, Carrie; McCallum, Robert (SMO); Dhillon, Uttam; Hertling, Richard; Battle, Michael (USAEO); McNulty, Paul J; Fisher, Alice; Goodling, Monica; Seidel, Rebecca
Subject:	Updated: AG's Strategic Initiatives

When: Thursday, November 03, 2005 9:30 AM-10:30 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
Attending: Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Rebecca Seidel for Will Moschella, Andy Beach, Kiahna Sellers, Carrie Nelson, Uttam Dhillon, Rich Hertling, Michael Battle

Otus2005, Ag

From: Otus2005, Ag
Sent: Tuesday, December 13, 2005 2:02 PM
To: Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG); Nelson, Carrie; McCallum, Robert (SMO); McNulty, Paul J; Goodling, Monica; Korn, Jennifer; Kim, Wan (CRT); Fisher, Alice
Subject: Updated: AG's Strategic Initiatives

When: Wednesday, December 14, 2005 9:30 AM-10:30 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
Attending: Paul McNulty, Robert McCallum, Alice Fisher, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Will Moschella, Andy Beach, Kiahna Sellers, Carrie Nelson, Jennifer Korn, Wan Kim

Long, Linda E

Subject:	CFIUS Briefing
Location:	Room 4111
Start:	Monday, October 17, 2005 5:00 PM
End:	Monday, October 17, 2005 6:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Long, Linda E
Required Attendees:	Parsky, Laura; Burton, Faith; Burton, Dawn (ODAG); Simkins, Christopher; Gorsuch, Neil M; Rybicki, James E
Optional Attendees:	Mercer, Bill (ODAG); Fisher, Alice

When: Monday, October 17, 2005 5:00 PM-6:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 4111

~~*~*~*~*~*~*~*~*~*

Attendees: Bill Mercer (optional), Laura Parsky, Faith Burton, Christopher Simkins, Neil Gorsuch, Alice Fisher (optional), Dawn Burton, James Rybicki
Topic: Exxon-Florio and the CFIUS Process
Additional prep sessions to be scheduled as needed.
POC: Linda Long x4-1904

Bennett, Catherine T

Subject:	Breakfast w/Neil Gorsuch
Location:	DOJ Cafeteria
Start:	Wednesday, October 19, 2005 7:45 AM
End:	Wednesday, October 19, 2005 8:30 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Bennett, Catherine T
Required Attendees:	Gorsuch, Neil M

When: Wednesday, October 19, 2005 7:45 AM-8:30 AM (GMT-05:00) Eastern Time (US & Canada).
Where: DOJ Cafeteria

~~*~*~*~*~*~*~*~*~*

Beach, Andrew

Subject:	Updated: AG's Strategic Initiatives
Start:	Wednesday, October 19, 2005 11:00 AM
End:	Wednesday, October 19, 2005 12:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Wednesday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG); Nelson, Carrie; McCallum, Robert (SMO)

When: Wednesday, October 19, 2005 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
Attending: Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Carrie Nelson

Full Name: [redacted]
Last Name: [redacted]
First Name: [redacted]
Job Title: Princeton U Press

Business: [redacted]

DOJ_NMG_ 0148698

Long, Linda E

Subject:	CFIUS Briefing
Location:	Room 4111
Start:	Tuesday, October 18, 2005 4:00 PM
End:	Tuesday, October 18, 2005 5:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Long, Linda E
Required Attendees:	Parsky, Laura; Burton, Faith; Simkins, Christopher; Gorsuch, Neil M; Fisher, Alice; Burton, Dawn (ODAG); Rybicki, James E; LoGalbo, John
Optional Attendees:	Mercer, Bill (ODAG)

When: Tuesday, October 18, 2005 4:00 PM-5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 4111

~~*~*~*~*~*~*~*~*~*

Attendees: Bill Mercer (optional), Laura Parsky, Faith Burton, Christopher Simkins, Neil Gorsuch, Alice Fisher, Dawn Burton, James Rybicki, John LoGalbo
POC: Linda Long x4-1904

Shaw, Aloma A

Subject:	Mtg to Discuss TPRG/TPSC
Location:	5706
Start:	Tuesday, October 18, 2005 9:45 AM
End:	Tuesday, October 18, 2005 10:15 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Chemtob, Stuart; Kessler, Elizabeth A

When: Tuesday, October 18, 2005 9:45 AM-10:15 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 5706

~~*~*~*~*~*~*~*~*~*

Gunn, Currie (SMO)

Subject:	Updated: Civil Division Weekly
Location:	5710
Start:	Wednesday, July 14, 2004 10:00 AM
End:	Wednesday, July 14, 2004 11:00 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Wednesday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Keisler, Peter D. (CIV); Meron, Daniel (CIV); Taylor, Wendell L; Bucholtz, Jeffrey (CIV); Cohn, Jonathan (CIV); Schiffer, Stuart (CIV); Katsas, Gregory (CIV); Kessler, Elizabeth A; Wiggins, Mike; Senger, Jeffrey M; Reyes, Luis (SMO); Nichols, Carl (CIV); Swenson, Lily F; Swenson, Lily F; Gorsuch, Neil M; Pacold, Martha M; Oldham, Jeffrey L

When: Occurs every Wednesday effective 7/14/04 from 10:00 AM to 11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Addition of Jeff Oldham & Martha Pacold (OAG)

Attendees: ASG Robert McCallum, Peter Keisler-AAG Civil, Dan Meron-Civil, Wendell Taylor-ODAG, Brian Boyle-OASG, Jeff Senger-OASG, Mike Wiggins-OASG, Liz Kessler-OASG, Stuart Schiffer-Civil, Carl Nichols-Civil, Jonathan Cohn-Civil, Jeff Bucholtz-Civil, Greg Katsas-Civil, Lily Swenson-OASG, Neil Gorsuch-OASG, Jeff Oldham-OAG, Martha Pacold-OAG

POC: Currie Gunn x4-9500

Gunn, Currie (SMO)

Subject:	CFIUS Briefing
Location:	Main - Room 4111
Start:	Wednesday, October 19, 2005 4:30 PM
End:	Wednesday, October 19, 2005 5:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Parsky, Laura; Fisher, Alice; Simkins, Christopher; LoGalbo, John; Burton, Faith; Burton, Dawn (ODAG)

When: Wednesday, October 19, 2005 4:30 PM-5:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main - Room 4111

~~*~*~*~*~*~*~*~*~*

Attendees: (A) DAG Robert McCallum, Neil Gorsuch-OASG, Laura Parksy-CRM, Alice Fisher-CRM, Christopher Simkins-CRM, John LaGalbo-CRM, Faith Burton-OLA, Dawn Burton-ODAG

POC: Currie Gunn x4-9500

Gunn, Currie (SMO)

Subject:	Updated: OASG Staff Meeting
Location:	Conference Room 5710
Start:	Tuesday, October 18, 2005 5:15 PM
End:	Tuesday, October 18, 2005 6:15 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Tuesday and Thursday from 5:00 PM to 6:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Kessler, Elizabeth A; Senger, Jeffrey M; Reyes, Luis (SMO); Henke, Tracy (SMO); Wiggins, Mike; Gunn, Currie (SMO); Swenson, Lily F; Wiggins, Mike; Gorsuch, Neil M
Optional Attendees:	Shaw, Aloma A

When: Tuesday, October 18, 2005 5:15 PM-6:15 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Conference Room 5710

~~*~*~*~*~*~*~*~*~*

Note start time for staff. This mtg only.

Attendees: ASG Robert McCallum, Elizabeth Kessler-OASG, Tracy Henke-OASG, Mike Wiggins-OASG, Jeff Senger-OASG, Luis Reyes-OASG, Lily Fu Swenson-OASG

POC: Currie Gunn x4-9500

Gunn, Currie (SMO)

Subject:	OASG Briefings w/Principal Deputy Associate AG
Location:	Associate Office
Start:	Wednesday, October 19, 2005 5:30 PM
End:	Wednesday, October 19, 2005 6:00 PM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every day from 5:30 PM to 6:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M

When: Occurs every day effective 10/19/05 from 5:30 PM to 6:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Associate Office

~~*~*~*~*~*~*~*~*~*

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG

POC: Currie

Gunn, Currie (SMO)

Subject:	Updated: OASG Briefings w/Principal Deputy Associate AG
Location:	Associate Office
Start:	Wednesday, October 19, 2005 5:30 PM
End:	Wednesday, October 19, 2005 5:45 PM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every day from 5:30 PM to 5:45 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M

When: Occurs every day effective 10/19/05 from 5:30 PM to 5:45 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Associate Office

~~*~*~*~*~*~*~*~*~*

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG

POC: Currie

Sours, Raquel

Subject:	Updated: AG's Strategic Initiatives
Start:	Wednesday, October 19, 2005 11:00 AM
End:	Wednesday, October 19, 2005 12:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Wednesday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG); Nelson, Carrie; McCallum, Robert (SMO); Brand, Rachel

When: Wednesday, October 19, 2005 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
Attending: Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers

Gunn, Currie (SMO)

Subject:	Updated: OASG Briefings w/Principal Deputy Associate AG
Location:	Associate Office
Start:	Wednesday, October 19, 2005 5:30 PM
End:	Wednesday, October 19, 2005 5:45 PM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 5:30 PM to 5:45 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M

When: Occurs every weekday effective 10/19/05 from 5:30 PM to 5:45 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Associate Office

~~*~*~*~*~*~*~*~*~*

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG

POC: Currie

Beach, Andrew

Subject:	Canceled: Senior Management Meeting
Start:	Thursday, October 27, 2005 9:00 AM
End:	Thursday, October 27, 2005 9:30 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:30 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Roberts, Crystal; Goodling, Monica
Importance:	High

When: Thursday, October 27, 2005 9:00 AM-9:30 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Crystal Roberts, Will Moschella

Beach, Andrew

Subject:	Canceled: Senior Management Meeting
Start:	Monday, October 31, 2005 10:00 AM
End:	Monday, October 31, 2005 10:30 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:30 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Roberts, Crystal; Goodling, Monica
Importance:	High

When: Monday, October 31, 2005 9:00 AM-9:30 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Crystal Roberts, Will Moschella

Williams, Toni (CIV)

Subject:	Lunch with Chief Judge John Walker
Location:	Caucus Room
Start:	Friday, November 04, 2005 1:00 PM
End:	Friday, November 04, 2005 2:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Williams, Toni (CIV)
Required Attendees:	Cohn, Jonathan (CIV); Gorsuch, Neil M; McCallum, Robert (SMO)

When: Friday, November 04, 2005 12:00 PM-1:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Caucus Room

~~*~*~*~*~*~*~*~*~*

Attendees: Chief Judge John Walker, Robert McCallum, Jr., Neil Gorsuch and Jonathan Cohn

Full Name:	Giovanni Prezioso
Last Name:	Prezioso
First Name:	Giovanni
Job Title:	General Counsel
Company:	Securities and Exchange Commission
Business Address:	450 Fifth Street, NW Washington, DC 20549
Business:	(202) 551-5100
E-mail:	PreziosoG@sec.gov
E-mail Display As:	Giovanni Prezioso (PreziosoG@sec.gov)

DOJ_NMG_ 0148711

Gunn, Currie (SMO)

Subject:	Updated: Bi-weekly OJP Meeting
Location:	Main Room 5710
Start:	Tuesday, August 2, 2005 2:00 PM
End:	Tuesday, August 2, 2005 3:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Tuesday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Henke, Tracy (SMO); Schofield, Regina; Tzitzon, Nicholas; Daley, Cybele; Gorsuch, Neil M; Greenfeld, Larry; Herraiz, Domingo S.; Gillis, John; Flores, Robert; Tzitzon, Nicholas; Mercer, Bill (ODAG); Hagy, David, W.; Schmitt, Glenn
Optional Attendees:	Palma, Josephine; Fowler, Liane; Palma, Josephine; Walker, Rhea; Madison, Cynthia; Walker, Rhea; Penn, Lynn; Stokely, Tangent

When: Occurs every 2 week(s) on Tuesday effective 8/2/05 from 2:00 PM to 3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

~~*~*~*~*~*~*~*~*~*

Addition of Glenn Schmitt, removal of John Morgan

Attendees: ASG Robert McCallum, Jr., Tracy Henke-OASG, Neil Gorsuch-OASG, Bill Mercer - ODAG, Regina Schofield-AAG-OJP, Nicholas Tziton-OJP, Cybele Daley-OJP, David Hagy-OJP, Glenn Schmitt-NIJ, Larry Greenfeld-BJS, Domingo Herraiz-BJA, John Gillis-OVC, Robert Flores-OJJDP

POC: Currie Gunn x4-9500
OJP POC: Jo Palma x5-9239

[redacted]

From: [redacted]
Sent: Wednesday, October 26, 2005 2:06 PM
To: Gorsuch, Neil M
Subject: Thanks

Dear Neil,

I wanted to thank you very much for lunch last Friday. Thank you especially for introducing me to Attorney General Gonzalez; that was quite an honor. I have also been thinking about your comment that, when looking back, people rarely wish that they had worked more; I think that I will keep that in mind over the next months--and years.
I look forward to next time!

Take care,
[redacted]

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Wednesday, October 26, 2005 3:33 PM
To: Gorsuch, Neil M
Subject: [redacted]

She did apply but her application package did not indicate that she met the specialized experience required to be considered at the GS-9 program level. Her degree would have qualified her at the GS-7 level but her experience indicated in the application was in administrative capacities. Certain some wording changes could help if she applies for other program type positions.

[redacted]

From: [redacted]
Sent: Wednesday, October 26, 2005 3:40 PM
To: Gorsuch, Neil M
Subject: Frontline DVD
Attachments: tmp.htm

Neil,

Does Judge G still want that Frontline DVD? The producers sent me a copy, so I could pass it along to you if he did. I'd like to get it back, though.

[redacted]

Sidley Austin Brown & Wood LLP mail server made the following annotations on 10/26/2005, 02:39:53 PM:

****

IRS Circular 230 Disclosure: To comply with certain U.S. Treasury regulations, we inform you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this communication, including attachments, was not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding any penalties that may be imposed on such taxpayer by the Internal Revenue Service. In addition, if any such tax advice is used or referred to by other parties in promoting, marketing or recommending any partnership or other entity, investment plan or arrangement, then (i) the advice should be construed as written in connection with the promotion or marketing by others of the transaction(s) or matter(s) addressed in this communication and (ii) the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

****

This e-mail is sent by a law firm and may contain information that is privileged or confidential. If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately.

Neil,

Does Judge G still want that Frontline DVD? The producers sent me a copy, so I could pass it along to you if he did. I'd like to get it back, though.

[redacted]

Sidley Austin Brown & Wood LLP mail server made the following annotations on 10/26/2005, 02:39:53 PM:

****

IRS Circular 230 Disclosure: To comply with certain U.S. Treasury regulations, we inform you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this communication, including attachments, was not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding any penalties that may be imposed on such taxpayer by the Internal Revenue Service. In addition, if any such tax advice is used or referred to by other parties in promoting, marketing or recommending any partnership or other entity, investment plan or arrangement, then (i) the advice should be construed as written in connection with the promotion or marketing by others of the transaction(s) or matter(s) addressed in this communication and (ii) the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

****

This e-mail is sent by a law firm and may contain information that is privileged or confidential. If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately.

Wolstein, Elizabeth

From: Wolstein, Elizabeth
Sent: Wednesday, October 26, 2005 3:58 PM
To: Gorsuch, Neil M
Subject: RE: DOD polling affidavit in AP v. DOD

Can you give me a sense of what you have in mind? The information is presented in a fairly bare bones manner, so I'm not sure how to revise it short of deleting sentences.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, October 26, 2005 3:53 PM
To: Wolstein, Elizabeth
Subject: RE: DOD polling affidavit in AP v. DOD

I don't disagree with including something along the lines of para 8, but I am concerned the wording really does invite another round. Any way you might revise it?

-----Original Message-----
From: Wolstein, Elizabeth
Sent: Wednesday, October 26, 2005 2:29 PM
To: Gorsuch, Neil M
Subject: RE: DOD polling affidavit in AP v. DOD

The rationale for including it is to provide factual support for our contention that the process ordered by the court does not allow for a meaningful consent (or refusal) by the detainee, and thus the court should not rely on the detainees' answers in determining whether to order disclosure. We said that before doing the polling; but now the process as it played out (i.e., the info. in paragraph 8) has shown that we were right. So I envisioned using the info. in paragraph 8 for a cover letter (not yet drafted - I will circulate it too) to make the point that the detainees' responses are not reliable indicators of whether disclosure is warranted under the exemption. Also, even apart from advancing this argument, it also seems like info. the court should want to know in considering what weight to give the responses (if he's willing to be honest about the hairbrained scheme he devised).

I understand your point though. On balance I think I come out in favor of including paragraph 8. I think it's possible that once even Judge Rakoff thinks about making us go back for more he might realize what a mess he's gotten himself into. I will raise your point internally here and let you know what others think. If you want to convene a call to talk about this more broadly, let me know and I'm happy to organize it.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, October 26, 2005 2:03 PM
To: Wolstein, Elizabeth
Subject: RE: DOD polling affidavit in AP v. DOD

Subject: RE: DOD polling affidavit in AP v. DOD

Does para 8 help us or does it invite the Court to issue a further "clarifying" notice?

-----Original Message-----
From: Wolstein, Elizabeth
Sent: Wednesday, October 26, 2005 12:39 PM
To [redacted]@dodgc.osd.mil; Huff, Richard L; Gorsuch, Neil M; Schaitman, Leonard (CIV); Letter, Douglas (CIV); Metcalfe, Daniel J; Nichols, Carl (CIV); Murphy, Anne (CIV); [redacted]@dodgc.osd.mil; [redacted]@dodgc.osd.mil; [redacted]@dodgc.osd.mil; [redacted]@JTFGTMO.southcom.mil
Cc: Coppolino, Tony (CIV); Kopp, Robert (CIV); Katsas, Gregory (CIV); Shapiro, Elizabeth (CIV) [redacted]@dodgc.osd.mil; [redacted]@dodgc.osd.mil; [redacted]@osd.mil; [redacted]@dfoisr.whs.mil; [redacted]@whs.mil; [redacted]@whs.mil; Normand, Sarah; Cott, James; Goldman, Beth; Shudofsky, Sara; Henry, Terry (CIV)
Subject: DOD polling affidavit in AP v. DOD

Attached is a draft of the declaration Judge Rakoff ordered us to submit by this Friday Oct. 28, summarizing the results of the detainee polling required under his Sept. 26 order. The numbers in brackets represent the results of the polling so far; they will be updated tomorrow so that the final numbers provided to the court will be as of tomorrow's date.

Please give me any comments by no later than 9 am tomorrow, Thurs. Oct. 27, as DOD needs to circulate a final draft for internal approval by then.

Thank you,
Elizabeth

Bradbury, Steve

From: Bradbury, Steve
Sent: Wednesday, October 26, 2005 4:20 PM
To: Gorsuch, Neil M
Subject: RE: can we catch up at some pt later today?

I'm back in the office whenever you want to talk. Thx

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, October 26, 2005 11:23 AM
To: Bradbury, Steve
Subject: can we catch up at some pt later today?

You name a convenient time.

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 26, 2005 4:44 PM
To: USDOJ- Office of Public Affairs
Subject: SIXTEEN COMPANIES TO PAY A COMBINED $14.9 MILLION FOR CLEANUP COSTS AT SAN GABRIEL VALLEY SUPERFUND SITE

Department of Justice

U.S. ENVIRONMENTAL PROTECTION AGENCY

FOR IMMEDIATE RELEASE
WEDNESDAY, OCTOBER 26, 2005
WWW.USDOJ.GOV

ENRD
DOJ (202) 514-2007
EPA (415) 947-8700

SIXTEEN COMPANIES TO PAY A COMBINED $14.9 MILLION FOR CLEANUP COSTS AT SAN GABRIEL VALLEY SUPERFUND SITE

Cleanup of major drinking water source expected to run over $200 million

WASHINGTON, D.C. - Sixteen firms will pay $14.9 million for cleanup costs at the San Gabriel Valley Area 2 Superfund site, the Justice Department and U.S. Environmental Protection Agency (EPA) announced today. The EPA's cleanup calls for removing contaminants from approximately 30 million gallons per day of contaminated groundwater in and near Baldwin Park, California, benefiting some 85,000 households.

The 16 companies involved in today's settlements will pay $14.5 million to the U.S. and $346,000 to the State of California. The settlements follow an earlier agreement between nine of the 16 companies and seven local water agencies that is helping to guide the cleanup. More than $100 million has been spent in the last three years alone on the construction and operation of four large water treatment systems to clean the groundwater and provide a safe and reliable source of drinking water to area residents and businesses. The groundwater cleanup, one of the largest in the country, has been a cooperative effort involving the EPA, the State of California, and seven local water agencies.

"Today's settlement is proof that the cooperative actions of federal and state government and the private industry can have a positive impact on our citizens and the environment," said Acting Assistant Attorney General Kelly A. Johnson for the Justice Department's Environment and Natural Resources Division. "As a result of the cleanup efforts, hundreds of thousands of residents will be able to take comfort in the knowledge that their drinking water is safe and clean."

The 16 companies are: Aerojet-General Corporation; Allegiance Healthcare Corporation; Azusa Land Reclamation Co. Inc.; Fairchild Holding Corp.; Hartwell Corporation; Huffy Corporation; Leach International Corporation; Lockheed Martin Corporation; Mobil Oil Corporation; Oil & Solvent Process Company; Phaostron Instrument and Electronic Company; Philip Morris USA Inc.; Reichhold Inc.; the Valspar

DOJ_NMG_ 0148720

Corporation; White & White Properties; and Winco Enterprises Inc. The settlements also cover several related entities.

"The EPA will continue to oversee cleanup work at this and the other San Gabriel Valley Superfund sites to protect and restore the San Gabriel Basin as a vital source of drinking water for Southern California," said Keith Takata, director of the EPA's Superfund Division for the Southwest Region.

The San Gabriel Valley Superfund site settlements are described in seven consent decrees lodged today with the U.S. District Court in Los Angeles and one bankruptcy settlement lodged with the U.S. Bankruptcy Court in Ohio on September 20, 2005. The settlements accomplish three goals: to reimburse state and federal government for their initial efforts to investigate and clean up the contamination; to obtain cash payments from seven of the companies that had not participated in the earlier agreement with the water agencies; and to provide commitments to pay future EPA costs of overseeing the cleanup.

Lockheed Martin Corporation, Mobil Oil Corporation, the Valspar Corporation, and Phaostron Instrument and Electronic Company will pay additional amounts for their failure to perform work required by a June 2000 EPA order. The additional amounts make up $1.5 million of the $14.5 million to be paid to the federal government.

The Baldwin Park area and three adjoining areas of groundwater contamination were declared Superfund sites in 1984. The Baldwin Park area cleanup addresses an area of groundwater contamination more than eight miles long and 1,000 feet deep.

Beginning in the 1940's, companies started using various chemicals at the site, substances that have now contaminated the area's groundwater. Contaminants include trichloroethylene (TCE) and perchloroethylene (PCE), volatile organic compounds that can affect breathing and nervous systems, and perchlorate, a component of rocket fuel that may affect the thyroid.

Copies of the consent decrees and bankruptcy settlement are available at <http://www.usdoj.gov/enrd/open.html>. For more information on the EPA's Superfund program, please visit http://www.epa.gov/superfund/index.htm.

###

05-566

DOJ_NMG_ 0148721

Image not available for this document, ID: 0.7.10316.36808-000001

Image not available for this document, ID: 0.7.10316.36808-000002

Image not available for this document, ID: 0.7.10316.36808-000003

Marquez, Pascual

From:	Marquez, Pascual
Sent:	Wednesday, October 26, 2005 5:13 PM
To:	CRS AG Weekly Report Recipients
Cc:	CRS Regional Directors; CRS Region VII
Subject:	October 26, 2005 (7)
Attachments:	October 26 2005 (7).doc

Weekly Regional Report to the Director – Region VII – October 26, 2005

1. Regional Overview/Analysis (Optional) -

None

2. Most Significant Regional Activities Planned or Anticipated for the Next Two Weeks -

a. **St. Roberts, Missouri** - The Missouri State Conference of the NAACP contacted Region VII on September 29, 2005, indicating that a black officer from the Ft. Leonard Wood Army Base was the victim of alleged police brutality and excessive force. On September 17, 2005, while leaving a night club in St. Roberts, Missouri, the black officer was allegedly clubbed, beaten, maced and handcuffed by local police. St. Roberts is located twenty miles from the army base. He and other witnesses informed local police that they were trying to assist in removing two combatants from the night club as they were leaving. The army officer allegedly received extensive and numerous injuries by St. Roberts police officers. The injuries necessitated that the black army officer be flown by air ambulance to an area hospital. His condition is considered serious. The black family and local and state branches of the NAACP have asked CRS for assistance. CRS will begin assessment activities on October 26, 27, and 28, 2005. CRS will meet with Police officials and representatives of minority community groups. (Case#07-0001-06, Whitcomb – DN previously sent, USA previously notified)

b. **St. Louis, Missouri** - On October 18, 2005, the Superintendent of the Hazelwood School District contacted CRS regarding a conflict with the Missouri Contractors' Association of St. Louis, Missouri over the issue of minority inclusion in the school district's major construction projects. The contractors' association that represents many minority contractors in the area is alleging discrimination on the part of the Hazelwood School District. The black contractors' association is stating that the district has failed to initiate a minority inclusion plan and has denied opportunity for black to bid on school district construction projects. The school district fears that minority organizations are planning a protest demonstration at the next school board meeting when the projects will be voted on by the board. Also on this date CRS was called by the spokesperson representing the Minority Contractors' Association and stated that they are placing the Hazelwood School Board on notice that they are not happy with measures by the school district that will allegedly ensure maximum minority participation in district-sponsored construction projects. According to the spokesperson for the community group, they will engage in direct disruptive measures. CRS will begin assessment activities on October 27, 2005 with school district officials and representatives of the minority contractor association. (Case #07-0003-06, Whitcomb – DN previously sent, USA previously notified)

c. **Des Moines, Iowa** - A Mexican male alleged that the Polk County Sheriff's Department, stopped him on August 5, 2005, because of his race. Several other men and a Des Moines group, Citizens for Community

Improvement, have echoed these allegations. Some of the men who have made allegations said they will not file formal complaints with the Sheriff's department until they are sure that they will not be retaliated against. Census data shows Iowa's Hispanic population grew by 150% from 1990 to 2000 and current figures show an increased rate of growth since 2000. 2. Impact: The Hispanic community feels targeted because of their national origin and believes that better police/community relations are necessary to heal the rift of mistrust. CRS will conduct telephonic and personal interviews with Polk County sheriff officials and representatives of a minority organization to more thoroughly assess the situation during the week of October 31, 2005. (Case #07-0005-06, Meade – DN sent, USA notified)

d. **Waterloo, Iowa** - On October 18th, 2005 Black Hawk County Sheriff's Department arrested two men and charged them with assault in violation of human rights. The alleged incident in question allegedly occurred on August 21st, 2005 when an African American passenger of a vehicle carrying him and two white men were assaulted by seven others. Allegedly, racial slurs and threats preceded assault in the form of punches to the head and kicks. The incident is alleged to have taken place just outside Waterloo city limits near Cedar Falls. Records indicate that the parties were acquaintances who had been speaking on cell phones. Officials believe some point of the conversation became heated and racial slurs were first used over the phone before the party of seven approached the vehicle in which the alleged victim was seated and dragged him out. The allegations of brutal mistreatment have upset many in the community and the arrest of some of the alleged perpetrators has renewed community concerns about the incident. CRS will conduct telephonic and on site inquiries with Black Hawk County Sheriff Department Waterloo Human Relations officials on the week of October 31, 2005 to assess the situation in the Waterloo/Cedar Falls area. (Case #07-0004-06, Meade – DN sent, USA notified)

3. Most Significant Regional Activities Conducted in the Last Week

None

4. Deployment Notifications Submitted for the Past Seven Days

Case # 07-0004-06, Meade DOS: 10/26/05
DOD: 10/31/05
Case # 07-0005-06, Meade DOS: 10/26/05 DOD: 11/01/05

5. Media and Press Contacts and Reports -

None

6. Congressional Contacts –

None

7. Interregional Staff Assistance Requested

None

8. Out of Region Travel -

None

9. Training Programs Completed -

None

10. Proposed Items for the Weekly Conference Call with the Director

None

11. Appointments and Meetings

12. Travel Authorizations -

Traveler: Bill Whitcomb
Date: 10/26 – 10/29/05
Location: St. Louis, MO / St. Robert, MO
Purpose: Assessment activities
Cost: $565 – Lodging and perdiem, travel by GSA vehicle.

13. Other Comments

None

Submitted by RD Pascual G. Marquez

Pascual G. Marquez,
Regional Director
Region VII
U.S. Department of Justice,
Community Relations Service
1100 Main Street, Suite 1320
Kansas City, Missouri 64105
Office: 816/426-7433
Mobile: 816/918-6448
www.usdoj.gov/crs/crs.htm

Weekly Regional Report to the Director – Region VII – October 26, 2005

1. Regional Overview/Analysis (Optional) -

None

2. Most Significant Regional Activities Planned or Anticipated for the Next Two Weeks -

a. **St. Roberts, Missouri** - The Missouri State Conference of the NAACP contacted Region VII on September 29, 2005, indicating that a black officer from the Ft. Leonard Wood Army Base was the victim of alleged police brutality and excessive force. On September 17, 2005, while leaving a night club in St. Roberts, Missouri, the black officer was allegedly clubbed, beaten, maced and handcuffed by local police. St. Roberts is located twenty miles from the army base. He and other witnesses informed local police that they were trying to assist in removing two combatants from the night club as they were leaving. The army officer allegedly received extensive and numerous injuries by St. Roberts police officers. The injuries necessitated that the black army officer be flown by air ambulance to an area hospital. His condition is considered serious. The black family and local and state branches of the NAACP have asked CRS for assistance. CRS will begin assessment activities on October 26, 27, and 28, 2005. CRS will meet with Police officials and representatives of minority community groups. (Case#07-0001-06, Whitcomb – DN previously sent, USA previously notified)

b. **St. Louis, Missouri -** On October 18, 2005, the Superintendent of the Hazelwood School District contacted CRS regarding a conflict with the Missouri Contractors' Association of St. Louis, Missouri over the issue of minority inclusion in the school district's major construction projects. The contractors' association that represents many minority contractors in the area is alleging discrimination on the part of the Hazelwood School District. The black contractors' association is stating that the district has failed to initiate a minority inclusion plan and has denied opportunity for black to bid on school district construction projects. The school district fears that minority organizations are planning a protest demonstration at the next school board meeting when the projects will be voted on by the board. Also on this date CRS was called by the spokesperson representing the Minority Contractors' Association and stated that they are placing the Hazelwood School Board on notice that they are not happy with measures by the school district that will allegedly ensure maximum minority participation in district-sponsored construction projects. According to the spokesperson for the community group, they will engage in direct disruptive measures. CRS will begin assessment activities on October 27, 2005 with school district officials and representatives of the minority contractor association. (Case #07-0003-06, Whitcomb – DN previously sent, USA previously notified)

c. **Des Moines, Iowa** - A Mexican male alleged that the Polk County Sheriff's Department, stopped him on August 5, 2005, because of his race. Several other men and a Des Moines group, Citizens for Community Improvement, have echoed these allegations. Some of the men who have made allegations said they will not file formal complaints with the Sheriff's department until they are sure that they will not be retaliated against. Census data shows Iowa's Hispanic population grew by 150% from 1990 to 2000 and current figures show an increased rate of

growth since 2000. 2. Impact: The Hispanic community feels targeted because of their national origin and believes that better police/community relations are necessary to heal the rift of mistrust. CRS will conduct telephonic and personal interviews with Polk County sheriff officials and representatives of a minority organization to more thoroughly assess the situation during the week of October 31, 2005. (Case #07-0005-06, Meade – DN sent, USA notified)

d. **Waterloo, Iowa** - On October 18th, 2005 Black Hawk County Sheriff's Department arrested two men and charged them with assault in violation of human rights. The alleged incident in question allegedly occurred on August 21st, 2005 when an African American passenger of a vehicle carrying him and two white men were assaulted by seven others. Allegedly, racial slurs and threats preceded assault in the form of punches to the head and kicks. The incident is alleged to have taken place just outside Waterloo city limits near Cedar Falls. Records indicate that the parties were acquaintances who had been speaking on cell phones. Officials believe some point of the conversation became heated and racial slurs were first used over the phone before the party of seven approached the vehicle in which the alleged victim was seated and dragged him out. The allegations of brutal mistreatment have upset many in the community and the arrest of some of the alleged perpetrators has renewed community concerns about the incident. CRS will conduct telephonic and on site inquiries with Black Hawk County Sheriff Department Waterloo Human Relations officials on the week of October 31, 2005 to assess the situation in the Waterloo/Cedar Falls area. (Case #07-0004-06, Meade – DN sent, USA notified)

3. Most Significant Regional Activities Conducted in the Last Week

None

4. Deployment Notifications Submitted for the Past Seven Days

Case # 07-0004-06, Meade DOS: 10/26/05
DOD: 10/31/05
Case # 07-0005-06, Meade DOS: 10/26/05 DOD: 11/01/05

5. Media and Press Contacts and Reports -

None

6. Congressional Contacts –

None

7. Interregional Staff Assistance Requested

None

8. Out of Region Travel -

None

9. Training Programs Completed -

None

10. Proposed Items for the Weekly Conference Call with the Director

None

11. Appointments and Meetings

12. Travel Authorizations -

Traveler: Bill Whitcomb
Date: 10/26 – 10/29/05
Location: St. Louis, MO / St. Robert, MO
Purpose: Assessment activities
Cost: $565 – Lodging and perdiem, travel by GSA vehicle.

13. Other Comments

None

Submitted by RD Pascual G. Marquez

Gunn, Currie (SMO)

Subject:	Lunch w/Judge Margaret McKeown
Location:	Occidental Grill - 1475 Pennsylvania Avenue, N.W., 202-783-1475
Start:	Friday, October 28, 2005 11:45 AM
End:	Friday, October 28, 2005 1:15 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Cohn, Jonathan (CIV); Swenson, Lily F; [redacted]@ca9.uscourts.gov'

When: Friday, October 28, 2005 11:45 AM-1:15 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Occidental Grill - 1475 Pennsylvania Avenue, N.W., 202-783-1475

~~*~*~*~*~*~*~*~*~*

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Jonathan Cohn-Civil, Lily Swenson-OASG,

POC: Currie Gunn x4-9500

Moschella, William

Subject:	Hill Meeting
Location:	2237 Rayburn
Start:	Thursday, October 27, 2005 9:00 AM
End:	Thursday, October 27, 2005 10:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Moschella, William
Required Attendees:	Gorsuch, Neil M

When: Thursday, October 27, 2005 9:00 AM-10:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 2237 Rayburn

~~*~*~*~*~*~*~*~*~*

Moschella, William

Subject:	Car to Hill
Location:	9th Street Entrance
Start:	Thursday, October 27, 2005 8:45 AM
End:	Thursday, October 27, 2005 9:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Moschella, William
Required Attendees:	Gorsuch, Neil M

When: Thursday, October 27, 2005 8:45 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 9th Street Entrance

~~*~*~*~*~*~*~*~*~*

Moschella, William

From: Moschella, William
Sent: Wednesday, October 26, 2005 5:36 PM
To: Gorsuch, Neil M
Subject: RE: [redacted]

just sent you an invite for 9 a.m. tomorrow morning.

Is Carl, Carl Nichols?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, October 26, 2005 5:33 PM
To: Moschella, William
Subject: [redacted]

Are we likely to have anything scheduled for tomorrow or fri? [redacted] asking for scheduling purposes.

Also would it be helpful to add Carl? And should we gather at some pt in advance to coordinate?

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 26, 2005 5:36 PM
To: USDOJ- Office of Public Affairs
Subject: MEDIA ADVISORY: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT THE WHITE HOUSE CONFERENCE ON HELPING AMERICA'S YOUTH

Department of Justice

FOR PLANNING PURPOSES ONLY
WEDNESDAY, OCTOBER 26, 2005
WWW.USDOJ.GOV

AG
(202) 514-2007
TDD (202) 514-1888

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT THE WHITE HOUSE CONFERENCE ON HELPING AMERICA'S YOUTH

WASHINGTON, D.C. - Attorney General Alberto R. Gonzales will join President Bush and Mrs. Bush to deliver remarks at the White House Conference on Helping America's Youth, on **THURSDAY, OCTOBER 27, 2005 at 9:00 A.M. EDT.**

WHO: Attorney General Alberto R. Gonzales

WHAT: Remarks

WHEN: **THURSDAY, OCTOBER 27, 2005**
9:00 A.M. EDT
Cameras must pre-set **by 4:00 A.M. EDT**

WHERE: Howard University
Armour J. Blackburn University Center
2400 Sixth Street, N.W.
Washington, DC 20059

NOTE: ALL media MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as driver's license) as well as VALID MEDIA CREDENTIALS. For those members of the press who do not have a White House press credential, you must fax your name (as it appears on your driver's license), Social Security number and date of birth on company letterhead to (202) 456-1523 no later than 6:00 P.M. on Wednesday, October 26, 2005. For additional credentialing or logistical questions, please call (202) 456-6313. Cameras must pre-set **at 4:00 A.M. EDT.** For more information on the Conference, please visit www.whitehouse.gov/firstlady.

DOJ_NMG_ 0148735

# # #

05-569

DOJ_NMG_ 0148736

Image not available for this document, ID: 0.7.10316.36772-000001

Image not available for this document, ID: 0.7.10316.36772-000002

Moschella, William

Subject:	Updated: Car to Hill
Location:	9th Street Entrance
Start:	Thursday, October 27, 2005 8:45 AM
End:	Thursday, October 27, 2005 9:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Moschella, William
Required Attendees:	Gorsuch, Neil M; Nichols, Carl (CIV)

When: Thursday, October 27, 2005 8:45 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 9th Street Entrance

~~*~*~*~*~*~*~*~*~*

Moschella, William

Subject:	Updated: Hill Meeting
Location:	2237 Rayburn
Start:	Thursday, October 27, 2005 9:00 AM
End:	Thursday, October 27, 2005 10:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Moschella, William
Required Attendees:	Gorsuch, Neil M; Nichols, Carl (CIV)

When: Thursday, October 27, 2005 9:00 AM-10:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 2237 Rayburn

~~*~*~*~*~*~*~*~*~*

Moschella, William

From: Moschella, William
Sent: Wednesday, October 26, 2005 5:41 PM
To: Gorsuch, Neil M
Subject: Read: Graham Amendment

Webb, Lauren

From: Webb, Lauren
Sent: Wednesday, October 26, 2005 5:41 PM
To: Gorsuch, Neil M
Subject: Read: Updated: Hill Meeting

Webb, Lauren

From: Webb, Lauren
Sent: Wednesday, October 26, 2005 5:41 PM
To: Gorsuch, Neil M
Subject: Read: Updated: Car to Hill

Nichols, Carl (CIV)

Subject:	FW: Updated: Hill Meeting
Location:	2237 Rayburn
Start:	Thursday, October 27, 2005 9:00 AM
End:	Thursday, October 27, 2005 10:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Nichols, Carl (CIV)

When: Thursday, October 27, 2005 9:00 AM-10:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 2237 Rayburn

~~*~*~*~*~*~*~*~*~*

I have a bad feeling I am the proper recipient of this invitation. Is this GTMO/habeas related?

_____

From: Moschella, William
Sent: Wednesday, October 26, 2005 5:39 PM
To: Gorsuch, Neil M; Nichols, Carl (CIV); Moschella, William
Subject: Updated: Hill Meeting
When: Thursday, October 27, 2005 9:00 AM-10:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 2237 Rayburn

When: Thursday, October 27, 2005 9:00 AM-10:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 2237 Rayburn

~~*~*~*~*~*~*~*~*~*

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Wednesday, October 26, 2005 5:48 PM
To: Kessler, Elizabeth A
Cc: Gorsuch, Neil M; Reyes, Luis (SMO); Gunn, Currie (SMO)
Subject: FW: Departure

Liz: I would like to organize a dinner at Morton's or a similar place for Kelly as she doesn't want a farewell reception at DOJ. Would you take responsibility for organizing it with Currie's help? We should include folks from ENRD that Kelly can identify like Cruden, Mary Neumayr, etc along with folks from OASG, and friends like [redacted], and others. As per custom, old man buys the drinks/wine and we can split up the food costs. Robt.

-----Original Message-----
From: Johnson, Kelly A. (ENRD)
Sent: Wednesday, October 26, 2005 5:10 PM
To: Williams, Jan
Cc: McCallum, Robert (SMO)
Subject: Departure

Jan - With Sue Ellen scheduled to be voted out of the Senate Judiciary Committee tomorrw and Matt McKeown's arrival on Monday, I wanted to let you know that my last day in the Environment and Natural Resources Division will be Friday, November 18. It has been an honor to serve President Bush and I greatly appreciate Judge Gonzales confidence in allowing me to serve as Acting Assistant Attorney General of ENRD for the past 6 months. Kelly

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Wednesday, October 26, 2005 5:51 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M; Reyes, Luis (SMO); Gunn, Currie (SMO)
Subject: RE: Departure

Certainly. Kelly knows all the restaurants in town. I'll ask her what she would prefer and work with Currie to set it up.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, October 26, 2005 5:48 PM
To: Kessler, Elizabeth A
Cc: Gorsuch, Neil M; Reyes, Luis (SMO); Gunn, Currie (SMO)
Subject: FW: Departure

Liz: I would like to organize a dinner at Morton's or a similar place for Kelly as she doesn't want a farewell reception at DOJ. Would you take responsibility for organizing it with Currie's help? We should include folks from ENRD that Kelly can identify like Cruden, Mary Neumayr, etc along with folks from OASG, and friends like [redacted] and others. As per custom, old man buys the drinks/wine and we can split up the food costs. Robt.

-----Original Message-----
From: Johnson, Kelly A. (ENRD)
Sent: Wednesday, October 26, 2005 5:10 PM
To: Williams, Jan
Cc: McCallum, Robert (SMO)
Subject: Departure

Jan - With Sue Ellen scheduled to be voted out of the Senate Judiciary Committee tomorrw and Matt McKeown's arrival on Monday, I wanted to let you know that my last day in the Environment and Natural Resources Division will be Friday, November 18. It has been an honor to serve President Bush and I greatly appreciate Judge Gonzales confidence in allowing me to serve as Acting Assistant Attorney General of ENRD for the past 6 months. Kelly

[redacted] (DHS)

From: [redacted] (DHS)
Sent: Wednesday, October 26, 2005 5:53 PM
To: Gorsuch, Neil M
Subject: Lunch tomorrow?
Attachments: tmp.htm

meetings@cfr.org

From:	meetings@cfr.org
Sent:	Wednesday, October 26, 2005 6:00 PM
To:	Gorsuch, Neil M
Subject:	CFR Invitation to 11/17 NY Meeting with Kapil Sibal (11475)
Attachments:	111705 Kapil Sibal889.rtf

Dear Mr. Gorsuch:

You are invited to attend a New York Meeting

as part of Science and Technology Series

with

KAPIL SIBAL

Union Minister of Science and Technology and Ocean Development, Government of India

THURSDAY, NOVEMBER 17, 2005
8:00 to 9:30 a.m.

8:00 to 8:30 a.m. Breakfast
8:30 to 9:30 a.m. Meeting

at the Harold Pratt House, 58 East 68th Street, New York

To attend, please respond to this email, fax the attached form to CFR New York Meetings Department at (212) 434-9804, call the Meetings Response Line at (212) 434-9600, or register online at www.cfr.org/member.
This invitation is not transferable. CFR meetings are open to Council members only unless otherwise noted.

Name: Neil M. Gorsuch 00355063
Title: Principal Deputy Associate Attorney General
Company/Affiliation: U.S. Department of Justice
Work Phone: 202-305-1434
Fax: 202-514-0238
E-mail: neil.gorsuch@usdoj.gov

Thank you,
New York Meetings Department

To: Mr. Neil M. Gorsuch, U.S. Department of Justice

COUNCIL ON FOREIGN RELATIONS

58 EAST 68 TH STREET • NEW YORK • NEW YORK 10021
Tel 212 434 9 600 Fax 212 434 9804 meetings@cfr.org

NEW YORK MEETING

Science and Technology Series

A Conversation with

Kapil Sibal

Union Minister of Science and Technology
and Ocean Development
Government of India

Thursday, November 17, 2005
8:00 - 9:30 a.m.

8:00 - 8:30 a.m. Breakfast
8:30 - 9:30 a.m. Meeting

at the Harold Pratt House, 58 East 68th Street, New York

To attend, please fax this form to the CFR New York Meetings Department at **(212) 434-9804,** call the Meetings Response Line at **(212) 434-9600,** or register online at **www.cfr.org/member**.
This invitation is not transferable.
CFR meetings are open to Council members only unless otherwise noted.

____ I will attend

Please update the information below if necessary.

Member Name: Neil M. Gorsuch 00355063
Title: Principal Deputy Associate Attorney General
Company/Affiliation: U.S. Department of Justice
Work Phone: 202-305-1434 Fax: 202-514-0238 E-mail: neil.gorsuch@usdoj.gov
I prefer to receive invitations and meeting updates via: ☐ *email* ☐ *fax* (11475)

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Wednesday, October 26, 2005 6:13 PM
To: Gorsuch, Neil M; Moschella, William
Subject: Tomorrow Morning

I can make the pre-meeting and meetings until 10/10:15 or so, but ideally would be back here by 10:30.

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 26, 2005 6:22 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER ALABAMA GOVERNOR DON SIEGELMAN, OTHERS INDICTED IN RACKETEERING, BRIBERY AND EXTORTION CONSPIRACY

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, OCTOBER 26, 2005
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

FORMER ALABAMA GOVERNOR DON SIEGELMAN, OTHERS INDICTED IN RACKETEERING, BRIBERY AND EXTORTION CONSPIRACY

WASHINGTON, D.C. - Former Alabama Governor Don Eugene Siegelman and three other individuals have been indicted on charges related to a widespread racketeering conspiracy that included bribery and extortion in exchange for official acts, the Department of Justice and the U.S. Attorney's Office for the Middle District of Alabama announced today.

The 30-count superseding indictment was returned by a federal grand jury in Montgomery, Alabama today. The indictment charges Siegelman and former Chief of Staff Paul Michael Hamrick with violating the Racketeer Influenced and Corrupt Organizations (RICO) statute while Siegelman served as governor of Alabama from 1999 to 2003, and honest services mail and wire fraud. Siegelman is also charged with obstruction of justice, and with bribery for allegedly accepting money in exchange for actions taken as governor.

Three other individuals have pleaded guilty to public corruption charges in connection with the scheme - Alabama businessman and consultant Clayton "Lanny" Young, former Alabama Department of Economic and Community Affairs Acting Director Nick Bailey and architect William Curtis Kirsch. Today's indictment alleges that Siegelman and Hamrick took hundreds of thousands of dollars in bribes from Young to aid Young's business interests, including the awarding of contracts to companies controlled by Young.

Siegelman is also charged with extortion for allegedly demanding payments from individuals under the threat of harming their business interests with the State of Alabama. Specifically, the indictment alleges that Siegelman demanded $100,000 and accepted $40,000 from one individual under the threat of harming that person's business with the Alabama Department of Transportation (ALDOT). Siegelman also allegedly demanded $250,000 from another individual under the same threat.

The indictment also alleges that Siegelman, Hamrick and others established a criminal enterprise in which official actions were exchanged for bribes. Specifically, the indictment alleges that then-HealthSouth Chief Executive Officer Richard M. Scrushy made two disguised payments totaling $500,000 to Siegelman in

DOJ_NMG_ 0148752

exchange for Siegelman's appointment of Scrushy to Alabama's Certificate of Need Review Board. Scrushy - initially named in a sealed indictment filed on May 17, 2005 - is charged with bribery and mail fraud.

Gary Mack Roberts, the former Director of ALDOT, is charged in the indictment with honest services mail and wire fraud for his alleged role in influencing ALDOT actions on behalf of Siegelman.

The RICO and conspiracy to commit RICO charges carry a maximum penalty of 20 years in prison and a fine of up to $250,000. The maximum penalty for the bribery charges is 10 years in prison and a $250,0000 fine. The maximum penalty for honest services mail and wire fraud is 20 years in prison and a $250,000 fine, while the maximum penalty for obstruction of justice is 10 years in prison and a $250,000 fine.

An indictment is merely an accusation and the defendants are presumed innocent until proven guilty at trial beyond a reasonable doubt.

The indictment is the result of a joint investigation initiated by federal and state authorities in early 2001 into numerous alleged improprieties in the Siegelman administration. The federal case is being prosecuted by Louis V. Franklin, Sr., the Acting U.S. Attorney for the Middle District of Alabama in this case, and Assistant U.S. Attorneys Stephen P. Feaga and J.B. Perrine; Trial Attorney Richard Pilger of the Public Integrity Section of the Criminal Division, U.S. Department of Justice, which is headed by Section Chief Noel L. Hillman; and Assistant Attorney General Joseph Fitzpatrick for the State of Alabama, who is also cross-designated as a Special Assistant United States Attorney for this case. The investigation was conducted jointly by the Federal Bureau of Investigation and agents from the Alabama Attorney General's Office, with assistance from the Department of Transportation Office of Inspector General.

###

05-568

DOJ_NMG_ 0148753

Image not available for this document, ID: 0.7.10316.36702-000001

Image not available for this document, ID: 0.7.10316.36702-000002

Keisler, Peter D. (CIV)

From: Keisler, Peter D. (CIV)
Sent: Wednesday, October 26, 2005 6:35 PM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: CJA

I will be out of the office for the remainder of this week and will not be able to check email regularly. Please feel free to contact Deputy Assistant Attorney General Dan Meron (202-353-2793) or my Assistant Chris Calvert (202-514-3301) while I am away -- except on Friday, when you should contact Deputy Assistant Attorney General Jeff Bucholtz (202-514-3045) or Peggy McKenzie (202-514-9723).

Moschella, William

Subject:	Updated: Hill Meeting
Location:	2237 Rayburn
Start:	Thursday, October 27, 2005 9:30 AM
End:	Thursday, October 27, 2005 10:30 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Moschella, William
Required Attendees:	Gorsuch, Neil M; Nichols, Carl (CIV)

When: Thursday, October 27, 2005 9:30 AM-10:30 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 2237 Rayburn

~~*~*~*~*~*~*~*~*~*

With Frank Jimenez from DoD

Moschella, William

Subject:	Updated: Car to Hill
Location:	9th Street Entrance
Start:	Thursday, October 27, 2005 9:15 AM
End:	Thursday, October 27, 2005 9:30 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Moschella, William
Required Attendees:	Gorsuch, Neil M; Nichols, Carl (CIV)

When: Thursday, October 27, 2005 9:15 AM-9:30 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 9th Street Entrance

~~*~*~*~*~*~*~*~*~*

Moschella, William

From: Moschella, William
Sent: Wednesday, October 26, 2005 7:22 PM
To: Gorsuch, Neil M

Are you and Frank free tomorrow to do a 4 p.m. conference call with approps staff?

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Wednesday, October 26, 2005 8:41 PM
To: Moschella, William; Gorsuch, Neil M
Subject: Re:

Yep.

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>;
[redacted]@dodgc.osd.mil [redacted]@dodgc.osd.mil>
Sent: Wed Oct 26 20:40:29 2005
Subject: Re:

Ok for me.[redacted]

-----Original Message-----
From: Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Oct 26 19:22:01 2005
Subject:

Are you and [redacted]free tomorrow to do a 4 p.m. conference call with approps staff?

Cohn, Jonathan (CIV)

From: Cohn, Jonathan (CIV)
Sent: Thursday, October 27, 2005 8:38 AM
To: Gorsuch, Neil M
Subject: RE: Lunch on Friday

Definitely.

Have fun on the Hill today. :)

From: Gorsuch, Neil M
Sent: Thursday, October 27, 2005 8:38 AM
To: Cohn, Jonathan (CIV)
Subject: RE: Lunch on Friday

I suppose so...Sorry about that. Let's get together another time...
-----Original Message-----
From: Cohn, Jonathan (CIV)
Sent: Thursday, October 27, 2005 8:34 AM
To: Gorsuch, Neil M
Subject: Lunch on Friday

Neil, I got an email yesterday inviting me to a lunch w/ you, Robert, Lily, and Judge McKeown. I of course accepted. But I didn't want you think that I was bagging out on the lunch that you and I had planned. You'll be at the lunch tomorrow, right?

Jon

Moschella, William

From: Moschella, William
Sent: Thursday, October 27, 2005 8:52 AM
To: Gorsuch, Neil M
Subject: Read: Your vm

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, October 27, 2005 8:59 AM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: Re: This am

No problem, will report.

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Thu Oct 27 08:30:04 2005
Subject: RE: This am

I am at WH with DAG duties as well. Lu: Please chair them and proceed. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, October 27, 2005 8:27 AM
To: McCallum, Robert (SMO); Reyes, Luis (SMO)
Subject: This am

Will has set up a briefing for some House staffers on the Graham bill this morning for Frank Jiminez, Carl, and me so I'm afraid I will miss the tax and civ rights meetings.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, October 27, 2005 9:06 AM
To: Gorsuch, Neil M
Subject: Read: This am

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, October 27, 2005 9:09 AM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: [redacted] Withdrawal

You probably already saw, but I just saw it hit the wire.

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Thu Oct 27 08:30:04 2005
Subject: RE: This am

I am at WH with DAG duties as well. Lu: Please chair them and proceed. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, October 27, 2005 8:27 AM
To: McCallum, Robert (SMO); Reyes, Luis (SMO)
Subject: This am

Will has set up a briefing for some House staffers on the Graham bill this morning for [redacted] Carl, and me so I'm afraid I will miss the tax and civ rights meetings.

Ames, Andrew

From: Ames, Andrew
Sent: Thursday, October 27, 2005 9:11 AM
To: Gorsuch, Neil M
Subject: RE: Frontline - I have a copy

I am still waiting to hear from the Multimedia Dept. I will make an inquiry as to their status.

ANDY

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, October 27, 2005 8:50 AM
To: Ames, Andrew
Subject: RE: Frontline - I have a copy

Andy - Are the copies ready yet? Many thanks, NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, October 25, 2005 6:30 PM
To: Scolinos, Tasia
Cc: Ames, Andrew
Subject: RE: Frontline - I have a copy

He's already come and gone - thanks for the quick turnaround!

-----Original Message-----
From: Scolinos, Tasia
Sent: Tuesday, October 25, 2005 6:19 PM
To: Gorsuch, Neil M
Cc: Ames, Andrew
Subject: RE: Frontline - I have a copy

of course - I am copying Andy ames who will come to your office and get it and take it upstairs.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, October 25, 2005 6:17 PM
To: Scolinos, Tasia
Subject: Frontline - I have a copy

DoD forwarded a copy of a VHS tape. Any chance your office can have some copies made for internal distribution to OAG and others?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Shaw, Aloma A

Subject:	Updated: Tax Bi-Weekly Meeting
Location:	5710
Start:	Thursday, October 27, 2005 4:00 PM
End:	Thursday, October 27, 2005 5:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Thursday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	McCallum, Robert (SMO); O'Connor, Eileen J. (AAG/TAX); Fallon, Claire (TAX); Morrison, Richard T. (TAX); Hofer, Patrick F. (TAX); Reyes, Luis (SMO); Gorsuch, Neil M; Boente, Dana J. (TAX); Fallon, Claire (TAX); Oldham, Jeffrey L
Optional Attendees:	Shaw, Aloma A

When: Thursday, October 27, 2005 4:00 PM-5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

Time change per Tax request.

Addition of Jeff Oldham

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Eileen O'Connor-AAG Tax, Claire Fallon-Tax, Dana Boente-Tax, Patrick Hoffer-Tax, Luis Reyes-OASG

POC: Currie Gunn x4-9500

Ames, Andrew

From: Ames, Andrew
Sent: Thursday, October 27, 2005 9:44 AM
To: Gorsuch, Neil M
Subject: RE: Frontline - I have a copy

I just received notice from the Multimedia office that the copies would be completed by noon.

ANDY

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, October 27, 2005 8:50 AM
To: Ames, Andrew
Subject: RE: Frontline - I have a copy

Andy - Are the copies ready yet? Many thanks, NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, October 25, 2005 6:30 PM
To: Scolinos, Tasia
Cc: Ames, Andrew
Subject: RE: Frontline - I have a copy

He's already come and gone - thanks for the quick turnaround!

-----Original Message-----
From: Scolinos, Tasia
Sent: Tuesday, October 25, 2005 6:19 PM
To: Gorsuch, Neil M
Cc: Ames, Andrew
Subject: RE: Frontline - I have a copy

of course - I am copying Andy ames who will come to your office and get it and take it upstairs.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, October 25, 2005 6:17 PM
To: Scolinos, Tasia
Subject: Frontline - I have a copy

DoD forwarded a copy of a VHS tape. Any chance your office can have some copies made for internal distribution to OAG and others?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Shaw, Aloma A

Subject:	Updated: Tax Bi-Weekly Meeting
Location:	5710
Start:	Thursday, October 27, 2005 3:00 PM
End:	Thursday, October 27, 2005 4:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Thursday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	McCallum, Robert (SMO); O'Connor, Eileen J. (AAG/TAX); Fallon, Claire (TAX); Morrison, Richard T. (TAX); Hofer, Patrick F. (TAX); Reyes, Luis (SMO); Gorsuch, Neil M; Boente, Dana J. (TAX); Fallon, Claire (TAX); Oldham, Jeffrey L
Optional Attendees:	Shaw, Aloma A

When: Thursday, October 27, 2005 3:00 PM-4:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

2nd time change per Tax request.

Addition of Jeff Oldham

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Eileen O'Connor-AAG Tax, Claire Fallon-Tax, Dana Boente-Tax, Patrick Hoffer-Tax, Luis Reyes-OASG

POC: Currie Gunn x4-9500

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Thursday, October 27, 2005 9:57 AM
Subject: Temporary Closure of the 10th Street Entrance

Temporary Closure of the 10th Street Entrance

The 10th Street vehicle entrance at MAIN Justice will be closed to all vehicular and pedestrian traffic from 7:00 p.m., Friday, October 28, 2005 until 4:30 a.m., Monday, October 31, 2005, due to maintenance activities. During this time, all vehicle and pedestrian traffic must enter through the 9th Street gate.

Check the Intranet, DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

Webb, Lauren

From: Webb, Lauren
Sent: Thursday, October 27, 2005 9:57 AM
To: Gorsuch, Neil M
Subject: Read: Updated: Hill Meeting

Gunn, Currie (SMO)

Subject:	Interview w/ [redacted] candidate for Chief Privacy Officer
Location:	OASG Office
Start:	Friday, October 28, 2005 4:30 PM
End:	Friday, October 28, 2005 5:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M

When: Friday, October 28, 2005 4:30 PM-5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: OASG Office

~~*~*~*~*~*~*~*~*~*

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG

POC: Currie x4-9500

Beach, Andrew

Subject:	Updated: AG's Strategic Initiatives
Start:	Wednesday, November 02, 2005 12:00 PM
End:	Wednesday, November 02, 2005 1:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Wednesday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG); Nelson, Carrie; McCallum, Robert (SMO); Dhillon, Uttam; Hertling, Richard; Battle, Michael (USAEO)

When: Wednesday, November 02, 2005 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
Attending: Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Carrie Nelson, Uttam Dhillon, Rich Hertling, Michael Battle

Goldman, Greer (ENRD)

Subject:	Meeting with OSG on Rapanos/Carabell
Location:	RFK 5609
Start:	Tuesday, November 08, 2005 3:00 PM
End:	Tuesday, November 08, 2005 4:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Goldman, Greer (ENRD)
Required Attendees:	Kessler, Elizabeth A; Gorsuch, Neil M; Cruden, John (ENRD); Neumayr, Mary (ENRD); Johnson, Kelly A. (ENRD); McKeown, Matt (ENRD); Kilbourne, Jim (ENRD); Hazard, Katherine (ENRD); Kim, Todd (ENRD); Durkee, Ellen (ENRD); Smeltzer, John (ENRD); Samuels, Stephen (ENRD); Schachter, Scott (ENRD); Vaden, Christopher (ENRD); [redacted]@epa.gov; [redacted]@epa.gov; [redacted]@epa.gov; [redacted]@epa.gov; [redacted]@epa.gov; [redacted]@hq02.usace.army.mil; [redacted]@usace.army.mil; [redacted]@usace.army.mil

When: Tuesday, November 08, 2005 3:00 PM-4:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: RFK 5609

~~*~*~*~*~*~*~*~*~*

Miller, Charles S

From: Miller, Charles S
Sent: Thursday, October 27, 2005 11:20 AM
To: Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Eubanks, Sharon (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D. (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Morgan, Julian (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Thirolf, Eugene; Wiggins, Mike; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 10/27/05 Civil Division News

Guantanamo Detainees Gain in Ruling

Lawyers must be told before detainees are fed

Investigation rocks Twin Cities firms; Investigators subpoena three medical device companies in kickback probe.

New risk to merger: Guidant subpoenas; U.S. attorneys want documents on heart devices; doubts grow about deal with Johnson & Johnson

3rd Circuit Rules FDA May Order Restitution Over Unapproved Drugs

New York Times (NY)
October 27, 2005

Guantanamo Detainees Gain in Ruling

NEIL A. LEWIS

WASHINGTON, Oct. 26 A federal judge on Wednesday ordered the Bush administration and the military to provide information to defense lawyers about the condition of detainees at the Guantanamo military base in Cuba who are participating in a hunger strike.

The judge, Gladys Kessler of Federal District Court, acted on a petition brought by lawyers for a handful of detainees from Qatar, Yemen, Saudi Arabia and Afghanistan who say they have been forcibly and sometimes brutally fed by tubes placed through their noses.

Justice Department lawyers representing the Pentagon disputed the accounts given by the detainees

through their lawyers.

Julia Tarver, a lawyer for three of the detainees, asserted in court papers that when she visited her clients she found them weak and sometimes able to speak only with difficulty because of throat lesions they said were caused by having the feeding tubes forced in. Ms. Tarver said one detainee, Yousef al-Shehri, told her that a feeding tube had been roughly inserted through his nose into his throat, causing him to spit up blood.

The head of the detainee medical center at Guantanamo, Dr. John Edmondson, submitted a statement saying the tubes were always inserted with a lubricant and with a topical anesthetic if necessary and were never administered "in a manner intentionally designed to inflict pain or harm on the detainees."

The government also noted that none of the detainees who were being force-fed, about 20 as of last month, had died.

Judge Kessler said she did not need to wait until someone died before ordering the government to disclose information to the detainees' lawyers.

"It can hardly serve either the national security interests of this country or enhance its image throughout the world to contribute in any way to the death of a detainee in its custody," she said.

The judge ordered the government to inform a defense lawyer within 24 hours of any force-feeding of a client and to provide the detainees' lawyers with medical records beginning a week before force-feeding began, with weekly updates.

A Justice Department spokesman said no decision had been reached as to whether to seek to a review from an appeals court.

The most recent hunger strike, which began in late August, has at times involved as many as 200 prisoners, more than a third of the camp, according to lawyers' accounts. The lawyers said the strike was to protest conditions and the detainees' prolonged confinement without trial.

Judge Kessler's order is the latest development in a vast change in the legal situation at Guantanamo. For the first two years of the camp's existence, the military had total control of procedures there and what it told the public about them. But after a Supreme Court ruling in 2004 allowing lawyers to represent detainees and visit them, the military has had to contend with judicial rulings on procedures and with the ability of defense lawyers to provide an alternative narrative as to events there.

END

AP
10/27/05

Lawyers must be told before detainees are fed

WASHINGTON (AP) - Lawyers for hunger-striking terrorism suspects at the Guantanamo Bay prison in Cuba must be notified before any of their clients are fed against their will, a federal judge ruled Wednesday.

The government also must provide the lawyers of force-fed detainees with their clients' medical records dating to one week before the start of involuntary feeding.

In a victory for the government, U.S. District Judge Gladys Kessler denied the lawyers' request for the detainees to be in contact by telephone with their lawyers, relatives and friends. At an Oct. 14 hearing

before Kessler, Justice Department lawyer Terry Henry argued against such contacts, citing possible security risks.

Meanwhile, the Kuwaiti parents of a force-fed detainee said they will not approve his request to ask a judge to remove his feeding tube so he could die. The detainee's U.S. lawyer wants the man to get his family's approval and consult with medical specialists not affiliated with the U.S. government.

"We utterly refuse," Fawzi al-Odah's father, Khaled, said Wednesday in Kuwait City. "Fawzi would not have taken such a decision unless he has lost all hope and some of his ability to reason."

The 28-year-old detainee's mother, Souad al-Abdul-Jalil, also complained about the difficulty of not hearing her son's voice or seeing him in several years.

Kessler's ruling was a partial victory for lawyers who argued during an emergency hearing for more frequent access to their clients. About two dozen inmates at Guantanamo have refused to eat to protest more than three years in detention at the U.S. facility, where the military holds about 500 detainees suspected of terrorist activities.

The judge said the military must notify the lawyers at least 24 hours before force feeding begins, and provide updated information at least weekly until detainees are no longer being fed against their will.

The department declined comment on Kessler's ruling, spokesman John Nowacki said.

Julia Tarver, a New York lawyer whose firm represents 10 Saudi nationals in U.S. custody in Cuba, said she was pleased by the ruling but continues to worry about her clients.

"We still have grave concerns about the condition of our clients, some of whom are young boys, who have spent nearly four years without charge, isolated miles away from their families, and are rapidly losing hope that justice will ever prevail for them," she said in a written statement.

The hunger strikers allege inhumane and cruel treatment by medical personnel at the U.S. camp. That includes feeding tubes inserted without using anesthesia or sedatives to minimize pain, and tubes being reused without proper sanitization. Some detainees have been fasting since Aug. 8.

Dr. John Edmondson, commander of the U.S. Navy Hospital at Guantanamo and head of the detainee hospital, denied all of the detainee allegations in a brief filed with the court.

Edmondson said tubes are always inserted using a lubricant, an anesthetic is offered "in all cases" and new tubes are used every time a detainee has to be fed involuntarily.

Some 24 detainees are on hunger strike, including seven who are hospitalized and being force-fed, according to the government. Some of the remaining 17 also are being fed involuntarily, but are not hospitalized.

END

ST. PAUL PIONEER PRESS
October 27, 2005

Investigation rocks Twin Cities firms; Investigators subpoena three medical device companies in kickback probe.

BY JIM MCCARTNEY

The federal investigation into the Twin Cities-dominated cardiac rhythm device industry could take years, cost millions of dollars, spawn a cascade of product liability and shareholder lawsuits, and become a significant distraction to top managers at the companies.

Medtronic Inc., Guidant Corp. and St. Jude Medical, each of which employs thousands of workers in the Twin Cities area, revealed Tuesday that they have received subpoenas from the U.S. Attorney's office in Boston seeking information on the sale and marketing of pacemakers and implantable cardioverter defibrillators.

The U.S. Justice Departent apparently is trying to see if the companies have been inducing doctors and clinics to buy their products and then file for reimbursement to Medicare or other federal health-insurance programs. The activities potentially violate "anti-kickback" and "false claims" statutes.

One patient advocate said the investigation comes on top of recent talk among patients with ICDs about whether their doctors have a financial stake in using a certain company's product.

"Patients with defibrillators are asking more questions now because of what's come out about the reliability of the products," said Lisa Salberg, president of the Hypertrophic Cardiomyopathy Association, which advocates for patients with a condition that involves a thickening of the heart muscle. Salberg is on her fourth ICD.

Some analysts speculate that the Justice Department is looking at reports that companies have paid doctors as much as $2,000 for follow-up patient data.

While pacemakers help spark the heart to achieve a steady, timely beat, ICDs deliver sharp jolts to hearts that go dangerously out of beat. The devices can cost as much as $30,000.

Meanwhile, Guidant -- already under investigation by the U.S. Food and Drug Administration because of warnings and recalls of its pacemakers and ICDs over the summer -- received a separate subpoena from the U.S. Attorney's office in Minneapolis that appears to be related to the FDA inquiry. Guidant's cardiac rhythm management division employs about 3,500 people in Arden Hills.

A spokeswoman for the U.S. Attorney's office in Minneapolis confirmed the delivery of a subpoena to Guidant but declined further comment.

"This investigation will have a major impact," said Mark DuVal, a Minneapolis attorney who works with drug and medical-device companies on federal investigations into marketing practices and compliance with federal regulations.

"These guys are in a bunker mentality now, I can assure you," said DuVal, who expects the federal inquiry will lead to numerous product liability and shareholder lawsuits against the companies.

The companies, which are the three largest makers of electronic heart devices, declined to talk Wednesday about the subpoenas or their potential impact. Angela Craig, spokeswoman for Little Canada-based St. Jude, said her company would communicate with employees about the subpoena but declined to describe what would be said.

Guidant was the biggest loser of the three on the stock market Wednesday. Its shares dropped $2.25 to $62.45, down3.5 percent. Fridley-based Medtronic's shares fell 23 cents to $56.74 and St. Jude's fell75 cents to $47.52. One reason may be the separate subpoena Guidant received.

"The big question is what that Minneapolis subpoena is all about," said Dr. Robert Hauser of the Minneapolis Heart Institute, a member of a task force to reform the system of reporting and communicating defective heart devices.

Hauser is one of three institute doctors who went public after a Guidant ICD apparently short-circuited

when it was needed to give a young Minnesota patient a life-saving shock. The resulting publicity after the man's death precipitated a spate of warnings and recalls from Guidant and put the Indianapolis-based company under a national spotlight.

Guidant's disclosure about the Minneapolis subpoena cites HIPAA, the patient privacy protection act, which is a tip-off where the Justice Department may be headed, said Jan Wald, a securities analyst with A.G. Edwards.

"The legal theory is that if a company violates any federal statutes such as HIPAA, that it is not entitled to reimbursement from the federal government, such as Medicare payments," DuVal said. Medicare pays for most of the devices implanted in older patients.

Another analyst thinks the Minneapolis subpoena may put even more pressure on Guidant's pending $25.4 billion acquisition by health-care giant Johnson & Johnson, which last week indicated it was taking a second look at the deal.

"It might make the cloud over the company and its merger just a little bit darker," said Thomas Gunderson, a securities analyst with Piper Jaffray.

After targeting fraud and winning hundreds of millions of dollars in settlements from hospitals, home-care facilities and drug companies, the feds recently have been setting their sights on the medical-device industry.

"It's a continuation of what we thought would happen," Gunderson said.

A number of device makers already have been hit by federal investigations: Eden Prairie-based Augustine Medical (now Arizant), Medtronic's spine division in Memphis, Tenn., and Plano, Texas-based Advanced Neuromodulation Systems (which recently agreed to be bought by St. Jude for $1.3 billion).

END

Indianapolis Star
October 27, 2005

New risk to merger: Guidant subpoenas; U.S. attorneys want documents on heart devices; doubts grow about deal with Johnson & Johnson

By Jeff Swiatek

Guidant Corp. has been served with two federal subpoenas seeking documents about its troubled heart device business, raising further questions about whether it can seal its merger with Johnson & Johnson.

The Indianapolis medical device maker was vague about the reasons for the subpoenas, but at least one seems related to Guidant's recalls of its main brands of implantable defibrillators during the summer.

That's another dose of bad news for Guidant, which is trying to get back into the good graces of its would-be acquirer. Earlier issues had pushed back the completion of the deal beyond September, when both companies had hoped to wrap it up.

Johnson & Johnson dropped a loud hint last week that it may want to change the terms of the $25 billion buyout because of product quality problems Guidant has been having. Some observers said Johnson & Johnson apparently was trying to reduce the acquisition price.

"You have to consider this a real threat to the deal as currently structured," said Walter E. Birch, a director

of the New York executive search firm Michael Kelly Associates who is a former vice president at a mergers and acquisitions firm.

"Clearly this will give them (Johnson & Johnson) the opportunity to either renegotiate the deal or walk away from it, if the subpoenas are in any way meaningful, which they appear to be," he said.

Guidant's statement did not elaborate on the subpoenas or comment on the status of the Johnson & Johnson deal, which is in its final phase. The last regulatory hurdle is federal antitrust approval, which both companies expected to occur this month.

Investor doubts about the merger grew after five product recalls by Guidant last spring and summer. The recalls affected more than 100,000 pacemakers and defibrillators used by heart patients worldwide. At least two deaths were linked to the product problems.
Also during the summer, the Food and Drug Administration inspected the plants in St. Paul, Minn., where Guidant makes its heart rhythm products. FDA inspectors cited Guidant for 15 violations, which the company is required to address.

Guidant spokesman Steve Tragash did not return a call for comment.

Guidant's stock price fell $2.25 a share Wednesday, to close at $62.45, well below the $76 purchase offer from Johnson & Johnson 10 months ago.

The closing price was also below the $64.10 it settled at last week after a Johnson & Johnson executive dropped the news that the New Jersey company was looking at alternatives to the proposed deal because of the product quality problems and regulatory investigations at Guidant.

Guidant said it would comply with the subpoenas, which it disclosed late Tuesday.

One subpoena, from the U.S. attorney's office in Minneapolis, wants documents specifically for Guidant's Ventak Prizm and Contak Renewal defibrillators, Guidant said. The Contak Renewal brand was pulled from the market for about five weeks during the summer to design a fix for an internal switch problem that could pose a danger to patients.

The other subpoena, from the U.S. attorney's office in Boston, seeks documents concerning Guidant's pacemakers, defibrillators and related products, Guidant said.

Two other medical device makers, Medtronic and St. Jude Medical, both based in Minnesota, also reported receiving subpoenas from the U.S. attorney's office in Boston.

Medtronic said its subpoena included a request for the company's training and compliance materials relating to fraud and abuse and anti-kickback statutes.

The focus of that subpoena from the Boston office appears to be on Medicare fraud and abuse regulations that have to do with companies using financial inducements to persuade doctors to use their products, Thom Gunderson, a senior research analyst for Piper Jaffray & Co. investment firm, said in a note to investors.

Gunderson said Department of Justice investigations done through U.S. attorneys offices can last for years. One investigation begun in 1998 at Boston Scientific Corp., another medical device maker, wasn't settled until this past June, when Boston agreed to pay $74 million to settle a criminal probe into a recall of its heart stent.

Guidant itself underwent a long federal probe of its former California-based business that made abdominal aortic grafts. That investigation ended with Guidant pleading guilty to covering up thousands of serious medical problems with its graft product and paying a $92 million fine to the government. Guidant later dropped that business.

Dropping the heart rhythm business, however, is hardly an option for Guidant. It accounted for about half of its $3.76 billion in revenue last year and is the most attractive part of Guidant for Johnson & Johnson.

Birch, the former merger specialist, said uncertainty over the federal probe at Guidant could prompt Johnson & Johnson to request an extension to the merger deadline of February.

But "J&J would have to be willing to walk away from the deal to pull that off," he said.

The merger agreement calls for Johnson & Johnson to close the acquisition within two business days after all terms of the deal are met. All the terms appear to be met except the antitrust approval, which may require Johnson & Johnson to sell parts of either companies' businesses.

Johnson & Johnson spokesman Jeffrey Leebaw did not return a call for comment.

END

The Legal Intelligencer
10-27-2005

3rd Circuit Rules FDA May Order Restitution Over Unapproved Drugs

Shannon P. Duffy

In a significant victory for the Food and Drug Administration, a federal appeals court has ruled that the agency has the right to demand restitution for consumers from companies that sell unapproved drugs.

In its 42-page opinion in *United States v. Lane Labs-USA Inc.*, a unanimous three-judge panel rejected the argument that the FDA cannot demand restitution because the federal Food Drug and Cosmetic Act does not expressly provide for such a remedy.

"Whether or not Congress specifically contemplated restitution under the FDCA, the ability to order this remedy is within the broad equitable power granted to the district courts to further the economic protection purposes of the statute," 3rd Circuit Judge Marjorie O. Rendell wrote in an opinion joined by Judges Maryanne Trump Barry and Edward R. Becker.

The decision upholds a ruling by U.S. District Judge William G. Bassler of the District of New Jersey that required Lane Labs to pay $109 million in restitution to consumers who purchased products that contained shark cartilage and were pitched as treatments for cancer and HIV.

For the FDA, the ruling is a significant endorsement of its practice in recent years to demand not only injunctions, but also disgorgement of profits and restitution.

In the appeal, Lane Labs was supported by an amicus brief from the Washington Legal Foundation that urged the court to reverse Bassler on the grounds that restitution is not authorized anywhere in the text of the FDCA.

WLF attorneys Daniel J. Popeo and Richard A. Samp, along with attorney Jeffrey A. Lamken of Baker Botts in Washington, D.C., argued that the FDCA gives courts the power to "restrain" violations, but does not allow for "backward-looking monetary relief."

Allowing courts to order restitution, they argued, is inconsistent with the FDCA's structure which "provides carefully calibrated remedies for each type of violation, including restitution for other violations but not the violations at issue here."

Bassler's ruling, they argued, "reflects a mode of statutory construction that has a dangerous tendency to expand judicial authority at the expense of the policy judgments Congress itself has made."

Rendell disagreed and found that a pair of decisions from the U.S. Supreme Court "has mapped out the contours of a district court's equitable powers in much more expansive terms."

In its 1946 decision in *Porter v. Warner Holding Co.*, the Supreme Court was faced with the question of whether the Emergency Price Control Act of 1942 allowed the Office of Price Administration to seek restitution to tenants who had been charged excessive rents.

The justices held that although the law did not explicitly grant the power to order restitution, such power was within a district court's equitable jurisdiction.

Rendell found that, based on the "clear and sweeping language" in *Porter*, "it would appear that a district court sitting in equity may order restitution unless there is an explicit statutory limitation on the district courts equitable jurisdiction and powers."

And in the 1960 decision in *Mitchell v. Robert de Mario Jewelry Inc.*, Rendell said, the Supreme Court "not only reinforced its ruling in *Porter*, but expanded its scope as well."

In *Mitchell*, the secretary of labor brought an action under the Fair Labor Standards Act to enjoin discrimination against three employees who sought to recover unpaid wages. The suit also demanded reimbursement of wages lost by the employees who were victims of the discrimination.

The high court held that the secretary had the right to demand the wage reimbursement because "when a statutory provision gives the courts power to 'enforce prohibitions' contained in a regulation or statute, Congress will be deemed to have granted as much equitable authority as is necessary to further the underlying purposes and policies of the statute."

Rendell found that, when read together, the *Porter* and *Mitchell* decisions "charted an analytical course that seems fairly easy to follow."

The combined lesson of the two decisions, Rendell said, is that a district court sitting in equity may order restitution "unless there is a clear statutory limitation on the district court's equitable jurisdiction and powers," and that restitution is permitted "only where it furthers the purposes of the statute."

In the years since *Porter* and *Mitchell*, Rendell found that only one other appellate court has addressed the question of whether the FDA has the right to seek restitution and concluded that it did.

In its 1999 decision in *United States v. Universal Management Services Inc.*, the 6th Circuit upheld a restitution order imposed on a company that marketed electric gas grill lighters equipped with finger grips as pain reliving devices without obtaining FDA approval.

The Universal Management court held that nothing in the FDCA precludes a district court from ordering restitution and that it was an appropriate remedy to make victims whole.

Since then, the FDA has increasingly used its newfound power. Just two months after Universal Management was decided, the FDA's suit against Abbott Laboratories settled with the company agreeing to pay $100 million.

In October 2000, Wyeth-Ayerst agreed to pay $30 million in disgorgement as part the remedial measures implemented under a consent decree. And in May 2002, Schering-Plough paid $500 million for equitable disgorgement as part of a consent decree.

The trend set off a flurry of criticism from legal commentators who argued that *Porter* and *Mitchell* do not,

or should not, authorize courts to order restitution or disgorgement under the FDCA.

But Rendell found that the commentators and the WLF were taking too narrow a reading of *Porter* and *Mitchell*.

"Their central claim is that awarding restitution under the FDCA would rewrite or improperly expand the remedies available under the statute," Rendell wrote.

"They argue that the ability under [the FDCA] 'to restrain violations' contemplates only forward-looking remedies and that this mandate excludes restitution."

But Rendell found that those arguments "were considered and rejected by the Supreme Court in *Porter* and *Mitchell*," and "essentially replicate the positions of the justices who wrote in dissent in each case."

Under a proper reading of *Porter* and *Mitchell*, Rendell found that the FDCA must be read to allow restitution.

"Since Congress has placed no unambiguous restriction on equity jurisdiction under [the FDCA], the arguments of amicus and other commentators are little more than entreaties that we ignore or overrule *Porter* and *Mitchell*, neither of which we have the power to do," Rendell wrote.

Rendell found that the commentators made "a fundamental error" when analyzing whether restitution is available.

"They view this primarily as a question of what remedies are provided by the FDCA rather than, as we have emphasized, a question of the scope of the express legislative grant of equitable power," Rendell wrote.

Bassler, she said, "did not 'discover' an implied remedy, but rather exercised the equitable power that Congress explicitly granted to it under the FDCA."

END

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Thursday, October 27, 2005 11:23 AM
To: Moschella, William; [redacted]@dodgc.osd.mil; Gorsuch, Neil M
Subject: FW: 10/27/05 Civil Division News

Here are some news stories re the hunger strike

From: Miller, Charles S
Sent: Thursday, October 27, 2005 11:20 AM
To: Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Eubanks, Sharon (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D. (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Morgan, Julian (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Thirolf, Eugene; Wiggins, Mike; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 10/27/05 Civil Division News

Guantanamo Detainees Gain in Ruling

Lawyers must be told before detainees are fed

Investigation rocks Twin Cities firms; Investigators subpoena three medical device companies in kickback probe.

New risk to merger: Guidant subpoenas; U.S. attorneys want documents on heart devices; doubts grow about deal with Johnson & Johnson

3rd Circuit Rules FDA May Order Restitution Over Unapproved Drugs

New York Times (NY)
October 27, 2005

Guantanamo Detainees Gain in Ruling

NEIL A. LEWIS

WASHINGTON, Oct. 26 A federal judge on Wednesday ordered the Bush administration and the military to provide information to defense lawyers about the condition of detainees at the Guantanamo military base in Cuba who are participating in a hunger strike.

The judge, Gladys Kessler of Federal District Court, acted on a petition brought by lawyers for a handful of detainees from Qatar, Yemen, Saudi Arabia and Afghanistan who say they have been forcibly and sometimes brutally fed by tubes placed through their noses.

Justice Department lawyers representing the Pentagon disputed the accounts given by the detainees through their lawyers.

Julia Tarver, a lawyer for three of the detainees, asserted in court papers that when she visited her clients she found them weak and sometimes able to speak only with difficulty because of throat lesions they said were caused by having the feeding tubes forced in. Ms. Tarver said one detainee, Yousef al-Shehri, told her that a feeding tube had been roughly inserted through his nose into his throat, causing him to spit up blood.

The head of the detainee medical center at Guantanamo, Dr. John Edmondson, submitted a statement saying the tubes were always inserted with a lubricant and with a topical anesthetic if necessary and were never administered "in a manner intentionally designed to inflict pain or harm on the detainees."

The government also noted that none of the detainees who were being force-fed, about 20 as of last month, had died.

Judge Kessler said she did not need to wait until someone died before ordering the government to disclose information to the detainees' lawyers.

"It can hardly serve either the national security interests of this country or enhance its image throughout the world to contribute in any way to the death of a detainee in its custody," she said.

The judge ordered the government to inform a defense lawyer within 24 hours of any force-feeding of a client and to provide the detainees' lawyers with medical records beginning a week before force-feeding began, with weekly updates.

A Justice Department spokesman said no decision had been reached as to whether to seek to a review from an appeals court.

The most recent hunger strike, which began in late August, has at times involved as many as 200 prisoners, more than a third of the camp, according to lawyers' accounts. The lawyers said the strike was to protest conditions and the detainees' prolonged confinement without trial.

Judge Kessler's order is the latest development in a vast change in the legal situation at Guantanamo. For the first two years of the camp's existence, the military had total control of procedures there and what it told the public about them. But after a Supreme Court ruling in 2004 allowing lawyers to represent detainees and visit them, the military has had to contend with judicial rulings on procedures and with the ability of defense lawyers to provide an alternative narrative as to events there.

END

AP
10/27/05

Lawyers must be told before detainees are fed

WASHINGTON (AP) - Lawyers for hunger-striking terrorism suspects at the Guantanamo Bay prison in Cuba must be notified before any of their clients are fed against their will, a federal judge ruled Wednesday.

The government also must provide the lawyers of force-fed detainees with their clients' medical records dating to one week before the start of involuntary feeding.

In a victory for the government, U.S. District Judge Gladys Kessler denied the lawyers' request for the detainees to be in contact by telephone with their lawyers, relatives and friends. At an Oct. 14 hearing before Kessler, Justice Department lawyer Terry Henry argued against such contacts, citing possible security risks.

Meanwhile, the Kuwaiti parents of a force-fed detainee said they will not approve his request to ask a judge to remove his feeding tube so he could die. The detainee's U.S. lawyer wants the man to get his family's approval and consult with medical specialists not affiliated with the U.S. government.

"We utterly refuse," Fawzi al-Odah's father, Khaled, said Wednesday in Kuwait City. "Fawzi would not have taken such a decision unless he has lost all hope and some of his ability to reason."

The 28-year-old detainee's mother, Souad al-Abdul-Jalil, also complained about the difficulty of not hearing her son's voice or seeing him in several years.

Kessler's ruling was a partial victory for lawyers who argued during an emergency hearing for more frequent access to their clients. About two dozen inmates at Guantanamo have refused to eat to protest more than three years in detention at the U.S. facility, where the military holds about 500 detainees suspected of terrorist activities.

The judge said the military must notify the lawyers at least 24 hours before force feeding begins, and provide updated information at least weekly until detainees are no longer being fed against their will.

The department declined comment on Kessler's ruling, spokesman John Nowacki said.

Julia Tarver, a New York lawyer whose firm represents 10 Saudi nationals in U.S. custody in Cuba, said she was pleased by the ruling but continues to worry about her clients.

"We still have grave concerns about the condition of our clients, some of whom are young boys, who have spent nearly four years without charge, isolated miles away from their families, and are rapidly losing hope that justice will ever prevail for them," she said in a written statement.

The hunger strikers allege inhumane and cruel treatment by medical personnel at the U.S. camp. That includes feeding tubes inserted without using anesthesia or sedatives to minimize pain, and tubes being reused without proper sanitization. Some detainees have been fasting since Aug. 8.

Dr. John Edmondson, commander of the U.S. Navy Hospital at Guantanamo and head of the detainee hospital, denied all of the detainee allegations in a brief filed with the court.

Edmondson said tubes are always inserted using a lubricant, an anesthetic is offered "in all cases" and new tubes are used every time a detainee has to be fed involuntarily.

Some 24 detainees are on hunger strike, including seven who are hospitalized and being force-fed, according to the government. Some of the remaining 17 also are being fed involuntarily, but are not hospitalized.

END

ST. PAUL PIONEER PRESS
October 27, 2005

Investigation rocks Twin Cities firms; Investigators subpoena three medical device companies in kickback probe.

BY JIM MCCARTNEY

The federal investigation into the Twin Cities-dominated cardiac rhythm device industry could take years, cost millions of dollars, spawn a cascade of product liability and shareholder lawsuits, and become a

significant distraction to top managers at the companies.

Medtronic Inc., Guidant Corp. and St. Jude Medical, each of which employs thousands of workers in the Twin Cities area, revealed Tuesday that they have received subpoenas from the U.S. Attorney's office in Boston seeking information on the sale and marketing of pacemakers and implantable cardioverter defibrillators.

The U.S. Justice Departent apparently is trying to see if the companies have been inducing doctors and clinics to buy their products and then file for reimbursement to Medicare or other federal health-insurance programs. The activities potentially violate "anti-kickback" and "false claims" statutes.

One patient advocate said the investigation comes on top of recent talk among patients with ICDs about whether their doctors have a financial stake in using a certain company's product.

"Patients with defibrillators are asking more questions now because of what's come out about the reliability of the products," said Lisa Salberg, president of the Hypertrophic Cardiomyopathy Association, which advocates for patients with a condition that involves a thickening of the heart muscle. Salberg is on her fourth ICD.

Some analysts speculate that the Justice Department is looking at reports that companies have paid doctors as much as $2,000 for follow-up patient data.

While pacemakers help spark the heart to achieve a steady, timely beat, ICDs deliver sharp jolts to hearts that go dangerously out of beat. The devices can cost as much as $30,000.

Meanwhile, Guidant -- already under investigation by the U.S. Food and Drug Administration because of warnings and recalls of its pacemakers and ICDs over the summer -- received a separate subpoena from the U.S. Attorney's office in Minneapolis that appears to be related to the FDA inquiry. Guidant's cardiac rhythm management division employs about 3,500 people in Arden Hills.

A spokeswoman for the U.S. Attorney's office in Minneapolis confirmed the delivery of a subpoena to Guidant but declined further comment.

"This investigation will have a major impact," said Mark DuVal, a Minneapolis attorney who works with drug and medical-device companies on federal investigations into marketing practices and compliance with federal regulations.

"These guys are in a bunker mentality now, I can assure you," said DuVal, who expects the federal inquiry will lead to numerous product liability and shareholder lawsuits against the companies.

The companies, which are the three largest makers of electronic heart devices, declined to talk Wednesday about the subpoenas or their potential impact. Angela Craig, spokeswoman for Little Canada-based St. Jude, said her company would communicate with employees about the subpoena but declined to describe what would be said.

Guidant was the biggest loser of the three on the stock market Wednesday. Its shares dropped $2.25 to $62.45, down3.5 percent. Fridley-based Medtronic's shares fell 23 cents to $56.74 and St. Jude's fell75 cents to $47.52. One reason may be the separate subpoena Guidant received.

"The big question is what that Minneapolis subpoena is all about," said Dr. Robert Hauser of the Minneapolis Heart Institute, a member of a task force to reform the system of reporting and communicating defective heart devices.

Hauser is one of three institute doctors who went public after a Guidant ICD apparently short-circuited when it was needed to give a young Minnesota patient a life-saving shock. The resulting publicity after the man's death precipitated a spate of warnings and recalls from Guidant and put the Indianapolis-based

company under a national spotlight.

Guidant's disclosure about the Minneapolis subpoena cites HIPAA, the patient privacy protection act, which is a tip-off where the Justice Department may be headed, said Jan Wald, a securities analyst with A.G. Edwards.

"The legal theory is that if a company violates any federal statutes such as HIPAA, that it is not entitled to reimbursement from the federal government, such as Medicare payments," DuVal said. Medicare pays for most of the devices implanted in older patients.

Another analyst thinks the Minneapolis subpoena may put even more pressure on Guidant's pending $25.4 billion acquisition by health-care giant Johnson & Johnson, which last week indicated it was taking a second look at the deal.

"It might make the cloud over the company and its merger just a little bit darker," said Thomas Gunderson, a securities analyst with Piper Jaffray.

After targeting fraud and winning hundreds of millions of dollars in settlements from hospitals, home-care facilities and drug companies, the feds recently have been setting their sights on the medical-device industry.

"It's a continuation of what we thought would happen," Gunderson said.

A number of device makers already have been hit by federal investigations: Eden Prairie-based Augustine Medical (now Arizant), Medtronic's spine division in Memphis, Tenn., and Plano, Texas-based Advanced Neuromodulation Systems (which recently agreed to be bought by St. Jude for $1.3 billion).

END

Indianapolis Star
October 27, 2005

New risk to merger: Guidant subpoenas; U.S. attorneys want documents on heart devices; doubts grow about deal with Johnson & Johnson

By Jeff Swiatek

Guidant Corp. has been served with two federal subpoenas seeking documents about its troubled heart device business, raising further questions about whether it can seal its merger with Johnson & Johnson.

The Indianapolis medical device maker was vague about the reasons for the subpoenas, but at least one seems related to Guidant's recalls of its main brands of implantable defibrillators during the summer.

That's another dose of bad news for Guidant, which is trying to get back into the good graces of its would-be acquirer. Earlier issues had pushed back the completion of the deal beyond September, when both companies had hoped to wrap it up.

Johnson & Johnson dropped a loud hint last week that it may want to change the terms of the $25 billion buyout because of product quality problems Guidant has been having. Some observers said Johnson & Johnson apparently was trying to reduce the acquisition price.

"You have to consider this a real threat to the deal as currently structured," said Walter E. Birch, a director of the New York executive search firm Michael Kelly Associates who is a former vice president at a mergers and acquisitions firm.

"Clearly this will give them (Johnson & Johnson) the opportunity to either renegotiate the deal or walk away from it, if the subpoenas are in any way meaningful, which they appear to be," he said.

Guidant's statement did not elaborate on the subpoenas or comment on the status of the Johnson & Johnson deal, which is in its final phase. The last regulatory hurdle is federal antitrust approval, which both companies expected to occur this month.

Investor doubts about the merger grew after five product recalls by Guidant last spring and summer. The recalls affected more than 100,000 pacemakers and defibrillators used by heart patients worldwide. At least two deaths were linked to the product problems.
Also during the summer, the Food and Drug Administration inspected the plants in St. Paul, Minn., where Guidant makes its heart rhythm products. FDA inspectors cited Guidant for 15 violations, which the company is required to address.

Guidant spokesman Steve Tragash did not return a call for comment.

Guidant's stock price fell $2.25 a share Wednesday, to close at $62.45, well below the $76 purchase offer from Johnson & Johnson 10 months ago.

The closing price was also below the $64.10 it settled at last week after a Johnson & Johnson executive dropped the news that the New Jersey company was looking at alternatives to the proposed deal because of the product quality problems and regulatory investigations at Guidant.

Guidant said it would comply with the subpoenas, which it disclosed late Tuesday.

One subpoena, from the U.S. attorney's office in Minneapolis, wants documents specifically for Guidant's Ventak Prizm and Contak Renewal defibrillators, Guidant said. The Contak Renewal brand was pulled from the market for about five weeks during the summer to design a fix for an internal switch problem that could pose a danger to patients.

The other subpoena, from the U.S. attorney's office in Boston, seeks documents concerning Guidant's pacemakers, defibrillators and related products, Guidant said.

Two other medical device makers, Medtronic and St. Jude Medical, both based in Minnesota, also reported receiving subpoenas from the U.S. attorney's office in Boston.

Medtronic said its subpoena included a request for the company's training and compliance materials relating to fraud and abuse and anti-kickback statutes.

The focus of that subpoena from the Boston office appears to be on Medicare fraud and abuse regulations that have to do with companies using financial inducements to persuade doctors to use their products, Thom Gunderson, a senior research analyst for Piper Jaffray & Co. investment firm, said in a note to investors.

Gunderson said Department of Justice investigations done through U.S. attorneys offices can last for years. One investigation begun in 1998 at Boston Scientific Corp., another medical device maker, wasn't settled until this past June, when Boston agreed to pay $74 million to settle a criminal probe into a recall of its heart stent.

Guidant itself underwent a long federal probe of its former California-based business that made abdominal aortic grafts. That investigation ended with Guidant pleading guilty to covering up thousands of serious medical problems with its graft product and paying a $92 million fine to the government. Guidant later dropped that business.

Dropping the heart rhythm business, however, is hardly an option for Guidant. It accounted for about half

of its $3.76 billion in revenue last year and is the most attractive part of Guidant for Johnson & Johnson.

Birch, the former merger specialist, said uncertainty over the federal probe at Guidant could prompt Johnson & Johnson to request an extension to the merger deadline of February.

But "J&J would have to be willing to walk away from the deal to pull that off," he said.

The merger agreement calls for Johnson & Johnson to close the acquisition within two business days after all terms of the deal are met. All the terms appear to be met except the antitrust approval, which may require Johnson & Johnson to sell parts of either companies' businesses.

Johnson & Johnson spokesman Jeffrey Leebaw did not return a call for comment.

END

The Legal Intelligencer
10-27-2005

3rd Circuit Rules FDA May Order Restitution Over Unapproved Drugs

Shannon P. Duffy

In a significant victory for the Food and Drug Administration, a federal appeals court has ruled that the agency has the right to demand restitution for consumers from companies that sell unapproved drugs.

In its 42-page opinion in *United States v. Lane Labs-USA Inc.*, a unanimous three-judge panel rejected the argument that the FDA cannot demand restitution because the federal Food Drug and Cosmetic Act does not expressly provide for such a remedy.

"Whether or not Congress specifically contemplated restitution under the FDCA, the ability to order this remedy is within the broad equitable power granted to the district courts to further the economic protection purposes of the statute," 3rd Circuit Judge Marjorie O. Rendell wrote in an opinion joined by Judges Maryanne Trump Barry and Edward R. Becker.

The decision upholds a ruling by U.S. District Judge William G. Bassler of the District of New Jersey that required Lane Labs to pay $109 million in restitution to consumers who purchased products that contained shark cartilage and were pitched as treatments for cancer and HIV.

For the FDA, the ruling is a significant endorsement of its practice in recent years to demand not only injunctions, but also disgorgement of profits and restitution.

In the appeal, Lane Labs was supported by an amicus brief from the Washington Legal Foundation that urged the court to reverse Bassler on the grounds that restitution is not authorized anywhere in the text of the FDCA.

WLF attorneys Daniel J. Popeo and Richard A. Samp, along with attorney Jeffrey A. Lamken of Baker Botts in Washington, D.C., argued that the FDCA gives courts the power to "restrain" violations, but does not allow for "backward-looking monetary relief."

Allowing courts to order restitution, they argued, is inconsistent with the FDCA's structure which "provides carefully calibrated remedies for each type of violation, including restitution for other violations but not the violations at issue here."

Bassler's ruling, they argued, "reflects a mode of statutory construction that has a dangerous tendency to

expand judicial authority at the expense of the policy judgments Congress itself has made."

Rendell disagreed and found that a pair of decisions from the U.S. Supreme Court "has mapped out the contours of a district court's equitable powers in much more expansive terms."

In its 1946 decision in *Porter v. Warner Holding Co.*, the Supreme Court was faced with the question of whether the Emergency Price Control Act of 1942 allowed the Office of Price Administration to seek restitution to tenants who had been charged excessive rents.

The justices held that although the law did not explicitly grant the power to order restitution, such power was within a district court's equitable jurisdiction.

Rendell found that, based on the "clear and sweeping language" in *Porter*, "it would appear that a district court sitting in equity may order restitution unless there is an explicit statutory limitation on the district courts equitable jurisdiction and powers."

And in the 1960 decision in *Mitchell v. Robert de Mario Jewelry Inc.*, Rendell said, the Supreme Court "not only reinforced its ruling in *Porter*, but expanded its scope as well."

In *Mitchell*, the secretary of labor brought an action under the Fair Labor Standards Act to enjoin discrimination against three employees who sought to recover unpaid wages. The suit also demanded reimbursement of wages lost by the employees who were victims of the discrimination.

The high court held that the secretary had the right to demand the wage reimbursement because "when a statutory provision gives the courts power to 'enforce prohibitions' contained in a regulation or statute, Congress will be deemed to have granted as much equitable authority as is necessary to further the underlying purposes and policies of the statute."

Rendell found that, when read together, the *Porter* and *Mitchell* decisions "charted an analytical course that seems fairly easy to follow."

The combined lesson of the two decisions, Rendell said, is that a district court sitting in equity may order restitution "unless there is a clear statutory limitation on the district court's equitable jurisdiction and powers," and that restitution is permitted "only where it furthers the purposes of the statute."

In the years since *Porter* and *Mitchell*, Rendell found that only one other appellate court has addressed the question of whether the FDA has the right to seek restitution and concluded that it did.

In its 1999 decision in *United States v. Universal Management Services Inc.*, the 6th Circuit upheld a restitution order imposed on a company that marketed electric gas grill lighters equipped with finger grips as pain reliving devices without obtaining FDA approval.

The Universal Management court held that nothing in the FDCA precludes a district court from ordering restitution and that it was an appropriate remedy to make victims whole.

Since then, the FDA has increasingly used its newfound power. Just two months after Universal Management was decided, the FDA's suit against Abbott Laboratories settled with the company agreeing to pay $100 million.

In October 2000, Wyeth-Ayerst agreed to pay $30 million in disgorgement as part the remedial measures implemented under a consent decree. And in May 2002, Schering-Plough paid $500 million for equitable disgorgement as part of a consent decree.

The trend set off a flurry of criticism from legal commentators who argued that *Porter* and *Mitchell* do not, or should not, authorize courts to order restitution or disgorgement under the FDCA.

But Rendell found that the commentators and the WLF were taking too narrow a reading of *Porter* and *Mitchell*.

"Their central claim is that awarding restitution under the FDCA would rewrite or improperly expand the remedies available under the statute," Rendell wrote.

"They argue that the ability under [the FDCA] 'to restrain violations' contemplates only forward-looking remedies and that this mandate excludes restitution."

But Rendell found that those arguments "were considered and rejected by the Supreme Court in *Porter* and *Mitchell*," and "essentially replicate the positions of the justices who wrote in dissent in each case."

Under a proper reading of *Porter* and *Mitchell*, Rendell found that the FDCA must be read to allow restitution.

"Since Congress has placed no unambiguous restriction on equity jurisdiction under [the FDCA], the arguments of amicus and other commentators are little more than entreaties that we ignore or overrule *Porter* and *Mitchell*, neither of which we have the power to do," Rendell wrote.

Rendell found that the commentators made "a fundamental error" when analyzing whether restitution is available.

"They view this primarily as a question of what remedies are provided by the FDCA rather than, as we have emphasized, a question of the scope of the express legislative grant of equitable power," Rendell wrote.

Bassler, she said, "did not 'discover' an implied remedy, but rather exercised the equitable power that Congress explicitly granted to it under the FDCA."

END

Beach, Andrew

From: Beach, Andrew
Sent: Thursday, October 27, 2005 11:57 AM
To: Sampson, Kyle; Scolinos, Tasia; Brand, Rachel
Cc: Gorsuch, Neil M
Subject: Council on Foreign Relations (New York)

the Council on Foreign Relations would like the AG to speak on thursday, December 1 at a 5:30 PM meeting in New York.
are we happy with that date and time? they already had a fairly full schedule for that week, but they say they can make that date/time work.

Subject: Council on Foreign Relations (New York)
Start: Thu 12/1/05 5:30 PM
End: Thu 12/1/05 7:00 PM

POC: Jennifer; email jberlin@cfr.org

Beach, Andrew

From: Beach, Andrew
Sent: Thursday, October 27, 2005 11:57 AM
To: Beach, Andrew; Sampson, Kyle; Scolinos, Tasia; Brand, Rachel
Cc: Gorsuch, Neil M; Elwood, Courtney
Subject: RE: Council on Foreign Relations (New York)

cc'g Courtney.

-----Original Message-----
From: Beach, Andrew
Sent: Thursday, October 27, 2005 11:57 AM
To: Sampson, Kyle; Scolinos, Tasia; Brand, Rachel
Cc: Gorsuch, Neil M
Subject: Council on Foreign Relations (New York)

the Council on Foreign Relations would like the AG to speak on thursday, December 1 at a 5:30 PM meeting in New York.
are we happy with that date and time? they already had a fairly full schedule for that week, but they say they can make that date/time work.

Subject: Council on Foreign Relations (New York)
Start: Thu 12/1/05 5:30 PM
End: Thu 12/1/05 7:00 PM

POC: Jennifer; email jberlin@cfr.org

Sampson, Kyle

From: Sampson, Kyle
Sent: Thursday, October 27, 2005 12:14 PM
To: Beach, Andrew; Scolinos, Tasia; Brand, Rachel
Cc: Gorsuch, Neil M; Elwood, Courtney
Subject: RE: Council on Foreign Relations (New York)

Perfect.

-----Original Message-----
From: Beach, Andrew
Sent: Thursday, October 27, 2005 11:57 AM
To: Beach, Andrew; Sampson, Kyle; Scolinos, Tasia; Brand, Rachel
Cc: Gorsuch, Neil M; Elwood, Courtney
Subject: RE: Council on Foreign Relations (New York)

cc'g Courtney.

-----Original Message-----
From: Beach, Andrew
Sent: Thursday, October 27, 2005 11:57 AM
To: Sampson, Kyle; Scolinos, Tasia; Brand, Rachel
Cc: Gorsuch, Neil M
Subject: Council on Foreign Relations (New York)

the Council on Foreign Relations would like the AG to speak on thursday, December 1 at a 5:30 PM meeting in New York.
are we happy with that date and time? they already had a fairly full schedule for that week, but they say they can make that date/time work.

Subject: Council on Foreign Relations (New York)
Start: Thu 12/1/05 5:30 PM
End: Thu 12/1/05 7:00 PM

POC: Jennifer; email jberlin@cfr.org

Scolinos, Tasia

From: Scolinos, Tasia
Sent: Thursday, October 27, 2005 12:45 PM
To: Sampson, Kyle; Beach, Andrew; Brand, Rachel
Cc: Gorsuch, Neil M; Elwood, Courtney
Subject: RE: Council on Foreign Relations (New York)

great - thanks!

-----Original Message-----
From: Sampson, Kyle
Sent: Thursday, October 27, 2005 12:14 PM
To: Beach, Andrew; Scolinos, Tasia; Brand, Rachel
Cc: Gorsuch, Neil M; Elwood, Courtney
Subject: RE: Council on Foreign Relations (New York)

Perfect.

-----Original Message-----
From: Beach, Andrew
Sent: Thursday, October 27, 2005 11:57 AM
To: Beach, Andrew; Sampson, Kyle; Scolinos, Tasia; Brand, Rachel
Cc: Gorsuch, Neil M; Elwood, Courtney
Subject: RE: Council on Foreign Relations (New York)

cc'g Courtney.

-----Original Message-----
From: Beach, Andrew
Sent: Thursday, October 27, 2005 11:57 AM
To: Sampson, Kyle; Scolinos, Tasia; Brand, Rachel
Cc: Gorsuch, Neil M
Subject: Council on Foreign Relations (New York)

the Council on Foreign Relations would like the AG to speak on thursday, December 1 at a 5:30 PM meeting in New York.
are we happy with that date and time? they already had a fairly full schedule for that week, but they say they can make that date/time work.

Subject: Council on Foreign Relations (New York)
Start: Thu 12/1/05 5:30 PM
End: Thu 12/1/05 7:00 PM

POC: Jennifer; email jberlin@cfr.org

Scolinos, Tasia

From: Scolinos, Tasia
Sent: Thursday, October 27, 2005 12:49 PM
To: Gorsuch, Neil M
Subject: Read: Council on Foreign Relations (New York)

Williams, Jan

From: Williams, Jan
Sent: Thursday, October 27, 2005 1:25 PM
To: Gorsuch, Neil M
Subject: RE: CPO idea

do you want to talk to [redacted] on the phone sometine early next week?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, October 27, 2005 1:20 PM
To: Williams, Jan
Subject: RE: CPO idea

Interesting resume; I'd be happy to speak with him. Too bad about [redacted]. How about [redacted]?

-----Original Message-----
From: Williams, Jan
Sent: Thursday, October 27, 2005 11:32 AM
To: Gorsuch, Neil M
Subject: CPO idea

<< File: [redacted]_res_6_05[1].doc >>

here is another idea for CPO. he has managed privacy issues at Koch as GC. he is interested. he will be in town next week. interested?

btw, [redacted] wants to stay at OPM.

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Thursday, October 27, 2005 1:41 PM
To: Gorsuch, Neil M
Subject: RE: interview tomorrow w/ [redacted]

Let me check with the AG's office. She is meeting with them first.

Currie

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, October 27, 2005 1:20 PM
To: Gunn, Currie (SMO)
Subject: interview tomorrow w/ [redacted]

can we move it a little earlier -- eg 330? I need to be somewhere at 430 if possible...

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Beach, Andrew

Subject:	Discuss Council on Foreign Relations speech
Location:	Kyle's Office
Start:	Friday, October 28, 2005 9:30 AM
End:	Friday, October 28, 2005 9:45 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia

When: Friday, October 28, 2005 9:30 AM-9:45 AM (GMT-05:00) Eastern Time (US & Canada).
Where: Kyle's Office

~~*~*~*~*~*~*~*~*~*

Saull, Bradley (CRT)

From: Saull, Bradley (CRT)
Sent: Thursday, October 27, 2005 3:41 PM
To: Gorsuch, Neil M
Cc: Gellert, Karl (CRT)
Subject: AAG Schlozman and Turkish Embassy Event Tonight

Good afternoon,

AAG Schlzoman sought approval to attend a reception tonight at the Turkish Embassy. Luis Reyes advised me that the matter is in your hands currently and that I should follow up with you.

Thanks,

Bradley J. Saull

Confidential Assistant to the Assistant Attorney General
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Phone: (202) 514-2151
Fax: (202) 514-0293
E-Mail: Bradley.Saull@usdoj.gov

Gunn, Currie (SMO)

Subject:	Updated: Interview w/ [redacted] candidate for Chief Privacy Officer
Location:	OASG Office
Start:	Friday, October 28, 2005 3:30 PM
End:	Friday, October 28, 2005 4:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M

When: Friday, October 28, 2005 3:30 PM-4:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: OASG Office

~~*~*~*~*~*~*~*~*~*

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG

POC: Currie x4-9500

Saull, Bradley (CRT)

From: Saull, Bradley (CRT)
Sent: Thursday, October 27, 2005 5:32 PM
To: Gorsuch, Neil M
Subject: Read: AAG Schlozman and Turkish Embassy Event Tonight

Saull, Bradley (CRT)

From: Saull, Bradley (CRT)
Sent: Thursday, October 27, 2005 5:32 PM
To: Gorsuch, Neil M
Subject: RE: AAG Schlozman and Turkish Embassy Event Tonight

Thanks.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, October 27, 2005 5:31 PM
To: Saull, Bradley (CRT); Reyes, Luis (SMO)
Cc: Gellert, Karl (CRT)
Subject: RE: AAG Schlozman and Turkish Embassy Event Tonight

I signed off yesterday. Robert should have it and Lu has kindly agreed to get signed version to you.
-----Original Message-----
From: Saull, Bradley (CRT)
Sent: Thursday, October 27, 2005 3:41 PM
To: Gorsuch, Neil M
Cc: Gellert, Karl (CRT)
Subject: AAG Schlozman and Turkish Embassy Event Tonight

Good afternoon,

AAG Schlzoman sought approval to attend a reception tonight at the Turkish Embassy. Luis Reyes advised me that the matter is in your hands currently and that I should follow up with you.

Thanks,

Bradley J. Saull

Confidential Assistant to the Assistant Attorney General
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Phone: (202) 514-2151
Fax: (202) 514-0293
E-Mail: Bradley.Saull@usdoj.gov

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, October 27, 2005 5:36 PM
To: Gorsuch, Neil M
Subject: Read: AAG Schlozman and Turkish Embassy Event Tonight

Elwood, Courtney

From: Elwood, Courtney
Sent: Thursday, October 27, 2005 5:50 PM
To: Gorsuch, Neil M
Subject: Read: Council on Foreign Relations (New York)

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, October 27, 2005 5:56 PM
To: Gorsuch, Neil M; Saull, Bradley (CRT); Schlozman, Brad (CRT)
Cc: Gellert, Karl (CRT)
Subject: Re: AAG Schlozman and Turkish Embassy Event Tonight

Signed and clear to go

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Saull, Bradley (CRT) <Bradley.Saull@crt.usdoj.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
CC: Gellert, Karl (CRT) <Karl.Gellert@crt.usdoj.gov>
Sent: Thu Oct 27 17:30:46 2005
Subject: RE: AAG Schlozman and Turkish Embassy Event Tonight

I signed off yesterday. Robert should have it and Lu has kindly agreed to get signed version to you.
-----Original Message-----
From: Saull, Bradley (CRT)
Sent: Thursday, October 27, 2005 3:41 PM
To: Gorsuch, Neil M
Cc: Gellert, Karl (CRT)
Subject: AAG Schlozman and Turkish Embassy Event Tonight

Good afternoon,

AAG Schlzoman sought approval to attend a reception tonight at the Turkish Embassy. Luis Reyes advised me that the matter is in your hands currently and that I should follow up with you.

Thanks,

Bradley J. Saull

Confidential Assistant to the Assistant Attorney General
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Phone: (202) 514-2151
Fax: (202) 514-0293
E-Mail: Bradley.Saull@usdoj.gov

Moschella, William

Subject:	Graham Amendment
Location:	SR -- 290
Start:	Friday, October 28, 2005 10:00 AM
End:	Friday, October 28, 2005 11:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Moschella, William
Required Attendees:	Gorsuch, Neil M; Nichols, Carl (CIV)

When: Friday, October 28, 2005 10:00 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: SR -- 290

~~*~*~*~*~*~*~*~*~*

James Galyean
Meredith Moseley
Jen Olsen
Joe Matal

Moschella, William

Subject:	Car to Russell
Location:	9th Street Gate
Start:	Friday, October 28, 2005 9:45 AM
End:	Friday, October 28, 2005 10:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Moschella, William
Required Attendees:	Nichols, Carl (CIV); Gorsuch, Neil M

When: Friday, October 28, 2005 9:45 AM-10:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 9th Street Gate

~~*~*~*~*~*~*~*~*~*

Nowacki, John

From: Nowacki, John
Sent: Friday, October 28, 2005 8:41 AM
To: Gorsuch, Neil M
Subject: Ethics questions

Neil,

Do you know who is the go-to person for ethics questions in the Department? I know in the past a lot of these questions went to Brian Boyle, but I'm not sure where to direct them now that he's gone.

Thanks.
John

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, October 28, 2005 9:16 AM
To: Gorsuch, Neil M
Subject: Frank Jimenez is unable to attend the hearing this morning.

From: USDOJ- Office of Public Affairs
Sent: Friday, October 28, 2005 9:22 AM
To: USDOJ- Office of Public Affairs
Subject: MEDIA ADVISORY: SPECIAL COUNSEL PATRICK J. FITZGERALD TO HOLD PRESS CONFERENCE

Office of Special Counsel

Patrick J. Fitzgerald
Special Counsel

Chicago Office: *Dirksen Federal Building*
219 South Dearborn Street, Fifth Floor
Chicago, Illinois 60604

Washington Office: *Bond Federal Building*
1400 New York Avenue, Ninth Floor
Washington, DC 20530
Please address all correspondence to the Washington Office

FOR IMMEDIATE RELEASE
FRIDAY OCTOBER 28, 2005
WWW.USDOJ.GOV/USAO/ILN/OSC

PRESS CONTACTS:
DOJ Public Affairs(202) 514-2007
TDD (202) 514-1888

*********MEDIA ADVISORY*********

SPECIAL COUNSEL PATRICK J. FITZGERALD TO HOLD PRESS CONFERENCE

Washington, D.C. -- U.S. Department of Justice Special Counsel Patrick J. Fitzgerald will hold a press conference at 2:00 P.M. EDT today, Friday October 28, 2005, regarding the status of the Special Counsel's criminal investigations.

WHO: Special Counsel Patrick J. Fitzgerald
FBI Special Agent-in-Charge John C. Eckenrode

WHAT: Release of public information and press conference

WHERE: Department of Justice
7th Floor Conference Center
950 Constitution Avenue, N.W.
Washington, D.C. 20530

NOTE: **7th floor access to reporters at 11 A.M. EDT**
Cameras allowed access at noon EDT
Cameras must pre-set by 1:00 P.M. EDT

NO LIVE SHOTS INSIDE JUSTICE DEPARTMENT UNTIL 1:45 P.M. DUE TO SPACE LIMITATIONS

DOJ_NMG_ 0148815

NOTE: ALL MEDIA MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as driver's license) as well as VALID MEDIA CREDENTIALS. ONCE MEDIA ARE ESCORTED TO THE 7th FLOOR, THEY MUST REMAIN UNTIL THE CONCLUSION OF THE PRESS CONFERENCE. Press inquiries regarding logistics should be directed to the Department of Justice at (202) 514-2007.

# # # #

DOJ_NMG_ 0148816

Image not available for this document, ID: 0.7.10316.36095-000001

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, October 28, 2005 9:29 AM
To: Gorsuch, Neil M
Subject: Rich Hertling 4-9114

Swenson, Lily F

From: Swenson, Lily F
Sent: Friday, October 28, 2005 10:40 AM
To: Gorsuch, Neil M
Subject: lunch today

Are you going to the Judge McKeown lunch?

Murphy, Stephen J. (USAMIE)

From: Murphy, Stephen J. (USAMIE)
Sent: Friday, October 28, 2005 11:50 AM
To: Gorsuch, Neil M
Cc: Gershel, Alan (USAMIE)
Subject: RE: A/C waiver
Attachments: tmp.htm

Neil --

I have a draft policy in the hands of our criminal chief (Alan Gershel who I am cc'ing with this). He is going to meet early next week with our Ecominc Crimes chief and lead corporate fraud AUSA. They will hammer out what in all likelihood will be our final policy. I can send that to you then or, if you need it now, the more crude draft I wrote. Either way, it will be very short.

Thanks for the inquiry and take care, SJM

From: Gorsuch, Neil M
Sent: Friday, October 28, 2005 11:43 AM
To: Murphy, Stephen J. (USAMIE)
Subject: A/C waiver

Steve, Another USAO has asked whether we can recommend any model A/C waiver policies for their consideration. I recall that you were working on a new, state of the art policy and wonder whether it might yet be in a position that you could share it. Warm regards, NMG

Neil --

I have a draft policy in the hands of our criminal chief (Alan Gershel who I am cc'ing with this). He is going to meet early next week with our Ecominc Crimes chief and lead corporate fraud AUSA. They will hammer out what in all likelihood will be our final policy. I can send that to you then or, if you need it now, the more crude draft I wrote. Either way, it will be very short.

Thanks for the inquiry and take care, SJM

From: Gorsuch, Neil M
Sent: Friday, October 28, 2005 11:43 AM
To: Murphy, Stephen J. (USAMIE)
Subject: A/C waiver

Steve, Another USAO has asked whether we can recommend any model A/C waiver policies for their consideration. I recall that you were working on a new, state of the art policy and wonder whether it might yet be in a position that you could share it. Warm regards, NMG

Gershel, Alan (USAMIE)

From: Gershel, Alan (USAMIE)
Sent: Friday, October 28, 2005 11:56 AM
To: Gorsuch, Neil M; Murphy, Stephen J. (USAMIE)
Subject: RE: A/C waiver
Attachments: tmp.htm

Neil Steve, there has been a great deal of e-mail traffic among the criminal chiefs the last few days. Folks have been looking for models. I have only gotten my hands on one which I will be happy to send you along with ours after Steve approves it.

Alan

From: Murphy, Stephen J. (USAMIE)
Sent: Friday, October 28, 2005 11:50 AM
To: Gorsuch, Neil M
Cc: Gershel, Alan (USAMIE)
Subject: RE: A/C waiver

Neil --

I have a draft policy in the hands of our criminal chief (Alan Gershel who I am cc'ing with this). He is going to meet early next week with our Ecominc Crimes chief and lead corporate fraud AUSA. They will hammer out what in all likelihood will be our final policy. I can send that to you then or, if you need it now, the more crude draft I wrote. Either way, it will be very short.

Thanks for the inquiry and take care, SJM

From: Gorsuch, Neil M
Sent: Friday, October 28, 2005 11:43 AM
To: Murphy, Stephen J. (USAMIE)
Subject: A/C waiver

Steve, Another USAO has asked whether we can recommend any model A/C waiver policies for their consideration. I recall that you were working on a new, state of the art policy and wonder whether it

might yet be in a position that you could share it. Warm regards, NMG

Neil Steve, there has been a great deal of e-mail traffic among the criminal chiefs the last few days. Folks have been looking for models. I have only gotten my hands on one which I will be happy to send you along with ours after Steve approves it.

Alan

From: Murphy, Stephen J. (USAMIE)
Sent: Friday, October 28, 2005 11:50 AM
To: Gorsuch, Neil M
Cc: Gershel, Alan (USAMIE)
Subject: RE: A/C waiver

Neil --

I have a draft policy in the hands of our criminal chief (Alan Gershel who I am cc'ing with this). He is going to meet early next week with our Ecominc Crimes chief and lead corporate fraud AUSA. They will hammer out what in all likelihood will be our final policy. I can send that to you then or, if you need it now, the more crude draft I wrote. Either way, it will be very short.

Thanks for the inquiry and take care, SJM

From: Gorsuch, Neil M
Sent: Friday, October 28, 2005 11:43 AM
To: Murphy, Stephen J. (USAMIE)
Subject: A/C waiver

Steve, Another USAO has asked whether we can recommend any model A/C waiver policies for their consideration. I recall that you were working on a new, state of the art policy and wonder whether it might yet be in a position that you could share it. Warm regards, NMG

Beach, Andrew

Subject:	Updated: Strategic Initiatives
Location:	OAG Conf Rm 5228
Start:	Tuesday, November 01, 2005 10:30 AM
End:	Tuesday, November 01, 2005 11:30 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 1:30 PM to 2:30 PM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG); Nelson, Carrie; Goodling, Monica

When: Tuesday, November 01, 2005 9:30 AM-10:30 AM (GMT-05:00) Eastern Time (US & Canada).
Where: OAG Conf Rm 5228

~~*~*~*~*~*~*~*~*~*

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Carrie Nelson

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, October 28, 2005 12:58 PM
To: USDOJ- Office of Public Affairs
Subject: OFFICE OF SPECIAL COUNSEL PRESS RELEASE
Attachments: Libby press release.pdf

Office of Special Counsel

Chicago Office: Dirksen Federal Building *Washington Office: Bond Federal Building*

Patrick J. Fitzgerald
Special Counsel

219 South Dearborn Street, Fifth Floor
Chicago, Illinois 60604

1400 New York Avenue NW, Ninth Floor
Washington, DC 20530

Please address all correspondence to the Washington Office

FOR IMMEDIATE RELEASE
FRIDAY OCTOBER 28, 2005
WWW.USDOJ.GOV/USAO/ILN/OSC

PRESS CONTACT:
Randall Samborn (312) 613-6700
(312) 353-5318

WHITE HOUSE OFFICIAL I. LEWIS LIBBY INDICTED ON OBSTRUCTION OF JUSTICE, FALSE STATEMENT AND PERJURY CHARGES RELATING TO LEAK OF CLASSIFIED INFORMATION REVEALING CIA OFFICER'S IDENTITY

WASHINGTON – Senior White House official **I. Lewis Libby** was indicted today on obstruction of justice, false statement and perjury charges for allegedly lying about how and when in 2003 he learned and subsequently disclosed to reporters then-classified information concerning the employment of Valerie Wilson by the Central Intelligence Agency. Libby was charged with one count of obstruction of justice, two counts of perjury and two counts of making false statements in a five-count indictment returned today by a federal grand jury as its term expired, announced Justice Department Special Counsel Patrick J. Fitzgerald.

The defendant, also known as "Scooter" Libby, has served since January 20, 2001, as Assistant to the President, Chief of Staff to the Vice President, and Assistant to the Vice President for National Security Affairs. Libby, 55, will be arraigned at a later date in U.S. District Court for the District of Columbia.

The charges allege that Libby lied to FBI agents who interviewed him on October 14 and November 26, 2003; committed perjury while testifying under oath before the grand jury on March 5 and March 24, 2004; and engaged in obstruction of justice by impeding the grand jury's investigation

into the unauthorized disclosure – or "leaking" – of Valerie Wilson's affiliation with the CIA to various reporters in the spring of 2003.

Beginning in late May 2003, Libby allegedly began acquiring information about a 2002 trip to the African country of Niger by Joseph Wilson, a former United States Ambassador and career State Department official, to investigate allegations concerning efforts by the former government of Iraq to acquire uranium yellowcake, a processed form of uranium ore. The CIA decided on its own initiative to send Wilson to Niger after an inquiry to the CIA by the Vice President concerning certain intelligence reporting. Wilson orally reported his findings to the CIA upon his return. Subsequently, Libby allegedly lied about information he discussed about the CIA employment of Wilson's wife, Valerie Plame Wilson, in conversations Libby had in June and July 2003 with three news reporters – Tim Russert of *NBC News,* Matt Cooper of *Time* magazine, and Judith Miller of *The New York Times*.

Prior to July 14, 2003, Valerie Wilson's employment status was classified. Prior to that date, her affiliation with the CIA was not common knowledge outside the intelligence community. Disclosure of classified information about an individual's employment by the CIA has the potential to damage the national security in ways that range from preventing that individual's future use in a covert capacity, to compromising intelligence-gathering methods and operations, and endangering the safety of CIA employees and those who deal with them, the indictment states.

"When citizens testify before grand juries they are required to tell the truth," Mr. Fitzgerald said. "Without the truth, our criminal justice system cannot serve our nation or its citizens. The requirement to tell the truth applies equally to all citizens, including persons who hold high positions in government. In an investigation concerning the compromise of a CIA officer's identity, it is especially important that grand jurors learn what really happened. The indictment returned today alleges that the efforts of the

DOJ_NMG_ 0148828

grand jury to investigate such a leak were obstructed when Mr. Libby lied about how and when he learned and subsequently disclosed classified information about Valerie Wilson," he added.

Mr. Fitzgerald announced the charges with John C. Eckenrode, Special Agent-in-Charge of the Philadelphia Field Office of the FBI and the lead agent in the investigation. The Washington Field Office and the Inspection Division of the FBI assisted in the investigation.

The indictment alleges that Libby had frequent access to classified information and frequently spoke with officials of the U.S. intelligence community and other government officials regarding sensitive national security matters. With his responsibilities for national security matters, Libby held security clearances giving him access to classified information. Libby was obligated by federal criminal statute, regulations, executive orders, and a written non-disclosure agreement not to disclose classified information to unauthorized persons, and to properly safeguard classified information against unauthorized disclosure.

According to the indictment, on September 26, 2003, the Department of Justice and the FBI began a criminal investigation into the possible unauthorized disclosure of classified information regarding Valerie Wilson's CIA affiliation to various reporters in the spring of 2003. In January 2004, the grand jury investigation began examining possible violations of criminal laws prohibiting disclosing the identity of covert intelligence personnel (The Intelligence Identities Protection Act), improperly disclosing national defense information, making false statements to government agents, and perjury. A major focus of the grand jury investigation was to determine which government officials had disclosed to the media prior to July 14, 2003, information concerning Valerie Wilson's CIA affiliation, and the nature, timing, extent, and purpose of such disclosures, as well as whether any official made such a disclosure knowing that Valerie Wilson's employment by the CIA was classified information.

DOJ_NMG_ 0148829

The over-arching obstruction of justice count alleges that while testifying under oath before the grand jury on March 5 and March 24 2004, Libby knowingly and corruptly endeavored to influence, obstruct and impede the grand jury's investigation by misleading and deceiving the grand jury as to when, and the manner and means by which, he acquired, and subsequently disclosed to the media, information concerning the employment of Valerie Wilson by the CIA. The obstruction count alleges that Libby made the following materially false and intentionally misleading statements:

- When Libby spoke with Tim Russert of *NBC* on or about July 10, 2003, Russert asked Libby if Libby knew that Wilson's wife worked for the CIA, and told Libby that all the reporters knew it; and Libby was surprised to hear that Wilson's wife worked for the CIA; when, in fact, Libby knew Russert did not ask Libby if Libby knew that Wilson's wife worked for the CIA, nor did Russert tell Libby that all the reporters knew it. And, at the time of this conversation, Libby was well aware that Wilson's wife worked at the CIA and Libby had participated in multiple prior conversations concerning this topic;

- Libby advised Matt Cooper of *Time* magazine on or about July 12, 2003, that he had heard that other reporters were saying that Wilson's wife worked for the CIA, and further advised him that Libby did not know whether this assertion was true; when, in fact, Libby did not advise Cooper during that conversation that Libby had heard other reporters were saying that Wilson's wife worked for the CIA, nor did Libby advise him that Libby did not know whether this assertion was true. Rather, Libby confirmed to Cooper, without qualification, that Libby had heard that Wilson's wife worked at the CIA; and

- Libby advised Judith Miller of *The New York Times* on or about July 12, 2003, that he had heard that other reporters were saying that Wilson's wife worked for the CIA but Libby did not know whether that assertion was true; when, in fact, Libby did not advise Miller during that conversation that Libby had heard other reporters were saying that Wilson's wife worked for the CIA, nor did Libby advise her that Libby did not know whether this assertion was true.

Among the events leading up to these conversations, on January 28, 2003, President Bush delivered his State of the Union address which included sixteen words asserting that "The British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa."

DOJ_NMG_ 0148830

On May 6, 2003, *The New York Times* published a column by Nicholas Kristof which disputed the accuracy of the "sixteen words" in the State of the Union address. The column reported that, following a request from the Vice President's office for an investigation of allegations that Iraq sought to buy uranium from Niger, an unnamed former ambassador was sent to Niger in 2002 to investigate the allegations. According to the column, the ambassador reported back to the CIA and State Department in early 2002 that the allegations were unequivocally wrong and based on forged documents.

According to the indictment, beginning in late May and throughout June, Libby participated in multiple conversations concerning Valerie Wilson's employment by the CIA, including on the following occasions:

- on or about May 29, 2003, in the White House, Libby asked an Undersecretary of State for information concerning the unnamed ambassador's travel to Niger. The Undersecretary thereafter directed the State Department's Bureau of Intelligence and Research to prepare a report concerning the ambassador and his trip. The Undersecretary provided Libby with interim oral reports in late May and early June 2003, and advised Libby that Wilson was the former ambassador who took the trip;

- on or about June 9, 2003, a number of classified documents from the CIA were faxed to the Office of the Vice President to the personal attention of Libby and another person in the Vice President's office. The documents, which bore classification markings, discussed, among other things, Wilson and his trip to Niger, but did not mention Wilson by name. After receiving these documents, Libby and one or more other persons in the Vice President's office handwrote the names "Wilson" and "Joe Wilson" on the documents;

- on or about June 11 or 12, 2003, Libby was orally advised by the Undersecretary of State that Wilson's wife worked for the CIA and that State Department personnel were saying that Wilson's wife was involved in the organization of his trip;

- on or about June 11, 2003, Libby was informed by a senior officer of the CIA that Wilson's wife was employed by the CIA and was believed to be responsible for sending Wilson on the trip;

DOJ_NMG_ 0148831

- prior to June 12, 2003, *Washington Post* reporter Walter Pincus contacted the Office of the Vice President about a story he was writing about Wilson's trip. Libby participated in discussions in the Vice President's office concerning how to respond to Pincus;

- on or about June 12, 2003, Libby was advised by the Vice President of the United States that Wilson's wife worked at the CIA in the Counterproliferation Division. Libby understood that the Vice President had learned this information from the CIA;

- on or about June 14, 2003, Libby met with a CIA briefer and expressed displeasure that CIA officials were making comments to reporters critical of the Vice President's office, and discussed with the briefer, among other things, "Joe Wilson" and his wife "Valerie Wilson," in the context of Wilson's trip to Niger;

- shortly after publication on or about June 19, 2003, of an article in *The New Republic* magazine online entitled "The First Casualty: The Selling of the Iraq War," Libby spoke by telephone with his then Principal Deputy and discussed the article. That official asked Libby whether information about Wilson's trip could be shared with the press to rebut the allegations that the Vice President had sent Wilson. Libby responded that there would be complications at the CIA in disclosing that information publicly, and that he could not discuss the matter on a non-secure telephone line; and

- on or about June 23, 2003, Libby met with Judith Miller of *The New York Times*. Libby was critical of the CIA and disparaged what he termed "selective leaking" by the CIA concerning intelligence matters. In discussing the CIA's handling of Wilson's trip to Niger, Libby informed Miller Wilson's wife might work at a bureau of the CIA.

On July 6, 2003, *The New York Times* published an opinion article by Joseph Wilson entitled "*What I Didn't Find in Africa*." On the same day, the *Washington Post* published an article about Wilson's 2002 trip to Niger, which was based partially on an interview of Wilson, and he was a guest on the television program "*Meet the Press*." In the article he wrote, as well as in the print and broadcast interviews of him, Wilson asserted, among other things, that he had taken a trip to Niger at the request of the CIA in February 2002 to investigate allegations that Iraq has sought or obtained uranium yellowcake from Niger, and that he doubted Iraq had obtained uranium from Niger recently, for a

DOJ_NMG_ 0148832

number of reasons. Wilson said that he believed, based on his understanding of government procedures, that the Vice President's office was advised of the results of his trip.

Following Wilson's July 6, 2003 statements, according to the indictment, Libby engaged in the following actions:

- on or about July 7, 2003, Libby had lunch with the then White House Press Secretary and advised that individual that Wilson's wife worked at the CIA, noting that such information was not widely known;

- on or about the morning of July 8, 2003, Libby met with Miller of *The New York Times*. When the conversation turned to the subject of Joseph Wilson, Libby asked that the information he provided on the topic of Wilson be attributed to a "former Hill staffer" rather than to a "senior administration official," as had been the understanding regarding other information that Libby provided to Miller during this meeting. Libby then discussed with Miller Wilson's trip and criticized the CIA reporting concerning Wilson's trip. During this discussion, Libby advised Miller of his belief that Wilson's wife worked for the CIA;

- also on or about July 8, 2003, Libby met with the Counsel to the Vice President in an anteroom outside the Vice President's office. During their brief conversation, Libby asked the individual what paperwork there would be at the CIA if an employee's spouse undertook an overseas trip;

- no earlier than June 2003 but on or before July 8, 2003, the Assistant to the Vice President for Public Affairs learned from another government official that Wilson's wife worked at the CIA and advised Libby of this information;

- on or about July 10, 2003, Libby spoke to *NBC's* Russert to complain about press coverage of Libby by an *MSNBC* reporter. Libby did not discuss Wilson's wife with Russert;

- on or about July 10 or July 11, 2003, Libby spoke to a senior White House official ("Official A") who advised Libby of a conversation Official A had earlier that week with columnist Robert Novak in which Wilson's wife was discussed as a CIA employee involved in Wilson's trip. Libby was advised by Official A that Novak would be writing a story about Wilson's wife;

- on or about July 12, 2003, Libby flew with the Vice President and others to and from Norfolk, Va., on Air Force Two. On his return trip, Libby discussed with other officials aboard the plane what Libby should say in response to certain pending media inquiries, including questions from *Time's* Cooper;

DOJ_NMG_ 0148833

- on or about July 12, 2003, in the afternoon, Libby spoke by telephone to Cooper, who asked whether Libby had heard that Wilson's wife was involved in sending Wilson on the trip to Niger. Libby confirmed to Cooper, without elaboration or qualification, that he had heard this information too; and

- on or about July 12, 2003, in the late afternoon, Libby spoke by telephone with Miller and discussed Wilson's wife, and that she worked at the CIA.

The false statement charge in Count Two of the indictment alleges that Libby lied to FBI agents on October14 and November 26, 2003, regarding the conversation with Russert on July 10, 2003. Count Three charges Libby with making false statements to FBI agents during the same FBI interviews in October and November 2003 relating to his July 12, 2003 conversation with Cooper.

The perjury charge in Count Four alleges that Libby lied while testifying under oath before the grand jury on March 5, 2004, about his conversation with Russert on July 10, 2003, because, in fact, Russert did not ask Libby if Libby knew that Wilson's wife worked for the CIA, nor did Russert tell Libby that all the reporters knew it, and at the time of their conversation, Libby was well aware that Wilson's wife worked at the CIA.

Count Five charges Libby with perjury before the grand jury for allegedly lying when he said that he told reporters that he was telling them what other reporters were saying – first, on March 5, 2004, about his conversation with Cooper on or about July 12, 2003, and second, on March 24, 2004, regarding conversations with reporters. In fact, Libby well knew that he did not advise Cooper or other reporters that he had heard other reporters were saying that Wilson's wife worked for the CIA, nor did Libby advise Cooper or other reporters that he did not know whether this assertion was true.

If convicted, the crimes charged in the indictment carry the following maximum penalties on each count: obstruction of justice – 10 years in prison, and making false statements and perjury –5 years in prison, and each count carries a maximum fine of $250,000, making the maximum penalty for

DOJ_NMG_ 0148834

conviction on all counts 30 years in prison and a $1.25 million fine. Note, however, that the Court would determine the appropriate sentence to be imposed.

The public is reminded that an indictment contains only charges and is not evidence of guilt. The defendant is presumed innocent and is entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

# # # #

DOJ_NMG_ 0148835

Herraiz, Domingo S.

From: Herraiz, Domingo S.
Sent: Friday, October 28, 2005 1:00 PM
To: Gorsuch, Neil M
Cc: Henke, Tracy (SMO); Janke, Hope D.; Hanson, Matthew
Subject: BJA Regionals

Neil - thanks so much for your interest in the BJA regional conferences. I do believe that you will find these events a great opportunity to see first hand not just the work of BJA, but more importantly the field's perspective on DOJ, OJP and BJA work. I would recommend one of the following two events for your consideration. If one of these work for you, let me know and we will get back with you and staff to handle all the arrangements.

Midwest Regional - November 8-9 in Minneapolis, MN; or West Regional - November 29-30 in Anaheim, CA

Domingo S. Herraiz
Director
Bureau of Justice Assistance
U.S. Department of Justice
202.353.2720

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, October 28, 2005 1:01 PM
To: USDOJ- Office of Public Affairs
Subject: OFFICE OF SPECIAL COUNSEL INDICTMENT
Attachments: Libby final indictment.pdf

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term
Grand Jury Sworn in on October 31, 2003

UNITED STATES OF AMERICA	) Criminal No.
	) GRAND JURY ORIGINAL
v.	) Count 1: Obstruction of Justice (18 U.S.C. § 1503)
	)
	) Counts 2-3: False Statements (18 U.S.C. § 1001(a)(2))
I. LEWIS LIBBY,	)
also known as "SCOOTER LIBBY"	) Counts 4-5: Perjury (18 U.S.C. § 1623)

INDICTMENT

COUNT ONE
(Obstruction of Justice)

THE GRAND JURY CHARGES:

1. At times material to this indictment:

Defendant's Employment and Responsibilities

a. Beginning on or about January 20, 2001, and continuing through the date of this indictment, defendant **I. LEWIS LIBBY**, also known as "**SCOOTER LIBBY**," was employed as Assistant to the President of the United States, Chief of Staff to the Vice President of the United States, and Assistant to the Vice President for National Security Affairs. In the course of his work, **LIBBY** had frequent access to classified information and frequently spoke with officials of the U.S. intelligence community, as well as other government officials, regarding sensitive national security matters.

b. In connection with his role as a senior government official with responsibilities for national security matters, **LIBBY** held security clearances entitling him to access

to classified information. As a person with such clearances, **LIBBY** was obligated by applicable laws and regulations, including Title 18, United States Code, Section 793, and Executive Order 12958 (as modified by Executive Order 13292), not to disclose classified information to persons not authorized to receive such information, and otherwise to exercise proper care to safeguard classified information against unauthorized disclosure. On or about January 23, 2001, **LIBBY** executed a written "Classified Information Nondisclosure Agreement," stating in part that "I understand and accept that by being granted access to classified information, special confidence and trust shall be placed in me by the United States Government," and that "I have been advised that the unauthorized disclosure, unauthorized retention, or negligent handling of classified information by me could cause damage or irreparable injury to the United States or could be used to advantage by a foreign nation."

The Central Intelligence Agency

c. The Central Intelligence Agency (CIA) was an agency of the United States whose mission was to collect, produce, and disseminate intelligence and counterintelligence information to officers and departments of the United States government, including the President, the National Security Council, and the Joint Chiefs of Staff.

d. The responsibilities of certain CIA employees required that their association with the CIA be kept secret; as a result, the fact that these individuals were employed by the CIA was classified. Disclosure of the fact that such individuals were employed by the CIA had the potential to damage the national security in ways that ranged from preventing the future use of those individuals in a covert capacity, to compromising intelligence-gathering methods and operations, and endangering the safety of CIA employees and those who dealt with them.

DOJ_NMG_ 0148839

Joseph Wilson and Valerie Plame Wilson

e. Joseph Wilson ("Wilson") was a former career State Department official who had held a variety of posts, including United States Ambassador. In 2002, after an inquiry to the CIA by the Vice President concerning certain intelligence reporting, the CIA decided on its own initiative to send Wilson to the country of Niger to investigate allegations involving Iraqi efforts to acquire uranium yellowcake, a processed form of uranium ore. Wilson orally reported his findings to the CIA upon his return.

f. Joseph Wilson was married to Valerie Plame Wilson ("Valerie Wilson"). At all relevant times from January 1, 2002 through July 2003, Valerie Wilson was employed by the CIA, and her employment status was classified. Prior to July 14, 2003, Valerie Wilson's affiliation with the CIA was not common knowledge outside the intelligence community.

Events Leading up to July 2003

2. On or about January 28, 2003, President George W. Bush delivered his State of the Union address which included sixteen words asserting that "The British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa."

3. On May 6, 2003, the *New York Times* published a column by Nicholas Kristof which disputed the accuracy of the "sixteen words" in the State of the Union address. The column reported that, following a request from the Vice President's office for an investigation of allegations that Iraq sought to buy uranium from Niger, an unnamed former ambassador was sent on a trip to Niger in 2002 to investigate the allegations. According to the column, the ambassador reported back to the CIA and State Department in early 2002 that the allegations were unequivocally wrong and based on forged documents.

DOJ_NMG_ 0148840

4. On or about May 29, 2003, in the White House, **LIBBY** asked an Under Secretary of State ("Under Secretary") for information concerning the unnamed ambassador's travel to Niger to investigate claims about Iraqi efforts to acquire uranium yellowcake. The Under Secretary thereafter directed the State Department's Bureau of Intelligence and Research to prepare a report concerning the ambassador and his trip. The Under Secretary provided **LIBBY** with interim oral reports in late May and early June 2003, and advised **LIBBY** that Wilson was the former ambassador who took the trip.

5. On or about June 9, 2003, a number of classified documents from the CIA were faxed to the Office of the Vice President to the personal attention of **LIBBY** and another person in the Office of the Vice President. The faxed documents, which were marked as classified, discussed, among other things, Wilson and his trip to Niger, but did not mention Wilson by name. After receiving these documents, **LIBBY** and one or more other persons in the Office of the Vice President handwrote the names "Wilson" and "Joe Wilson" on the documents.

6. On or about June 11 or 12, 2003, the Under Secretary of State orally advised **LIBBY** in the White House that, in sum and substance, Wilson's wife worked at the CIA and that State Department personnel were saying that Wilson's wife was involved in the planning of his trip.

7. On or about June 11, 2003, **LIBBY** spoke with a senior officer of the CIA to ask about the origin and circumstances of Wilson's trip, and was advised by the CIA officer that Wilson's wife worked at the CIA and was believed to be responsible for sending Wilson on the trip.

8. Prior to June 12, 2003, *Washington Post* reporter Walter Pincus contacted the Office of the Vice President in connection with a story he was writing about Wilson's trip. **LIBBY** participated in discussions in the Office of the Vice President concerning how to respond to Pincus.

DOJ_NMG_ 0148841

9. On or about June 12, 2003, **LIBBY** was advised by the Vice President of the United States that Wilson's wife worked at the Central Intelligence Agency in the Counterproliferation Division. **LIBBY** understood that the Vice President had learned this information from the CIA.

10. On June 12, 2003, the *Washington Post* published an article by reporter Walter Pincus about Wilson's trip to Niger, which described Wilson as a retired ambassador but not by name, and reported that the CIA had sent him to Niger after an aide to the Vice President raised questions about purported Iraqi efforts to acquire uranium. Pincus's article questioned the accuracy of the "sixteen words," and stated that the retired ambassador had reported to the CIA that the uranium purchase story was false.

11. On or about June 14, 2003, **LIBBY** met with a CIA briefer. During their conversation he expressed displeasure that CIA officials were making comments to reporters critical of the Vice President's office, and discussed with the briefer, among other things, "Joe Wilson" and his wife "Valerie Wilson," in the context of Wilson's trip to Niger.

12. On or about June 19, 2003, an article appeared in *The New Republic* magazine online entitled "*The First Casualty: The Selling of the Iraq War*." Among other things, the article questioned the "sixteen words" and stated that following a request for information from the Vice President, the CIA had asked an unnamed ambassador to travel to Niger to investigate allegations that Iraq had sought uranium from Niger. The article included a quotation attributed to the unnamed ambassador alleging that administration officials "knew the Niger story was a flat-out lie." The article also was critical of how the administration, including the Office of the Vice President, portrayed intelligence concerning Iraqi capabilities with regard to weapons of mass destruction, and accused the administration of suppressing dissent from the intelligence agencies on this topic.

DOJ_NMG_ 0148842

13. Shortly after publication of the article in *The New Republic*, **LIBBY** spoke by telephone with his then Principal Deputy and discussed the article. That official asked **LIBBY** whether information about Wilson's trip could be shared with the press to rebut the allegations that the Vice President had sent Wilson. **LIBBY** responded that there would be complications at the CIA in disclosing that information publicly, and that he could not discuss the matter on a non-secure telephone line.

14. On or about June 23, 2003, **LIBBY** met with *New York Times* reporter Judith Miller. During this meeting **LIBBY** was critical of the CIA, and disparaged what he termed "selective leaking" by the CIA concerning intelligence matters. In discussing the CIA's handling of Wilson's trip to Niger, **LIBBY** informed her that Wilson's wife might work at a bureau of the CIA.

The July 6 "Op Ed" Article by Wilson

15. On July 6, 2003, the *New York Times* published an Op-Ed article by Wilson entitled "What I Didn't Find in Africa." Also on July 6, 2003, the *Washington Post* published an article about Wilson's 2002 trip to Niger, which article was based in part upon an interview of Wilson. Also on July 6, Wilson appeared as a guest on the television interview show "*Meet the Press*." In his Op-Ed article and interviews in print and on television, Wilson asserted, among other things, that he had taken a trip to Niger at the request of the CIA in February 2002 to investigate allegations that Iraq had sought or obtained uranium yellowcake from Niger, and that he doubted Iraq had obtained uranium from Niger recently, for a number of reasons. Wilson stated that he believed, based on his understanding of government procedures, that the Office of the Vice President was advised of the results of his trip.

DOJ_NMG_ 0148843

LIBBY's Actions Following Wilson's July 6 "Op Ed" Column

16. On or about July 7, 2003, **LIBBY** had lunch with the then White House Press Secretary and advised the Press Secretary that Wilson's wife worked at the CIA and noted that such information was not widely known.

17. On or about the morning of July 8, 2003, **LIBBY** met with *New York Times* reporter Judith Miller. When the conversation turned to the subject of Joseph Wilson, **LIBBY** asked that the information **LIBBY** provided on the topic of Wilson be attributed to a "former Hill staffer" rather than to a "senior administration official," as had been the understanding with respect to other information that **LIBBY** provided to Miller during this meeting. **LIBBY** thereafter discussed with Miller Wilson's trip and criticized the CIA reporting concerning Wilson's trip. During this discussion, **LIBBY** advised Miller of his belief that Wilson's wife worked for the CIA.

18. Also on or about July 8, 2003, **LIBBY** met with the Counsel to the Vice President in an anteroom outside the Vice President's Office. During their brief conversation, **LIBBY** asked the Counsel to the Vice President, in sum and substance, what paperwork there would be at the CIA if an employee's spouse undertook an overseas trip.

19. Not earlier than June 2003, but on or before July 8, 2003, the Assistant to the Vice President for Public Affairs learned from another government official that Wilson's wife worked at the CIA, and advised **LIBBY** of this information.

20. On or about July 10, 2003, **LIBBY** spoke to *NBC* Washington Bureau Chief Tim Russert to complain about press coverage of **LIBBY** by an *MSNBC* reporter. **LIBBY** did not discuss Wilson's wife with Russert.

DOJ_NMG_ 0148844

21. On or about July 10 or July 11, 2003, **LIBBY** spoke to a senior official in the White House ("Official A") who advised **LIBBY** of a conversation Official A had earlier that week with columnist Robert Novak in which Wilson's wife was discussed as a CIA employee involved in Wilson's trip. **LIBBY** was advised by Official A that Novak would be writing a story about Wilson's wife.

22. On or about July 12, 2003, **LIBBY** flew with the Vice President and others to and from Norfolk, Virginia, on Air Force Two. On his return trip, **LIBBY** discussed with other officials aboard the plane what **LIBBY** should say in response to certain pending media inquiries, including questions from *Time* reporter Matthew Cooper.

23. On or about July 12, 2003, in the afternoon, **LIBBY** spoke by telephone to Cooper, who asked whether **LIBBY** had heard that Wilson's wife was involved in sending Wilson on the trip to Niger. **LIBBY** confirmed to Cooper, without elaboration or qualification, that he had heard this information too.

24. On or about July 12, 2003, in the late afternoon, **LIBBY** spoke by telephone with Judith Miller of the *New York Times* and discussed Wilson's wife, and that she worked at the CIA.

The Criminal Investigation

25. On or about September 26, 2003, the Department of Justice authorized the Federal Bureau of Investigation ("FBI") to commence a criminal investigation into the possible unauthorized disclosure of classified information regarding the disclosure of Valerie Wilson's affiliation with the CIA to various reporters in the spring of 2003.

DOJ_NMG_ 0148845

26. As part of the criminal investigation, **LIBBY** was interviewed by Special Agents of the FBI on or about October 14 and November 26, 2003, each time in the presence of his counsel. During these interviews, **LIBBY** stated to FBI Special Agents that:

a. During a conversation with Tim Russert of *NBC News* on July 10 or 11, 2003, Russert asked **LIBBY** if **LIBBY** was aware that Wilson's wife worked for the CIA. **LIBBY** responded to Russert that he did not know that, and Russert replied that all the reporters knew it. **LIBBY** was surprised by this statement because, while speaking with Russert, **LIBBY** did not recall that he previously had learned about Wilson's wife's employment from the Vice President.

b. During a conversation with Matthew Cooper of *Time* magazine on or about July 12, 2003, **LIBBY** told Cooper that reporters were telling the administration that Wilson's wife worked for the CIA, but that **LIBBY** did not know if this was true; and

c. **LIBBY** did not discuss Wilson's wife with *New York Times* reporter Judith Miller during a meeting with Miller on or about July 8, 2003.

27. Beginning in or about January 2004, and continuing until the date of this indictment, Grand Jury 03-3 sitting in the District of Columbia conducted an investigation ("the Grand Jury Investigation") into possible violations of federal criminal laws, including: Title 50, United States Code, Section 421 (disclosure of the identity of covert intelligence personnel); and Title 18, United States Code, Sections 793 (improper disclosure of national defense information), 1001 (false statements), 1503 (obstruction of justice), and 1623 (perjury).

DOJ_NMG_ 0148846

28. A major focus of the Grand Jury Investigation was to determine which government officials had disclosed to the media prior to July 14, 2003 information concerning the affiliation of Valerie Wilson with the CIA, and the nature, timing, extent, and purpose of such disclosures, as well as whether any official making such a disclosure did so knowing that the employment of Valerie Wilson by the CIA was classified information.

29. During the course of the Grand Jury Investigation, the following matters, among others, were material to the Grand Jury Investigation:

i. When, and the manner and means by which, defendant **LIBBY** learned that Wilson's wife was employed by the CIA;

ii. Whether and when **LIBBY** disclosed to members of the media that Wilson's wife was employed by the CIA;

iii. The language used by **LIBBY** in disclosing any such information to the media, including whether **LIBBY** expressed uncertainty about the accuracy of any information he may have disclosed, or described where he obtained the information;

iv. **LIBBY**'s knowledge as to whether any information he disclosed was classified at the time he disclosed it; and

v. Whether **LIBBY** was candid with Special Agents of the Federal Bureau of Investigation in describing his conversations with the other government officials and the media relating to Valerie Wilson.

DOJ_NMG_ 0148847

LIBBY's Grand Jury Testimony

30. On or about March 5 and March 24, 2004, **LIBBY** testified before Grand Jury 03-3. On each occasion of **LIBBY**'s testimony, the foreperson of the Grand Jury administered the oath to **LIBBY** and **LIBBY** swore to tell the truth in the testimony he was about to give.

31. In or about March 2004, in the District of Columbia,

I. LEWIS LIBBY,
also known as "**SCOOTER LIBBY**,"

defendant herein, did knowingly and corruptly endeavor to influence, obstruct and impede the due administration of justice, namely proceedings before Grand Jury 03-3, by misleading and deceiving the grand jury as to when, and the manner and means by which, **LIBBY** acquired and subsequently disclosed to the media information concerning the employment of Valerie Wilson by the CIA.

32. It was part of the corrupt endeavor that during his grand jury testimony, defendant **LIBBY** made the following materially false and intentionally misleading statements and representations, in substance, under oath:

a. When **LIBBY** spoke with Tim Russert of *NBC News*, on or about July 10, 2003:

i. Russert asked **LIBBY** if **LIBBY** knew that Wilson's wife worked for the CIA, and told **LIBBY** that all the reporters knew it; and

ii. At the time of this conversation, **LIBBY** was surprised to hear that Wilson's wife worked for the CIA;

DOJ_NMG_ 0148848

b. **LIBBY** advised Matthew Cooper of *Time* magazine on or about July 12, 2003, that he had heard that other reporters were saying that Wilson's wife worked for the CIA, and further advised him that **LIBBY** did not know whether this assertion was true; and

c. **LIBBY** advised Judith Miller of the *New York Times* on or about July 12, 2003 that he had heard that other reporters were saying that Wilson's wife worked for the CIA but **LIBBY** did not know whether that assertion was true.

33. It was further part of the corrupt endeavor that at the time defendant **LIBBY** made each of the above-described materially false and intentionally misleading statements and representations to the grand jury, **LIBBY** was aware that they were false, in that:

a. When **LIBBY** spoke with Tim Russert of *NBC News* on or about July 10, 2003:

i. Russert did not ask **LIBBY** if **LIBBY** knew that Wilson's wife worked for the CIA, nor did he tell **LIBBY** that all the reporters knew it; and

ii. At the time of this conversation, **LIBBY** was well aware that Wilson's wife worked at the CIA; in fact, **LIBBY** had participated in multiple prior conversations concerning this topic, including on the following occasions:

- In or about early June 2003, **LIBBY** learned from the Vice President that Wilson's wife worked for the CIA in the Counterproliferation Division;
- On or about June 11, 2003, **LIBBY** was informed by a senior CIA officer that Wilson's wife was employed by the CIA and that the idea of sending him to Niger originated with her;

DOJ_NMG_ 0148849

- On or about June 12, 2003, **LIBBY** was informed by the Under Secretary of State that Wilson's wife worked for the CIA;

- On or about June 14, 2003, **LIBBY** discussed "Joe Wilson" and "Valerie Wilson" with his CIA briefer, in the context of Wilson's trip to Niger;

- On or about June 23, 2003, **LIBBY** informed reporter Judith Miller that Wilson's wife might work at a bureau of the CIA;

- On or about July 7, 2003, **LIBBY** advised the White House Press Secretary that Wilson's wife worked for the CIA;

- In or about June or July 2003, and in no case later than on or about July 8, 2003, **LIBBY** was advised by the Assistant to the Vice President for Public Affairs that Wilson's wife worked for the CIA;

- On or about July 8, 2003, **LIBBY** advised reporter Judith Miller of his belief that Wilson's wife worked at the CIA; and

- On or about July 8, 2003, **LIBBY** had a discussion with the Counsel to the Office of the Vice President concerning the paperwork that would exist if a person who was sent on an overseas trip by the CIA had a spouse who worked at the CIA;

b. **LIBBY** did not advise Matthew Cooper, on or about July 12, 2003, that **LIBBY** had heard other reporters were saying that Wilson's wife worked for the CIA, nor did **LIBBY** advise him that **LIBBY** did not know whether this assertion was true; rather, **LIBBY** confirmed to Cooper, without qualification, that **LIBBY** had heard that Wilson's wife worked at the CIA; and

DOJ_NMG_ 0148850

c. **LIBBY** did not advise Judith Miller, on or about July 12, 2003, that **LIBBY** had heard other reporters were saying that Wilson's wife worked for the CIA, nor did **LIBBY** advise her that **LIBBY** did not know whether this assertion was true;

In violation of Title 18, United States Code, Section 1503.

DOJ_NMG_ 0148851

COUNT TWO
(False Statement)

THE GRAND JURY FURTHER CHARGES:

1. The Grand Jury realleges Paragraphs 1-26 of Count One as though fully set forth herein.

2. During the course of the criminal investigation conducted by the Federal Bureau of Investigation and the Department of Justice, the following matters, among others, were material to that investigation:

a. When, and the manner and means by which, defendant **LIBBY** learned that Wilson's wife was employed by the CIA;

b. Whether and when **LIBBY** disclosed to members of the media that Wilson's wife was employed by the CIA;

c. The language used by **LIBBY** in disclosing any such information to the media, including whether **LIBBY** expressed uncertainty about the accuracy of any information he may have disclosed, or described where he obtained the information; and

d. **LIBBY**'s knowledge as to whether any information he disclosed was classified at the time he disclosed it.

3. On or about October 14 and November 26, 2003, in the District of Columbia,

I. LEWIS LIBBY,
also known as "**SCOOTER LIBBY**,"

defendant herein, did knowingly and willfully make a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the Federal Bureau of

DOJ_NMG_ 0148852

Investigation, an agency within the executive branch of the United States, in that the defendant, in response to questions posed to him by agents of the Federal Bureau of Investigation, stated that:

> During a conversation with Tim Russert of *NBC News* on July 10 or 11, 2003, Russert asked **LIBBY** if **LIBBY** was aware that Wilson's wife worked for the CIA. **LIBBY** responded to Russert that he did not know that, and Russert replied that all the reporters knew it. **LIBBY** was surprised by this statement because, while speaking with Russert, **LIBBY** did not recall that he previously had learned about Wilson's wife's employment from the Vice President.

4. As defendant **LIBBY** well knew when he made it, this statement was false in that when **LIBBY** spoke with Russert on or about July 10 or 11, 2003:

a. Russert did not ask **LIBBY** if **LIBBY** knew that Wilson's wife worked for the CIA, nor did he tell **LIBBY** that all the reporters knew it; and

b. At the time of this conversation, **LIBBY** was well aware that Wilson's wife worked at the CIA;

In violation of Title 18, United States Code, Section 1001(a)(2).

DOJ_NMG_ 0148853

COUNT THREE
(False Statement)

THE GRAND JURY FURTHER CHARGES:

1. The Grand Jury realleges Paragraphs 1 and 2 of Count Two as though fully set forth herein.

2. On or about October 14 and November 26, 2003, in the District of Columbia,

I. LEWIS LIBBY,
also known as "**SCOOTER LIBBY**,"

defendant herein, did knowingly and willfully make a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the Federal Bureau of Investigation, an agency within the executive branch of the United States, in that the defendant, in response to questions posed to him by agents of the Federal Bureau of Investigation, stated that:

> During a conversation with Matthew Cooper of *Time* magazine on July 12, 2003, **LIBBY** told Cooper that reporters were telling the administration that Wilson's wife worked for the CIA, but **LIBBY** did not know if this was true.

3. As defendant **LIBBY** well knew when he made it, this statement was false in that: **LIBBY** did not advise Cooper on or about July 12, 2003 that reporters were telling the administration that Wilson's wife worked for the CIA, nor did **LIBBY** advise him that **LIBBY** did not know whether this was true; rather, **LIBBY** confirmed for Cooper, without qualification, that **LIBBY** had heard that Wilson's wife worked at the CIA;

In violation of Title 18, United States Code, Section 1001(a)(2).

DOJ_NMG_ 0148854

COUNT FOUR
(Perjury)

THE GRAND JURY FURTHER CHARGES:

1. The Grand Jury realleges Paragraphs 1-30 of Count One as though fully set forth herein.

2. On or about March 5, 2004, in the District of Columbia,

I. LEWIS LIBBY,
also known as "**SCOOTER LIBBY**,"

defendant herein, having taken an oath to testify truthfully in a proceeding before a grand jury of the United States, knowingly made a false material declaration, in that he gave the following testimony regarding a conversation that he represented he had with Tim Russert of *NBC News*, on or about July 10, 2003 (underlined portions alleged as false):

> . . . . And then he said, you know, did you know that this – excuse me, did you know that Ambassador Wilson's wife works at the CIA? And I was a little taken aback by that. I remember being taken aback by it. And I said – he may have said a little more but that was – he said that. And I said, no, I don't know that. And I said, no, I don't know that intentionally because I didn't want him to take anything I was saying as in any way confirming what he said, because at that point in time I did not recall that I had ever known, and I thought this is something that he was telling me that I was first learning. And so I said, no, I don't know that because I want to be very careful not to confirm it for him, so that he didn't take my statement as confirmation for him.
>
> Now, I had said earlier in the conversation, which I omitted to tell you, that this – you know, as always, Tim, our discussion is off-the-record if that's okay with you, and he said, that's fine.
>
> So then he said – I said – he said, sorry – he, Mr. Russert said to me, did you know that Ambassador Wilson's wife, or his wife, works at the CIA? And I said, no, I don't know that. And then he said, yeah – yes, all the reporters know it. And I said, again, I don't know that. I just wanted to be clear that I wasn't confirming anything for him on this. And you know, I was struck by what he was saying in that he thought it was an important fact, but I didn't ask him anymore about it because I

DOJ_NMG_ 0148855

didn't want to be digging in on him, and he then moved on and finished the conversation, something like that.

3. In truth and fact, as **LIBBY** well knew when he gave this testimony, it was false in that:

a. Russert did not ask **LIBBY** if **LIBBY** knew that Wilson's wife worked for the CIA, nor did he tell **LIBBY** that all the reporters knew it; and

b. At the time of this conversation, **LIBBY** was well aware that Wilson's wife worked at the CIA;

In violation of Title 18, United States Code, Section 1623.

DOJ_NMG_ 0148856

COUNT FIVE
(Perjury)

THE GRAND JURY FURTHER CHARGES:

1. The Grand Jury realleges Paragraphs 1-30 of Count One as though fully set forth herein.

2. On or about March 5, 2004 and March 24, 2004, in the District of Columbia,

I. LEWIS LIBBY,
also known as "**SCOOTER LIBBY**,"

defendant herein, having taken an oath to testify truthfully in a proceeding before a grand jury of the United States, knowingly made a false material declaration, in that he gave the following testimony regarding his conversations with reporters concerning the employment of Joseph Wilson's wife by the CIA (underlined portions alleged as false):

a. Testimony Given on or about March 5, 2004 Regarding a Conversation With Matthew Cooper on or About July 12, 2003:

Q. And it's your specific recollection that when you told Cooper about Wilson's wife working at the CIA, you attributed that fact to what reporters –

A. Yes.

Q. – plural, were saying. Correct?

A. I was very clear to say reporters are telling us that because in my mind I still didn't know it as a fact. I thought I was – all I had was this information that was coming in from the reporters.

. . . .

Q. And at the same time you have a specific recollection of telling him, you don't know whether it's true or not, you're just telling him what reporters are saying?

DOJ_NMG_ 0148857

A. Yes, that's correct, sir. And I said, reporters are telling us that, I don't know if it's true. I was careful about that because among other things, I wanted to be clear I didn't know Mr. Wilson. I don't know – I think I said, I don't know if he has a wife, but this is what we're hearing.

b. Testimony Given on or about March 24, 2004 Regarding Conversations With Reporters:

Q. And let me ask you this directly. Did the fact that you knew that the law could turn, the law as to whether a crime was committed, could turn on where you learned the information from, affect your account for the FBI when you told them that you were telling reporters Wilson's wife worked at the CIA but your source was a reporter rather than the Vice-President?

A. No, it's a fact. It was a fact, that's what I told the reporters.

Q. And you're, you're certain as you sit here today that every reporter you told that Wilson's wife worked at the CIA, you sourced it back to other reporters?

A. Yes, sir, because it was important for what I was saying and because it was – that's what – that's how I did it.

. . . .

Q. The next set of questions from the Grand Jury are – concern this fact. If you did not understand the information about Wilson's wife to have been classified and didn't understand it when you heard it from Mr. Russert, why was it that you were so deliberate to make sure that you told other reporters that reporters were saying it and not assert it as something you knew?

A. I want – I didn't want to – I didn't know if it was true and I didn't want people – I didn't want the reporters to think it was true because I said it. I – all I had was that reporters are telling us that, and by that I wanted them to understand it wasn't coming from me and that it might not be true. Reporters write things that aren't true sometimes, or get things that aren't true. So I wanted to be clear they didn't, they didn't think it was me saying it. I didn't know it was true and I wanted them to understand that. Also, it was important to me to let them know that because what I was telling them was that I don't know Mr. Wilson. We didn't ask for his mission. That I didn't see his report.

> Basically, we didn't know anything about him until this stuff came out in June. And among the other things, I didn't know he had a wife. That was one of the things I said to Mr. Cooper. I don't know if he's married. And so I wanted to be very clear about all this stuff that I didn't, I didn't know about him. And the only thing I had, I thought at the time, was what reporters are telling us.
>
> . . . .
>
> Well, talking to the other reporters about it, I don't see as a crime. What I said to the other reporters is what, you know – I told a couple reporters what other reporters had told us, and I don't see that as a crime.

3. In truth and fact, as **LIBBY** well knew when he gave this testimony, it was false in that **LIBBY** did not advise Matthew Cooper or other reporters that **LIBBY** had heard other reporters were saying that Wilson's wife worked for the CIA, nor did **LIBBY** advise Cooper or other reporters that **LIBBY** did not know whether this assertion was true;

In violation of Title 18, United States Code, Section 1623.

A TRUE BILL:

_____
FOREPERSON

_____
PATRICK J. FITZGERALD
Special Counsel

DOJ_NMG_ 0148859

From: USDOJ- Office of Public Affairs
Sent: Friday, October 28, 2005 1:04 PM
To: USDOJ- Office of Public Affairs
Subject: MEDIA ADVISORY: U.S. GOVERNMENT OFFICIALS, HIGH-TECH LEADERS AND LEGAL SCHOLARS TO HOLD FORUM ON INTELLECTUAL PROPERTY PROTECTION

Department of Justice

FOR PLANNING PURPOSES ONLY — AG
FRIDAY, OCTOBER 28, 2005 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

*********MEDIA ADVISORY*********

U.S. GOVERNMENT OFFICIALS, HIGH-TECH LEADERS AND LEGAL SCHOLARS TO HOLD FORUM ON INTELLECTUAL PROPERTY PROTECTION

WASHINGTON, D.C. - U.S. government officials including Attorney General Alberto R. Gonzales, Commerce Secretary Carlos Gutierrez, Senator John Cornyn, and Representative Lamar Smith will participate in an important in-depth panel discussion on protecting intellectual property with high-tech industry leaders and legal scholars on **MONDAY, OCTOBER 31, 2005 at 9:00 A.M. CST.** The panelists will discuss topics such as the importance of criminal and civil enforcement of intellectual property rights, protecting IP for future economic growth, the significance of IP for innovation, challenges to global IP protection, and the importance of education and prevention efforts. The interactive panel discussion will be open to the press and filmed by Court TV for later broadcast.

WHO: Attorney General Alberto R. Gonzales
Commerce Secretary Carlos Gutierrez
Senator John Cornyn
Representative Lamar Smith
Professor Ronald Mann, The University of Texas Law School
Geoff Tudor, CEO of LEOTERRA
Steve Papermaster, CEO of PowerShift
Sue Snyder, Executive Legal Counsel for Advanced Micro Devices
Jack Ford, Court TV Moderator

WHEN: **MONDAY, OCTOBER 31, 2005**
9:00 A.M. CST
Cameras must pre-set **between 7:30 A.M. and 8:30 A.M. CST**

WHERE: The University of Texas School of Law
Eidman Courtroom
727 E. Dean Keeton Street

DOJ_NMG_ 0148860

Austin, Texas 78705

NOTE: ALL media MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as driver's license) as well as VALID MEDIA CREDENTIALS. Cameras must be pre-set **between 7:30 A.M. and 8:30 CST.** All press inquiries regarding logistics should be directed to Laura Castro at (512) 232-1229 or (512) 825-9525 (cell.)

# # #

05-575

DOJ_NMG_ 0148861

Image not available for this document, ID: 0.7.10316.35259-000001

Image not available for this document, ID: 0.7.10316.35259-000002

Full Name: Him Das
Last Name: Das
First Name: Him

Business: (202) 456-9111

E-mail: hdas@nsc.eop.gov
E-mail Display As: Him Das (hdas@nsc.eop.gov)

NSC contact

DOJ_NMG_ 0148864

Beach, Andrew

Subject:	Canceled: Senior Management Meeting
Start:	Friday, November 11, 2005 9:00 AM
End:	Friday, November 11, 2005 9:30 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:30 AM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); McNulty, Paul J
Importance:	High

When: Friday, November 11, 2005 9:00 AM-9:30 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Roberts

From: USDOJ- Office of Public Affairs
Sent: Friday, October 28, 2005 5:00 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTEES TO INTELLECTUAL PROPERTY TASK FORCE

Department of Justice

FOR IMMEDIATE RELEASE AG
FRIDAY, OCTOBER 28, 2005 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES APPOINTMENTS TO INTELLECTUAL PROPERTY TASK FORCE

WASHINGTON, D.C. – Attorney General Alberto R. Gonzales today announced the appointment of several high-level Department of Justice officials to serve on the Department's Task Force on Intellectual Property.

The Task Force was created in 2004 by then-Attorney General John Ashcroft to examine the Department's efforts to protect the intellectual property rights of American citizens and businesses through criminal, civil, and antitrust enforcement; legislation; international coordination; and prevention. In October 2004, the Task Force issued a comprehensive report with recommendations to increase the Department's effectiveness in protecting intellectual property rights and enforcing federal intellectual property laws.

In February 2005, Attorney General Gonzales renewed the Department's commitment to the IP Task Force and appointed Kyle Sampson as Chairman and Arif Alikhan as Vice Chairman and Executive Director. The Attorney General also announced that the Department would implement all of the IP Task Force report's recommendations and would continue to aggressively enforce federal intellectual property laws.

The Attorney General has appointed the following Department of Justice officials to serve on the Intellectual Property Task Force:

- Thomas Barnett, Acting Assistant Attorney General, Antitrust Division
- Michael Battle, Director, Executive Office of United States Attorneys
- Rachel Brand, Assistant Attorney General, Office of Legal Policy
- Paul Clement, Solicitor General of the United States
- Alice Fisher, Assistant Attorney General, Criminal Division
- Neil Gorsuch, Principal Deputy Associate Attorney General, Office of the Associate Attorney General
- Peter Keisler, Assistant Attorney General, Civil Division
- William Moschella, Assistant Attorney General, Office of Legislative Affairs

DOJ_NMG_ 0148866

- Louis Reigel, Assistant Director, Federal Bureau of Investigation, Cyber Division
- Debra Wong Yang, United States Attorney, Central District of California, and Chair of the Attorney General's Advisory Subcommittee on Cyber Crime and Intellectual Property.

"I appreciate the Attorney General appointing me to take on this important role for the Department and appointing such talented members of the Department to serve on the IP Task Force," said Kyle Sampson. "I look forward to working closely with all of the members to implement the recommendations and address the evolving challenges of intellectual property crime in the global marketplace."

Copies of the report of the Department of Justice's Task Force on Intellectual Property are available on the Department's website at www.usdoj.gov <http://www.usdoj.gov> or at www.cybercrime.gov <http://www.cybercrime.gov><http://www.cybercrime.gov>. For more information regarding the Intellectual Property Task Force, contact Vice Chairman and Executive Director Arif Alikhan at Arif.Alikhan2@usdoj.gov.

###

05-577

DOJ_NMG_ 0148867

Image not available for this document, ID: 0.7.10316.34926-000001

Department of Justice

Gunn, Currie (SMO)

Subject:	Updated: Civil Components Leadership Meeting Group I
Location:	5710
Start:	Monday, November 07, 2005 11:30 AM
End:	Monday, November 07, 2005 12:30 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Reyes, Luis (SMO); Johnson, Kelly A. (ENRD); O'Connor, Eileen J. (AAG/TAX); Swenson, Lily F; Pate, R. Hewitt; White, Clifford; Roberts, Crystal; Gorsuch, Neil M; Barnett, Thomas O.; Schlozman, Brad (CRT); Cohen, Brian; Bounds, Ryan W (OLP); Gorsuch, Neil M; Wiggins, Mike; Oldham, Jeffrey L; Pacold, Martha M
Optional Attendees:	Saull, Bradley (CRT); Seidel, Rebecca; Alvarez, Michelle M. (TAX); O'Connor, Eileen J. (AAG/TAX); Bradbury, Steve; Moschella, William; Senger, Jeffrey M; Jenkins, Gloria; Keisler, Peter D. (CIV); Freeman, Sharee; Friedman, Lawrence A; Brand, Rachel; Taylor, Wendell L; Meron, Daniel (CIV); Kessler, Elizabeth A; Catapano, Debbie; Boente, Dana J. (TAX)

When: Monday, November 07, 2005 11:30 AM-12:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

~~*~*~*~*~*~*~*~*~*

See time change for this meeting only.

Attendees: OASG, OAG, CRTS, Tax, OLC, OLP, CRS, USTP, ATR, DAG, ENRD, OIPL, Civil, OPA, OLA

POC: Currie Gunn 4-9500

Gunn, Currie (SMO)

From:	Gunn, Currie (SMO)
Sent:	Friday, October 28, 2005 5:23 PM
To:	Kessler, Elizabeth A; Reyes, Luis (SMO); Swenson, Lily F; Henke, Tracy (SMO); Gorsuch, Neil M
Subject:	Please let me know of you have any leave to report for pp 21 October 16 thru October 29.

From: USDOJ- Office of Public Affairs
Sent: Friday, October 28, 2005 5:32 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SETTLES LAWSUIT WITH S.O.G. SPECIALTY KNIVES, INC. OVER EMPLOYMENT BENEFITS FOR A COAST GUARD RESERVIST

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 28, 2005
WWW.USDOJ.GOV

CRT
(202) 514-2007
TDD (202) 514-1888

JUSTICE DEPARTMENT SETTLES LAWSUIT WITH S.O.G. SPECIALTY KNIVES, INC. OVER EMPLOYMENT BENEFITS FOR A COAST GUARD RESERVIST

WASHINGTON, D.C. - The Justice Department today announced a settlement agreement with S.O.G. Specialty Knives, Inc. (SSK), resolving a lawsuit filed to protect the rights of a United States Coast Guard reservist who served in Operation Iraqi Freedom.

"We have a duty to our men and women in the military to enforce vigorously their legal right to be free of employment discrimination on the basis of their military service," said Bradley J. Schlozman, Acting Assistant Attorney General for the Civil Rights Division. "Particularly at a time when these brave individuals are putting their very lives on the line in defense of our freedom, such discrimination cannot and will not be tolerated. We are very pleased to see a positive resolution in this case."

The complaint alleges that SSK violated the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA) by improperly discharging the plaintiff from his position when he was called to active duty in January 2003. The complaint also alleges that SSK failed to properly re-employ the reservist to a position of similar status and duties upon his return.

The Veterans' Employment and Training Service of the Labor Department referred the serviceman's complaint to the Justice Department upon completion of its investigation. In the consent decree, which must be approved by the United States District Court for the Western District of Washington, SSK has agreed to compensate the plaintiff.

Acting Assistant Attorney General Schlozman noted that SSK voluntarily cooperated with the investigation of the Coast Guard reservist's USERRA complaint and, while denying any wrongdoing, agreed to provide him compensation.

This is the eighth USERRA complaint filed by the Justice Department since the Civil Rights Division received enforcement authority for USERRA cases in September 2004. USERRA protects the re-employment rights of service members or veterans upon their return to civilian life from active duty. To learn more about USERRA, go to http//:www.dol.gov/vets/programs/userra/maint.htm.

DOJ_NMG_ 0148872

###

05-579

DOJ_NMG_ 0148873

Image not available for this document, ID: 0.7.10316.34918-000001

Image not available for this document, ID: 0.7.10316.34918-000002

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, October 28, 2005 5:38 PM
To: Williams, Jan; Gorsuch, Neil M
Cc: Mercer, Bill (ODAG); [redacted] (DHS)
Subject: RE [redacted] -- CPO

I knew him and he was very highly regarded in the firm. I never worked with him but [redacted] no relation, can give you a better assessment. Neil or I can call [redacted] and he will be very candid with me. With whom is [redacted] now working? As I remember, he joined a client as corp counsel. Robt.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, October 27, 2005 3:46 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); [redacted] (DHS)
Subject: FW: [redacted] -- CPO

another idea for CPO. Robert, I think you know him from [redacted] -- what do you think of him? I have not called him yet.

Williams, Jan

From: Williams, Jan
Sent: Friday, October 28, 2005 5:39 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Cc: Mercer, Bill (ODAG)
Subject: RE: [redacted]- CPO

[redacted]s with GE. I spoke t[redacted]and he thinks highly of him. thanks so much!!

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Friday, October 28, 2005 5:38 PM
To: Williams, Jan; Gorsuch, Neil M
Cc: Mercer, Bill (ODAG); [redacted]DHS)
Subject: RE: [redacted]-- CPO

I knew him and he was very highly regarded in the firm. I never worked with him but [redacted] no relation, can give you a better assessment. Neil or I can call [redacted]and he will be very candid with me. With whom is [redacted]now working? As I remember, he joined a client as corp counsel. Robt.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, October 27, 2005 3:46 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); [redacted](DHS)
Subject: FW: [redacted]-- CPO

another idea for CPO. Robert, I think you know him from [redacted]-- what do you think of him? I have not called him yet.

Murphy, Stephen J. (USAMIE)

From: Murphy, Stephen J. (USAMIE)
Sent: Friday, October 28, 2005 5:44 PM
To: Bradford, Cheryl (USAMIE)
Subject: Invitation.
Attachments: tmp.htm

Please join a few close friends for cigars and cordials after the FS Dinner on November 10 (Veterans Day Eve).

Place: Historic GeorgeTown Club.
1530 Wisconsin Avenue, NW (at Volta Place) Washington 20007

Time: 10 pm - ???

Dress: Black tie optional.

Please RSVP to Cheryl Bradford (cheryl.bradford@usdoj.gov), or 313.226.9500 no later than c.o.b. 11/7/05. Thanks. Look forward to seeing you.

Please join a few close friends for cigars and cordials after the FS Dinner on November 10 (Veterans Day Eve).

Place: Historic GeorgeTown Club.
1530 Wisconsin Avenue, NW (at Volta Place)
Washington 20007

Time: 10 pm - ???

Dress: Black tie optional.

Please RSVP to Cheryl Bradford (cheryl.bradford@usdoj.gov), or 313.226.9500 no later than c.o.b. 11/7/05. Thanks. Look forward to seeing you.

MDavis@gwb43.com

From: MDavis@gwb43.com
Sent: Monday, October 31, 2005 8:28 AM
To: md@gwb43.com
Subject: Judge Samuel A. Alito, Jr.
Attachments: tmp.htm

JUDGE SAMUEL A. ALITO, JR., BACKGROUND

Judge Alito Is Well Qualified To Serve As Associate Justice Of The U.S. Supreme Court. Judge Alito has the keen intellect, impartiality and temperament, sound legal judgment and highest integrity necessary in a U.S. Supreme Court justice.

Ø Judge Alito Is Committed To The Rule Of Law And Understands The Role Of A Judge In Our Society. Judge Alito has a record as a federal judge who strictly interprets the law. Judge Alito rules based on application of existing laws and specific facts of the case before him. Judge Alito does not legislate from the bench or create new policies based on personal opinion.

Ø Judge Alito Personifies The Qualities President Bush Said He Would Seek In A Supreme Court Justice. Judge Alito has shown a mastery of the law, a deep commitment to justice and equality, and great personal character.

Ø Judge Alito Has Been Called The Legal Profession's "Best" With "Exemplary" Judicial Qualifications. Judge Alito has a record of professional achievement and excellence. When Judge Alito was appointed to the federal bench in 1990, the New Jersey Law Journal wrote of his appointment: "Mr. Alito is one of our profession's best: His commitment to public service is deep and his qualifications for his new office exemplary."

Judge Alito Has Extensive Legal Experience. During his nearly 30 years of public service, Judge Alito has handled difficult and complex legal issues at the highest levels of the legal profession. His legal experience, as a litigator and judge, spans both the civil and criminal spheres.

Ø Judge Alito Began His Distinguished Career With Approximately 15 Years Of Service At The U.S. Department Of Justice where he served as:

o Assistant U.S. Attorney in the appellate division arguing cases before the Third Circuit Court of Appeals.

o Assistant to the Solicitor General arguing 12 cases on behalf of the federal government in the U.S. Supreme Court.

o Deputy Assistant Attorney General in the Office of Legal Counsel providing constitutional advice for the Executive Branch.

o U.S. Attorney for the District of New Jersey where he is best known for prosecuting white collar and environmental crimes, drug trafficking, organized crime, and violations of civil rights.

Ø The U.S. Senate Unanimously Confirmed Judge Alito To The Third Circuit Court Of Appeals. In 1990, President George H. Bush nominated Judge Alito to the U.S. Court of Appeals for the Third Circuit. The U.S. Senate unanimously confirmed Judge Alito by voice vote.

Ø Judge Alito Has Served With Distinction On The Third Circuit Court Of Appeals For 15 Years. Judge Alito has participated in thousands of appeals and authored hundreds of opinions. Judge Alito has argued 12 Supreme Court cases and argued at least two dozen court of appeals cases and handled at least 50 others. Judge Alito's constitutional decisions reflect attention to the properly restrained role of a judge. On questions of statutory interpretation, Judge Alito relies on the plain language of the statute.

Ø Judge Alito Has An Excellent Legal Education. Judge Alito received his bachelor's degree from Princeton University and attended Yale Law School, where he served as an editor on the Yale Law Journal. After law school, Judge Alito clerked for Judge Leonard Garth of the Third Circuit, who is now his colleague on that court.

Judge Alito Is Widely Respected For His Fairness. Judge Alito has a reputation as an even-tempered and fair-minded judge.

Ø Judge Alito Was Named One Of The Top Prosecutors In One Of The Nation's Largest Federal Districts. As the U.S. Attorney for the District of New Jersey he showed a passionate commitment to the rule of law, and gained a reputation for being both tough and fair.

Ø The Almanac Of The Federal Judiciary Has Called Him "Brilliant" With An "Excellent Demeanor." Practitioners quoted in the Almanac of the Federal Judiciary reported that Judge Alito is courteous and quiet on the bench, and his questions are intelligent and relevant.

Mike Davis, Associate Director
The White House Office of Political Affairs 202-456-7016 (direct)
202-641-4251 (cell)
202-456-6521 (fax)

JUDGE SAMUEL A. ALITO, JR., BACKGROUND

Judge Alito Is Well Qualified To Serve As Associate Justice Of The U.S. Supreme Court. Judge Alito has the keen intellect, impartiality and temperament, sound legal judgment and highest integrity necessary in a U.S. Supreme Court justice.

- **Judge Alito Is Committed To The Rule Of Law And Understands The Role Of A Judge In Our Society.** Judge Alito has a record as a federal judge who strictly interprets the law. Judge Alito rules based on application of existing laws and specific facts of the case before him. Judge Alito does not legislate from the bench or create new policies based on personal opinion.

- **Judge Alito Personifies The Qualities President Bush Said He Would Seek In A Supreme Court Justice.** Judge Alito has shown a mastery of the law, a deep commitment to justice and equality, and great personal character.

- **Judge Alito Has Been Called The Legal Profession's "Best" With "Exemplary" Judicial Qualifications.** Judge Alito has a record of professional achievement and excellence. When Judge Alito was appointed to the federal bench in 1990, the *New Jersey Law Journal* wrote of his appointment: "Mr. Alito is one of our profession's best: His commitment to public service is deep and his qualifications for his new office exemplary."

Judge Alito Has Extensive Legal Experience. During his nearly 30 years of public service, Judge Alito has handled difficult and complex legal issues at the highest levels of the legal profession. His legal experience, as a litigator and judge, spans both the civil and criminal spheres.

- **Judge Alito Began His Distinguished Career With Approximately 15 Years Of Service At The U.S. Department Of Justice where he served as:**
  - Assistant U.S. Attorney in the appellate division arguing cases before the Third Circuit Court of Appeals.
  - Assistant to the Solicitor General arguing 12 cases on behalf of the federal government in the U.S. Supreme Court.
  - Deputy Assistant Attorney General in the Office of Legal Counsel providing constitutional advice for the Executive Branch.
  - U.S. Attorney for the District of New Jersey where he is best known for prosecuting white collar and environmental crimes, drug trafficking, organized crime, and violations of civil rights.

- **The U.S. Senate Unanimously Confirmed Judge Alito To The Third Circuit Court Of Appeals.** In 1990, President George H. Bush nominated Judge Alito to the U.S. Court of Appeals for the Third Circuit. The U.S. Senate unanimously confirmed Judge Alito by voice vote.

- **Judge Alito Has Served With Distinction On The Third Circuit Court Of Appeals For 15 Years.** Judge Alito has participated in thousands of appeals and authored hundreds of opinions. Judge Alito has argued 12 Supreme Court cases and argued at least two dozen court of appeals cases and handled at least 50 others. Judge Alito's constitutional decisions reflect attention to the properly restrained role of a judge. On questions of statutory interpretation, Judge Alito relies on the plain language of the statute.

- **Judge Alito Has An Excellent Legal Education.** Judge Alito received his bachelor's degree from

Princeton University and attended Yale Law School, where he served as an editor on the *Yale Law Journal*. After law school, Judge Alito clerked for Judge Leonard Garth of the Third Circuit, who is now his colleague on that court.

Judge Alito Is Widely Respected For His Fairness. Judge Alito has a reputation as an even-tempered and fair-minded judge.

- **Judge Alito Was Named One Of The Top Prosecutors In One Of The Nation's Largest Federal Districts.** As the U.S. Attorney for the District of New Jersey he showed a passionate commitment to the rule of law, and gained a reputation for being both tough and fair.

- **The *Almanac Of The Federal Judiciary* Has Called Him "Brilliant" With An "Excellent Demeanor."** Practitioners quoted in the *Almanac of the Federal Judiciary* reported that Judge Alito is courteous and quiet on the bench, and his questions are intelligent and relevant.

Mike Davis, Associate Director
The White House Office of Political Affairs
202-456-7016 (direct)
202-641-4251 (cell)
202-456-6521 (fax)

Beach, Andrew

Subject:	Updated: Strategic Initiatives
Location:	OAG Conf Rm 5228
Start:	Tuesday, November 01, 2005 10:30 AM
End:	Tuesday, November 01, 2005 11:30 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 1:30 PM to 2:30 PM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG); Nelson, Carrie; Goodling, Monica; Fisher, Alice

When: Tuesday, November 01, 2005 9:30 AM-10:30 AM (GMT-05:00) Eastern Time (US & Canada).
Where: OAG Conf Rm 5228

~~*~*~*~*~*~*~*~*~*

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Carrie Nelson, Alice Fisher

Beeman, Judy (USAEO)

From:	Beeman, Judy (USAEO)
Sent:	Monday, October 31, 2005 11:30 AM
To:	Gorsuch, Neil M
Cc:	Battle, Michael (USAEO); Immergut, Karin (USAOR)
Subject:	Waiver of Aty Client Privilege
Attachments:	tmp.htm

Neil, I have looked at the usam cite with regard to pleas by corporations, and what we did with the Thompson memo was to cite it in full in the Criminal Resource Manual at 161. See http://www.usdoj.gov/usao/eousa/foia_reading_room/usam/title9/16mcrm.htm #9-16.050

Since the October 21 McCallum memo does not replace the Thompson memo but provides further clarification and the requirement to establish a written review process, I would add the memo in its entirety as Criminal Resource #163. When the Thompson memo was issued back in 2003, the dept made the decision to include it in the resource manual, rather than include it in the usam at 9-16.050 in its entirety. With your okay, we will proceed and add as Criminal Resource #163 and add the cite at 9-16.050. If you should decide to add the entire text at 9-16.050 then we should go back and add the Thompson memo language also. Please let me know if you want us to move ahead and add as CR #163 or take a different approach? Thanks, Judy

Neil, I have looked at the usam cite with regard to pleas by corporations, and what we did with the Thompson memo was to cite it in full in the Criminal Resource Manual at 161. See

http://www.usdoj.gov/usao/eousa/foia_reading_room/usam/title9/16mcrm.htm#9-16.050

Since the October 21 McCallum memo does not replace the Thompson memo but provides further clarification and the requirement to establish a written review process, I would add the memo in its entirety as Criminal Resource #163. When the Thompson memo was issued back in 2003, the dept made the decision to include it in the resource manual, rather than include it in the usam at 9-16.050 in its entirety. With your okay, we will proceed and add as Criminal Resource #163 and add the cite at 9-16.050. If you should decide to add the entire text at 9-16.050 then we should go back and add the Thompson memo language also. Please let me know if you want us to move ahead and add as CR #163 or take a different approach? Thanks, Judy

From: USDOJ- Office of Public Affairs
Sent: Monday, October 31, 2005 12:09 PM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE NOMINATION OF SAMUEL A. ALITO, JR.

Department of Justice

FOR IMMEDIATE RELEASE — AG
MONDAY, OCTOBER 31, 2005 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE NOMINATION OF SAMUEL A. ALITO, JR.:

"President Bush has chosen a highly qualified, outstanding jurist in selecting Samuel Alito to serve on the Supreme Court of the United States. Judge Alito is one of our Nation's most distinguished judges, and in his nearly 30 years of public service-nearly half of that at the Department of Justice-he has earned a reputation for excellence that few can equal. He served with distinction in the Department's Office of the Solicitor General and the Office of Legal Counsel, and he was recognized as one of the best in his profession as a United States Attorney. As a judge for the past 15 years, he is well-known for his fairness, his character, and his commitment to equal justice and the rule of law. I am confident that, as a Justice on the highest Court in the land, he will continue to serve our Nation with distinction."

###

05-580

DOJ_NMG_ 0148888

Image not available for this document, ID: 0.7.10316.34824-000001

Department of Justice

Miller, Charles S

From: Miller, Charles S
Sent: Monday, October 31, 2005 12:26 PM
To: Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Eubanks, Sharon (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D. (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Morgan, Julian (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wiggins, Mike; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 10/31/05 Civil Division News

ON DOCKET: RELIGIOUS FREEDOM VS. DRUG LAWS

Supreme Court to Hear Student Loans Case

Defense Department denies mistreating detainee

Effort to expand radiation compensation continues

Court's suicide decision in limbo; Miers' withdrawal throws another wild card into case about unique Oregon law

FRAUD WHISTLEBLOWERS CREATE EXPANDING AREA OF LAW

Christian Science Monitor (USA)
October 31, 2005

ON DOCKET: RELIGIOUS FREEDOM VS. DRUG LAWS

By Warren Richey Staff writer of The Christian Science Monitor

WASHINGTON In a case with potential important significance for minority religious groups in America, the US Supreme Court this week takes up a clash between the nation's drug laws and a statute protecting religious liberty.

At issue in the case set for oral argument Tuesday is the scope of the 1993 Religious Freedom Restoration Act (RFRA). The law requires the federal government to justify any measure that substantially burdens a person's ability to practice his or her religion.

But what happens when a religious ceremony requires consumption of a drug outlawed under the Controlled Substances Act? That is the essence of the dispute in a case called Gonzales v. O Centro Espirita Beneficiente Uniao Do Vegetal (UDV).

Although the case involves the use of drugs, how the high court resolves the matter could have an impact on a wide array of religious groups in the United States that depend on a robust defense of religious liberty to practice their faith free of government interference. If the nation's drug laws are found to trump religious protections, other laws might also be applied in ways that substantially erode religious freedom, legal analysts say.

On the other hand, if religion may be invoked to easily bypass the nation's criminal laws, that could greatly complicate and undermine federal law-enforcement efforts, analysts say.

The case involves a religious sect of 130 members based in New Mexico. The group, adherents of the Brazil-based religion UDV, believes the use of sacramental tea in its ceremonies helps them connect with God. Consumption of the tea is the central ritual act of their faith. Some analysts liken it to the consecration of wine at a Roman Catholic mass or serving unleavened bread at a Passover Seder.

The problem is that the tea, made from two sacred plants found in the Amazon region of Brazil, contains a hallucinogenic substance banned in the US.

When US narcotics agents discovered this, they confiscated the group's supply of the sacramental tea as an illegal drug and barred them from importing any more from Brazil. The group sued, claiming the government was infringing on their religious rights by blocking a fundamental aspect of their religious worship and threatening to prosecute them should they continue to use the sacramental tea.

A federal judge and federal appeals court agreed with the group and issued a preliminary injunction against the government. The court ordered the government to accommodate the UDV members by allowing them a religious exemption from the drug laws. The courts ruled that such actions were necessary under RFRA.

Government's case

In appealing to the Supreme Court, the Bush administration argues that the government has a compelling interest in the uniform enforcement of the nation's drug laws.

Congress determined that a categorical ban on this hallucinogenic substance was required to help protect the health and safety of Americans, including the followers of UDV, from detrimental effects, government lawyers say. "Religious motivation does not change the science," writes Solicitor General Paul Clement in his brief to the court.

The government also argues that a categorical ban is needed to prevent diversion of the drug into America's illicit recreational drug market. And it is necessary to comply with international treaties banning all trafficking in narcotics and psychotropic substances.

Lawyers for the religious group counter that Congress passed RFRA after it passed the Controlled Substances Act and that since RFRA applies to all federal law, it requires the government to make religious accommodations even from criminal drug laws when individual accommodations are deemed appropriate after a careful case-by-case review.

For example, Congress has created an exemption for the religious use of peyote by native Americans, they say.

"The government's successful accommodation of the sacramental use of peyote, also a (banned) Schedule I substance, belies its claim that such substances require a categorical ban, even for religious use," Nancy Hollander, an Albuquerque lawyer representing the UDV, writes in her brief.

Ms. Hollander accuses the government of playing fast and loose with the facts in claiming there are adverse health effects to the group's use of sacramental tea. She says the only study of sacramental tea use "found no significant health concerns."

On the potential for diversion for recreational drug use, she says use of the tea is tightly controlled during ceremonies, and consumption of the tea outside such ceremonies is considered sacrilegious. Hollander adds that there hasn't been a US conviction for attempting to traffic the hallucinogenic substance contained in the tea in 27 years.

She says the government's argument concerning international treaties is also flawed. The treaty doesn't apply to sacramental tea, she says, and other treaties signed by the US require signatory governments to respect and accommodate religious practices.

Other groups weighing in

Although the New Mexico sect has only 130 members, the case has attracted the attention of a large cross section of religious groups expressing concern about the case. They include the Baptist Joint Committee, the National Association of Evangelicals, Agudath Israel of America, the Minaret of Freedom Institute, the Sikh Coalition, and The First Church of Christ, Scientist, in Boston, which publishes this newspaper.

In an appendix to a friend-of-the-court brief supporting the UDV, the Christian Science Church said in part: "Although The First Church of Christ, Scientist, supports the legal arguments made in this brief, neither the church nor the theology of Christian Science supports the use of drugs or any other material substances as an aid or pathway to spirituality or a greater understanding of God."

END

AP
October 30, 2005

Supreme Court to Hear Student Loans Case

By DONNA GORDON BLANKINSHIP
Associated Press Writer

SEATTLE_James Lockhart was surviving on $874 a month in Social Security disability payments plus $10 in food stamps when his student loans from nearly 20 years earlier caught up with him.

He was told his Social Security checks would be cut by 15 percent, an offset to pay more than $80,000 in delinquent student loans. The next day, he started legal action that has led to a hearing Wednesday before the U.S. Supreme Court.

The case is compelling because many other people are potentially in the same position as Lockhart, at or near retirement age with 20-year-old student loans still unpaid, said Deepak Gupta, an attorney working on his appeal. The government brief on the case said there is nearly $7 billion in delinquent student loan debt, with about half of that amount over 10 years old.

The case hinges on a pair of laws that send mixed messages about whether Social Security payments are shielded from the government's collection efforts: the Debt Collection Act and the Higher Education Act, or HEA.

According to Public Citizen Litigation Group, which is representing Lockhart, one federal appeals court

has ruled in another case that the government is barred by the Social Security Act and the Debt Collection Act from offsetting Social Security payments to repay student loans that are more than 10 years old.

The 9th U.S. Circuit Court of Appeals, however, ruled in Lockhart's case that the HEA eliminated that bar, Public Citizen says.

Lockhart, now 67 and receiving old age benefits instead of disability payments, wouldn't comment. Speaking by phone from his home in Seattle, he explained that his attorneys advised him not to talk about the case until it has been settled.

Gupta, an attorney with Public Citizen, the public interest law firm founded by Ralph Nader, described Lockhart as an old, disabled man living in public housing and barely getting by on his Social Security payments. He has significant medical expenses following double-bypass heart surgery _ including six different prescriptions _ and because of diabetes.

Gupta said Lockhart had more or less given up on his case before the call from Public Citizen.

"We told him 'You have nothing to lose. They're not going to take away more money from you,'" he said.

The Supreme Court probably agreed to hear Lockhart's appeal because of the conflicting ruling by the 8th U.S. Circuit Court of Appeals in a nearly identical case. The appeal of the 8th Circuit case is on hold until the Supreme Court rules on Lockhart's case.

From 2000 through 2003, the Department of Education collected about $400 million a year in delinquent student loan debt through the offset program.

In a government brief to the Supreme Court, Solicitor General Paul D. Clement wrote that it is essential to eliminate the 10-year limit on collections through Social Security because offset typically only occurs because the student debtor has successfully evaded collection by lenders and collection agencies for many years.

The 8th Circuit case involves Dee Ella Lee of Kansas City, Mo., who took out two government loans to fund her studies. She defaulted in 1984 on more than $4,000, and in 2001 the federal government began offsetting her Social Security benefits, reducing her payment from $814 to $750 a month.

The 8th Circuit ruled that the 10-year limit on Social Security offsets applied and her benefits should not be cut.

END

Columbia State (SC)
October 30, 2005

Defense Department denies mistreating detainee

CHARLESTON

The Defense Department has denied that a Charleston Naval brig detainee -- charged with being a "sleeper cell" enemy combatant with ties to al Qaeda officials -- was "subjected to any inhumane, degrading or dangerous conditions."

Defense Department attorneys filed the response Thursday in U.S. District Court to a lawsuit filed in August by Ali Saleh Kahlab al-Marri, alleging he's been severely mistreated.

He was arrested on fraud charges in Illinois three months after the Sept. 11, 2001, attacks. The charges were dropped in June 2003, and he was moved to the Naval brig in Hanahan after President Bush declared al-Marri an enemy combatant.

END

Provo, UT, Daily Herald
October 29, 2005

Effort to expand radiation compensation continues

An Idaho senator says a radiation exposure compensation program can be expanded to cover all exposed individuals while adopting reforms recommended by the National Academy of Sciences.

Sen. Mike Crapo, R-Idaho, who has introduced legislation to expand the Radiation Exposure Compensation Act to include Idaho residents, says he wants to extend compensation to others affected by fallout exposure, as well as reform the act as recommended by the NAS in an April report.

"There are areas in my native Idaho that have demonstrably higher incidences of thyroid dosage of radiation than any other county currently covered by RECA," Crapo said. "It seems unconscionable to me that people living in these areas are not currently eligible for compensation."

The act, referred to as RECA, was written by Sen. Orrin Hatch, R-Utah, and passed in 1990. It offered compensation to uranium miners, energy workers, on-site test participants and residents exposed to fallout from nuclear bomb tests in Nevada in the 1950s and 1960s. Eligibility, however, is limited to people who lived in 22 counties in southern Utah, Nevada and Arizona during the bomb tests, and who contracted any of 19 cancers, particularly thyroid cancer.

More than $440 million has been paid to eligible victims, including more than 4,700 Utah residents.

Crapo and Judiciary Committee chairman Sen. Arlen Specter, R-Penn., have agreed to work on the need to include all individuals exposed to fallout under the existing compensation program, regardless of geography.

Of the 25 counties in the country with the highest fallout exposures, 15 are in Montana, four in Idaho. None of the residents of those counties are eligible for compensation under RECA.

An equitable compensation program must be based on scientific criteria and similar cases must be treated alike, Specter said, quoting the head of the Environmental Protection Agency's Environmental Carcinogenesis Division.

"Those affected are not asking for special treatment; they are simply asking for fairness," Specter said. "The current geographic limitations are not based on the latest science."

Fallout victims in Utah, Nevada and Idaho recently asked Hatch to join Montana and Idaho senators in asking for the expansion of RECA.

"I agree that there are additional geographical areas that need to be added to RECA, but I want to be careful about expanding the program until I can be sure that we do not affect the benefits of those who are currently being compensated by RECA," said Hatch, who has worked to ensure the existing program is fully funded.

The NAS report recommended doing away with geographic boundaries, recognizing that people all

across the country were affected by fallout. It recommended instead a science-based process for determining the likelihood that any particular cancer might have been caused by radiation.

Hatch was disappointed in the report, he said Friday afternoon.

"True, it provided scientific evidence to expand the geographic scope of RECA, but it also said there was no evidence to justify covering additional diseases and called into question the science behind the current eligibility criteria," he said.

The intent of RECA was to compensate those harmed by the federal government's activities, Hatch said.

"I'm not interested in anything that deviates from that intent, and in part, the NAS report seemed to do that," he said.

But the NAS report was only a recommendation, notes J. Preston Truman, director of the group Downwinders, a loose-knit group of fallout victims.

"It is now up to Congress to decide how or if to implement those recommendations," he said.

END

Salem, OR, Statesman Journal
October 29, 2005

Court's suicide decision in limbo; Miers' withdrawal throws another wild card into case about unique Oregon law

BY BILL THEOBALD
Statesman Journal

WASHINGTON -- Harriet Miers' withdrawal as a nominee for the U.S. Supreme Court has thrown another wild card into the legal fate of Oregon's physician-assisted-suicide law.

But whether the further delay in replacing retiring Justice Sandra Day O'Connor will tend to favor those who want the law upheld or opponents who want it overturned is unclear, legal experts and those involved in the case say.

"I think it's total speculation," said Clarke Forsythe, senior counsel for Americans United for Life, a group that filed legal papers opposing the Oregon law. "You are reading tea leaves."

Forsythe said the questions by O'Connor during oral arguments before the Supreme Court earlier this month were interpreted as being skeptical of the federal government's position that it has the legal authority to block Oregon physicians from prescribing drugs used to help people die.

Under this scenario, having O'Connor remain on the court for a longer period of time would increase the chance that she will participate in the decision by the nine-member court and possibly provide a swing vote in favor of Oregon's law.

But Forsythe and others point out that the court has no set timetable for making a decision, and could choose to wait until a new justice is in place and repeat the oral arguments.

And President Bush is expected to move quickly to offer a new nominee with more solid conservative legal credentials than Miers.

Miers, the White House counsel, withdrew her name from consideration Thursday amid criticism that she lacked experience in constitutional law. Republican conservatives also questioned her credentials as a conservative.

The lack of a judicial record made it "very hard to predict how she would have voted" on the Oregon law, said Arthur LaFrance, professor at the Lewis & Clark Law School in Portland. LaFrance was among a group of professors of health law who filed a legal brief in support of Oregon's law.

A total of 208 people have used the Oregon law between 1997 and 2004.

LaFrance said he expects the next nominee "will have a clearly conservative record, and that would be adverse to Oregon's position."

But he offered another intriguing scenario.

Perhaps, he said, the court might want to work quickly to release a decision if it appears the vote will be 5-4, presumably in favor of Oregon's law, with O'Connor as the deciding vote.

That way, the "repercussions that might flow would impact a justice who would no longer be on the court."

Supreme Court decisions usually come between three and six months after oral arguments, legal experts say. But the court also has been known to rule quickly, as in the decision giving Bush his victory over Al Gore in the disputed 2000 election. Or the court could take several years to reach a conclusion, as in the Roe v. Wade decision legalizing abortion.

Robert Kenneth at the Death with Dignity National Center in Portland agrees that Miers' withdrawal gives O'Connor more time to have a role in the decision.

That could work in favor Oregon's position, Kenneth said, pointing to comments O'Connor wrote in previous assisted-suicide cases suggesting that such matters be worked out in the "laboratory of the states."

Further confounding any analysis is that the legal issue in the Oregon case centers on a state's right to regulate medicine versus federal authority to regulate drugs. That puts conservatives, who generally oppose assisted suicide, in a bind because they also believe in a limited role for the federal government that favors states' rights.

For their part, Oregon's senators, who will vote on the eventual Supreme Court nominee, had little to say following Miers' withdrawal.

Sen. Gordon Smith, a Republican, had no immediate comment.

Sen. Ron Wyden, a Democrat, said he was troubled by "the right wing's" reaction to Miers.

"Clearly, their insistence that she was not sufficiently ideological has torpedoed her nomination," Wyden said in a statement.

END

Chicago Lawyer
November 2005

FRAUD WHISTLEBLOWERS CREATE EXPANDING AREA OF LAW

Libby Sander

Steven H. Cohen Tracy L. Netzel Moorman: "Whistleblowers over time have begun to bring more and more cases, and they bring better cases, to be honest." Fraud whistleblowers create expanding area of law Pharmaceutical, health care companies top the list by Libby Sander

In 1863, at the height of the Civil War, President Abraham Lincoln urged Congress to adopt a law that would rein in rampant war profiteering among suppliers to the Union Army. Lawmakers responded by passing the False Claims Act, also known as the "Lincoln Law," allowing private citizens to sue those who bilked the government -- and receive a 50 percent cut of whatever money was recovered.

More than 140 years later, a modern incarnation of the statute is returning billions of dollars to the U.S. Treasury and fueling a parade of lawsuits against companies accused of defrauding the federal government. It is also the backbone of a unique alliance in which the government relies on ordinary citizens -- "whistleblowers" -- to sniff out fraud that might otherwise go undetected.

"The state and federal legislatures recognize that the fraud is so sophisticated that the only way the government can ferret it out is to rely on the private person," said Steven H. Cohen, an attorney with the Cohen Law Group who handles False Claims Act lawsuits. "They've created an incentive for the whistleblower to come forward. The laws really encourage this public-private partnership."

The provision in the federal statute -- some states, including Illinois, also have similar laws -- allowing private citizens to sue on behalf of the government was modeled on the centuries-old English common law term known by its Latin translation, "qui tam." Shortened from the Latin phrase, "Qui tam pro domino rege quam pro se ipso" ("He who sues on behalf of the king as well as for himself"), qui tam in modern times has become synonymous with a whistleblower -- a person who alerts the government to suspicions of fraud.

Though weakened by Congress during World War II and scarcely used from the mid-1940s to the mid-1980s, the False Claims Act's whistleblower provisions were revitalized in 1986 to tackle alleged fraud in the fast-growing defense industry. In the years since, private attorneys and federal prosecutors involved in such cases find themselves at the vanguard of a rapidly developing practice area that was virtually nonexistent 15 years ago.

When Cohen filed his first case under the qui tam provisions of the False Claims Act in 1995, "nobody knew what the heck was going on in this area," he said. "It's still an emerging area, but lawyers know about it. It's becoming an established field of law."

Tracy L. Netzel of Netzel & Associates, one of the handful of attorneys in Chicago who handle qui tam lawsuits, said five or 10 years ago the term "whistleblower" wasn't bandied about very much. "The concept wasn't as common as it is now," she said. But in the wake of corporate scandals at Enron and WorldCom, in which testimony by so-called whistleblowers figured prominently, their status has quickly grown, she said.

Blowing the whistle

Numbers alone tell the recent history of the False Claims Act's qui tam provisions. Since 1986, the federal government has recovered more than $13.5 billion in settlements and judgments under the False Claims Act -- $8 billion of which came from lawsuits filed by whistleblowers, according to Department of Justice statistics. The record year for recoveries under the law was fiscal year 2003, when settlements and judgments yielded more than $2.2 billion. 2005 is expected to be the second-largest year, with $1.5 billion already recovered under the law, according to Taxpayers Against Fraud, a nonprofit organization in Washington, D.C., which acts as a clearinghouse of information for the False Claims Act.

(The whistleblower provisions of the False Claims Act apply only to fraud against the federal government, and the proceedings are often in civil cases. The Sarbanes-Oxley Act, passed in 2002 in the wake of

high-profile corporate scandals, has its own corporate whistleblower provisions.)

While the number of False Claims Act lawsuits filed each year has remained fairly steady since 1987, the percentage of those suits initiated by whistleblowers has increased substantially. In 1987, of the 393 matters filed under the Act, only 32 were qui tam suits, according to the Department of Justice statistics. In 1995, the number of suits brought by whistleblowers exceeded, for the first time, the number of those that were not. In 2004, of the 520 suits filed under the False Claims Act, 415 were filed by whistleblowers, the statistics show.

"As time has gone on, a larger and larger percentage of the [False Claims Act] cases have been qui tam," said James W. Moorman, president and chief executive of Taxpayers Against Fraud. "Whistleblowers over time have begun to bring more and more cases, and they bring better cases, to be honest," he added.

In a whistleblower lawsuit, a private citizen known as a "relator" -- the U.S. government is technically the plaintiff -- files suit against an entity that he or she believes is defrauding the government. The case remains under seal for an unspecified amount of time, usually about two years, while the federal government investigates the allegations. If the government thinks the case is a strong one, it will intervene -- as it does in about 25 percent of all qui tam cases -- and federal prosecutors will collaborate with the private attorney representing the whistleblower to prosecute the case. If the government declines to intervene, the whistleblowers and their private attorneys can pursue their cases on their own in federal court.

In the U.S. Attorney's Office for the Northern District of Illinois, one of only a few districts around the country accustomed to prosecuting whistleblower suits, intervention rates mirror the national average. Prosecutors in Chicago intervene in about a quarter of the roughly 60 qui tam cases pending at any given time, according to assistant U.S. attorney Linda A. Wawzenski, who is deputy chief of the civil division.

"Intervention helps the case, because the government has badges and guns, and witnesses tend to be more cooperative when an FBI or OIG [Office of Inspector General] agent interviews them than when an attorney takes a deposition," said Ronald E. Osman, a lawyer in downstate Marion who filed his first qui tam case in 1991. "My goal is always to get intervention, but if I do not, if the case is good, I continue without the government's help."

Depending on where a qui tam case is filed, it is either handled by prosecutors in a U.S. Attorney's Office or by lawyers at the Department of Justice in Washington. In addition to Chicago, only a few U.S. Attorney's Offices -- Philadelphia, Boston, Los Angeles and Miami -- have developed the expertise to prosecute whistleblower cases, qui tam lawyers say. Most other districts rely on government lawyers in Washington to handle the suits. Settlements negotiated in the Northern District of Illinois still require approval from main headquarters, Wawzenski said, "but in districts like ours where they know we have a lot of experience and depth, they let us take the lead on the case."

In investigating a case, private and government attorneys look for evidence that the defendant knowingly defrauded the government. This can take many forms: submitting a false or fraudulent claim for payment to the government; using false records or statements to receive payment from the government; or using a false record or statement to conceal, avoid or lessen an obligation to pay money or transmit property to the federal government. Typical examples of health care fraud -- currently the most common type of fraud prosecuted under the False Claims Act -- include billing for goods and services that were never rendered, performing unnecessary medical procedures to boost Medicare reimbursements, charging the government more than once for the same goods or services and "upcoding," or inflating bills by using billing codes that indicate a more expensive treatment or illness, according to Taxpayers Against Fraud.

Bringing a suit

Before a case is even filed, qui tam attorneys say they often spend months or even a year doing their own investigation into a whistleblower's allegations.

"The best way to have a good case taken over by the government is to put in hard work and elbow grease before you even file. For every five I investigate, only one will get filed," said Cohen.

"It's an extremely risky area," said Cohen, whose cases are pending in districts all over the country. "You can have the greatest case in the world with the greatest client, and it may never see the light of day."

Robin B. Potter, a sole practitioner who handles qui tam and employment cases, calls her screening process "grueling."
When a whistleblower comes to Potter's office on the 26th floor of 111 E. Wacker Drive, with its view of Lake Michigan and the Chicago River, "I go right to the core," she said. "I say, 'Tell me what you were being asked to do and why you think it's improper.' "
"You just delve into the details," Netzel said. "A lot of times whistleblowers contact attorneys for other reasons, like they're facing retaliation or harassment. But as you continue asking questions, you get a sense of whether there's something bigger there."

The attorneys who defend companies accused of fraud scrutinize the whistleblower's claims as well. "[Whistleblowers] think they're seeing the whole picture, and they're just not," said Stuart J. Chanen of Katten Muchin Rosenman, a former federal prosecutor who has represented whistleblowers, the federal government and now the defense in qui tam cases. "They might be seeing a single supervisor or manager who's deviating from company policy, or they may see a series of false claims in Column A but don't see the correction in Column B. Something might look out of place or incorrect or fraudulent, but it isn't so.

"I don't dispute that the Act can have value, and that in certain circumstances whistleblowers are correct in what they perceive," Chanen continued. "But I also know there are examples where there are folks who have a financial interest like any other litigant, and what they think they saw in the company often isn't correct."

Heroes or opportunists?

Qui tam attorneys are adamant that their clients are sincere and ethical.

"The whistleblower clients I have encountered are among the most ethical people I've ever met," Netzel said, adding that about half of her clients come to her after being retaliated against for reporting fraud to their employers. "Being a whistleblower is not easy," she said.

Potter is more blunt: "They are the salt of the earth, because without them, there would be no False Claims Act."
Several years ago, when an employee of a South Side nursing home came to Potter with tales of physically and mentally disabled residents suffering from sexual assaults, theft and improper medical care, "She didn't say, 'I want a relator's share,' " Potter remembered. "She came to me in tears."

The facility, Maxwell Manor, was shut down by federal and state authorities in 2000 while the case was still under seal, Potter said. In November 2004, the managers of the home agreed to a $1.6 million partial settlement of the federal lawsuit.
In another of Potter's cases, a leading doctor at the University of Illinois Medical Center at Chicago, Ray Pollak, alleged that the medical center had exaggerated the medical problems of patients awaiting liver transplants so some patients would receive transplants more quickly, and the hospital could secure more Medicaid and Medicare payments. The university paid a $2 million settlement in November 2003.

Other cases brought by whistleblowers are national in scale and result in multimillion-dollar settlements. In March 2005, defense giant Northrop Grumman Corp. agreed to a $134 million settlement in a suit brought in the late 1980s by two whistleblowers represented by Chicago attorneys Michael I. Behn and Steven A. Miller. The whistleblowers worked at the company's Rolling Meadows facility in developing components for military aircraft. It was the largest False Claims Act settlement ever negotiated in the

Northern District of Illinois.

Osman, the Marion lawyer, reached a $140 million settlement in 1998 against Blue Cross Blue Shield of Illinois for allegedly falsifying reports to the Health Care Finance Administration regarding processing of Medicare claims. That settlement ranks among the 20 largest qui tam settlements nationwide and is the fourth-largest among suits involving health insurance carriers, according to Taxpayers Against Fraud.

But it is dwarfed by more recent settlements against pharmaceutical companies accused of inflating their drug prices or of marketing their drugs for "off-label" uses, or uses that have not yet been approved by the Food and Drug Administration. (Please see list of largest False Claims Act settlements.)

The largest settlement to date under the False Claims Act was in 2000 for $731.4 million with the nation's largest for-profit hospital chain, the Healthcare Company. The settlement resolved allegations that HCA had engaged in fraudulent billing practices.
As of mid-October 2005, Taxpayers Against Fraud had tallied 22 False Claims Act settlements of more than $100 million -- more than half of which were over $200 million.

One reason the settlements are so large is because the liability exposure under the False Claims Act is so high. The law allows for treble damages, or three times the dollar amount of the initial fraud against the government, plus civil penalties of $5,500 to $11,000 for each false claim. As a result, very few cases, if any, go to trial, attorneys said. "We have never tried a qui tam case in this district," said Wawzenski of the U.S. Attorney's Office.

"Settlements in the $500 million-plus range are now common from the drug companies," Osman said. "I expect the settlements to only get larger unless Congress amends the statute to take the incentive away from the relators and their counsel."
And while there is a clear incentive for whistleblowers to come forward -- they are entitled to between 15 percent and 25 percent of a recovery made in a case where the government intervenes, and up to 30 percent if it does not -- qui tam attorneys insist that the image of a whistleblower as an opportunist out to make a quick buck is a myth.

"It takes tremendous courage to come forward, and in many cases the process takes an immeasurable toll on the relator and [his or her] family," Osman said.

Whatever cut the relator receives from the final settlement is "hard-earned money," said Cohen, noting the strain that the long seal period and drawn-out litigation can take on a relator. "Most whistleblowers are not doing it for the money. They come to us because they're at their wits' end," he added.

Moorman, of Taxpayers Against Fraud, pointed out that "a lot of whistleblowers don't succeed. While the numbers have grown skewed by the large cases, the average case is quite small." The typical settlement in a whistleblower case is about $1 million, and most whistleblowers receive about a 16 percent share, he said.

Chanen, the defense attorney, points out that for every qui tam case the government deems worthy of prosecution, there are four others it declines to pursue. "People should not presume every time a False Claims Act case is filed or a whistleblower trumpets a story in the press that that necessarily means the government is going to find veracity in it," he said.

At the local level

The effectiveness of the federal False Claims Act has caught the attention of lawmakers in statehouses across the country, causing a "sea change" in enforcement of government contracts at the state and local level, Cohen said.

Since the early 1990s, 16 states and the District of Columbia have passed their own versions of the federal law, with rumblings in several others, according to Moorman. In November 2004, Chicago became

the first major city to pass a false claims law, and New York followed suit last May.

Illinois' law, the Whistleblower Reward and Protection Act, was adopted in 1992 and is virtually identical to the federal law. Since 2000, the state has recovered $83 million in 55 lawsuits against entities that allegedly defrauded the state, according to the Illinois Attorney General's Office. Of those cases, 48 involved allegations of Medicaid fraud.

"The state has other tools to fight fraud, but the reality is that we need whistleblowers," said Benjamin C. Weinberg, chief of the public interest division in Illinois Attorney General's Office. "We don't have the resources to have free-flowing investigators just looking for fraud. We rely on complaints from whistleblowers to bring certain kinds of fraud to our attention."

Since Attorney General Lisa Murray Madigan took office in early 2003, state prosecutors have been "aggressively and very effectively" investigating fraud using the whistleblower statute, Cohen said. Weinberg added that most of the cases filed under Madigan's watch are still under seal.

In most cases brought under the state law, prosecutors in Madigan's office work alongside their federal counterparts and the relator's attorneys to prepare the case. In the case against the University of Illinois Medical Center, for example, the state intervened and recovered more than $750,000 from the university when the case settled in 2003.

An expanding area of law

As qui tam lawsuits have garnered more media and government attention in recent years, some attorneys said the positions of people who bring whistleblower complaints have changed. With fraudulent activity surfacing in such national programs as Medicare and Medicaid, the resulting cases are often complex, broad in scope and require intimate knowledge of business models that only high-ranking employees would be able to access, attorneys said.

"Back in the mid-1990s, whistleblowers tended to be lower to mid-level employees, most of whom felt they had been harassed, retaliated against or ignored when they raised concerns about what their employers were doing," Cohen said. "They'd come to me because they felt their personal rights were being compromised.

"Now, as the area of law has emerged and become more established and recognized, my clients are doctors, nurses, chief financial officers, high-level sales management. You find a higher sophistication level as well as higher-placed information," he said.
Potter said she is representing more white-collar clients now than ever before -- a fact she attributes to the government's increased scrutiny of white-collar crime and to the whistleblowers' fervent desire to avoid getting caught up in any potential crimes themselves.

While early qui tam lawsuits were related to defense contracts -- and many still are -- the 1990s saw a spike in health care-related cases that has yet to level off, attorneys said. And they are in unanimous agreement that as long as there are government contracts with private companies, fraud will continue and whistleblowers will continue to come forward.

"Anywhere there's a privatization of government-run services, that's where you see the potential for fraud," Cohen said.

END

Williams, Jan

From: Williams, Jan
Sent: Monday, October 31, 2005 1:52 PM
To: Williams, Jan; Gorsuch, Neil M; McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); Sampson, Kyle
Subject: RE: [redacted] -- CPO

[redacted]s interested and would be a caught, i think. Neil, do you have time to talk to him this afternoon on the phone? let me know and i will set it up.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, October 27, 2005 3:46 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); [redacted] (DHS)
Subject: FW: Jim Jordan -- CPO

another idea for CPO. Robert, I think you know him from [redacted] -- what do you think of him? I have not called him yet.

Sampson, Kyle

From: Sampson, Kyle
Sent: Monday, October 31, 2005 1:59 PM
To: Williams, Jan; Gorsuch, Neil M; McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG)
Subject: Re: [redacted] -- CPO

As the CPO, by statute (or congressional approps language), will be part of ODAG, I think it would be important to loop Paul/Bill in at this point.

-----Original Message-----
From: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
CC: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>
Sent: Mon Oct 31 12:51:55 2005
Subject: RE: [redacted] -- CPO

[redacted] is interested and would be a caught, i think. Neil, do you have time to talk to him this afternoon on the phone? let me know and i will set it up.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, October 27, 2005 3:46 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); [redacted] (DHS)
Subject: FW: [redacted] -- CPO

another idea for CPO. Robert, I think you know him from [redacted] -- what do you think of him? I have not called him yet.

MDavis@gwb43.com

From: MDavis@gwb43.com
Sent: Monday, October 31, 2005 2:02 PM
To: md@gwb43.com
Subject: Praise for Judge Alito
Attachments: tmp.htm

Monday, October 31, 2005
What They're Saying About The Nomination Of Judge Samuel A. Alito, Jr.
To The Supreme Court

Praise For Alito Nomination To Supreme Court:

ABC's George Stephanopoulos: "[Samuel Alito] Has Got The Background Qualifications And Temperament Of John Roberts." (ABC's "Good Morning America," 10/31/05)

*

Stephanopoulos: "[Samuel Alito] Won't Provide A Big Target For The Democrats." (ABC's "Good Morning America," 10/31/05)

Fox News' Bill Kristol: "I Think He Is Really High Quality...An Awfully Impressive Man. (Fox News, "Fox And Friends," 10/31/05)

ABC's Jessica Yellin: "Samuel Alito Is A Federal Judge In New Jersey With Established Conservative Credentials, He Has Well-Known Views On Constitutional Issues And Unquestioned Intellectual Heft." (ABC's "Good Morning America," 10/31/05)

CBS' Gloria Borger: "There Is No Doubt, Julie, That This Man Is Very Qualified. People Consider Him A Brilliant Jurist, And So You Can't Argue With Qualifications." (CBS' "The Early Show," 10/31/05)

CNN's Bill Schneider: "On Those Two Grounds, Temperament And Credentials, He Seems Like A Strong Pick." (CNN's "American Morning," 10/31/05)

CNN's Jeff Toobin: "[Alito Has] A Remarkable Level Of Experience. This Is Very Much Like John Roberts, Sort Of Central Casting Background For A Supreme Court Nominee." (CNN's "American Morning," 10/31/05)

*

Toobin: "[J]udge Alito Has Remarkable, Excellent Qualifications To Be On Supreme Court." (CNN's "American Morning," 10/31/05)

*

Toobin: "Alito Is Supposed To Be A Very Nice Guy, Relaxed, Laid Back, Friendly, Charming." (CNN's "American Morning," 10/31/05)

Senator John McCain (R-AZ): "[Judge Alito] Has A Very Good Temperament.
... He's Very Smart, And Has Impressed A Lot Of People. The President Said He Was Going To Appoint Somebody Who Is Conservative, And That's The Way He Campaigned, And That's What We Have Here. I Think He's Very Highly Regarded." (MSNBC's "Imus In The Morning," 10/31/05)

ABC's Terry Moran: "[T]his Is A Man With Deep Experience In These [Judicial] Issues ..." (ABC's "Good Morning America," 10/31/05)

Monday, October 31, 2005
What They're Saying About The Nomination Of Judge Samuel A. Alito, Jr.
To The Supreme Court: Volume II

More Praise For Judge Samuel A. Alito, Jr.:

Dick Thornburgh, Former Attorney General: "I Think It's A First Class Choice. Sam Alito Is Gifted Intellectually, He's A Student Of The Law." (Fox News' "Live," 10/31/05)

*

Thornburgh: "He's Going To Impress A Lot Of People. This Is An Intellectual Heavyweight, An Honors Graduate Of Leading Colleges And Law Schools, And A Man Who When We Served Together In The Department Of Justice Was Widely Respected By Our Colleagues." (Fox News' "Live," 10/31/05)

Notre Dame Associate Dean John Nagle: "Well, [Sam Alito's] Just A Terrific Nominee. I Mean, He Has For The Past 15 Years Developed A Reputation As Being One Of The Most Thoughtful Judges In The Country.
Before That He Did An Excellent Job Serving As The Head Federal Prosecutor In New Jersey ..." (Fox News' "Fox And Friends," 10/31/05)

*

Nagle: "He Was ... Very Gracious, Easy Going, Personable, A Brilliant Legal Thinker. But He's Not Really A Person Who In His Personal Conversations Or In His Judicial Opinions Is Trying To Prove To Everyone Else Who's Brightest. I Think He's Going To Be An Outstanding Judge." (Fox News' "Fox And Friends," 10/31/05)

Former Sen. George Mitchell (D-ME): "[I] Myself Was A United States Attorney And A Federal Judge, So I'm Kind Of Partial To Someone With That Kind Of Record ..." (Fox News' "Fox And Friends," 10/31/05)

Fox News' Tony Snow: "The Thing About Sam Alito Is A Lot Of People Have Said Already This Is A Guy Who Is Genial, Who Is Likeable And Is John Roberts Smart And Therefore Is Going To Present Himself Fairly Well To The American Public." (Fox News' "Fox And Friends," 10/31/05)

Scripps Howard Columnist Martin Schram: "[Alito] Is Very Smart. He Knows What He Is Doing. He Knows The Constitution. He Knows The Law And He Has Been Judicially An Effective Judge By All Standards. His Last Confirmation Hearing Took 15 Minutes." (WUSA TV's "9 News At 9 AM," 10/31/05)

Bill Kristol, Editor Of The Weekly Standard: "[In] April, ... I Surveyed People That I Respect In Constitutional Law, Law Professors, Former Law Clerks Who Were Lawyers, I Said On The Pure Merits

Among Those That The President Would Be Inclined To Pick, Who Would Be The Most Distinguished, Most Intellectually Serious And Thoughtful Appellate Court Judges And I Would Say In The Top Five Consistently Were Roberts And Alito." (Fox News' "Fox & Friends," 10/31/05)

CNN's Bill Schneider: "Democrats May Disagree Strongly With His Views But They'd Be In A Hard Position To Argue With His Qualifications Or His Credentials." (CNN's "American Morning," 10/31/05)

Lawrence Lustberg, Private Practice Attorney In New Jersey And Friend Of Judge Alito: "He's A Wonderful Guy And I Believe A Brilliant Judge." (CNN's "American Morning," 10/31/05)

*

Lustberg: "I Don't Think Anybody Can Question Judge Alito's Integrity And His Intelligence." (CNN's "American Morning," 10/31/05)

*

Lustberg: "As A Person, I Think Sam Alito Is Terrific. He's Generous Of Spirit, He's Got A Great Sense Of Humor, He's Very Smart, And He's A Kind And Open-Minded Human Being." (CNN's "American Morning," 10/31/05)

Patrick Buchanan: "[T]his Is An Incredibly Outstanding Jurist. He Is John Roberts With Basically Real Life Experience ... He Was Unanimously Approved For U.S. Attorney By A Democratic Senate And Unanimously Approved As A Federal Appellate Judge. So This Is An Outstanding Jurist." (MSNBC's "News Live," 10/31/05)

Mike Davis, Associate Director
The White House Office of Political Affairs 202-456-7016 (direct)
202-641-4251 (cell)
202-456-6521 (fax)

Monday, October 31, 2005
What They're Saying About The Nomination Of Judge Samuel A. Alito, Jr. To The Supreme Court

Praise For Alito Nomination To Supreme Court:

ABC's George Stephanopoulos: "[Samuel Alito] Has Got The Background Qualifications And Temperament Of John Roberts." (ABC's "Good Morning America," 10/31/05)

- **Stephanopoulos: "[Samuel Alito] Won't Provide A Big Target For The Democrats."** (ABC's "Good Morning America," 10/31/05)

Fox News' Bill Kristol: "I Think He Is Really High Quality...An Awfully Impressive Man. (Fox News, "Fox And Friends," 10/31/05)

ABC's Jessica Yellin: "Samuel Alito Is A Federal Judge In New Jersey With Established Conservative Credentials, He Has Well-Known Views On Constitutional Issues And Unquestioned Intellectual Heft." (ABC's "Good Morning America," 10/31/05)

CBS' Gloria Borger: "There Is No Doubt, Julie, That This Man Is Very Qualified. People Consider Him A Brilliant Jurist, And So You Can't Argue With Qualifications." (CBS' "The Early Show," 10/31/05)

CNN's Bill Schneider: "On Those Two Grounds, Temperament And Credentials, He Seems Like A Strong Pick." (CNN's "American Morning," 10/31/05)

CNN's Jeff Toobin: "[Alito Has] A Remarkable Level Of Experience. This Is Very Much Like John Roberts, Sort Of Central Casting Background For A Supreme Court Nominee." (CNN's "American Morning," 10/31/05)

- **Toobin: "[J]udge Alito Has Remarkable, Excellent Qualifications To Be On Supreme Court."** (CNN's "American Morning," 10/31/05)

- **Toobin: "Alito Is Supposed To Be A Very Nice Guy, Relaxed, Laid Back, Friendly, Charming."** (CNN's "American Morning," 10/31/05)

Senator John McCain (R-AZ): "[Judge Alito] Has A Very Good Temperament. ... He's Very Smart, And Has Impressed A Lot Of People. The President Said He Was Going To Appoint Somebody Who Is Conservative, And That's The Way He Campaigned, And That's What We Have Here. I Think He's Very Highly Regarded." (MSNBC's "Imus In The Morning," 10/31/05)

ABC's Terry Moran: "[T]his Is A Man With Deep Experience In These [Judicial] Issues ..." (ABC's "Good Morning America," 10/31/05)

Monday, October 31, 2005
What They're Saying About The Nomination Of Judge Samuel A. Alito, Jr. To The Supreme Court: Volume II

More Praise For Judge Samuel A. Alito, Jr.:

Dick Thornburgh, Former Attorney General: "I Think It's A First Class Choice. Sam Alito Is Gifted Intellectually, He's A Student Of The Law." (Fox News' "Live," 10/31/05)

- **Thornburgh: "He's Going To Impress A Lot Of People. This Is An Intellectual Heavyweight, An Honors Graduate Of Leading Colleges And Law Schools, And A Man Who When We Served Together In The Department Of Justice Was Widely Respected By Our Colleagues."** (Fox News' "Live," 10/31/05)

Notre Dame Associate Dean John Nagle: "Well, [Sam Alito's] Just A Terrific Nominee. I Mean, He Has For The Past 15 Years Developed A Reputation As Being One Of The Most Thoughtful Judges In The Country. Before That He Did An Excellent Job Serving As The Head Federal Prosecutor In New Jersey ..." (Fox News' "Fox And Friends," 10/31/05)

- **Nagle: "He Was ... Very Gracious, Easy Going, Personable, A Brilliant Legal Thinker. But He's Not Really A Person Who In His Personal Conversations Or In His Judicial Opinions Is Trying To Prove To Everyone Else Who's Brightest. I Think He's Going To Be An Outstanding Judge."** (Fox News' "Fox And Friends," 10/31/05)

Former Sen. George Mitchell (D-ME): "[I] Myself Was A United States Attorney And A Federal Judge, So I'm Kind Of Partial To Someone With That Kind Of Record ..." (Fox News' "Fox And Friends," 10/31/05)

Fox News' Tony Snow: "The Thing About Sam Alito Is A Lot Of People Have Said Already This Is A Guy Who Is Genial, Who Is Likeable And Is John Roberts Smart And Therefore Is Going To Present Himself Fairly Well To The American Public." (Fox News' "Fox And Friends," 10/31/05)

***Scripps Howard* Columnist Martin Schram: "[Alito] Is Very Smart. He Knows What He Is Doing. He Knows The Constitution. He Knows The Law And He Has Been Judicially An Effective Judge By All Standards. His Last Confirmation Hearing Took 15 Minutes."** (WUSA TV's "9 News At 9 AM," 10/31/05)

Bill Kristol, Editor Of *The Weekly Standard*: "[In] April, ... I Surveyed People That I Respect In Constitutional Law, Law Professors, Former Law Clerks Who Were Lawyers, I Said On The Pure Merits Among Those That The President Would Be Inclined To Pick, Who Would Be The Most Distinguished, Most Intellectually Serious And Thoughtful Appellate Court Judges And I Would Say In The Top Five Consistently Were Roberts And Alito." (Fox News' "Fox & Friends," 10/31/05)

CNN's Bill Schneider: "Democrats May Disagree Strongly With His Views But They'd Be In A Hard Position To Argue With His Qualifications Or His Credentials." (CNN's "American Morning," 10/31/05)

Lawrence Lustberg, Private Practice Attorney In New Jersey And Friend Of Judge Alito: "He's A Wonderful Guy And I Believe A Brilliant Judge." (CNN's "American Morning," 10/31/05)

- **Lustberg: "I Don't Think Anybody Can Question Judge Alito's Integrity And His Intelligence."** (CNN's "American Morning," 10/31/05)

- **Lustberg: "As A Person, I Think Sam Alito Is Terrific. He's Generous Of Spirit, He's Got A Great Sense Of Humor, He's Very Smart, And He's A Kind And Open-Minded Human Being."** (CNN's "American Morning," 10/31/05)

Patrick Buchanan: "[T]his Is An Incredibly Outstanding Jurist. He Is John Roberts With Basically Real Life Experience ... He Was Unanimously Approved For U.S. Attorney By A Democratic Senate And Unanimously Approved As A Federal Appellate Judge. So This Is An Outstanding Jurist." (MSNBC's "News Live," 10/31/05)

Mike Davis, Associate Director
The White House Office of Political Affairs
202-456-7016 (direct)
202-641-4251 (cell)
202-456-6521 (fax)

Williams, Jan

From: Williams, Jan
Sent: Monday, October 31, 2005 2:02 PM
To: Sampson, Kyle
Cc: Gorsuch, Neil M
Subject: RE: [redacted] -- CPO

we will. mercer asked that gorsuch do the first round of interviews. Bill, will you let Paul know where we are and let me know if he wants add any candidate, etc. thanks.

-----Original Message-----
From: Sampson, Kyle
Sent: Monday, October 31, 2005 12:59 PM
To: Williams, Jan; Gorsuch, Neil M; McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG)
Subject: Re: [redacted] -- CPO

As the CPO, by statute (or congressional approps language), will be part of ODAG, I think it would be important to loop Paul/Bill in at this point.

-----Original Message-----
From: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
CC: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>
Sent: Mon Oct 31 12:51:55 2005
Subject: RE: [redacted] -- CPO

[redacted] is interested and would be a catch, i think. Neil, do you have time to talk to him this afternoon on the phone? let me know and i will set it up.

-----Original Message-----
From: Williams, Jan
Sent: Thursday, October 27, 2005 3:46 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); [redacted] (DHS)
Subject: FW: [redacted] -- CPO

another idea for CPO. Robert, I think you know him from [redacted] -- what do you think of him? I have not called him yet.

Beach, Andrew

From: Beach, Andrew
Sent: Monday, October 31, 2005 2:04 PM
To: Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Beach, Andrew; Sellers, Kiahna (OAG); Nelson, Carrie; Goodling, Monica; Fisher, Alice
Cc: Washington, Tracy T; Bennett, Catherine T; Henderson, Charles V; Martinson, Wanda; Cohen, Brian; Webb, Lauren; Shaw, Aloma A; Brown, Angela
Subject: 11/1 Strategic Initiatives

several folks have reported difficulty in accepting this meeting change onto their calendar.

Please note: Strategic Initiatives meeting (staff level)
Location: OAG Conf Rm 5228
Start: Tuesday, November 1: 9:30 AM
End: Tuesday, November 1: 10:30 AM

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, October 31, 2005 2:22 PM
To: Gorsuch, Neil M
Subject: Call Jan Williams

Williams, Jan

From: Williams, Jan
Sent: Monday, October 31, 2005 2:55 PM
To: Gorsuch, Neil M
Subject: RE: shall i come to your office for the 2 pm call?

no, i will come down to you.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, October 31, 2005 1:54 PM
To: Williams, Jan
Subject: shall i come to your office for the 2 pm call?

Gershel, Alan (USAMIE)

From:	Gershel, Alan (USAMIE)
Sent:	Monday, October 31, 2005 4:51 PM
To:	Gorsuch, Neil M
Cc:	Murphy, Stephen J. (USAMIE)
Subject:	RE: A/C waiver
Attachments:	Corporate Privilege Waivers Policy.rtf

Neil, attached please find Oregon's policy. Kent Robinson is the Crim.
Chief there. He is a great guy who I am sure would be happy to discuss this with you. We just sent a propsal to Steve for his review. It is very similar to the Oregon approach. I will send it to you after it is finalized. Please call me if you would like to discuss. This issue will likely be discussed at the national criminal chiefs conference at the NAC this week.
Take care,
Alan

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, October 31, 2005 10:53 AM
To: Gershel, Alan (USAMIE)
Subject: RE: A/C waiver

Alan, Thanks very much. If you could send along the one you've gotten your hands on, I would be grateful. I understand you office's final memo may take longer, but anything would be helpful at the moment. Best regards, NMG

-----Original Message-----
From: Gershel, Alan (USAMIE)
Sent: Friday, October 28, 2005 11:56 AM
To: Gorsuch, Neil M; Murphy, Stephen J. (USAMIE)
Subject: RE: A/C waiver

Neil Steve, there has been a great deal of e-mail traffic among the criminal chiefs the last few days. Folks have been looking for models. I have only gotten my hands on one which I will be happy to send you along with ours after Steve approves it.

Alan

From: Murphy, Stephen J. (USAMIE)
Sent: Friday, October 28, 2005 11:50 AM
To: Gorsuch, Neil M
Cc: Gershel, Alan (USAMIE)
Subject: RE: A/C waiver

Neil --

I have a draft policy in the hands of our criminal chief (Alan Gershel who I am cc'ing with this). He is going to meet early next week with our Ecominc Crimes chief and lead corporate fraud AUSA. They will hammer out what in all likelihood will be our final policy. I can send that to you then or, if you need it now, the more crude draft I wrote. Either way, it will be very short.

Thanks for the inquiry and take care, SJM

From: Gorsuch, Neil M
Sent: Friday, October 28, 2005 11:43 AM
To: Murphy, Stephen J. (USAMIE)
Subject: A/C waiver

Steve, Another USAO has asked whether we can recommend any model A/C waiver policies for their consideration. I recall that you were working on a new, state of the art policy and wonder whether it might yet be in a position that you could share it. Warm regards, NMG

From: Robinson, Kent
Sent: Friday, August 05, 2005 4:31 PM
To: OR,Criminal_AUSA; OR,Criminal_Support
Subject: Corporate Privilege Waivers Policy

We have been asked by Main Justice whether we have a policy regarding when and how we seek attorney/client privilege and work product doctrine waivers from corporations or business entities during investigations. I recognize that this is an issue that involves very few of you. I also believe that on those few occasions when we have sought waivers we've done so for good reasons and with the appropriate internal consultation. Nonetheless, we have determined that we should establish the following policy:

Any AUSA intending to request that a corporation or other business entity waive its attorney/client privilege or work product doctrine must first obtain approval from the Chief of the Criminal Division. A request for such approval should be submitted in writing or by email. Any such request should address the factors set forth in the Thompson Memo, a copy of which is attached below, including: (1) the necessity of obtaining the evidence sought by the waiver; (2) the scope of the proposed waiver; and (3) the business entity's response to the investigation, including whether it has sought to shield culpable individuals or whether it has sought to identify and remedy past wrongdoing.



Kent

U.S. Department of Justice

Executive Office for United States Attorneys

Office of the Director

Main Justice Building, Room 2616
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

(202) 514-2121

MEMORANDUM - Sent via Electronic Mail

DATE: JAN 23 2003

TO: ALL UNITED STATES ATTORNEYS
ALL FIRST ASSISTANT UNITED STATES ATTORNEYS
ALL CRIMINAL CHIEFS

FROM: Guy A. Lewis
Director

SUBJECT: Principles of Federal Prosecution of Business Organizations

ACTION REQUIRED: Distribute to all Assistant United States Attorneys who handle matters involving corporate fraud or other crimes involving business organizations.

CONTACT : Bill Mateja
Counsel to the Director Staff
Telephone: (202) 514-1023

This memorandum transmits to you a copy of the Deputy Attorney General's January 20, 2003, memorandum revising the principles that guide prosecutors as they make the decision whether to seek charges against a business organization. Please carefully review the twelve principles that now govern this important charging decision.

If you have any questions, please contact Bill Mateja at the number listed above.

cc: All United States Attorneys' Secretaries

U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

January 20, 2003

MEMORANDUM

TO: Heads of Department Components
United States Attorneys

FROM: Larry D. Thompson
Deputy Attorney General

SUBJECT: Principles of Federal Prosecution of Business Organizations

As the Corporate Fraud Task Force has advanced in its mission, we have confronted certain issues in the principles for the federal prosecution of business organizations that require revision in order to enhance our efforts against corporate fraud. While it will be a minority of cases in which a corporation or partnership is itself subjected to criminal charges, prosecutors and investigators in every matter involving business crimes must assess the merits of seeking the conviction of the business entity itself.

Attached to this memorandum are a revised set of principles to guide Department prosecutors as they make the decision whether to seek charges against a business organization. These revisions draw heavily on the combined efforts of the Corporate Fraud Task Force and the Attorney General's Advisory Committee to put the results of more than three years of experience with the principles into practice.

The main focus of the revisions is increased emphasis on and scrutiny of the authenticity of a corporation's cooperation. Too often business organizations, while purporting to cooperate with a Department investigation, in fact take steps to impede the quick and effective exposure of the complete scope of wrongdoing under investigation. The revisions make clear that such conduct should weigh in favor of a corporate prosecution. The revisions also address the efficacy of the corporate governance mechanisms in place within a corporation, to ensure that these measures are truly effective rather than mere paper programs.

Further experience with these principles may lead to additional adjustments. I look forward to hearing comments about their operation in practice. Please forward any comments to Christopher Wray, the Principal Associate Deputy Attorney General, or to Andrew Hruska, my Senior Counsel.

Federal Prosecution of Business Organizations[1]

I. Charging a Corporation: General

A. General Principle: Corporations should not be treated leniently because of their artificial nature nor should they be subject to harsher treatment. Vigorous enforcement of the criminal laws against corporate wrongdoers, where appropriate results in great benefits for law enforcement and the public, particularly in the area of white collar crime. Indicting corporations for wrongdoing enables the government to address and be a force for positive change of corporate culture, alter corporate behavior, and prevent, discover, and punish white collar crime.

B. Comment: In all cases involving corporate wrongdoing, prosecutors should consider the factors discussed herein. First and foremost, prosecutors should be aware of the important public benefits that may flow from indicting a corporation in appropriate cases. For instance, corporations are likely to take immediate remedial steps when one is indicted for criminal conduct that is pervasive throughout a particular industry, and thus an indictment often provides a unique opportunity for deterrence on a massive scale. In addition, a corporate indictment may result in specific deterrence by changing the culture of the indicted corporation and the behavior of its employees. Finally, certain crimes that carry with them a substantial risk of great public harm, e.g., environmental crimes or financial frauds, are by their nature most likely to be committed by businesses, and there may, therefore, be a substantial federal interest in indicting the corporation.

Charging a corporation, however, does not mean that individual directors, officers, employees, or shareholders should not also be charged. Prosecution of a corporation is not a substitute for the prosecution of criminally culpable individuals within or without the corporation. Because a corporation can act only through individuals, imposition of individual criminal liability may provide the strongest deterrent against future corporate wrongdoing. Only rarely should provable individual culpability not be pursued, even in the face of offers of corporate guilty pleas.

Corporations are "legal persons," capable of suing and being sued, and capable of committing crimes. Under the doctrine of *respondeat superior*, a corporation may be held criminally liable for the illegal acts of its directors, officers, employees, and agents. To hold a corporation liable for these actions, the government must establish that the corporate agent's actions (i) were within the scope of his duties and (ii) were intended, at least in part, to benefit the corporation. In all cases involving wrongdoing by corporate agents, prosecutors should consider the corporation, as well as the responsible individuals, as potential criminal targets.

---

[1] While these guidelines refer to corporations, they apply to the consideration of the prosecution of all types of business organizations, including partnerships, sole proprietorships, government entities, and unincorporated associations.

Agents, however, may act for mixed reasons -- both for self-aggrandizement (both direct and indirect) and for the benefit of the corporation, and a corporation may be held liable as long as one motivation of its agent is to benefit the corporation. In *United States v. Automated Medical Laboratories*, 770 F.2d 399 (4th Cir. 1985), the court affirmed the corporation's conviction for the actions of a subsidiary's employee despite its claim that the employee was acting for his own benefit, namely his "ambitious nature and his desire to ascend the corporate ladder." The court stated, "*Partucci* was clearly acting in part to benefit AML since his advancement within the corporation depended on AML's well-being and its lack of difficulties with the FDA." Similarly, in *United States v. Cincotta*, 689 F.2d 238, 241-42 (1st Cir. 1982), the court held, "criminal liability may be imposed on the corporation only where the agent is acting within the scope of his employment. That, in turn, requires that the agent be performing acts of the kind which he is authorized to perform, and those acts must be motivated -- at least in part -- by an intent to benefit the corporation." Applying this test, the court upheld the corporation's conviction, notwithstanding the substantial personal benefit reaped by its miscreant agents, because the fraudulent scheme required money to pass through the corporation's treasury and the fraudulently obtained goods were resold to the corporation's customers in the corporation's name. As the court concluded, "Mystic--not the individual defendants--was making money by selling oil that it had not paid for."

Moreover, the corporation need not even necessarily profit from its agent's actions for it to be held liable. In *Automated Medical Laboratories*, the Fourth Circuit stated:

> [B]enefit is not a "touchstone of criminal corporate liability; benefit at best is an evidential, not an operative, fact." Thus, whether the agent's actions ultimately redounded to the benefit of the corporation is less significant than whether the agent acted with the intent to benefit the corporation. The basic purpose of requiring that an agent have acted with the intent to benefit the corporation, however, is to insulate the corporation from criminal liability for actions of its agents which be inimical to the interests of the corporation or which may have been undertaken solely to advance the interests of that agent or of a party other than the corporation.

770 F.2d at 407 (emphasis added; quoting *Old Monastery Co. v. United States*, 147 F.2d 905, 908 (4th Cir.), cert. denied, 326 U.S. 734 (1945)).

DOJ_NMG_ 0148921

II. Charging a Corporation: Factors to Be Considered

A. General Principle: Generally, prosecutors should apply the same factors in determining whether to charge a corporation as they do with respect to individuals. *See* USAM § 9-27.220, *et seq.* Thus, the prosecutor should weigh all of the factors normally considered in the sound exercise of prosecutorial judgment: the sufficiency of the evidence; the likelihood of success at trial,; the probable deterrent, rehabilitative, and other consequences of conviction; and the adequacy of noncriminal approaches. *See* id. However, due to the nature of the corporate "person," some additional factors are present. In conducting an investigation, determining whether to bring charges, and negotiating plea agreements, prosecutors should consider the following factors in reaching a decision as to the proper treatment of a corporate target:

1. the nature and seriousness of the offense, including the risk of harm to the public, and applicable policies and priorities, if any, governing the prosecution of corporations for particular categories of crime (*see* section III, *infra*);

2. the pervasiveness of wrongdoing within the corporation, including the complicity in, or condonation of, the wrongdoing by corporate management (*see* section IV, *infra*);

3. the corporation's history of similar conduct, including prior criminal, civil, and regulatory enforcement actions against it (*see* section V, *infra*);

4. the corporation's timely and voluntary disclosure of wrongdoing and its willingness to cooperate in the investigation of its agents, including, if necessary, the waiver of corporate attorney-client and work product protection (*see* section VI, *infra*);

5. the existence and adequacy of the corporation's compliance program (*see* section VII, *infra*);

6. the corporation's remedial actions, including any efforts to implement an effective corporate compliance program or to improve an existing one, to replace responsible management, to discipline or terminate wrongdoers, to pay restitution, and to cooperate with the relevant government agencies (*see* section VIII, *infra*);

7. collateral consequences, including disproportionate harm to shareholders, pension holders and employees not proven personally culpable and impact on the public arising from the prosecution (*see* section IX, *infra*); and

8. the adequacy of the prosecution of individuals responsible for the corporation's malfeasance;

9. the adequacy of remedies such as civil or regulatory enforcement actions (*see*

DOJ_NMG_ 0148922

section X, infra).

B. Comment: As with the factors relevant to charging natural persons, the foregoing factors are intended to provide guidance rather than to mandate a particular result. The factors listed in this section are intended to be illustrative of those that should be considered and not a complete or exhaustive list. Some or all of these factors may or may not apply to specific cases, and in some cases one factor may override all others. The nature and seriousness of the offense may be such as to warrant prosecution regardless of the other factors. Further, national law enforcement policies in various enforcement areas may require that more or less weight be given to certain of these factors than to others.

In making a decision to charge a corporation, the prosecutor generally has wide latitude in determining when, whom, how, and even whether to prosecute for violations of Federal criminal law. In exercising that discretion, prosecutors should consider the following general statements of principles that summarize appropriate considerations to be weighed and desirable practices to be followed in discharging their prosecutorial responsibilities. In doing so, prosecutors should ensure that the general purposes of the criminal law -- assurance of warranted punishment, deterrence of further criminal conduct, protection of the public from dangerous and fraudulent conduct, rehabilitation of offenders, and restitution for victims and affected communities -- are adequately met, taking into account the special nature of the corporate "person."

III. Charging a Corporation: Special Policy Concerns

A. General Principle: The nature and seriousness of the crime, including the risk of harm to the public from the criminal conduct, are obviously primary factors in determining whether to charge a corporation. In addition, corporate conduct, particularly that of national and multi-national corporations, necessarily intersects with federal economic, taxation, and criminal law enforcement policies. In applying these principles, prosecutors must consider the practices and policies of the appropriate Division of the Department, and must comply with those policies to the extent required.

B. Comment: In determining whether to charge a corporation, prosecutors should take into account federal law enforcement priorities as discussed above. *See* USAM § 9-27-230. In addition, however, prosecutors must be aware of the specific policy goals and incentive programs established by the respective Divisions and regulatory agencies. Thus, whereas natural persons may be given incremental degrees of credit (ranging from immunity to lesser charges to sentencing considerations) for turning themselves in, making statements against their penal interest, and cooperating in the government's investigation of their own and others' wrongdoing, the same approach may not be appropriate in all circumstances with respect to corporations. As an example, it is entirely proper in many investigations for a prosecutor to consider the corporation's pre-indictment conduct, *e.g.*,voluntary disclosure, cooperation, remediation or restitution, in determining whether to seek an indictment. However, this would not necessarily be appropriate in an antitrust investigation, in which antitrust violations, by definition, go to the

DOJ_NMG_ 0148923

heart of the corporation's business and for which the Antitrust Division has therefore established a firm policy, understood in the business community, that credit should not be given at the charging stage for a compliance program and that amnesty is available only to the first corporation to make full disclosure to the government. As another example, the Tax Division has a strong preference for prosecuting responsible individuals, rather than entities, for corporate tax offenses. Thus, in determining whether or not to charge a corporation, prosecutors should consult with the Criminal, Antitrust, Tax, and Environmental and Natural Resources Divisions, if appropriate or required.

IV. Charging a Corporation: Pervasiveness of Wrongdoing Within the Corporation

A. General Principle: A corporation can only act through natural persons, and it is therefore held responsible for the acts of such persons fairly attributable to it. Charging a corporation for even minor misconduct may be appropriate where the wrongdoing was pervasive and was undertaken by a large number of employees or by all the employees in a particular role within the corporation, *e.g.*, salesmen or procurement officers, or was condoned by upper management. On the other hand, in certain limited circumstances, it may not be appropriate to impose liability upon a corporation, particularly one with a compliance program in place, under a strict *respondeat superior* theory for the single isolated act of a rogue employee. There is, of course, a wide spectrum between these two extremes, and a prosecutor should exercise sound discretion in evaluating the pervasiveness of wrongdoing within a corporation.

B. Comment: Of these factors, the most important is the role of management. Although acts of even low-level employees may result in criminal liability, a corporation is directed by its management and management is responsible for a corporate culture in which criminal conduct is either discouraged or tacitly encouraged. As stated in commentary to the Sentencing Guidelines:

> Pervasiveness [is] case specific and [will] depend on the number, and degree of responsibility, of individuals [with] substantial authority ... who participated in, condoned, or were willfully ignorant of the offense. Fewer individuals need to be involved for a finding of pervasiveness if those individuals exercised a relatively high degree of authority. Pervasiveness can occur either within an organization as a whole or within a unit of an organization.

USSG §8C2.5, comment. (n. 4).

V. Charging a Corporation: The Corporation's Past History

A. General Principle: Prosecutors may consider a corporation's history of similar conduct, including prior criminal, civil, and regulatory enforcement actions against it, in determining whether to bring criminal charges.

DOJ_NMG_ 0148924

B. Comment: A corporation, like a natural person, is expected to learn from its mistakes. A history of similar conduct may be probative of a corporate culture that encouraged, or at least condoned, such conduct, regardless of any compliance programs. Criminal prosecution of a corporation may be particularly appropriate where the corporation previously had been subject to non-criminal guidance, warnings, or sanctions, or previous criminal charges, and yet it either had not taken adequate action to prevent future unlawful conduct or had continued to engage in the conduct in spite of the warnings or enforcement actions taken against it. In making this determination, the corporate structure itself, *e.g.*, subsidiaries or operating divisions, should be ignored, and enforcement actions taken against the corporation or any of its divisions, subsidiaries, and affiliates should be considered. *See* USSG § 8C2.5(c) & comment. (n. 6).

VI. Charging a Corporation: Cooperation and Voluntary Disclosure

A. General Principle: In determining whether to charge a corporation, that corporation's timely and voluntary disclosure of wrongdoing and its willingness to cooperate with the government's investigation may be relevant factors. In gauging the extent of the corporation's cooperation, the prosecutor may consider the corporation's willingness to identify the culprits within the corporation, including senior executives; to make witnesses available; to disclose the complete results of its internal investigation; and to waive attorney-client and work product protection.

B. Comment: In investigating wrongdoing by or within a corporation, a prosecutor is likely to encounter several obstacles resulting from the nature of the corporation itself. It will often be difficult to determine which individual took which action on behalf of the corporation. Lines of authority and responsibility may be shared among operating divisions or departments, and records and personnel may be spread throughout the United States or even among several countries. Where the criminal conduct continued over an extended period of time, the culpable or knowledgeable personnel may have been promoted, transferred, or fired, or they may have quit or retired. Accordingly, a corporation's cooperation may be critical in identifying the culprits and locating relevant evidence.

In some circumstances, therefore, granting a corporation immunity or amnesty or pretrial diversion may be considered in the course of the government's investigation. In such circumstances, prosecutors should refer to the principles governing non-prosecution agreements generally. *See* USAM § 9-27.600-650. These principles permit a non prosecution agreement in exchange for cooperation when a corporation's "timely cooperation appears to be necessary to the public interest and other means of obtaining the desired cooperation are unavailable or would not be effective." Prosecutors should note that in the case of national or multi-national corporations, multi-district or global agreements may be necessary. Such agreements may only be entered into with the approval of each affected district or the appropriate Department official. *See* USAM §9-27.641.

DOJ_NMG_ 0148925

In addition, the Department, in conjunction with regulatory agencies and other executive branch departments, encourages corporations, as part of their compliance programs, to conduct internal investigations and to disclose their findings to the appropriate authorities. Some agencies, such as the SEC and the EPA, as well as the Department's Environmental and Natural Resources Division, have formal voluntary disclosure programs in which self-reporting, coupled with remediation and additional criteria, may qualify the corporation for amnesty or reduced sanctions.[2] Even in the absence of a formal program, prosecutors may consider a corporation's timely and voluntary disclosure in evaluating the adequacy of the corporation's compliance program and its management's commitment to the compliance program. However, prosecution and economic policies specific to the industry or statute may require prosecution notwithstanding a corporation's willingness to cooperate. For example, the Antitrust Division offers amnesty only to the first corporation to agree to cooperate. This creates a strong incentive for corporations participating in anti-competitive conduct to be the first to cooperate. In addition, amnesty, immunity, or reduced sanctions may not be appropriate where the corporation's business is permeated with fraud or other crimes.

One factor the prosecutor may weigh in assessing the adequacy of a corporation's cooperation is the completeness of its disclosure including, if necessary, a waiver of the attorney-client and work product protections, both with respect to its internal investigation and with respect to communications between specific officers, directors and employees and counsel. Such waivers permit the government to obtain statements of possible witnesses, subjects, and targets, without having to negotiate individual cooperation or immunity agreements. In addition, they are often critical in enabling the government to evaluate the completeness of a corporation's voluntary disclosure and cooperation. Prosecutors may, therefore, request a waiver in appropriate circumstances.[3] The Department does not, however, consider waiver of a corporation's attorney-client and work product protection an absolute requirement, and prosecutors should consider the willingness of a corporation to waive such protection when necessary to provide timely and complete information as one factor in evaluating the corporation's cooperation.

Another factor to be weighed by the prosecutor is whether the corporation appears to be protecting its culpable employees and agents. Thus, while cases will differ depending on the circumstances, a corporation's promise of support to culpable employees and agents, either

---

[2] In addition, the Sentencing Guidelines reward voluntary disclosure and cooperation with a reduction in the corporation's offense level. *See* USSG §8C2.5)g).

[3] This waiver should ordinarily be limited to the factual internal investigation and any contemporaneous advice given to the corporation concerning the conduct at issue. Except in unusual circumstances, prosecutors should not seek a waiver with respect to communications and work product related to advice concerning the government's criminal investigation.

DOJ_NMG_ 0148926

through the advancing of attorneys fees,[4] through retaining the employees without sanction for their misconduct, or through providing information to the employees about the government's investigation pursuant to a joint defense agreement, may be considered by the prosecutor in weighing the extent and value of a corporation's cooperation. By the same token, the prosecutor should be wary of attempts to shield corporate officers and employees from liability by a willingness of the corporation to plead guilty.

Another factor to be weighed by the prosecutor is whether the corporation, while purporting to cooperate, has engaged in conduct that impedes the investigation (whether or not rising to the level of criminal obstruction). Examples of such conduct include: overly broad assertions of corporate representation of employees or former employees; inappropriate directions to employees or their counsel, such as directions not to cooperate openly and fully with the investigation including, for example, the direction to decline to be interviewed; making presentations or submissions that contain misleading assertions or omissions; incomplete or delayed production of records; and failure to promptly disclose illegal conduct known to the corporation.

Finally, a corporation's offer of cooperation does not automatically entitle it to immunity from prosecution. A corporation should not be able to escape liability merely by offering up its directors, officers, employees, or agents as in lieu of its own prosecution. Thus, a corporation's willingness to cooperate is merely one relevant factor, that needs to be considered in conjunction with the other factors, particularly those relating to the corporation's past history and the role of management in the wrongdoing.

VII. Charging a Corporation: Corporate Compliance Programs

A. General Principle: Compliance programs are established by corporate management to prevent and to detect misconduct and to ensure that corporate activities are conducted in accordance with all applicable criminal and civil laws, regulations, and rules. The Department encourages such corporate self-policing, including voluntary disclosures to the government of any problems that a corporation discovers on its own. However, the existence of a compliance program is not sufficient, in and of itself, to justify not charging a corporation for criminal conduct undertaken by its officers, directors, employees, or agents. Indeed, the commission of such crimes in the face of a compliance program may suggest that the corporate management is not adequately enforcing its program. In addition, the nature of some crimes, *e.g.*, antitrust violations, may be such that national law enforcement policies mandate prosecutions of corporations notwithstanding the existence of a compliance program.

---

[4] Some states require corporations to pay the legal fees of officers under investigation prior to a formal determination of their guilt. Obviously, a corporation's compliance with governing law should not be considered a failure to cooperate.

DOJ_NMG_ 0148927

B. Comment: A corporate compliance program, even one specifically prohibiting the very conduct in question, does not absolve the corporation from criminal liability under the doctrine of *respondeat superior. See United States v. Basic Construction Co.*, 711 F.2d 570 (4th Cir. 1983) ("a corporation may be held criminally responsible for antitrust violations committed by its employees if they were acting within the scope of their authority, or apparent authority, and for the benefit of the corporation, even if... such acts were against corporate policy or express instructions."). In *United States v. Hilton Hotels Corp.*, 467 F.2d 1000 (9th Cir. 1972), *cert. denied,* 409 U.S. 1125 (1973), the Ninth Circuit affirmed antitrust liability based upon a purchasing agent for a single hotel threatening a single supplier with a boycott unless it paid dues to a local marketing association, even though the agent's actions were contrary to corporate policy and directly against express instructions from his superiors. The court reasoned that Congress, in enacting the Sherman Antitrust Act, "intended to impose liability upon business entities for the acts of those to whom they choose to delegate the conduct of their affairs, thus stimulating a maximum effort by owners and managers to assure adherence by such agents to the requirements of the Act."[5] It concluded that "general policy statements" and even direct instructions from the agent's superiors were not sufficient; "Appellant could not gain exculpation by issuing general instructions without undertaking to enforce those instructions by means commensurate with the obvious risks." *See also United States v. Beusch,* 596 F.2d 871, 878 (9th Cir. 1979) ("[A] corporation may be liable for the acts of its employees done contrary to express instructions and policies, but ... the existence of such instructions and policies may be considered in determining whether the employee in fact acted to benefit the corporation."); *United States v. American Radiator & Standard Sanitary Corp.*, 433 F.2d 174 (3rd Cir. 1970) (affirming conviction of corporation based upon its officer's participation in price-fixing scheme, despite corporation's defense that officer's conduct violated its "rigid anti-fraternization policy" against any socialization (and exchange of price information) with its competitors; "When the act of the agent is within the scope of his employment or his apparent authority, the corporation is held legally responsible for it, although what he did may be contrary to his actual instructions and may be unlawful.").

While the Department recognizes that no compliance program can ever prevent all criminal activity by a corporation's employees, the critical factors in evaluating any program are whether the program is adequately designed for maximum effectiveness in preventing and detecting wrongdoing by employees and whether corporate management is enforcing the program

---

[5] Although this case and *Basic Construction* are both antitrust cases, their reasoning applies to other criminal violations. In the Hilton case, for instance, the Ninth Circuit noted that Sherman Act violations are commercial offenses "usually motivated by a desire to enhance profits," thus, bringing the case within the normal rule that a "purpose to benefit the corporation is necessary to bring the agent's acts within the scope of his employment." 467 F.2d at 1006 & n4. In addition, in *United States v. Automated Medical Laboratories*, 770 F.2d 399, 406 n.5 (4th Cir. 1985), the Fourth Circuit stated "that Basic Construction states a generally applicable rule on corporate criminal liability despite the fact that it addresses violations of the antitrust laws."

DOJ_NMG_ 0148928

or is tacitly encouraging or pressuring employees to engage in misconduct to achieve business objectives. The Department has no formal guidelines for corporate compliance programs. The fundamental questions any prosecutor should ask are: "Is the corporation's compliance program well designed?" and "Does the corporation's compliance program work?" In answering these questions, the prosecutor should consider the comprehensiveness of the compliance program; the extent and pervasiveness of the criminal conduct; the number and level of the corporate employees involved; the seriousness, duration, and frequency of the misconduct; and any remedial actions taken by the corporation, including restitution, disciplinary action, and revisions to corporate compliance programs.[6] Prosecutors should also consider the promptness of any disclosure of wrongdoing to the government and the corporation's cooperation in the government's investigation. In evaluating compliance programs, prosecutors may consider whether the corporation has established corporate governance mechanisms that can effectively detect and prevent misconduct. For example, do the corporation's directors exercise independent review over proposed corporate actions rather than unquestioningly ratifying officers' recommendations; are the directors provided with information sufficient to enable the exercise of independent judgment, are internal audit functions conducted at a level sufficient to ensure their independence and accuracy and have the directors established an information and reporting system in the organization reasonable designed to provide management and the board of directors with timely and accurate information sufficient to allow them to reach an informed decision regarding the organization's compliance with the law. *In re: Caremark,* 698 A.2d 959 (Del. Ct. Chan. 1996).

Prosecutors should therefore attempt to determine whether a corporation's compliance program is merely a "paper program" or whether it was designed and implemented in an effective manner. In addition, prosecutors should determine whether the corporation has provided for a staff sufficient to audit, document, analyze, and utilize the results of the corporation's compliance efforts. In addition, prosecutors should determine whether the corporation's employees are adequately informed about the compliance program and are convinced of the corporation's commitment to it. This will enable the prosecutor to make an informed decision as to whether the corporation has adopted and implemented a truly effective compliance program that, when consistent with other federal law enforcement policies, may result in a decision to charge only the corporation's employees and agents.

Compliance programs should be designed to detect the particular types of misconduct most likely to occur in a particular corporation's line of business. Many corporations operate in complex regulatory environments outside the normal experience of criminal prosecutors. Accordingly, prosecutors should consult with relevant federal and state agencies with the expertise to evaluate the adequacy of a program's design and implementation. For instance, state and federal banking, insurance, and medical boards, the Department of Defense, the Department

---

[6] For a detailed review of these and other factors concerning corporate compliance programs, see United States Sentencing Commission, GUIDELINES MANUAL, §8A1.2, comment. (n.3(k)) (Nov. 1997). *See* also USSG §8C2.5(f)

DOJ_NMG_ 0148929

of Health and Human Services, the Environmental Protection Agency, and the Securities and Exchange Commission have considerable experience with compliance programs and can be very helpful to a prosecutor in evaluating such programs. In addition, the Fraud Section of the Criminal Division, the Commercial Litigation Branch of the Civil Division, and the Environmental Crimes Section of the Environment and Natural Resources Division can assist U.S. Attorneys' Offices in finding the appropriate agency office and in providing copies of compliance programs that were developed in previous cases.

VIII. Charging a Corporation: Restitution and Remediation

A. General Principle: Although neither a corporation nor an individual target may avoid prosecution merely by paying a sum of money, a prosecutor may consider the corporation's willingness to make restitution and steps already taken to do so. A prosecutor may also consider other remedial actions, such as implementing an effective corporate compliance program, improving an existing compliance program, and disciplining wrongdoers, in determining whether to charge the corporation.

B. Comment: In determining whether or not a corporation should be prosecuted, a prosecutor may consider whether meaningful remedial measures have been taken, including employee discipline and full restitution.[7] A corporation's response to misconduct says much about its willingness to ensure that such misconduct does not recur. Thus, corporations that fully recognize the seriousness of their misconduct and accept responsibility for it should be taking steps to implement the personnel, operational, and organizational changes necessary to establish an awareness among employees that criminal conduct will not be tolerated. Among the factors prosecutors should consider and weigh are whether the corporation appropriately disciplined the wrongdoers and disclosed information concerning their illegal conduct to the government.

Employee discipline is a difficult task for many corporations because of the human element involved and sometimes because of the seniority of the employees concerned. While corporations need to be fair to their employees, they must also be unequivocally committed, at all levels of the corporation, to the highest standards of legal and ethical behavior. Effective internal discipline can be a powerful deterrent against improper behavior by a corporation's employees. In evaluating a corporation's response to wrongdoing, prosecutors may evaluate the willingness of the corporation to discipline culpable employees of all ranks and the adequacy of the discipline imposed. The prosecutor should be satisfied that the corporation's focus is on the integrity and credibility of its remedial and disciplinary measures rather than on the protection of the wrongdoers.

---

[7] For example, the Antitrust Division's amnesty policy requires that "[w]here possible, the corporation [make] restitution to injured parties...."

DOJ_NMG_ 0148930

In addition to employee discipline, two other factors used in evaluating a corporation's remedial efforts are restitution and reform. As with natural persons, the decision whether or not to prosecute should not depend upon the target's ability to pay restitution. A corporation's efforts to pay restitution even in advance of any court order is, however, evidence of its "acceptance of responsibility" and, consistent with the practices and policies of the appropriate Division of the Department entrusted with enforcing specific criminal laws, may be considered in determining whether to bring criminal charges. Similarly, although the inadequacy of a corporate compliance program is a factor to consider when deciding whether to charge a corporation, that corporation's quick recognition of the flaws in the program and its efforts to improve the program are also factors to consider.

IX. Charging a Corporation: Collateral Consequences

A. General Principle: Prosecutors may consider the collateral consequences of a corporate criminal conviction in determining whether to charge the corporation with a criminal offense.

B. Comment: One of the factors in determining whether to charge a natural person or a corporation is whether the likely punishment is appropriate given the nature and seriousness of the crime. In the corporate context, prosecutors may take into account the possibly substantial consequences to a corporation's officers, directors, employees, and shareholders, many of whom may, depending on the size and nature (e.g., publicly vs. closely held) of the corporation and their role in its operations, have played no role in the criminal conduct, have been completely unaware of it, or have been wholly unable to prevent it. Prosecutors should also be aware of non-penal sanctions that may accompany a criminal charge, such as potential suspension or debarment from eligibility for government contracts or federal funded programs such as health care. Whether or not such non-penal sanctions are appropriate or required in a particular case is the responsibility of the relevant agency, a decision that will be made based on the applicable statutes, regulations, and policies.

Virtually every conviction of a corporation, like virtually every conviction of an individual, will have an impact on innocent third parties, and the mere existence of such an effect is not sufficient to preclude prosecution of the corporation. Therefore, in evaluating the severity of collateral consequences, various factors already discussed, such as the pervasiveness of the criminal conduct and the adequacy of the corporation's compliance programs, should be considered in determining the weight to be given to this factor. For instance, the balance may tip in favor of prosecuting corporations in situations where the scope of the misconduct in a case is widespread and sustained within a corporate division (or spread throughout pockets of the corporate organization). In such cases, the possible unfairness of visiting punishment for the corporation's crimes upon shareholders may be of much less concern where those shareholders have substantially profited, even unknowingly, from widespread or pervasive criminal activity. Similarly, where the top layers of the corporation's management or the shareholders of a closely-held corporation were engaged in or aware of the wrongdoing and the conduct at issue

DOJ_NMG_ 0148931

was accepted as a way of doing business for an extended period, debarment may be deemed not collateral, but a direct and entirely appropriate consequence of the corporation's wrongdoing.

The appropriateness of considering such collateral consequences and the weight to be given them may depend on the special policy concerns discussed in section III, *supra*.

X. Charging a Corporation: Non-Criminal Alternatives

A. General Principle: Although non-criminal alternatives to prosecution often exist, prosecutors may consider whether such sanctions would adequately deter, punish, and rehabilitate a corporation that has engaged in wrongful conduct. In evaluating the adequacy of non-criminal alternatives to prosecution, *e.g.*, civil or regulatory enforcement actions, the prosecutor may consider all relevant factors, including:

1. the sanctions available under the alternative means of disposition;

2. the likelihood that an effective sanction will be imposed; and

3. the effect of non-criminal disposition on Federal law enforcement interests.

B. Comment: The primary goals of criminal law are deterrence, punishment, and rehabilitation. Non-criminal sanctions may not be an appropriate response to an egregious violation, a pattern of wrongdoing, or a history of non-criminal sanctions without proper remediation. In other cases, however, these goals may be satisfied without the necessity of instituting criminal proceedings. In determining whether federal criminal charges are appropriate, the prosecutor should consider the same factors (modified appropriately for the regulatory context) considered when determining whether to leave prosecution of a natural person to another jurisdiction or to seek non-criminal alternatives to prosecution. These factors include: the strength of the regulatory authority's interest; the regulatory authority's ability and willingness to take effective enforcement action; the probable sanction if the regulatory authority's enforcement action is upheld; and the effect of a non-criminal disposition on Federal law enforcement interests. *See* USAM §§ 9-27.240, 9-27.250.

XI. Charging a Corporation: Selecting Charges

A. General Principle: Once a prosecutor has decided to charge a corporation, the prosecutor should charge, or should recommend that the grand jury charge, the most serious offense that is consistent with the nature of the defendant's conduct and that is likely to result in a sustainable conviction.

DOJ_NMG_ 0148932

B. Comment: Once the decision to charge is made, the same rules as govern charging natural persons apply. These rules require "a faithful and honest application of the Sentencing Guidelines" and an "individualized assessment of the extent to which particular charges fit the specific circumstances of the case, are consistent with the purposes of the Federal criminal code, and maximize the impact of Federal resources on crime." *See* USAM § 9-27.300. In making this determination, "it is appropriate that the attorney for the government consider, *inter alia*, such factors as the sentencing guideline range yielded by the charge, whether the penalty yielded by such sentencing range ... is proportional to the seriousness of the defendant's conduct, and whether the charge achieves such purposes of the criminal law as punishment, protection of the public, specific and general deterrence, and rehabilitation." *See* Attorney General's Memorandum, dated October 12, 1993.

XII. Plea Agreements with Corporations

A. General Principle: In negotiating plea agreements with corporations, prosecutors should seek a plea to the most serious, readily provable offense charged. In addition, the terms of the plea agreement should contain appropriate provisions to ensure punishment, deterrence, rehabilitation, and compliance with the plea agreement in the corporate context. Although special circumstances may mandate a different conclusion, prosecutors generally should not agree to accept a corporate guilty plea in exchange for non-prosecution or dismissal of charges against individual officers and employees.

B. Comment: Prosecutors may enter into plea agreements with corporations for the same reasons and under the same constraints as apply to plea agreements with natural persons. *See* USAM §§ 9-27.400-500. This means, *inter alia*, that the corporation should be required to plead guilty to the most serious, readily provable offense charged. As is the case with individuals, the attorney making this determination should do so "on the basis of an individualized assessment of the extent to which particular charges fit the specific circumstances of the case, are consistent with the purposes of the federal criminal code, and maximize the impact of federal resources on crime. In making this determination, the attorney for the government considers, inter alia, such factors as the sentencing guideline range yielded by the charge, whether the penalty yielded by such sentencing range ... is proportional to the seriousness of the defendant's conduct, and whether the charge achieves such purposes of the criminal law as punishment, protection of the public, specific and general deterrence, and rehabilitation." *See* Attorney General's Memorandum, dated October 12, 1993. In addition, any negotiated departures from the Sentencing Guidelines must be justifiable under the Guidelines and must be disclosed to the sentencing court. A corporation should be made to realize that pleading guilty to criminal charges constitutes an admission of guilt and not merely a resolution of an inconvenient distraction from its business. As with natural persons, pleas should be structured so that the corporation may not later "proclaim lack of culpability or even complete innocence." *See* USAM §§ 9-27.420(b)(4), 9-27.440, 9-27.500. Thus, for instance, there should be placed upon the record a sufficient factual basis for the plea to prevent later corporate assertions of innocence.

DOJ_NMG_ 0148933

A corporate plea agreement should also contain provisions that recognize the nature of the corporate "person" and ensure that the principles of punishment, deterrence, and rehabilitation are met. In the corporate context, punishment and deterrence are generally accomplished by substantial fines, mandatory restitution, and institution of appropriate compliance measures, including, if necessary, continued judicial oversight or the use of special masters. *See* USSG §§ 8B1.1, 8C2.1, *et seq*. In addition, where the corporation is a government contractor, permanent or temporary debarment may be appropriate. Where the corporation was engaged in government contracting fraud, a prosecutor may not negotiate away an agency's right to debar or to list the corporate defendant.

In negotiating a plea agreement, prosecutors should also consider the deterrent value of prosecutions of individuals within the corporation. Therefore, one factor that a prosecutor may consider in determining whether to enter into a plea agreement is whether the corporation is seeking immunity for its employees and officers or whether the corporation is willing to cooperate in the investigation of culpable individuals. Prosecutors should rarely negotiate away individual criminal liability in a corporate plea.

Rehabilitation, of course, requires that the corporation undertake to be law-abiding in the future. It is, therefore, appropriate to require the corporation, as a condition of probation, to implement a compliance program or to reform an existing one. As discussed above, prosecutors may consult with the appropriate state and federal agencies and components of the Justice Department to ensure that a proposed compliance program is adequate and meets industry standards and best practices. *See* section VII, *supra*.

In plea agreements in which the corporation agrees to cooperate, the prosecutor should ensure that the cooperation is complete and truthful. To do so, the prosecutor may request that the corporation waive attorney-client and work product protection, make employees and agents available for debriefing, disclose the results of its internal investigation, file appropriate certified financial statements, agree to governmental or third-party audits, and take whatever other steps are necessary to ensure that the full scope of the corporate wrongdoing is disclosed and that the responsible culprits are identified and, if appropriate, prosecuted. *See* generally section VIII, *supra.*

DOJ_NMG_ 0148934

dcmeetings@cfr.org

From: dcmeetings@cfr.org
Sent: Monday, October 31, 2005 5:49 PM
To: Gorsuch, Neil M
Subject: 11/18 CFR term member breakfast with [redacted]

Dear Mr. Gorsuch:

I'd like to invite you to a casual breakfast with myself and your fellow term members to discuss all the things that are happening here in the Washington program of CFR. This session will be held on November 18th from 8:00-9:15am at the Washington Club. (15 Dupont Circle, NW, Washington, DC)

At this meeting, I will quickly go over a few things, including:
-- Our religion and foreign policy series.
-- Our series on the nexus of science and technology and foreign policy.
-- The bipartisan initiative.
-- My roundtable with evangelical leaders

Then we'll throw it open to questions, discussions, ideas, etc.

Please RSVP to dcmeetings@cfr.org. If you have any questions about this meeting, please contact [redacted] at [redacted]

I hope you'll be able to join me.

Very best,

[redacted]

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Monday, October 31, 2005 7:01 PM
To: USDOJ- Office of Public Affairs
Subject: TWELVE CHARGED IN CONNECTION WITH FEDERAL RACKETEERING INVESTIGATION

U.S. Department of Justice

United States Attorney

Northern District of California

11th Floor, Federal Building

(415) 436-7200
450 Golden Gate Avenue, Box 36055

San Francisco, California 94102
FAX: (415) 436-7234

FOR IMMEDIATE RELEASE
October 31, 2005

TWELVE CHARGED IN CONNECTION WITH FEDERAL RACKETEERING INVESTIGATION

Indictment Charges 7 Murders, 7 Attempted Murders, Witness Tampering, and Arson

SAN FRANCISCO - The U.S. Attorney's Office for the Northern District of California, the FBI, the San Francisco Police Department, and the ATF announced that a federal grand jury returned an 86-count second superseding indictment against 12 alleged members of the Down Below Gangsters on the following charges, among others:

- Racketeering Conspiracy - RICO (Racketeering Influenced and Corrupt Organization)
- 7 Murders in Aid of Racketeering
- 7 Attempted Murders in Aid of Racketeering
- Witness Tampering
- Narcotics Conspiracy
- Arson
- Firearms Conspiracy
- Use of a Firearm in Relation to a Crime of Violence

The indictment was returned under seal on October 27, and unsealed on October 28, 2005. The following individuals were charged in the indictment:

- Emile Fort, age 24,
- Edgar Diaz, age 20,
- Ricky Rollins, age 19,
- Don Johnson, age 19,
- Robert Calloway, age 21,
- Dornell Ellis, age 24,
- Allan Calloway, age 23,
- Christopher Byes, age 24,
- Paris Ragland, age 20,
- Ronnie Calloway, age 25, and 2 redacted defendants

"All citizens deserve to live in a safe community, free from gang violence and drug dealing. The scourge of gangs holds residents hostage in their own communities by living in constant fear from retribution and random violence. This is intolerable. We, as federal prosecutors, have powerful tools - the federal racketeering statutes - to dismantle these alleged organizations, and we will use them to their fullest extent when appropriate. I applaud the commitment and determination of the FBI and the San Francisco Police Department as members of the Safe Streets Task Force in working together to end this tragic violence in our communities. I also want to thank the Bureau of Alcohol, Tobacco, Firearms and Explosives for their expertise in analyzing the ballistics evidence in this case."

The indictment alleges three broad conspiracies since at least 1998: a RICO conspiracy, a firearms conspiracy in furtherance of drug distribution, and a narcotics distribution conspiracy.

RICO Conspiracy:

Members of the Down Below Gangsters are alleged to have operated principally around the Sunnydale public housing complex, in San Francisco's Visitacion Valley neighborhood. The alleged purpose of the enterprise included:

- Enriching the members and associates of the enterprise through, among other things, the distribution of narcotics and robbery.
- Preserving and protecting the power, territory and profits of the enterprise through the use of violence, threats of violence, assaults, murder, attempted murder, and obstruction of justice.
- Avoiding criminal prosecution and detection by law enforcement through the use of violence, threats of violence, assaults, murder, and attempted murder against actual, potential and perceived witnesses.

The indictment further alleges that gang members took on roles including, among others, lookout, "gofer", enforcer, hitter, protector, and street seller. The gang is alleged to have had a loosely hierarchical decision-making structure. The leaders of the gang are alleged to have authorized acts of violence, including murder, against members of the enterprise by issuing an order commonly referred to as a "green light."

Joe Ford, Special Agent in Charge of the FBI stated, "Violent gangs are a growing

problem and today's indictment is the first of many on-going investigations to combat crime in our streets. It is extremely important to destabilize the gang at all levels, to include leadership as well as those committing the acts of violence. The RICO statute is a critical tool in the FBI's fight against gangs as it enables us to target the entire organization."

Firearms Conspiracy:

The defendants are charged with using firearms, including assault rifles, semi-automatic pistols and revolvers, to commit murders against individuals perceived as potential witnesses against the conspiracy. Defendants are also charged with using firearms in furtherance of a) their own narcotics trafficking, b) to provide an umbrella of armed protection to members of the conspiracy, and to c) intimidate and commit armed assaults, attempt murders, and murders against rival gang members.

San Francisco Police Chief Heather Fong stated, "This indictment sends a clear message that we are working in a collaborative effort with other law enforcement agencies to reduce violent crime in San Francisco. These shootings and homicides must stop."

The following firearms were seized during the course of this investigation:

- 3 AK-47s
- 1 SKS Assault Rifle
- 1 Mini 14 machine pistol
- 1 Mac 11 machine pistol
- 1 Mac 90 machine pistol
- 1 sawed-off shotgun
- 1 sawed-off rifle
- 10-15 pistols (.45, 9mm, .380, .25, .22)

Narcotics Conspiracy:

Gang members are charged with conspiracy to distribute and possession with intent to distribute crack cocaine, marijuana, and ecstasy. The indictment also alleges that gang members were attempting to smuggle narcotics into San Francisco County Jail. It was further part of the alleged conspiracy that narcotics were stored, prior to distribution to customers, in and around designated "stash" locations. The defendants allegedly used these "stash" locations to store crack cocaine, marijuana, ecstasy, and weapons in order to prevent their being found by the police or rivals, and to hide the items' connection to members of the conspiracy. According to the indictment, some of these "stash" locations were also used for processing, cutting, packaging, and distributing the organization's cocaine base, ecstasy, and marijuana.

Allen Calloway and Christopher Byes were arrested on October 27, and made their initial appearances on October 28. Edgar Diaz, Don Johnson, and Rickey Rollins were arrested last March on VICAR charges and are in federal custody and will make their initial appearance on November 3 before Magistrate Judge Chen. Two defendants are fugitives, and the remaining defendants are in state custody and will later be transferred to federal court to face these charges.

Eight of these defendants face life in prison or the death penalty. The other four face life in prison. However, any sentence following conviction would be imposed by the Court after consideration of the U.S. Sentencing Guidelines and the federal statute governing the imposition of a sentence, 18 U.S.C. 3553. An indictment only contains allegations against an individual and, as with all defendants, these defendants must be presumed innocent unless and until convicted.

The prosecution is the result of a joint investigation by the FBI and the San Francisco Police Department. I want to thank Philip Kearney as the lead prosecutor on this case and also Assistant United States Attorneys Richard Cutler and Hartley West and Department of Justice Organized Crime and Racketeering Section Trial Attorney David Malagold for their work on this case. Organized Crime Strike Force Chief Anjali Chaturvedi is supervising the prosecution of the case.

Further Information:

A copy of this press release and related court filings may be found on the U.S. Attorney's Office's website at www.usdoj.gov/usao/can.

Electronic court filings and further procedural and docket information are available at https://ecf.cand.uscourts.gov/ (click on the link for "to retrieve documents from the court").

Judges' calendars with schedules for upcoming court hearings can be viewed on the court's website at www.cand.uscourts.gov.

All press inquiries to the U.S. Attorney's Office should be directed to Luke Macaulay at (415) 436-6757 or by email at Luke.Macaulay@usdoj.gov.

###

MDavis@gwb43.com

From: MDavis@gwb43.com
Sent: Monday, October 31, 2005 7:47 PM
To: md@gwb43.com
Subject: More Praise for Judge Alito
Attachments: tmp.htm

Monday, October 31, 2005
What They're Saying About The Nomination Of Judge Samuel A. Alito, Jr.
To Supreme Court: Volume III

More Praise For Judge Samuel A. Alito, Jr.:
Former Judge Alito Colleague Michael Carvin: "He's Somebody Who Believes In The Rule Of Law, Not Taking Sides Because Of Partisan Reasons. ...
[H]e's A Neutral Umpire Just Like John Roberts. The Only Difference Between Him And Chief Justice Roberts Is That Sam Has A Longer Judicial Track Record And He Also Has A Lot More Criminal Law Experience Than Did Judge Roberts." (Fox News' "Fox News Live," 10/31/05)

*

Carvin: "Somebody Who Believes In The Rule Of Law And Calling Them According To What The Law Says, Not Whether An Interest Group On The Right Or Left Likes The Policy Result. That's What John Roberts Wanted. That's What Sam Alito Will Deliver To The Court." (Fox News' "Fox News Live," 10/31/05)

Gary Rubman, Attorney And Former Law Clerk Of Judge Alito In 2000 And 2001: "[I] Think People Are Going To Find That He's Just A Very Good, Decent Person Who Is Friendly, He's Not Combative And I Think They're Going To Find Him To Be A Nice Guy. ... I Think People Are Going To Find That He's A Careful, Very Bright Individual Who Is Going To Present Well." (MSNBC's "News Live," 10/31/05)

*

Rubman: "He Is As Bright Of A Person As I've Ever Worked With, Having Worked With Him Day-To-Day For A Year In Chambers. It Truly Was Astonishing His Ability To Understand Cases And Understand Very Arcane Details And Complicated Cases." (MSNBC's "News Live," 10/31/05)

Chicago Tribune's Jim Warren: "I Think It Gives The Democrats A Real Tough Time ... This Is Obviously An Indisputably Qualified Candidate." (Fox News' "Fox News Live," 10/31/05)

NBC's David Gregory: "He's A Poised Individual ... He's Like John Roberts In The Sense That He Doesn't Really Refer To His Notes, So He's Certainly An Impressive Guy, And He's Got Impeccable Credentials ..." (MSNBC's "Imus In The Morning," 10/31/05)

Jay Jorgenson, Former Law Clerk Of Judge Samuel Alito: "Judge Alito Has A Great Record Of Applying The Law In A Way That Is Fair To Both Men And Women." (Fox News' "Fox News Live," 10/31/05)

*

Jorgenson: "He Is The Most Wonderful, Fair, Brilliant Person. He Is A Genius." (Fox News' "Fox

News Live," 10/31/05)

Pepperdine Law Professor Douglas Kmiec: "This Is A Very Careful Man. This Is The Kind Of Man That If You Had Him As A Neighbor Or Friend, You Would Not Hesitate To Go To Him For Advice Because You Know That He Would Listen With A Great Deal Of Authenticity And Care And At The End Of It He Wouldn't Just Give You Some ... Glib Answer." (Fox News, "Fox News Live," 10/31/05)

*

Kmiec: "This Is A Very Meritorious Appointment And I Would Hope That The Senate Would See That In A Reasoned Way." (Fox News' "Fox News Live," 10/31/05)

Nick Calio, Former Advisor To President Bush: "He's Got A Tremendous Track Record. He Is A Brilliant Legal Jurist. And I Think That He Will Bring To The Court The No Ideology Strict Construction President Bush Has Always Said He Wanted. He Is A Formidable Pick For The Court." (Fox News' "Fox News Live," 10/31/05)

Monday, October 31, 2005
What They're Saying About The Nomination Of Judge Samuel A. Alito, Jr.
To Supreme Court: Volume IV

More Praise For Judge Samuel A. Alito, Jr.:

MSNBC's Chris Matthews: "I've Just Been On The Phone With Lawyers In Philadelphia Trying To Figure Him Out. Very High Marks So Far. Smart, Very Smart, Straight, Conservative - Those Are The Words I Keep Hearing From Democrat And Republican Lawyers Both." (MSNBC's "News Live," 10/31/05)

*

Matthews: "[President Bush] Went With Someone With Higher Qualifications, With Yale Law. Yale Being The Toughest School In The Country, The Most Selective, And Probably By Everybody's Estimates The Best..." (MSNBC's "News Live," 10/31/05)

Alan Zegas, Former Colleague Of Judge Alito. "Judge Alito And I Probably Stand At Opposite Ends Of The Ideological Spectrum, But That Being Said, I'll Say He Is One Of The Finest Judges I Have Ever Met, Despite Our Differences." (Fox News' "Fox News Live," 10/31/05)

*

Zegas: "[Judge Alito] Has Balanced Himself to A Certain Judicial Jurisprudence And View Of The Law And I Believe That He Faithfully Interprets The Constitution In Accordance With Those Principles. He's Highly Intelligent, Has A Fantastic Educational Background ..." (Fox News' "Fox News Live," 10/31/05)

*

Zegas: "More Important Than Any Of These Qualities, What Has Always Struck Me Most About Him And What I Think Distinguishes The Great Judges From The Not So Great Is That He's Even Tempered, Modest, Reserved, He Has Respect For The Litigants Before Him. He Has All The Qualities One Would Look For In A Judge. To My Mind He Is Perfectly Suited To Become A Supreme Court Justice. I'm Proud He's Been Nominated." (Fox News' "Fox News Live," 10/31/05)

CNN's Candy Crowley: "It Is Going To Be Very Difficult For Democrats To Challenge That This Is Not A Man That's Qualified For The Court." (CNN's "Situation Room," 10/31/05)

Helgi Walker, Former Associate White House Counsel: "Sam Alito Has A Distinguished Record Of Public Service Where He's Made Clear His Commitment To Equal Opportunity For All People." (CNN's "Situation Room," 10/31/05)

*

Walker: "I Think The American People Can Know That He Will Be A Fair And An Impartial Judge ..." (CNN's "Situation Room," 10/31/05)

*

Walker: "I Think Judge Alito Is Wonderfully, Exceptionally Qualified And He Will Be A Great Supreme Court Justice." (CNN's "Situation Room," 10/31/05)

Dick Thornburgh, Former Attorney General: "It's A Solid Choice. I Know Sam Alito, I Served With Him In The Department Of Justice. He Was Widely Respected. ... He's Intellectually Gifted. He's Conservative, No Surprise, But He's Not An Ideologue." (CNN's "Situation Room," 10/31/05)

CNN's Jeff Toobin: "The Credentials Issue Will Cut Very Much In His Favor. ... The Qualifications Issue Is Completely Off The Table As Far As The Democrats Are Concerned." (CNN's "Situation Room," 10/31/05)

C. Frederick Beckner, Former Clerk For Judge Alito: "He Was A Great Person To Work With. He Was Kind, Thoughtful, Brilliant, And He Cared About The People Who Worked For Him Not Just As Workers But On A Personal Level As Well." (Fox News' "Fox News Live," 10/31/05)

*

Beckner: "I Think The President Put It Best When He Said He Was Looking For A Tempered Judge And That Describes Judge Alito Both As A Judge And As A Person. He Likes To Evaluate All Sides Of The Argument.
He Considers Every Aspect Of The Case ..." (Fox News' "Fox News Live," 10/31/05)

*

Beckner: "He's Very Humble And Modest ... And He's Just A Very Thoughtful, Careful, Considered Person. And I Think When He Comes Before The Senate They'll See That Side Of Him Pretty Clearly." (Fox News' "Fox News Live," 10/31/05)

CNN's John King: "I Don't Think There's Any Question Of His Credentials To Be On The Court." (CNN's "Situation Room," 10/31/05)

Washington Times' Joseph Curl: "[Judge Alito's] Been Confirmed Twice Before ... And I Think In The End That He'll Get Through." (Fox News' "Fox News Live," 10/31/05)

CNN's Brian Todd: "Alito Has Earned Exemplary Reviews From The Legal Community." (CNN's "Situation Room," 10/31/05)

Adam Ciongoli, Former Law Clerk For Judge Alito: "The President Has Repeatedly Said That He Is Looking For Someone With Strong Intellect, Temperament And Reverence For The Constitution To

Replace Justice O'Connor. Judge Alito Is A Triple Play." ("Reaction To The Nomination Of Samuel Alito," The Associated Press, 10/31/05)

Mike Davis, Associate Director
The White House Office of Political Affairs 202-456-7016 (direct)
202-641-4251 (cell)
202-456-6521 (fax)

Monday, October 31, 2005
What They're Saying About The Nomination Of Judge Samuel A. Alito, Jr. To Supreme Court: Volume III

More Praise For Judge Samuel A. Alito, Jr.:

Former Judge Alito Colleague Michael Carvin: "He's Somebody Who Believes In The Rule Of Law, Not Taking Sides Because Of Partisan Reasons. ... [H]e's A Neutral Umpire Just Like John Roberts. The Only Difference Between Him And Chief Justice Roberts Is That Sam Has A Longer Judicial Track Record And He Also Has A Lot More Criminal Law Experience Than Did Judge Roberts." (Fox News' "Fox News Live," 10/31/05)

- **Carvin: "Somebody Who Believes In The Rule Of Law And Calling Them According To What The Law Says, Not Whether An Interest Group On The Right Or Left Likes The Policy Result. That's What John Roberts Wanted. That's What Sam Alito Will Deliver To The Court."** (Fox News' "Fox News Live," 10/31/05)

Gary Rubman, Attorney And Former Law Clerk Of Judge Alito In 2000 And 2001: "[I] Think People Are Going To Find That He's Just A Very Good, Decent Person Who Is Friendly, He's Not Combative And I Think They're Going To Find Him To Be A Nice Guy. ... I Think People Are Going To Find That He's A Careful, Very Bright Individual Who Is Going To Present Well." (MSNBC's "News Live," 10/31/05)

- **Rubman: "He Is As Bright Of A Person As I've Ever Worked With, Having Worked With Him Day-To-Day For A Year In Chambers. It Truly Was Astonishing His Ability To Understand Cases And Understand Very Arcane Details And Complicated Cases."** (MSNBC's "News Live," 10/31/05)

***Chicago Tribune's* Jim Warren: "I Think It Gives The Democrats A Real Tough Time ... This Is Obviously An Indisputably Qualified Candidate."** (Fox News' "Fox News Live," 10/31/05)

NBC's David Gregory: "He's A Poised Individual ... He's Like John Roberts In The Sense That He Doesn't Really Refer To His Notes, So He's Certainly An Impressive Guy, And He's Got Impeccable Credentials ..." (MSNBC's "Imus In The Morning," 10/31/05)

Jay Jorgenson, Former Law Clerk Of Judge Samuel Alito: "Judge Alito Has A Great Record Of Applying The Law In A Way That Is Fair To Both Men And Women." (Fox News' "Fox News Live," 10/31/05)

- **Jorgenson: "He Is The Most Wonderful, Fair, Brilliant Person. He Is A Genius."** (Fox News' "Fox News Live," 10/31/05)

Pepperdine Law Professor Douglas Kmiec: "This Is A Very Careful Man. This Is The Kind Of Man That If You Had Him As A Neighbor Or Friend, You Would Not Hesitate To Go To Him For Advice Because You Know That He Would Listen With A Great Deal Of Authenticity And Care And At The End Of It He Wouldn't Just Give You Some ... Glib Answer." (Fox News, "Fox News Live," 10/31/05)

- **Kmiec: "This Is A Very Meritorious Appointment And I Would Hope That The Senate Would See That In A Reasoned Way."** (Fox News' "Fox News Live," 10/31/05)

Nick Calio, Former Advisor To President Bush: "He's Got A Tremendous Track Record. He Is A Brilliant Legal Jurist. And I Think That He Will Bring To The Court The No Ideology Strict Construction President Bush Has Always Said He Wanted. He Is A Formidable Pick For The Court." (Fox News' "Fox News Live," 10/31/05)

Monday, October 31, 2005
What They're Saying About The Nomination Of Judge Samuel A. Alito, Jr. To Supreme Court: Volume IV

More Praise For Judge Samuel A. Alito, Jr.:

MSNBC's Chris Matthews: "I've Just Been On The Phone With Lawyers In Philadelphia Trying To Figure Him Out. Very High Marks So Far. Smart, Very Smart, Straight, Conservative - Those Are The Words I Keep Hearing From Democrat And Republican Lawyers Both." (MSNBC's "News Live," 10/31/05)

- **Matthews: "[President Bush] Went With Someone With Higher Qualifications, With Yale Law. Yale Being The Toughest School In The Country, The Most Selective, And Probably By Everybody's Estimates The Best..."** (MSNBC's "News Live," 10/31/05)

Alan Zegas, Former Colleague Of Judge Alito. "Judge Alito And I Probably Stand At Opposite Ends Of The Ideological Spectrum, But That Being Said, I'll Say He Is One Of The Finest Judges I Have Ever Met, Despite Our Differences." (Fox News' "Fox News Live," 10/31/05)

- **Zegas: "[Judge Alito] Has Balanced Himself to A Certain Judicial Jurisprudence And View Of The Law And I Believe That He Faithfully Interprets The Constitution In Accordance With Those Principles. He's Highly Intelligent, Has A Fantastic Educational Background ..."** (Fox News' "Fox News Live," 10/31/05)

- **Zegas: "More Important Than Any Of These Qualities, What Has Always Struck Me Most About Him And What I Think Distinguishes The Great Judges From The Not So Great Is That He's Even Tempered, Modest, Reserved, He Has Respect For The Litigants Before Him. He Has All The Qualities One Would Look For In A Judge. To My Mind He Is Perfectly Suited To Become A Supreme Court Justice. I'm Proud He's Been Nominated."** (Fox News' "Fox News Live," 10/31/05)

CNN's Candy Crowley: "It Is Going To Be Very Difficult For Democrats To Challenge That This Is Not A Man That's Qualified For The Court." (CNN's "Situation Room," 10/31/05)

Helgi Walker, Former Associate White House Counsel: "Sam Alito Has A Distinguished Record Of Public Service Where He's Made Clear His Commitment To Equal Opportunity For All People." (CNN's "Situation Room," 10/31/05)

- **Walker: "I Think The American People Can Know That He Will Be A Fair And An Impartial Judge ..."** (CNN's "Situation Room," 10/31/05)

- **Walker: "I Think Judge Alito Is Wonderfully, Exceptionally Qualified And He Will Be A Great Supreme Court Justice."** (CNN's "Situation Room," 10/31/05)

Dick Thornburgh, Former Attorney General: "It's A Solid Choice. I Know Sam Alito, I Served With Him In The Department Of Justice. He Was Widely Respected. ... He's Intellectually Gifted. He's Conservative, No Surprise, But He's Not An Ideologue." (CNN's "Situation Room," 10/31/05)

CNN's Jeff Toobin: "The Credentials Issue Will Cut Very Much In His Favor. ... The Qualifications Issue Is Completely Off The Table As Far As The Democrats Are Concerned." (CNN's "Situation Room," 10/31/05)

C. Frederick Beckner, Former Clerk For Judge Alito: "He Was A Great Person To Work With. He Was Kind, Thoughtful, Brilliant, And He Cared About The People Who Worked For Him Not Just As Workers But On A Personal Level As Well." (Fox News' "Fox News Live," 10/31/05)

- **Beckner: "I Think The President Put It Best When He Said He Was Looking For A Tempered Judge And That Describes Judge Alito Both As A Judge And As A Person. He Likes To Evaluate All Sides Of The Argument. He Considers Every Aspect Of The Case ..."** (Fox News' "Fox News Live," 10/31/05)

- **Beckner: "He's Very Humble And Modest ... And He's Just A Very Thoughtful, Careful, Considered Person. And I Think When He Comes Before The Senate They'll See That Side Of Him Pretty Clearly."** (Fox News' "Fox News Live," 10/31/05)

CNN's John King: "I Don't Think There's Any Question Of His Credentials To Be On The Court." (CNN's "Situation Room," 10/31/05)

***Washington Times'* Joseph Curl: "[Judge Alito's] Been Confirmed Twice Before ... And I Think In The End That He'll Get Through."** (Fox News' "Fox News Live," 10/31/05)

CNN's Brian Todd: "Alito Has Earned Exemplary Reviews From The Legal Community." (CNN's "Situation Room," 10/31/05)

Adam Ciongoli, Former Law Clerk For Judge Alito: "The President Has Repeatedly Said That He Is Looking For Someone With Strong Intellect, Temperament And Reverence For The Constitution To Replace Justice O'Connor. Judge Alito Is A Triple Play." ("Reaction To The Nomination Of Samuel Alito," *The Associated Press*, 10/31/05)

Mike Davis, Associate Director
The White House Office of Political Affairs
202-456-7016 (direct)
202-641-4251 (cell)
202-456-6521 (fax)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 1, 2005 9:49 AM
To: Mercer, Bill (ODAG)
Subject: RE: Has the ac waiver memo gotten distributed outside the Dept?
Attachments: AttorneyClientWaiverMemo.pdf

Here you go

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Tuesday, November 01, 2005 8:45 AM
To: Gorsuch, Neil M
Subject: RE: Has the ac waiver memo gotten distributed outside the Dept?

do you have it in pdf?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, November 01, 2005 8:19 AM
To: Mercer, Bill (ODAG)
Subject: Re: Has the ac waiver memo gotten distributed outside the Dept?

Yes

-----Original Message-----
From: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Nov 01 07:34:48 2005
Subject: Has the ac waiver memo gotten distributed outside the Dept?

Sent from my BlackBerry Wireless Handheld

U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

October 21, 2005

MEMORANDUM

TO: Heads of Department Components
United States Attorneys

FROM: Robert D. McCallum, Jr. RDM
Acting Deputy Attorney General

SUBJECT: Waiver of Corporate Attorney-Client and Work Product Protection

The Department of Justice places significant emphasis on the prosecution of corporate crimes. The Department's policy on charging business organizations is contained in the Memorandum from Deputy Attorney General Larry D. Thompson to Heads of Department Components and United States Attorneys, *Re: Principles of Federal Prosecution of Business Organizations* (Jan. 20, 2003) (hereinafter "*Thompson Memorandum*"), *reprinted in United States Attorneys' Manual*, tit. 9, Crim. Resource Manual, §§ 161-62. The *Thompson Memorandum* sets forth nine factors that federal prosecutors must consider in determining whether to charge a corporation or other business organization. One of the nine factors is "the corporation's timely and voluntary disclosure of wrongdoing and its willingness to cooperate in the investigation of its agents, including, if necessary, the waiver of corporate attorney-client and work product protection." *Thompson Memorandum* § II.A.4.

To ensure that federal prosecutors exercise appropriate prosecutorial discretion under the principles of the *Thompson Memorandum*, some United States Attorneys have established review processes for waiver requests that require federal prosecutors to obtain approval from the United States Attorney or other supervisor before seeking a waiver of the attorney-client privilege or work product protection. Consistent with this best practice, you are directed to establish a written waiver review process for your district or component. The *United States Attorneys' Manual* will be amended to reflect this policy. Such waiver review processes may vary from district to district (or component to component), so that each United States Attorney or component head retains the prosecutorial discretion necessary, consistent with their circumstances, to seek timely, complete, and accurate information from business organizations.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 1, 2005 9:50 AM
To: McCallum, Robert (SMO); Henke, Tracy (SMO)
Subject: RE: National Advisory Committee on Violence Against Women

On its face, I would think that you should participate.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, November 01, 2005 8:43 AM
To: Henke, Tracy (SMO)
Cc: Gorsuch, Neil M
Subject: RE: National Advisory Committee on Violence Against Women

Let's figure out whether I should do this. Robt.

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Friday, October 14, 2005 4:46 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: Re: National Advisory Committee on Violence Against Women

I sent you an email already asking that you not commit just yet. There are some issues.

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Oct 14 16:16:11 2005
Subject: Fw: National Advisory Committee on Violence Against Women

Tracy: Should I do this? Seems like a good idea to do it if possible. Robt.

-----Original Message-----
From: Voris, Natalie <Natalie.Voris@usdoj.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
CC: Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>; Stuart, Diane <Diane.Stuart@usdoj.gov>;
Rose, Kristina <Kristina.Rose@usdoj.gov>

Rose, Kristina <Kristina.Rose@usdoj.gov>
Sent: Fri Oct 14 13:49:27 2005
Subject: National Advisory Committee on Violence Against Women

Mr. McCallum,

On November 14-15, the final meeting of the National Advisory Committee on Violence Against Women will be taking place at the Department of Health and Human Services Building in Washington, DC. The meeting will begin at 9 a.m. on the 14th and 15th. The meeting will end at 5 p.m. on the 14th and at noon on the 15th. OVW would appreciate any involvement you could have in this meeting. Secretary Leavitt has been invited to attend, but has not yet confirmed.

On the 14th, we are arranging for representatives from other Federal agencies working on violence against women issues to give presentations to the committee and attending members of the public. At this time, OVW and HHS have invited representatives from State, Defense, Labor, Education, and Veterans Affairs. Labor and Defense have confirmed that they will participate in the meeting. If possible, we would like for you to provide brief comments in appreciation of the committee's service, present certificates to the committee members, and have pictures taken with each individual committee member (there will likely be no more than 20 present). You are more than welcome to come to the meeting whenever it's convenient for your schedule. However, we have reserved 11:30 to noon on the 14th for the required public comment period. This time will be published in the Federal Register in the next few days as the time for public comment.

If you have any questions, please contact me or Diane. Below is some background information on the committee:

The National Advisory Committee on Violence Against Women was established in 1995 to provide practical and general policy advice concerning the implementation of the Violence Against Women Act (VAWA) to the Attorney General and to the Secretary of Health and Human Services. The Committee provides an organized public forum for discussion of issues relating to violence against women, specifically domestic violence, sexual assault, and stalking. The Committee increases the public awareness of these issues and illustrates the importance of a coordinated community response to violence against women through its diverse membership. Members represent a variety of backgrounds, including representatives from law enforcement, prosecutorial agencies, judicial offices, physical and mental health service providers, victim service providers, schools, corporations, faith communities, and federal, state, and tribal governments. As a Federal Advisory Committee under the Federal Advisory Committee Act, the Committee's charter must be renewed every two years. The Committee's membership changes approximately every two years as well.

Thank you,
Natalie

Natalie A. Voris
Counsel to the Director
Office on Violence Against Women
Department of Justice
800 K Street, N.W., Suite 920
Washington, DC 20530
Phone: (202) 514-5076
Fax: (202) 307-3911

Henke, Tracy (SMO)

From: Henke, Tracy (SMO)
Sent: Tuesday, November 1, 2005 10:12 AM
To: Gorsuch, Neil M
Subject: Read: National Advisory Committee on Violence Against Women

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 1, 2005 12:31 PM
To: Moschella, William; [redacted] (E-mail); Nichols, Carl (CIV); [redacted]
Subject: RE: House Bill

One pm it is.

-----Original Message-----
From: Moschella, William
Sent: Tuesday, November 01, 2005 11:30 AM
To: Gorsuch, Neil M; [redacted] (E-mail); Nichols, Carl (CIV); [redacted]
Subject: RE: House Bill

I would say 1 p.m. would be better. We need to give HJC and HASC some time to work on this during the afternoon.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, November 01, 2005 11:28 AM
To: Moschella, William; [redacted] (E-mail); Nichols, Carl (CIV); [redacted]
Subject: House Bill

Attached are my edits to the proposed House draft. I've tried to incorporate all of DoD's suggestions. Please could you review this and get any comments to me by 3pm? House is anxious to have our views. Thanks.

<< File: CSRT-ARB amendment (draft).doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 1, 2005 1:04 PM
To: Nichols, Carl (CIV); Moschella, William; [redacted] (E-mail); [redacted]
Subject: RE: House Bill

Good catch, thanks.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Tuesday, November 01, 2005 11:57 AM
To: Gorsuch, Neil M; Moschella, William; [redacted] (E-mail); [redacted]
Subject: RE: House Bill

I have just one comment. The phrase "except as otherwise provided in subsection (f)" in subsection (d) should be deleted. That phrase is a vestige from the fallback draft that would have included a different subsection (f) than is in this version, and should have been deleted before our language was given to the Hill.

From: Gorsuch, Neil M
Sent: Tuesday, November 01, 2005 11:31 AM
To: Moschella, William; [redacted] (E-mail); Nichols, Carl (CIV); [redacted]
Subject: RE: House Bill

One pm it is.

-----Original Message-----
From: Moschella, William
Sent: Tuesday, November 01, 2005 11:30 AM
To: Gorsuch, Neil M; [redacted] (E-mail); Nichols, Carl (CIV); [redacted]
Subject: RE: House Bill

I would say 1 p.m. would be better. We need to give HJC and HASC some time to work on this during the afternoon.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, November 01, 2005 11:28 AM
To: Moschella, William; [redacted] (E-mail); Nichols, Carl (CIV); [redacted]
Subject: House Bill

Attached are my edits to the proposed House draft. I've tried to incorporate all of DoD's suggestions. Please could you review this and get any comments to me by 3pm? House is anxious to have our views. Thanks.

<< File: CSRT-ARB amendment (draft).doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 1, 2005 1:04 PM
To: Nichols, Carl (CIV)
Subject: RE: If you were calling about this Bill,

No need, just wanted to alert you that you're on for tomorrow's mtg with Graham. I know how much that excites you...

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Tuesday, November 01, 2005 11:57 AM
To: Gorsuch, Neil M
Subject: If you were calling about this Bill,

i just sent my comments. am walking out for a [redacted] email me back if you still want to talk and i'll call you.

Williams, Jan

Subject:	Accepted: [redacted] discussion
Location:	Room 5111
Start:	Wednesday, November 2, 2005 12:00 PM
End:	Wednesday, November 2, 2005 12:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Williams, Jan

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 1, 2005 4:21 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: Potential house alternative

Same crowd we met with

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Tuesday, November 01, 2005 3:17 PM
To: Gorsuch, Neil M
Subject: RE: Potential house alternative

Who in the House are you dealing with?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, October 31, 2005 15:05
To: [redacted](E-mail); [redacted](E-mail)
Cc: William.Moschella@usdoj.gov
Subject: FW: Potential house alternative

Gentlemen: As discussed, the House is working on some language and sent along attached. My comments are in redline. Can you look at this and let me know what you think? Many thanks. NMG

> > <<CSRT-ARB amendment (draft).doc>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 01, 2005 5:37 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: Tomorrow

Carl - why? any chance?

-----Original Message-----
From [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Tuesday, November 01, 2005 4:35 PM
To: Gorsuch, Neil M
Subject: Tomorrow

Who's attending from DOJ besides you and Will?

[redacted]
U.S. Department of Defense
1600 Defense Pentagon, Room [redacted]
Washington, D.C. 20301-1600
[redacted]
E-mail [redacted]@dodgc.osd.mil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 01, 2005 6:52 PM
To: John M. Mitnick (E-mail)
Cc: Kessler, Elizabeth A
Subject: CWA

John - We've received comments from the coast guard and epa and it all looks pretty reasonable. In the absence of any further comments, ENRD is aiming to finalize the memo by Thursday, but I wanted to make sure you had a chance to share any comments you may have. If Thursday poses a problem, just let me know. Best regards, NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 01, 2005 6:52 PM
To: McCallum, Robert (SMO)
Subject: FW: CWA

fyi

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, November 01, 2005 5:52 PM
To: John M. Mitnick (E-mail)
Cc: Kessler, Elizabeth A
Subject: CWA

John - We've received comments from the coast guard and epa and it all looks pretty reasonable. In the absence of any further comments, ENRD is aiming to finalize the memo by Thursday, but I wanted to make sure you had a chance to share any comments you may have. If Thursday poses a problem, just let me know. Best regards, NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Tuesday, November 01, 2005 8:29 PM
To:	Parsky, Laura; Gunn, Currie (SMO)
Subject:	RE: CFIUS Deputies Meeting at Treasury on Wednesday

Am i supposed to attend?
-----Original Message-----
From: Parsky, Laura
Sent: Tuesday, November 01, 2005 2:43 PM
To: Gunn, Currie (SMO)
Cc: Gorsuch, Neil M
Subject: CFIUS Deputies Meeting at Treasury on Wednesday

It may make sense to schedule a brief prep for Robert before the meeting. It probably won't take more than 15 -20 minutes to walk him through some of the proposals on the table. If his schedule is full, I can just try to brief him on the car ride over. I am at your disposal. (If we do schedule a prep, I think Alice would want to join us.) Thanks very much.
Laura

Laura H. Parsky
Deputy Assistant Attorney General
Criminal Division
(202) 616-3928

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, November 02, 2005 10:24 AM
To: Williams, Jan
Subject: [redacted]iscussion

i may be a little late to the 11 am - have an apptmt on the Hill - but please do go ahead; Robt should be there.

Sampson, Kyle

Subject:	Accepted: Meeting w/ Kyle Sampson, Bruce McDonald, Neil Gorsuch
Location:	Room 5111
Start:	Thursday, November 03, 2005 9:30 AM
End:	Thursday, November 03, 2005 9:50 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Sampson, Kyle

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, November 2, 2005 12:32 PM
To: Washington, Tracy T
Cc: Shaw, Aloma A
Subject: RE: National Strategy for Pandemic Influenza Documents

Thanks, Ms. Washington.

Aloma - can we send someone to pick up copies? If not, I can do so.

-----Original Message-----
From: Washington, Tracy T
Sent: Wednesday, November 02, 2005 10:33 AM
To: Gorsuch, Neil M
Cc: Williams, Jan; Shaw, Aloma A
Subject: FW: National Strategy for Pandemic Influenza Documents

Neil,

Per Kyle, please see email below.

Kyle would like you to handle, and to quote "the ball is in your court."

Thank you,

Tracy T. Washington
Staff Assistant
Office of the Attorney General
U.S. Department of Justice
Robert F. Kennedy Bldg., Room 5114
950 Pennsylvania Avenue, NW
Washington, DC 20530
(202) 514-9660

-----Original Message-----
From: Elizabeth_W._Williams@who.eop.gov
[mailto:Elizabeth_W._Williams@who.eop.gov]
Sent: Tuesday, November 01, 2005 8:46 PM
To: Sampson, Kyle; [redacted]@mail.va.gov;
[redacted]@ios.doi.gov; [redacted]@hud.gov; [redacted]@doc.gov;
[redacted]@do.treas.gov; [redacted]@dol.gov; [redacted]@ed.gov;
[redacted]@usda.gov; [redacted]@hq.doe.gov; [redacted]@state.gov;
[redacted]Charles@epa.gov; [redacted](DHS);

[redacted]@ost.dot.gov; Robert_Lehman@ustr.eop.gov;
[redacted]@hhs.gov; [redacted]@osd.mil;
Augustine_T._Smythe@omb.eop.gov; Stephen_A._Katsurinis@ondcp.eop.gov;
tracy.t.washington@usdoj.gov; [redacted]@usda.gov;
[redacted]@epa.gov [redacted]@ios.doi.gov;
[redacted]@hhs.gov; emily.gribble@ed.gov; Marisa_Etter@ustr.eop.gov;
eunice_d._dawkins@hud.gov; [redacted]@osd.mil; [redacted]@state.gov;
[redacted]@dol.gov; [redacted](DHS);
[redacted]@usda.gov; [redacted]@osd.mil; [redacted]@hq.doe.gov;
[redacted]@ost.dot.gov [redacted]@hud.gov;
[redacted]@osd.pentagon.mil; [redacted]@do.treas.gov;
[redacted]@va.gov
Cc: dlwhoocl@who.eop.gov
Subject: National Strategy for Pandemic Influenza Documents

The Homeland Security Council has printed documents of the National Strategy for Pandemic Influenza.

The Office of Cabinet Liaison has them available, ready for pick-up.
Please send a representative to the white tent at 17th and Pennsylvania, NW. Once there call up to our office [redacted] and someone will bring them down to you.

Please feel free to contact with questions.

Thanks,

Elizabeth Williams

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, November 02, 2005 12:43 PM
To: Gunn, Currie (SMO)
Subject: FW: National Strategy for Pandemic Influenza Documents

I just realized Aloma is not here! Can you help?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, November 02, 2005 11:32 AM
To: Washington, Tracy T
Cc: Shaw, Aloma A
Subject: RE: National Strategy for Pandemic Influenza Documents

Thanks, Ms. Washington.

Aloma - can we send someone to pick up copies? If not, I can do so.

-----Original Message-----
From: Washington, Tracy T
Sent: Wednesday, November 02, 2005 10:33 AM
To: Gorsuch, Neil M
Cc: Williams, Jan; Shaw, Aloma A
Subject: FW: National Strategy for Pandemic Influenza Documents

Neil,

Per Kyle, please see email below.

Kyle would like you to handle, and to quote "the ball is in your court."

Thank you,

Tracy T. Washington
Staff Assistant
Office of the Attorney General
U.S. Department of Justice
Robert F. Kennedy Bldg., Room 5114
950 Pennsylvania Avenue, NW
Washington, DC 20530
(202) 514-9660

-----Original Message-----

-----Original Message-----
From: Elizabeth_W._Williams@who.eop.gov
[mailto:Elizabeth_W._Williams@who.eop.gov]
Sent: Tuesday, November 01, 2005 8:46 PM
To: Sampson, Kyle; [redacted]@mail.va.gov;
[redacted]@ios.doi.gov; [redacted]@hud.gov; [redacted]@doc.gov;
[redacted]@do.treas.gov; [redacted]@dol.gov; [redacted]@ed.gov;
[redacted]@usda.gov; [redacted]@hq.doe.gov; [redacted]@state.gov;
[redacted]@epa.gov; [redacted](DHS);
[redacted]@ost.dot.gov; [redacted]@ustr.eop.gov;
[redacted]@hhs.gov; [redacted]@osd.mil;
Augustine_T._Smythe@omb.eop.gov; Stephen_A._Katsurinis@ondcp.eop.gov;
tracy.t.washington@usdoj.gov; [redacted]@usda.gov;
[redacted]@epa.gov; [redacted]@ios.doi.gov;
[redacted]@hhs.gov; [redacted]@ed.gov; [redacted]@ustr.eop.gov;
[redacted]@hud.gov; [redacted]@osd.mil; [redacted]@state.gov;
[redacted]@dol.gov; [redacted](DHS);
[redacted]@usda.gov; [redacted]@osd.mil; [redacted]@hq.doe.gov;
[redacted]@ost.dot.gov; [redacted]@hud.gov;
[redacted]@osd.pentagon.mil; [redacted]@do.treas.gov;
[redacted]@va.gov
Cc: dlwhoocl@who.eop.gov
Subject: National Strategy for Pandemic Influenza Documents

The Homeland Security Council has printed documents of the National Strategy for Pandemic Influenza.

The Office of Cabinet Liaison has them available, ready for pick-up.
Please send a representative to the white tent at 17th and Pennsylvania, NW. Once there call up to our office [redacted] and someone will bring them down to you.

Please feel free to contact with questions.

Thanks,

Elizabeth Williams

Moschella, William

From: Moschella, William
Sent: Wednesday, November 2, 2005 3:32 PM
To: Gorsuch, Neil M
Subject: Read: CSRT Production Heads-up #1 of 4

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, November 02, 2005 4:33 PM
To: Sampson, Kyle
Subject: RE: McCallum Memo Draws Ire of Defense Bar

Only commentary I've seen about the memo in print so far is that Legal Times piece. As we've discussed, some in the bar will never accept the waiver policy, no matter how carefully we circumscribe waiver requests. But many will see it at least as an acknowledgement of the important interests favoring the privilege, as [redacted] did and [redacted] has as well. We haven't ended the debate, but I do think we will get credit from some of the participants for listening.

-----Original Message-----
From: Sampson, Kyle
Sent: Tuesday, November 01, 2005 1:10 PM
To: Gorsuch, Neil M
Subject: McCallum Memo Draws Ire of Defense Bar

True? Or, just ire of [redacted]?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, November 2, 2005 4:34 PM
To: McCallum, Robert (SMO)
Subject: FW: McCallum Memo Draws Ire of Defense Bar

Have you seen your picture in the Legal Times of Oct 31 on p 3?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, November 02, 2005 3:33 PM
To: Sampson, Kyle
Subject: RE: McCallum Memo Draws Ire of Defense Bar

Only commentary I've seen about the memo in print so far is that Legal Times piece. As we've discussed, some in the bar will never accept the waiver policy, no matter how carefully we circumscribe waiver requests. But many will see it at least as an acknowledgement of the important interests favoring the privilege, as [redacted] did and [redacted] has as well. We haven't ended the debate, but I do think we will get credit from some of the participants for listening.

-----Original Message-----
From: Sampson, Kyle
Sent: Tuesday, November 01, 2005 1:10 PM
To: Gorsuch, Neil M
Subject: McCallum Memo Draws Ire of Defense Bar

True? Or, just ire of [redacted]?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, November 2, 2005 5:41 PM
To: Murphy, Stephen J. (USAMIE)
Subject: RE: A/C waiver

One more thought you might want to consider is whether the request for waiver should be made in writing, with an explanation of the rationale for the waiver and its scope. Just a thought for your consideration only.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, October 31, 2005 2:53 PM
To: Murphy, Stephen J. (USAMIE)
Subject: RE: A/C waiver

Steve - Here's the language we discussed. NMG

-----Original Message-----
From: Murphy, Stephen J. (USAMIE)
Sent: Friday, October 28, 2005 12:01 PM
To: Gorsuch, Neil M
Subject: RE: A/C waiver

For safety's sake, here is the one I wrote up. I'll convey our finalized version next week.

Nice weekend!

From: Gershel, Alan (USAMIE)
Sent: Friday, October 28, 2005 11:56 AM
To: Murphy, Stephen J. (USAMIE); Gorsuch, Neil M
Subject: RE: A/C waiver

Neil Steve, there has been a great deal of e-mail traffic among the criminal chiefs the last few days. Folks have been looking for models. I have only gotten my hands on one which I will be happy to send you along with ours after Steve approves it.

Alan

From: Murphy, Stephen J. (USAMIE)
Sent: Friday, October 28, 2005 11:50 AM
To: Gorsuch, Neil M
Cc: Gershel, Alan (USAMIE)
Subject: RE: A/C waiver

Neil --

I have a draft policy in the hands of our criminal chief (Alan Gershel who I am cc'ing with this). He is going to meet early next week with our Ecominc Crimes chief and lead corporate fraud AUSA. They will hammer out what in all likelihood will be our final policy. I can send that to you then or, if you need it now, the more crude draft I wrote. Either way, it will be very short.

Thanks for the inquiry and take care, SJM

From: Gorsuch, Neil M
Sent: Friday, October 28, 2005 11:43 AM
To: Murphy, Stephen J. (USAMIE)
Subject: A/C waiver

Steve, Another USAO has asked whether we can recommend any model A/C waiver policies for their consideration. I recall that you were working on a new, state of the art policy and wonder whether it might yet be in a position that you could share it. Warm regards, NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, November 02, 2005 5:44 PM
To: Gorsuch, Neil M; Neurock, Mitch
Subject: RE: A/C Waiver Policy Options

Mitch - a couple other things you might want to consider are whether (a) the request for waiver should be directed to a criminal supervisor not involved in the case, and (b) it should be made in writing with an explanation of the scope of the requested waiver (e.g., limited to interview memos, includes contemporaneous opinion wp or a/c communications, extends to privileged communications during the course of the investigation itself), along with a reasoned analysis about the need for such a waiver. Only some thoughts for your consideration. Best, NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, October 31, 2005 2:59 PM
To: Neurock, Mitch
Subject: A/C Waiver Policy Options

Mitch - As discussed. Don't hesitate to call if I can be of any further assistance. And thanks in advance for a copy of your final production. NMG

<< File: guidance.doc >> << File: Before an Assistant United States Attorney.doc >>

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, November 2, 2005 4:58 PM
To: McCallum, Robert (SMO)
Subject: RE: McCallum Memo Draws Ire of Defense Bar

I've left a copy on your chair. A good picture at least...

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, November 02, 2005 3:49 PM
To: Gorsuch, Neil M
Subject: RE: McCallum Memo Draws Ire of Defense Bar

Nope. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, November 02, 2005 3:34 PM
To: McCallum, Robert (SMO)
Subject: FW: McCallum Memo Draws Ire of Defense Bar

Have you seen your picture in the Legal Times of Oct 31 on p 3?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, November 02, 2005 3:33 PM
To: Sampson, Kyle
Subject: RE: McCallum Memo Draws Ire of Defense Bar

Only commentary I've seen about the memo in print so far is that Legal Times piece. As we've discussed, some in the bar will never accept the waiver policy, no matter how carefully we circumscribe waiver requests. But many will see it at least as an acknowledgement of the important interests favoring the privilege, as [redacted] did and [redacted] has as well. We haven't ended the debate, but I do think we will get credit from some of the participants for listening.

-----Original Message-----
From: Sampson, Kyle
Sent: Tuesday, November 01, 2005 1:10 PM
To: Gorsuch, Neil M
Subject: McCallum Memo Draws Ire of Defense Bar

True? Or, just ire of [redacted]?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, November 2, 2005 5:45 PM
To: McCallum, Robert (SMO)
Subject: Oregon language, I believe

Before an Assistant United States Attorney (AUSA) requests that a corporation or other business organization waive the attorney-client privilege and/or attorney work-product protection in whole or in part, the AUSA must consult with and obtain the approval of his or her Unit Chief, and he or she must also notify in advance of the request the Criminal Chief, First Assistant U.S. Attorney ***or*** Senior Counsel to the United States Attorney, and the United States Attorney. Such approval and notification shall be documented by memorandum or email. Requests for waivers shall accord with the policy set forth in the January 20, 2003, Memorandum of the Deputy Attorney General on Principles of Federal Prosecution of Business Organizations (the "Thompson Memo"), Part VI & n.3.
Neil M. Gorsuch

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, November 2, 2005 7:31 PM
To: Hertling, Richard
Subject: HR 2179

Can you help me find out whether DOJ weighed in on this bill introduced in 2003? Or chose not to (and if so why)? The bill would've endorsed the concept that a corporate waiver of the attorney client privilege to the SEC doesn't effect a waiver in the civil litigation context. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, November 03, 2005 11:52 AM
To: Murphy, Stephen J. (USAMIE)
Subject: Schlozman Bio

Steve,

Just tried to reach you. Here is Brad's resume; the voice mail that I left contains additional information.

NMG

Bradley J. Schlozman - Biography

Bradley J. Schlozman is the Acting Assistant Attorney General for Civil Rights at the United States Department of Justice. The Civil Rights Division is responsible for enforcing federal civil rights statutes, including those statutes that prohibit discrimination on the basis of race, sex, disability, religion, and national origin in education, employment, credit, housing, public accommodations and facilities, voting, and certain federally funded and conducted programs. As Acting Assistant Attorney General, Mr. Schlozman supervises all activities of the Division (over 700 employees, including 356 attorneys).

Prior to assuming this post, Mr. Schlozman served as a Deputy Assistant Attorney General since May 2003, directly supervising the Criminal, Voting, Employment, and Special Litigation Sections of the Civil Rights Division. Before that, Mr. Schlozman served as Counsel to then-Deputy Attorney General Larry Thompson.

A native of Overland Park, Kansas, Mr. Schlozman received his undergraduate degree from the University of Pennsylvania in 1993 and his law degree three years later from the George Washington University Law School. After law school, Mr. Schlozman served a two-year federal judicial clerkship with Chief U.S. District Judge G. Thomas VanBebber of the District of Kansas. He then spent a year clerking for U.S. Circuit Judge Mary Beck Briscoe of the U.S. Court of Appeals for the Tenth Circuit. In 1999, Mr. Schlozman moved to Washington, where he joined the Supreme Court and Appellate Litigation Practice at Howrey, Simon, Arnold & White, LLP, before moving on to the Department of Justice in November 2001.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, November 3, 2005 11:58 AM
To: Coughlin, Robert
Subject: RE: Salazar Letter

Bob - The letter looks good to me. The only change I might suggest is in the penultimate paragraph. The sentence about helping prevent antitrust violations in relief efforts is sandwiched between two sentences promising vigorous prosecution of antitrust violations. I suggest putting the criminal enforcement sentences together and the prevention language at the end. I think our audience wants to hear more about enforcement efforts and this organization, I think, will focus the letter a bit more clearly on their concerns. Possible language follows below, but feel free to take or leave. I assume you've run all this by ATR, but if not you may want to make sure they're on board. NMG

The Department of Justice is committed to investigating and prosecuting federal civil antitrust violations in industries in which it has expertise and all criminal antitrust violations, such as horizontal price-fixing, bid-rigging, and market allocation agreements. You may be assured that we will promptly conduct a thorough investigation and take appropriate enforcement action in response to any evidence of possible criminal wrongdoing in the gasoline, or any other, industry, obtained either through its own efforts or through referrals from the FTC or from other federal or state agencies or officials. Finally, you should know that the Department is working with both federal and state agencies and officials to help ensure that relief efforts in response to the devastation of Hurricane Katrina do not violate the federal antitrust laws.

-----Original Message-----
From: Coughlin, Robert
Sent: Wednesday, November 02, 2005 5:07 PM
To: Gorsuch, Neil M
Subject: FW: Salazar Letter

Neil,

Attached, please find a copy of the letter we discussed earlier this week. At your convenience please take a look at it and make all necessary changes or additions. Thank you.

Bob

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, November 03, 2005 1:26 PM
To:	Seidel, Rebecca; Sampson, Kyle; Macklin, Kristi R; Bucholtz, Jeffrey (CIV)
Cc:	Nichols, Carl (CIV); Bhattacharyya, Rupa (CIV); Wilson, Karen L; Jordan, Wyevetra G; Bounds, Ryan W (OLP)
Subject:	RE: Final State Cleared Talking Points Sent to NSC

Adding Jeff B.

-----Original Message-----
From: Seidel, Rebecca
Sent: Thursday, November 03, 2005 11:23 AM
To: Gorsuch, Neil M; Sampson, Kyle; Macklin, Kristi R
Cc: Nichols, Carl (CIV); Bhattacharyya, Rupa (CIV); Wilson, Karen L;
Jordan, Wyevetra G; Bounds, Ryan W (OLP)
Subject: FW: Final State Cleared Talking Points Sent to NSC
Importance: High

Neil, Kristi, Carl and Rhupa - below are what State is trying to clear by noon. there are several places where they need DOJ input. Clearly we don't have time to do normal full circulation in DOJ, who besides you all would need to review, revise and approve? Who can take the pen on comments/ edits?

-----Original Message-----
From: [redacted]@state.gov [mailto:[redacted]@state.gov]
Sent: Thursday, November 03, 2005 10:57 AM
To: Seidel, Rebecca
Subject: FW: Final State Cleared Talking Points Sent to NSC
Importance: High

<<LEGAL-#16709-v1-Talking_Points_re_H_S__865.DOC>> Rebecca- we need clearance on these talkers asap as there is a push to put Saxton/Specter language (HR 865 and S1257) in the State Ops bill. I just spoke to the NSC and we are hoping to get clearance by noon. We are currently waiting on clearance from the NSC, WH legal and OMB legal.

Could you help? The person we are trying to get clearance from and our lawyer here has just emailed is Rupa Bhattacharyya.

Thanks so much!
[redacted]

-----Original Message-----
From: [redacted]
Sent: Wednesday, November 02, 2005 5:50 PM

To: [redacted]

Cc: [redacted]

Subject: Final State Cleared Talking Points Sent to NSC

Here are the points I sent to NSC. Also sent to DOJ for clearance, per NSC request. First two pages are general points to be used. Other three pages provide more detailed comments on specific provisions if additional material is necessary.

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, November 3, 2005 1:26 PM
To:	Seidel, Rebecca; Oldham, Jeffrey L; Macklin, Kristi R; Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV)
Cc:	Nichols, Carl (CIV)
Subject:	RE: Final State Cleared Talking Points Sent to NSC

I do not have background on this one. If Carl and/or Jeff are ok, however, then I am ok.

-----Original Message-----
From: Seidel, Rebecca
Sent: Thursday, November 03, 2005 12:24 PM
To: Oldham, Jeffrey L; Macklin, Kristi R; Gorsuch, Neil M
Cc: Nichols, Carl (CIV)
Subject: FW: Final State Cleared Talking Points Sent to NSC
Importance: High

IF you guys are ok with Rhupa's redline, I will forward to WH asap. they are waiting for us. please let me know. thank you!

-----Original Message-----
From: Bhattacharyya, Rupa (CIV)
Sent: Thursday, November 03, 2005 12:18 PM
To: Seidel, Rebecca; Gorsuch, Neil M; Sampson, Kyle; Macklin, Kristi R
Cc: Nichols, Carl (CIV); Wilson, Karen L; Jordan, Wyevetra G; Bounds, Ryan W (OLP); Hunt, Jody (CIV); Garvey, Vincent (CIV)
Subject: RE: Final State Cleared Talking Points Sent to NSC

All: I've reviewed State's points and am generally in agreement with them, with a few minor alterations and additions which I have incorporated into the redline attached here (most of these additions are drawn from my informal comments which were prepared earlier this year, but were never formally cleared in this office or elsewhere). I've also added Jody Hunt and Vince Garvey to this discussion as they are the experts on these issues in my office.

Rupa

-----Original Message-----
From: Seidel, Rebecca
Sent: Thursday, November 03, 2005 11:23 AM
To: Gorsuch, Neil M; Sampson, Kyle; Macklin, Kristi R
Cc: Nichols, Carl (CIV); Bhattacharyya, Rupa (CIV); Wilson, Karen L; Jordan, Wyevetra G; Bounds, Ryan W (OLP)

Subject: FW: Final State Cleared Talking Points Sent to NSC
Importance: High

Neil, Kristi, Carl and Rhupa - below are what State is trying to clear by noon. there are several places where they need DOJ input. Clearly we don't have time to do normal full circulation in DOJ, who besides you all would need to review, revise and approve? Who can take the pen on comments/ edits?

-----Original Message-----
From: [redacted]@state.gov [mailto:[redacted]@state.gov]
Sent: Thursday, November 03, 2005 10:57 AM
To: Seidel, Rebecca
Subject: FW: Final State Cleared Talking Points Sent to NSC
Importance: High

<<LEGAL-#16709-v1-Talking_Points_re_H_S__865.DOC>> Rebecca- we need clearance on these talkers asap as there is a push to put Saxton/Specter language (HR 865 and S1257) in the State Ops bill. I just spoke to the NSC and we are hoping to get clearance by noon. We are currently waiting on clearance from the NSC, WH legal and OMB legal.

Could you help? The person we are trying to get clearance from and our lawyer here has just emailed is Rupa Bhattacharyya.

Thanks so much!
[redacted]

-----Original Message-----
From: [redacted]
Sent: Wednesday, November 02, 2005 5:50 PM
To: [redacted];
[redacted]
Cc: [redacted]
Subject: Final State Cleared Talking Points Sent to NSC

Here are the points I sent to NSC. Also sent to DOJ for clearance, per NSC request. First two pages are general points to be used. Other three pages provide more detailed comments on specific provisions if additional material is necessary.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, November 3, 2005 3:02 PM
To: Kessler, Elizabeth A; Johnson, Kelly A. (ENRD); Neumayr, Mary (ENRD)
Cc: McCallum, Robert (SMO)
Subject: Coast Guard

All - As soon as our Everglades mtg broke up, John Mitnick called. He and Bill Kelly have no comments. Let's go ahead and finalize the materials.

Liz, John did ask that we send him a copy of the letter Robert signs. Can you make sure we get this to him?

Fisher, Alice

From: Fisher, Alice
Sent: Thursday, November 3, 2005 5:34 PM
To: Gorsuch, Neil M
Subject: Read: A couple of things

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, November 3, 2005 6:01 PM
To: Gunn, Currie (SMO); Kessler, Elizabeth A
Subject: RE: Coast Guard

I understand but I would like to send John a bcc copy for his information. How do we go about doing that?

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Thursday, November 03, 2005 4:55 PM
To: Kessler, Elizabeth A
Cc: Gorsuch, Neil M
Subject: RE: Coast Guard

We don't ususally send out letters from here after Robert's signature if the package comes from the component through Exec. Sec. The letter and package would be signed, dated and returned to Exec. Sec to they can return it to ENRD. It is ENRD's responsibility to send out the letter and copies.

Currie

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Thursday, November 03, 2005 2:12 PM
To: Gunn, Currie (SMO)
Subject: FW: Coast Guard

Currie: When Robert gets and signs the package and letter (on the Clean Water Act/ Munitions) to the Coast Guard, can you please send a copy to John Mitnick at the White House Counsel's office? Thanks very much. - Liz

p.s. I previously forwarded to you an e-mail with ENRD's draft letter attached. If you don't have that handy when the package comes up, let me know and I will forward to you another copy.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, November 03, 2005 2:02 PM
To: Kessler, Elizabeth A; Johnson, Kelly A. (ENRD); Neumayr, Mary (ENRD)
Cc: McCallum, Robert (SMO)
Subject: Coast Guard

All - As soon as our Everglades mtg broke up, John Mitnick called. He and Bill Kelly have no comments. Let's go ahead and finalize the materials.

Liz, John did ask that we send him a copy of the letter Robert signs. Can you make sure we get this to him?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, November 3, 2005 6:28 PM
To: Shaw, Aloma A
Cc: Reyes, Luis (SMO)
Subject: emails etc

Don't know if my email will work in the UK so I've set up my out of office assistant, telling folks that if they need immediate assistance they should call you. In my absence, if something sounds urgent, please could you direct folks to [redacted] FYI - the tel no at [redacted]s [redacted] Feel free to use it if something comes up.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, November 03, 2005 6:33 PM
To: Gorsuch, Neil M
Subject: Read: emails etc

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Thursday, November 03, 2005 6:45 PM
To: Gorsuch, Neil M
Subject: Read: Coast Guard

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, November 04, 2005 12:12 PM
To: Gorsuch, Neil M
Subject: Read: emails etc

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 8:16 AM
To: [redacted]@dodgc.osd.mil'
Subject: RE: GTMO Trip

What time are we likely to return tomorrow night? If Jeff can't make it, maybe Jon Cohn?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Monday, November 07, 2005 6:43 PM
To: Gorsuch, Neil M
Subject: RE: GTMO Trip

Brett can't make it, I'm assuming Bill can't for the same reasons, but I'll ask. Jeff's a good suggestion.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, November 07, 2005 18:22
To: [redacted]@dodgc.osd.mil
Subject: RE: GTMO Trip

Sorry just returned this afternoon. How about brett gerry and bill kelly in white house counsel? Here at doj perhaps jeff bucholtz?

-----Original Message-----
From: [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Nov 07 17:51:27 2005
Subject: RE: GTMO Trip

Any feedback?

-----Original Message-----
From: [redacted]DoD OGC
Sent: Monday, November 07, 2005 13:55
To: 'Neil.Gorsuch@usdoj.gov'
Subject: FW: GTMO Trip

Short fuse - anyone else at DOJ want to go?

-----Original Message-----
From: [redacted] OARDEC [mailto [redacted] @navy.mil]
Sent: Monday, November 07, 2005 13:41
To: [redacted] DoD OGC; [redacted] VP-47
Subject: RE: GTMO Trip

[redacted]

We could carry at least two more on the flight, possibly more. We are still waiting on a few people to get back to us on our offer of a seat.

V/r
[redacted]

-----Original Message-----
From: [redacted] DoD OGC [mailto [redacted] @dodgc.osd.mil]
Sent: Monday, November 07, 2005 13:34
To: [redacted] OARDEC; [redacted] VP-47
Subject: RE: GTMO Trip

Mr. Reyes is not going. He's asking on behalf of Mr. McCallum. So it's McCallum, Gorsuch, Perry and [redacted] Are there other seats available? If so, we can probably find other DOJ attorneys to fill them.

-----Original Message-----
From [redacted] OARDEC [mailto [redacted] @navy.mil]
Sent: Monday, November 07, 2005 13:12
To: [redacted] DoD OGC; [redacted] VP-47
Subject: RE: GTMO Trip

[redacted]

Yes, I still have your information as well as Mr. Perry's. I have received Mr. Gorsuch's but not Mr. Reye's. I did see Mr. Reye's request for directions and will send that out shortly. Is Mr. McCallum going as well?

V/r
[redacted]

-----Original Message-----
From [redacted] DoD OGC [mailto [redacted] @dodgc.osd.mil]
Sent: Monday, November 07, 2005 12:52
To: [redacted] OARDEC; [redacted] VP-47
Subject: FW: GTMO Trip

I assume y'all have my info from the last trip?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, November 07, 2005 12:50
To: Phil.Perry@dhs.gov; Aloma.A.Shaw@usdoj.gov; [redacted]@dodgc.osd.mil
Cc: Luis.A.Reyes@usdoj.gov; [redacted]@navy.mil,
[redacted]@navy.mil
Subject: Re: GTMO Trip

My ssn is [redacted] dob is [redacted] emergency contact is [redacted] title is Principal Deputy Associate Attorney General.

Aloma - please can you forward along my secty clearance and ses details?
Also all info for Robert as well?

Many thanks to all.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [redacted]@dodgc.osd.mil>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; [redacted]
CC: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>;
[redacted]@navy.mil [redacted]@navy.mil>;
[redacted]@navy.mil [redacted]@navy.mil>
Sent: Mon Nov 07 11:18:08 2005
Subject: GTMO Trip

Gentlemen, please disregard my request to review your schedules for a possible trip on Thursday. We are definitely on for Wednesday. For Robert, Neil and Phil, we need the following information:

Name, Title, Rank/GS/SES/PAS level, SSN, Security Clearance and Emergency POC (Name and phone #)

Please send this information to Lieutenants [redacted] and [redacted] (cc'ed) by COB today. They will send out an itinerary and directions before the trip (flight leaves the Navy terminal at Andrews AFB at 0700 Wednesday).

Thanks -

[redacted]
U.S. Department of Defense
1600 Defense Pentagon, Room [redacted]
Washington, D.C. 20301-1600
[redacted] fax)
E-mail: [redacted]@dodgc.osd.mil

E-mail: [redacted]@dodgc.osd.mil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 8:20 AM
To: Murphy, Stephen J. (USAMIE)
Subject: RE: Attorney-Client Privilege Waiver Solution?

Steve,

Thanks very much for passing this along. Robert is charged with keeping abreast of ABA developments on this issue, so I know he will appreciate having this.

Warm regards,

NMG

-----Original Message-----
From: Murphy, Stephen J. (USAMIE)
Sent: Monday, November 07, 2005 5:19 PM
To: Gorsuch, Neil M
Subject: FW: Attorney-Client Privilege Waiver Solution?

Neil --

You may know [redacted]. He is a former 6th Circ. clerk (Boggs, J.) and a good guy. Now with Koch Industries in Wichita (Counsel for Legal Reform), I have been speaking to him for a couple of years on "our" issue.

He sent this to me today and I forward it FYI as to what the other side is thinking.

My response, if I issue one, is along the lines of "thanks, but I can't speak for the Dept., etc." I'm sure he knows that, but probably wanted me to have this given the topic and our interest in it.

I thought this would interest you and perhaps Robt. (if either of you can find the time!).

Plz let me know if you want to discuss.

Best, SJM

From: [redacted] (Koch Legal) [mailto:[redacted]@kochind.com]
Sent: Monday, November 07, 2005 9:28 AM
To: Murphy, Stephen J. (USAMIE)
Subject: Attorney-Client Privilege Waiver Solution?

Steve,

Thanks very much for the kind invitation to join you after the FedSoc dinner. Unfortunately, plans have conspired to keep me from the convention this year. It looks like a terrific set of panels--especially as pertains to originalism. And I would have enjoyed very much convening with you after dinner. I hope to run into you again before next year's convention, but if not, I'll see you then.

[redacted](immediately below) indicates the ABA's proposed substitute language for the sentencing guidelines to solve the waiver of attorney-client privilege problem. Do you think this would work? Do you think it's an acceptable alternative from the prosecutor's perspective? I think it is far superior to the efforts at creating a statutory limited waiver, which some parties have been advocating. But I don't have enough direct experience with waivers of privilege to know if this solution makes sense.

Regards,
[redacted]

-----Original Message-----
From: [redacted] [mailto:[redacted]@mckennalong.com]
Sent: Saturday,November 05,2005 8:32 AM
Subject: RE: Several Recent Developments Relating to the Attorney-Client Privilege Waiver Issue

[redacted]- We are now far enough along with the work of the ABA Task Force to comfortably say that not only has a chill on the use of lawyers for preventive/compliance self regulation occurred within the corporation, there is evidence that demanding waiver is becoming commonplace at the federal and state level without the presence of a judge to protect the UpJohn right to counsel. [redacted] was on a panel with me where the general counsel of Bethlehem Steel and another major company general counsel reported on undue pressures to waive (in the second situation, the company was not even a target). When the question was put to the general counsels in the room if they had similiar experiences of abuse, over 50 companies represented said yes.

The solution to this situation is for the Commission to drop the phrase "waiver of the privilege" and substitute "providing the facts and documents surrounding the incident".The crime fraud and not obtainable from any other sources" exceptions to privilege and work product protect the government against abuses.

-----Original Message-----
From: [redacted] [mailto:[redacted]@staff.abanet.org]
Sent: Friday, November 04, 2005 5:17 PM
Subject: Several Recent Developments Relating to the Attorney-Client Privilege Waiver Issue Importance: High

Dear All:

The following is a summary of several recent developments relating to the privilege waiver amendment to the Federal Sentencing Guidelines and/or to the general issue of attorney-client

privilege waiver that may be of interest to our informal coalition. Although many of you may already be aware of some of the items below, I wanted to be sure that everyone in the coalition was up to date on these developments.

1. Public Meeting/Informal Hearing of the U.S. Sentencing Commission Scheduled for November 15, 2005

We recently learned that in response to the various comment letters that were filed with the U.S. Sentencing Commission in August urging reconsideration of the November 2004 privilege waiver amendment to the Sentencing Guidelines (including the August 15 comment letters filed by our coalition, the ABA, Rep. Dan Lungren, and the nine former Justice Department officials), the Commission has decided to hold a "public meeting" on Tuesday, November 15, 2005 from 3:00-5:00 p.m. to discuss these issues. After seeking input from our coalition, the Commission invited representatives of the ABA, the U.S. Chamber of Commerce, the American Civil Liberties Union (ACLU), the National Association of Criminal Defense Lawyers (NACDL), and the Association of Corporate Counsel (ACC), and former Attorney General Dick Thornburgh to testify at the event. According to the Commission's staff, who described the event to me as an "informal hearing," each witness will be asked to give a 5-10 minute oral statement, submit a written statement, and then respond to questions from the Commissioners. Appearing at the event for the ABA will be [redacted] ABA Section of Antitrust Law (i.e., the section that wrote the ABA's policy on this issue). A representative of the ABA Task Force on Attorney-Client Privilege may also attend the hearing and confer with [redacted] prior to his testimony.

2. Legal Conference on Waiver of the Attorney-Client Privilege Scheduled for November 16, 2005

The U.S. Chamber of Commerce will host a legal conference on the attorney-client privilege waiver issue on Wednesday, November 16, 2005.
The conference, titled "Erosion of the Attorney-Client Privilege: What Does the Future Hold?", will be held at the Grand Hyatt Washington, 1000 H Street, N.W., Washington, D.C., from 8:30 a.m. to 1:30 p.m. Co-sponsoring the event will be the ABA Task Force on Attorney-Client Privilege, as well as the ACLU, the NACDL, and the ACC. The topics to be discussed will include the recent history of the attorney-client privilege, the effect that the privilege waiver amendment to the Sentencing Guidelines and the Justice Department's policies have had on the privilege, and the future of the privilege. Although the list of speakers is not yet complete, confirmed speakers include our [redacted] ABA Antitrust Section, representatives of the ACLU, the NACDL, and the ACC, House Judiciary Committee Chairman James Sensenbrenner, and former Deputy Attorney General George Terwilliger. The organizers of the conference have also invited other speakers as well, including various current and former officials and staff of the Justice Department, the U.S. Sentencing Commission, the Securities and Exchange Commission, and the House and Senate Judiciary Committees. Additional details on the event and online registration are available at the following link: http://www.uschamber.com/event.asp?event=Attny-Client_Privilege_11-10-05 <http://www.uschamber.com/event.asp?event=Attny-Client_Privilege_11-10-0 5> , and I am told that our coalition and Task Force members may attend at the member rate. This should be an excellent event, and I would encourage you to attend if you can. (Note: Pursuant to the CAN-SPAM Act of 2003, if you would like to opt out of receiving future commercial e-mail messages, please see the notice at the end of this e-mail)

3. Press Briefing Held on October 14, 2005 to Publicize the Upcoming Legal Conference

On October 14, 2005, the U.S. Chamber of Commerce hosted a media briefing for the purpose of publicizing the upcoming November 16 legal conference and to generate additional publicity on the

publicizing the upcoming November 16 legal conference and to generate additional publicity on the issue of attorney-client privilege waiver. The panel of featured speakers included: [redacted] U.S. Chamber of Commerce; [redacted] ACC; [redacted] NACDL; and [redacted] ACLU. Because [redacted] at the time of the briefing and could not attend in person, the ABA issued a written statement at the event. A copy of that written statement, as well the written statements issued by the Chamber, the ACC, the NACDL, and the ACLU are attached. Also attached is my memo summarizing what took place at the event. The media briefing went very well and reporters from at least five publications (i.e., BNA Securities Law Report, Influence, the Legal Times, Bloomberg, and the Financial Times) attended and asked questions. Attached are articles from BNA and the Financial Times regarding the event.

4. Memorandum from Acting Deputy Attorney General McCallum to U.S. Attorneys Dated October 21, 2005

On October 21, 2005, Acting Deputy Attorney General Robert McCallum sent a memorandum to all U.S. Attorneys and to the "Heads of Department Components" of the Justice Department instructing each of them to adopt "a written waiver review process for your district or component." I have corresponded with several members of our coalition regarding this development, and the general feeling seems to be that it has both plusses and minuses. On the plus side, it's encouraging to see that the Department is focusing on the issue and that it recognizes that there should be some limits on its demands for waiver. On the other hand, the memorandum seems to further legitimize the practice of demanding waiver in many cases and it permits the U.S. Attorneys and other Department leaders to establish a number of different waiver policies, some of which may impose only token restraints on the ability to demand waiver. Hopefully, the Department will view the October 21 memorandum as merely a first step towards resolving the privilege waiver problem.

If any other members of our coalition have other developments to report regarding the privilege waiver/Sentencing Guidelines issue, please do so. Otherwise, if you have any questions or comments regarding the items outlined above, please let me know.

Regards,

[redacted]
[redacted]
Senior Legislative Counsel
American Bar Association
Governmental Affairs Office
740 15th Street, N.W.
Washington, D.C. 20005
[redacted] (telephone) ~ (202) 662-1762 (fax)
email: [redacted]@staff.abanet.org

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 8:27 AM
To: [redacted]@dodgc.osd.mil'
Subject: RE: GTMO Trip

Thanks, man

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Tuesday, November 08, 2005 8:24 AM
To: Gorsuch, Neil M
Subject: RE: GTMO Trip

NLT 9:00 p.m. I'll ask Jeff, than Jon. Thanks.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, November 08, 2005 08:16
To: [redacted]@dodgc.osd.mil
Subject: RE: GTMO Trip

What time are we likely to return tomorrow night? If Jeff can't make it, maybe Jon Cohn?

-----Original Message-----
From[redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Monday, November 07, 2005 6:43 PM
To: Gorsuch, Neil M
Subject: RE: GTMO Trip

Brett can't make it, I'm assuming Bill can't for the same reasons, but I'll ask. Jeff's a good suggestion.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, November 07, 2005 18:22
To: [redacted]@dodgc.osd.mil
Subject: Re: GTMO Trip

Sorry just returned this afternoon. How about brett gerry and bill kelly in white house counsel? Here at doj perhaps jeff bucholtz?

-----Original Message-----
From: [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Nov 07 17:51:27 2005
Subject: RE: GTMO Trip

Any feedback?

-----Original Message-----
From: [redacted] DoD OGC
Sent: Monday, November 07, 2005 13:55
To: 'Neil.Gorsuch@usdoj.gov'
Subject: FW: GTMO Trip

Short fuse - anyone else at DOJ want to go?

-----Original Message-----
From: [redacted] OARDEC [mailto[redacted]@navy.mil]
Sent: Monday, November 07, 2005 13:41
To: [redacted] DoD OGC [redacted] VP-47
Subject: RE: GTMO Trip

[redacted]

We could carry at least two more on the flight, possibly more. We are still waiting on a few people to get back to us on our offer of a seat.

V/r
[redacted]

-----Original Message-----
From: [redacted] DoD OGC [mailto[redacted]@dodgc.osd.mil]
Sent: Monday, November 07, 2005 13:34
To: [redacted] OARDEC [redacted] VP-47
Subject: RE: GTMO Trip

Mr. Reyes is not going. He's asking on behalf of Mr. McCallum. So it's McCallum, Gorsuch, Perry and [redacted] Are there other seats available? If so, we can probably find other DOJ attorneys to fill them.

-----Original Message-----
From: [redacted] OARDEC [mailto[redacted]@navy.mil]
Sent: Monday, November 07, 2005 13:12
To: [redacted] DoD OGC [redacted] VP-47
Subject: RE: GTMO Trip

[redacted]
Yes, I still have your information as well as Mr. Perry's. I have received Mr. Gorsuch's but not Mr. Reye's. I did see Mr. Reye's request for directions and will send that out shortly. Is Mr. McCallum going as well?

V/r
[redacted]

-----Original Message-----
From: [redacted] DoD OGC [mailto [redacted] @dodgc.osd.mil]
Sent: Monday, November 07, 2005 12:52
To [redacted] DARDEC [redacted] VP-47
Subject: FW: GTMO Trip

I assume y'all have my info from the last trip?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, November 07, 2005 12:50
To: [redacted] @dhs.gov; Aloma.A.Shaw@usdoj.gov; [redacted] @dodgc.osd.mil
Cc: Luis.A.Reyes@usdoj.gov; [redacted] @navy.mil; [redacted] @navy.mil
Subject: Re: GTMO Trip

My ssn is [redacted] dob is [redacted] emergency contact is [redacted] title is Principal Deputy Associate Attorney General.

Aloma - please can you forward along my secty clearance and ses details?
Also all info for Robert as well?

Many thanks to all.

-----Original Message-----
From: [redacted] @dodgc.osd.mil [redacted] @dodgc.osd.mil>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; [redacted]
<[redacted] @dhs.gov>
CC: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>;
[redacted] @navy.mil [redacted] @navy.mil>;
[redacted] @navy.mil [redacted] navy.mil>
Sent: Mon Nov 07 11:18:08 2005
Subject: GTMO Trip

Gentlemen, please disregard my request to review your schedules for a possible trip on Thursday. We

Gentlemen, please disregard my request to review your schedules for a possible trip on Thursday. We are definitely on for Wednesday. Fo[redacted] Neil and [redacted]e need the following information:

Name, Title, Rank/GS/SES/PAS level, SSN, Security Clearance and Emergency POC (Name and phone #)

Please send this information to Lieutenants[redacted] and [redacted]cc'ed) by COB today. They will send out an itinerary and directions before the trip (flight leaves the Navy terminal at Andrews AFB at 0700 Wednesday).

Thanks -

[redacted]
U.S. Department of Defense
1600 Defense Pentagon, Room[redacted]
Washington, D.C. 20301-1600
[redacted]fax)
E-mail:[redacted]@dodgc.osd.mil

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Tuesday, November 8, 2005 8:52 AM
To:	Bucholtz, Jeffrey (CIV)
Cc:	Shaw, Aloma A
Subject:	FW: This Wednesday: Implementation of the National Strategy for Pandemic Influenza
Attachments:	tmp.htm
Importance:	High

Jeff - I cannot attend. Would you be able to substitute for me?

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Saturday, November 05, 2005 5:05 PM
To: Gorsuch, Neil M; Otis, Lee L; [redacted]; Dean_F._Clancy@omb.eop.gov; [redacted]
Cc: Frances_F._Townsend@who.eop.gov; Kenneth_Rapuano@who.eop.gov; Tevi_D._Troy@who.eop.gov; Carol_R._Kuntz@ovp.eop.gov; Lance_B._Leggitt@who.eop.gov; John_C._Rood@nsc.eop.gov; Rita_L._DiCasagrande@nsc.eop.gov; Bruce_E._Miller@ovp.eop.gov; Dean_F._Clancy@omb.eop.gov; Norris_W._Cochran@omb.eop.gov; DL-HSC-CHEM-BIO@eopds.eop.gov; DL-HSC-SeniorStaff@eopds.eop.gov; DL-HSC-Front@eopds.eop.gov; DL-HSC-EXECSEC@eopds.eop.gov; Binita_S._Ashar@ovp.eop.gov; Steven_D._Poulin@ovp.eop.gov; Megan_E._Hauck@who.eop.gov; Barrett_Karr@who.eop.gov; Alexander_M._Mistri@who.eop.gov; Heidi_M._Smith@who.eop.gov; Desiree_T._Sayle@who.eop.gov; Marguerite_A._Murer@who.eop.gov; Michael_E._Meece@who.eop.gov; Keith_Hennessey@who.eop.gov; Richard_M._Russell@ostp.eop.gov; Catherine_Martin@who.eop.gov; Shannon_B._Burkhart@who.eop.gov; Trent_D._Duffy@who.eop.gov; Matthew_Vaeth@omb.eop.gov; Karyn_Kendall@omb.eop.gov; Michael_Casella@omb.eop.gov; Sharon_L._Hays@ostp.eop.gov; Michelle_Colby@ostp.eop.gov; Karan_Bhatia@ustr.eop.gov;

Stephen_S._McMillin@omb.eop.gov; Jeremy_L._Katz@who.eop.gov;
Dennis_Grace@who.eop.gov; Katherine_S._Wills@who.eop.gov
Subject: This Wednesday: Implementation of the National Strategy for Pandemic Influenza
Importance: High

All:

We will hold a meeting to discuss implementation of the National Strategy for Pandemic Influenza this Wednesday, November 9 from 1:30-3:00 PM in EEOB Rm 450. Each Department and Agency is invited to send up to two representatives. Please e-mail clearance information (DOB and SS#) to Sharon Wells (swells@who.eop.gov) by noon on Tuesday, November 8.

Issues to be discussed include:
1. Review of the pandemic influenza threat 2. Overview of the National Strategy 3. Implementation of the National Strategy - roles, roadmap and timelines
4. Q&A

Prior to this meeting, we ask that all attendees review the National Strategy and Part I of the HHS Pandemic Influenza Plan, both of which can be found at http://www.pandemicflu.gov.

Thank you.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

All:

We will hold a meeting to discuss implementation of the *National Strategy for Pandemic Influenza* this **Wednesday, November 9 from 1:30-3:00 PM in EEOB Rm 450**. Each Department and Agency is invited to send up to two representatives. Please e-mail clearance information (DOB and SS#) to Sharon Wells (swells@who.eop.gov) by **noon on Tuesday, November 8**.

Issues to be discussed include:
1. Review of the pandemic influenza threat
2. Overview of the *National Strategy*
3. Implementation of the *National Strategy* - roles, roadmap and timelines
4. Q&A

Prior to this meeting, we ask that all attendees review the *National Strategy* and Part I of the HHS Pandemic Influenza Plan, both of which can be found at http://www.pandemicflu.gov.

Thank you.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 7:56 AM
To: Hertling, Richard
Subject: levinson mtg today

Might we be able to use your conf room to meet with Levinson and his partner today at 1?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 8:23 AM
To: McCallum, Robert (SMO)
Subject: FW: Attorney-Client Privilege Waiver Solution?

I know you've already seen the underlying ABA email, but I thought you'd appreciate knowing that Steve was kind enough to pass it along.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 8:20 AM
To: Murphy, Stephen J. (USAMIE)
Subject: RE: Attorney-Client Privilege Waiver Solution?

Steve,

Thanks very much for passing this along. Robert is charged with keeping abreast of ABA developments on this issue, so I know he will appreciate having this.

Warm regards,

NMG

-----Original Message-----
From: Murphy, Stephen J. (USAMIE)
Sent: Monday, November 07, 2005 5:19 PM
To: Gorsuch, Neil M
Subject: FW: Attorney-Client Privilege Waiver Solution?

Neil --

You may know [redacted]. He is a former 6th Circ. clerk (Boggs, J.) and a good guy. Now with Koch Industries in Wichita (Counsel for Legal Reform), I have been speaking to him for a couple of years on "our" issue.

He sent this to me today and I forward it FYI as to what the other side is thinking.

My response, if I issue one, is along the lines of "thanks, but I can't speak for the Dept., etc." I'm sure he knows that, but probably wanted me to have this given the topic and our interest in it.

I thought this would interest you and perhaps Robt. (if either of you can find the time!).

Plz let me know if you want to discuss

Plz let me know if you want to discuss.

Best, SJM

From: [redacted] (Koch Legal) [mailto:[redacted]@kochind.com]
Sent: Monday, November 07, 2005 9:28 AM
To: Murphy, Stephen J. (USAMIE)
Subject: Attorney-Client Privilege Waiver Solution?

Steve,

Thanks very much for the kind invitation to join you after the FedSoc dinner. Unfortunately, plans have conspired to keep me from the convention this year. It looks like a terrific set of panels--especially as pertains to originalism. And I would have enjoyed very much convening with you after dinner. I hope to run into you again before next year's convention, but if not, I'll see you then.

[redacted] (immediately below) indicates the ABA's proposed substitute language for the sentencing guidelines to solve the waiver of attorney-client privilege problem. Do you think this would work? Do you think it's an acceptable alternative from the prosecutor's perspective? I think it is far superior to the efforts at creating a statutory limited waiver, which some parties have been advocating. But I don't have enough direct experience with waivers of privilege to know if this solution makes sense.

Regards,
-[redacted]

-----Original Message-----
From: [redacted] [mailto:[redacted]@mckennalong.com]
Sent: Saturday,November 05,2005 8:32 AM
Subject: RE: Several Recent Developments Relating to the Attorney-Client Privilege Waiver Issue

[redacted] - We are now far enough along with the work of the ABA Task Force to comfortably say that not only has a chill on the use of lawyers for preventive/compliance self regulation occurred within the corporation, there is evidence that demanding waiver is becoming commonplace at the federal and state level without the presence of a judge to protect the UpJohn right to counsel. [redacted] was on a panel with me where the general counsel of Bethlehem Steel and another major company general counsel reported on undue pressures to waive (in the second situation, the company was not even a target). When the question was put to the general counsels in the room if they had similiar experiences of abuse, over 50 companies represented said yes.

The solution to this situation is for the Commission to drop the phrase "waiver of the privilege" and substitute "providing the facts and documents surrounding the incident".The crime fraud and not obtainable from any other sources" exceptions to privilege and work product protect the government against abuses.

-----Original Message-----
From: [redacted] [mailto:[redacted]@staff.abanet.org]

Sent: Friday, November 04, 2005 5:17 PM
Subject: Several Recent Developments Relating to the Attorney-Client Privilege Waiver Issue Importance: High

Dear All:

The following is a summary of several recent developments relating to the privilege waiver amendment to the Federal Sentencing Guidelines and/or to the general issue of attorney-client privilege waiver that may be of interest to our informal coalition. Although many of you may already be aware of some of the items below, I wanted to be sure that everyone in the coalition was up to date on these developments.

1. Public Meeting/Informal Hearing of the U.S. Sentencing Commission Scheduled for November 15, 2005

We recently learned that in response to the various comment letters that were filed with the U.S. Sentencing Commission in August urging reconsideration of the November 2004 privilege waiver amendment to the Sentencing Guidelines (including the August 15 comment letters filed by our coalition, the ABA, Rep. Dan Lungren, and the nine former Justice Department officials), the Commission has decided to hold a "public meeting" on Tuesday, November 15, 2005 from 3:00-5:00 p.m. to discuss these issues. After seeking input from our coalition, the Commission invited representatives of the ABA, the U.S. Chamber of Commerce, the American Civil Liberties Union (ACLU), the National Association of Criminal Defense Lawyers (NACDL), and the Association of Corporate Counsel (ACC), and former Attorney General Dick Thornburgh to testify at the event. According to the Commission's staff, who described the event to me as an "informal hearing," each witness will be asked to give a 5-10 minute oral statement, submit a written statement, and then respond to questions from the Commissioners. Appearing at the event for the ABA will be [redacted] of the ABA Section of Antitrust Law (i.e., the section that wrote the ABA's policy on this issue). A representative of the ABA Task Force on Attorney-Client Privilege may also attend the hearing and confer with [redacted] prior to his testimony.

2. Legal Conference on Waiver of the Attorney-Client Privilege Scheduled for November 16, 2005

The U.S. Chamber of Commerce will host a legal conference on the attorney-client privilege waiver issue on Wednesday, November 16, 2005.
The conference, titled "Erosion of the Attorney-Client Privilege: What Does the Future Hold?", will be held at the Grand Hyatt Washington, 1000 H Street, N.W., Washington, D.C., from 8:30 a.m. to 1:30 p.m. Co-sponsoring the event will be the ABA Task Force on Attorney-Client Privilege, as well as the ACLU, the NACDL, and the ACC. The topics to be discussed will include the recent history of the attorney-client privilege, the effect that the privilege waiver amendment to the Sentencing Guidelines and the Justice Department's policies have had on the privilege, and the future of the privilege. Although the list of speakers is not yet complete, confirmed speakers include our [redacted] of the ABA Antitrust Section, representatives of the ACLU, the NACDL, and the ACC, House Judiciary Committee Chairman James Sensenbrenner, and former Deputy Attorney General George Terwilliger. The organizers of the conference have also invited other speakers as well, including various current and former officials and staff of the Justice Department, the U.S. Sentencing Commission, the Securities and Exchange Commission, and the House and Senate Judiciary Committees. Additional details on the event and online registration are available at the following link:

Committees. Additional details on the event and online registration are available at the following link: http://www.uschamber.com/event.asp?event=Attny-Client_Privilege_11-10-05 <http://www.uschamber.com/event.asp?event=Attny-Client_Privilege_11-10-05> , and I am told that our coalition and Task Force members may attend at the member rate. This should be an excellent event, and I would encourage you to attend if you can. (Note: Pursuant to the CAN-SPAM Act of 2003, if you would like to opt out of receiving future commercial e-mail messages, please see the notice at the end of this e-mail)

3. Press Briefing Held on October 14, 2005 to Publicize the Upcoming Legal Conference

On October 14, 2005, the U.S. Chamber of Commerce hosted a media briefing for the purpose of publicizing the upcoming November 16 legal conference and to generate additional publicity on the issue of attorney-client privilege waiver. The panel of featured speakers included: [redacted] CEO of the U.S. Chamber of Commerce; [redacted] ACC [redacted] NACDL; and [redacted] ACLU. Because [redacted] at the time of the briefing and could not attend in person, the ABA issued a written statement at the event. A copy of that written statement, as well the written statements issued by the Chamber, the ACC, the NACDL, and the ACLU are attached. Also attached is my memo summarizing what took place at the event. The media briefing went very well and reporters from at least five publications (i.e., BNA Securities Law Report, Influence, the Legal Times, Bloomberg, and the Financial Times) attended and asked questions. Attached are articles from BNA and the Financial Times regarding the event.

4. Memorandum from Acting Deputy Attorney General McCallum to U.S. Attorneys Dated October 21, 2005

On October 21, 2005, Acting Deputy Attorney General Robert McCallum sent a memorandum to all U.S. Attorneys and to the "Heads of Department Components" of the Justice Department instructing each of them to adopt "a written waiver review process for your district or component." I have corresponded with several members of our coalition regarding this development, and the general feeling seems to be that it has both plusses and minuses. On the plus side, it's encouraging to see that the Department is focusing on the issue and that it recognizes that there should be some limits on its demands for waiver. On the other hand, the memorandum seems to further legitimize the practice of demanding waiver in many cases and it permits the U.S. Attorneys and other Department leaders to establish a number of different waiver policies, some of which may impose only token restraints on the ability to demand waiver. Hopefully, the Department will view the October 21 memorandum as merely a first step towards resolving the privilege waiver problem.

If any other members of our coalition have other developments to report regarding the privilege waiver/Sentencing Guidelines issue, please do so. Otherwise, if you have any questions or comments regarding the items outlined above, please let me know.

Regards,

[redacted]

[redacted]
Senior Legislative Counsel
American Bar Association
Governmental Affairs Office
740 15th Street, N.W.
Washington, D.C. 20005
[redacted] (telephone) ~ (202) 662-1762 (fax)
email: [redacted]@staff.abanet.org

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 8:23 AM
To: Gunn, Currie (SMO)
Subject: RE: GTMO Trip

Our SSO has sent verification?

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Monday, November 07, 2005 4:25 PM
To: Gorsuch, Neil M; [redacted]@navy.mil'; Reyes, Luis (SMO);
[redacted]@dodgc.osd.mil'; Perry, Phil (DHS)
Cc: [redacted]@navy.mil'
Subject: RE: GTMO Trip

already taken care of Neil.

Currie

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, November 07, 2005 4:22 PM
To: [redacted]@navy.mil'; Reyes, Luis (SMO);
[redacted]@dodgc.osd.mil'; Perry, Phil (DHS); Gunn, Currie (SMO)
Cc: [redacted]@navy.mil'
Subject: Re: GTMO Trip

Lu or currie could you get this done for me and robt?

-----Original Message-----
From [redacted]@navy.mil <[redacted]@navy.mil>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO)
<Luis.Reyes@SMOJMD.USDOJ.gov>; [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>; [redacted]
[redacted]@dhs.gov>
CC: [redacted]@navy.mil <[redacted]@navy.mil>
Sent: Mon Nov 07 16:16:57 2005
Subject: RE: GTMO Trip

Gentlemen,
One thing I failed to ask for that JTF GTMO needs in order to line up the intelligence briefing is verification of your security clearances. I have no doubt that everyone has at least TS, but they need some sort of verification from your office's SSO. You can have them forward the info to me and I will

some sort of verification from your office's SSO. You can have them forward the info to me and I will consolidate it for the JTF. If anything needs to be sent on the classified side, my SIPR e-mail is [redacted]@cno.navy.cmil.mil

Once again, thank you for your cooperation.

V/r

[redacted]

[redacted]
Pentagon
(W) [redacted] (C) [redacted] (F) [redacted] [redacted]@navy.mil

-----Original Message-----
From [redacted] DoD OGC [mailto: [redacted]@dodgc.osd.mil]
Sent: Monday, November 07, 2005 11:18
To: 'Neil.Gorsuch@usdoj.gov'; [redacted]
Cc: 'Luis.A.Reyes@usdoj.gov' [redacted] OARDEC; [redacted]
[redacted]
Subject: GTMO Trip

Gentlemen, please disregard my request to review your schedules for a possible trip on Thursday. We are definitely on for Wednesday. For [redacted] Neil and [redacted] we need the following information:

Name, Title, Rank/GS/SES/PAS level, SSN, Security Clearance and Emergency POC (Name and phone #)

Please send this information to Lieutenants [redacted] and [redacted] (cc'ed) by COB today. They will send out an itinerary and directions before the trip (flight leaves the Navy terminal at Andrews AFB at 0700 Wednesday).

Thanks -

[redacted]
U.S. Department of Defense
1600 Defense Pentagon, Room [redacted]
Washington, D.C. 20301-1600
[redacted] fax)
E-mail: [redacted]@dodgc.osd.mil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 8:24 AM
To: Oldham, Jeffrey L
Subject: RE: rack-up speech

Thanks. I'd like to work on this a bit today.

-----Original Message-----
From: Oldham, Jeffrey L
Sent: Monday, November 07, 2005 4:06 PM
To: Gorsuch, Neil M
Subject: rack-up speech

Neil, an FYI from the strategic initiatives meeting today. Kyle said that he would like for the rack-up speech to be ready to go with the AG on his international trip, so he can work on it--even though the delivery date for the speech is Dec. 1. The AG leaves Saturday morning.

I will give you what I have tomorrow (Tuesday). As Mike Purpura did, I'm leaving the intro and closing for Tucker McNeil (OPA speechwriter) to do, and he said he'd need a couple of hours to do that. He also advised that, to have it ready for the AG, it would need to be staffed by Wednesday night.

****
Jeffrey L. Oldham
Counsel to the Attorney General
U.S. Department of Justice
(202) 514-9797
Jeffrey.L.Oldham@usdoj.gov

Gorsuch, Neil M

Subject: [redacted]1230 met club

Start: Monday, November 21, 2005 12:00 PM
End: Monday, November 21, 2005 1:00 PM

Recurrence: (none)

Meeting Status: No response required

Organizer: Gorsuch, Neil M

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Tuesday, November 8, 2005 8:40 AM
To:	Powell, SeLena Y
Subject:	RE: ODAG Farewell Thursday, November 10, 2005 @ 3:00 p.m.

I'll be there. Many thanks. Neil Gorsuch
-----Original Message-----
From: Powell, SeLena Y
Sent: Monday, November 07, 2005 11:24 AM
To: Powell, SeLena Y
Subject: ODAG Farewell Thursday, November 10, 2005 @ 3:00 p.m.

Please join Acting Deputy Attorney General Paul J. McNulty in bidding farewell to Patrick Philbin, Patrick O'Brien, and Timothy Coleman, Thursday, November 10, 2005, rm 4111 @ 3:00 p.m.. RSVP to me by Wednesday, Nov. 9.

SeLena Y. Powell
Office Manager
Office of the Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W. - rm 4110
Washington, D.C. 20530
Tel: 202-305-9772, Fax: 202-514-0467
Email: SeLena.Y.Powell@USDOJ.GOV

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 8:42 AM
To: Scolinos, Tasia; Beach, Andrew
Cc: Sellers, Kiahna (OAG)
Subject: RE: 12/1 Council on Foreign Relations speech

We will use the 20 mins I think

-----Original Message-----
From: Scolinos, Tasia
Sent: Friday, November 04, 2005 6:55 PM
To: Beach, Andrew; Gorsuch, Neil M
Cc: Sellers, Kiahna (OAG)
Subject: RE: 12/1 Council on Foreign Relations speech

I think we will need the full twenty minutes or so on the war on terror speech and I think that 40 minutes of q and a's afterward will be sufficient. Neil do you agree?

-----Original Message-----
From: Beach, Andrew
Sent: Friday, November 04, 2005 4:35 PM
To: Gorsuch, Neil M; Scolinos, Tasia
Cc: Sellers, Kiahna (OAG); Beach, Andrew
Subject: 12/1 Council on Foreign Relations speech

OK, I can't figure out how to turn off this shading ... so hang in there:

CFR is asking what our plan will be for the AG's presentation on 12/1:

1. For the CFR speech on 12/1, the Attorney General can: "choose from three different formats including - Format one: a 20 minute speech; Format two: 20 minutes of conversation with the moderator; or Format three: a 10 minute speech followed by 10 minutes of conversation with the moderator. Please note that for all formats, the remarks are followed by a 40 minute question and answer session with the audience."

2. do we want it to be open press?

Kyle and Courtney said to toss this to you guys to make a recommendation.

Andrew Beach
Assistant to the Attorney General
& Director of Scheduling
US Department of Justice
951 Constitution Ave., NW
Washington, DC 20530
Tel: (202) 514-4195; FAX: (202) 307-2825
E-mail: andrew.beach@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 8:47 AM
To: Hertling, Richard
Subject: RE: levinson mtg today

That's my preference for the reason you state. I will collect them from the front office and bring them around. Many thanks.

-----Original Message-----
From: Hertling, Richard
Sent: Tuesday, November 08, 2005 8:44 AM
To: Gorsuch, Neil M
Subject: RE: levinson mtg today

I can easily fit four in my office (4226). Shall we do it here (which may emphasize the point that OLP is the lead contact for the issue)? rah

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 7:56 AM
To: Hertling, Richard
Subject: levinson mtg today

Might we be able to use your conf room to meet with Levinson and his partner today at 1?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 10:23 AM
To: [redacted](E-mail)
Subject: Graham

[redacted] - I wanted to compare notes on strategy for the House after today's expected action in the Senate. Do you have some time later today? NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 10:24 AM
To: Reyes, Luis (SMO)
Subject: RE: Quick Status

Thanks very much. On item (1), please could you drive it through the finish line? I usually email people saying that if I don't hear from them by (date/time) we will allow docs to be released.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, November 08, 2005 10:15 AM
To: Gorsuch, Neil M
Subject: Quick Status

Top O' The Mornin' Sir. Welcome back.

2 quick items for you to be aware of.

1. I have emailed Brett Gerry twice and called him as well to clear the latest batch of Olesky documents. Have not heard back from him. Do you want me to get this across the finish line (happy to), or does it make sense for you to. Just let me know.

2. Went to the Strategic Initiatives meeting yesterday. You will get some detailed minutes. Gave them a report on the status of our Human Trafficking Report. Short of it is, yesterday morning we had a meeting hosted by CRT with all the relevant players that could contribute to such a report (CRT, OLP, OJP, OVW, CRM). I advised the group what it was we were looking for and we set a deadline of November 28 for each component to provide CRT with relevant data, etc. In the meantime, CRT will be working on a specific outline/narrative and will marry up the data to the outline once received. We will meet again on December 5 with an eye towards having a finished product by year's end (or possibly sooner). One question raised was quality of production/publishing. My thought is to have something nice like the Ashcroft 2001-2004 rack-up, with the caveat that whatever we do, we do it in-house.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 12:35 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: GTMO (ASAP)

Thanks, verifications should've been sent some time ago. If not, let me know.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Tuesday, November 08, 2005 12:29 PM
To: Gorsuch, Neil M
Subject: Fw: GTMO (ASAP)

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Ken.Zwick@usdoj.gov <Ken.Zwick@usdoj.gov>
To: [redacted]@navy.mil <[redacted]@navy.mil>;
[redacted]@navy.mil <[redacted]@navy.mil>
CC: Jeffrey.Bucholtz@usdoj.gov <Jeffrey.Bucholtz@usdoj.gov>;
Currie.Gunn@usdoj.gov <Currie.Gunn@usdoj.gov>; [redacted]@dodgc.osd.mil
<[redacted]@dodgc.osd.mil>
Sent: Tue Nov 08 11:52:23 2005
Subject: RE: GTMO (ASAP)

[redacted] I am only having the information sent regarding Mr. Bucholtz. Currie Gunn of the Associate Attorney General's office arranged earlier to have the verification sent for Robert McCallum and Neil Gorsuch. If you have not yet received that information, please let Currie know. She is at 202-514-9500. Ken

-----Original Message-----
From: [redacted]@navy.mil [mailto:[redacted]@navy.mil]
Sent: Tuesday, November 08, 2005 11:31 AM
To: Zwick, Ken (CIV)[redacted]@navy.mil
Cc: Bucholtz, Jeffrey (CIV); [redacted]@dodgc.osd.mil
Subject: RE: GTMO (ASAP)

Mr. Zwick,
A good fax number over here is [redacted] Will you only be sending me info on Mr. Bucholtz?

V/r
[redacted]

-----Original Message-----
From: Ken.Zwick@usdoj.gov [mailto:Ken.Zwick@usdoj.gov]
Sent: Tuesday, November 08, 2005 11:18
To: [redacted]
Cc: [redacted]@dodgc.osd.mil; Jeffrey.Bucholtz@usdoj.gov
Subject: RE: GTMO (ASAP)

[redacted] and [redacted]: I am arranging to have the DOJ security staff provide the verification you need. Please email me your fax number.

Thanks,
Ken Zwick
Executive Officer
Civil Division - DOJ
202-514-4552

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Tuesday, November 08, 2005 10:44 AM
To: Bucholtz, Jeffrey (CIV)
Cc: Zwick, Ken (CIV); [redacted]@navy.mil; [redacted]@navy.mil
Subject: RE: GTMO (ASAP)

Sorry, I was referring to the Associate AG. Please send your clearance verification directly to [redacted] and [redacted] (cc'ed). Thanks. If anything needs to be sent on the classified side, [redacted] SIPR e-mail is [redacted]@cno.navy.cmil.mil.

-----Original Message-----
From: Jeffrey.Bucholtz@usdoj.gov [mailto:Jeffrey.Bucholtz@usdoj.gov]
Sent: Tuesday, November 08, 2005 10:17
To: [redacted]@dodgc.osd.mil
Cc: Ken.Zwick@usdoj.gov
Subject: RE: GTMO (ASAP)

[redacted] Thanks for thinking of me. Yes, I'd like to go if you do have an extra seat. (By the way, though, which AAG are you referring to? I assumed it was [redacted] but he tells me it's not.) Here's my info:

Jeffrey Stuart Bucholtz
Deputy Assistant Attorney General, Civil Division SES [redacted] POC [redacted] (work)

Our security people will contact you to verify my clearances. Please let me know if you need anything else. Thanks,

Jeff

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Tuesday, November 08, 2005 9:29 AM
To: Bucholtz, Jeffrey (CIV)
Subject: GTMO (ASAP)

We may have an extra seat on the plane taking the AAG and Neil down to GTMO for a day trip tomorrow. Would you be interested in joining us?
If so, we need the following information immediately:

Name, Title, Rank/GS/SES/PAS level, SSN, Security Clearance and Emergency POC (Name and phone #), along with verification of your security clearances.

[redacted]
U.S. Department of Defense
1600 Defense Pentagon[redacted]
Washington, D.C. 20301-1600
[redacted]
E-mail:[redacted]@dodgc.osd.mil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 11:50 AM
To: Beach, Andrew; Scolinos, Tasia
Cc: Sellers, Kiahna (OAG)
Subject: RE: 12/1 Council on Foreign Relations speech

That's a call best made by Tasia and OAG, I think.

-----Original Message-----
From: Beach, Andrew
Sent: Tuesday, November 08, 2005 11:44 AM
To: Gorsuch, Neil M; Scolinos, Tasia
Cc: Sellers, Kiahna (OAG)
Subject: RE: 12/1 Council on Foreign Relations speech

what about the open press question?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 8:42 AM
To: Scolinos, Tasia; Beach, Andrew
Cc: Sellers, Kiahna (OAG)
Subject: RE: 12/1 Council on Foreign Relations speech

We will use the 20 mins I think

-----Original Message-----
From: Scolinos, Tasia
Sent: Friday, November 04, 2005 6:55 PM
To: Beach, Andrew; Gorsuch, Neil M
Cc: Sellers, Kiahna (OAG)
Subject: RE: 12/1 Council on Foreign Relations speech

I think we will need the full twenty minutes or so on the war on terror speech and I think that 40 minutes of q and a's afterward will be sufficient. Neil do you agree?

-----Original Message-----
From: Beach, Andrew
Sent: Friday, November 04, 2005 4:35 PM
To: Gorsuch, Neil M; Scolinos, Tasia
Cc: Sellers, Kiahna (OAG); Beach, Andrew
Subject: 12/1 Council on Foreign Relations speech

OK, I can't figure out how to turn off this shading ... so hang in there:

CFR is asking what our plan will be for the AG's presentation on 12/1:

1. For the CFR speech on 12/1, the Attorney General can: "choose from three different formats including - Format one: a 20 minute speech; Format two: 20 minutes of conversation with the moderator; or Format three: a 10 minute speech followed by 10 minutes of conversation with the moderator. Please note that for all formats, the remarks are followed by a 40 minute question and answer session with the audience."

2. do we want it to be open press?

Kyle and Courtney said to toss this to you guys to make a recommendation.

Andrew Beach
Assistant to the Attorney General
& Director of Scheduling
US Department of Justice
951 Constitution Ave., NW
Washington, DC 20530
Tel: (202) 514-4195; FAX: (202) 307-2825
E-mail: andrew.beach@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 12:02 PM
To: Shaw, Aloma A
Subject: FW: levinson mtg today

richard and i are expecting 2 lawyers to visit at 1pm. if they call your line when they arrive, let me know and i will pick them up

-----Original Message-----
From: Hertling, Richard
Sent: Tuesday, November 08, 2005 8:44 AM
To: Gorsuch, Neil M
Subject: RE: levinson mtg today

I can easily fit four in my office (4226). Shall we do it here (which may emphasize the point that OLP is the lead contact for the issue)? rah

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 7:56 AM
To: Hertling, Richard
Subject: levinson mtg today

Might we be able to use your conf room to meet with Levinson and his partner today at 1?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 3:34 PM
To: [redacted]@dodgc.osd.mil'; Bucholtz, Jeffrey (CIV); Gunn, Currie (SMO)
Subject: RE: Final Itinerary 9 NOV 05 GTMO Trip

Thanks, Frank. Adding Currie Gunn, Robert's assistant.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Tuesday, November 08, 2005 3:20 PM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Subject: FW: Final Itinerary 9 NOV 05 GTMO Trip

Neil, I assume you will get this to Robert.

-----Original Message-----
From: [redacted] [mailto:[redacted]@navy.mil]
Sent: Tuesday, November 08, 2005 15:17
To: DoD OGC [redacted] E-mail); DoD OGC [redacted] (E-mail); [redacted]
[redacted] (L) (E-mail)
Cc: [redacted]
Subject: Final Itinerary 9 NOV 05 GTMO Trip

All,

I've attached the final itinerary for tomorrows trip. Please plan to arrive at the Navy terminal by 0700 for a 0715 takeoff. Our departure from GTMO will be at 1700, which should get us into Andrews by 2015. If you have any issues or concerns tonight or tomorrow morning please contact [redacted] at [redacted]

[redacted] would you please forward this information on to the DOD GC and DOJ travelers.

V/r,
[redacted]

<<Itinerary- GTMO 9 November 05.doc>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 3:57 PM
To: Bucholtz, Jeffrey (CIV)
Subject: RE: This Wednesday: Implementation of the National Strategy for Pandemic Influenza

Thanks

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, November 08, 2005 3:54 PM
To: Gorsuch, Neil M
Subject: RE: This Wednesday: Implementation of the National Strategy for Pandemic Influenza

Neil: Hertling will cover this.

Jeff

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 8:52 AM
To: Bucholtz, Jeffrey (CIV)
Cc: Shaw, Aloma A
Subject: FW: This Wednesday: Implementation of the National Strategy for Pandemic Influenza
Importance: High

Jeff - I cannot attend. Would you be able to substitute for me?

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Saturday, November 05, 2005 5:05 PM
To: Gorsuch, Neil M; Otis, Lee L; [redacted]
Cc: Frances_F._Townsend@who.eop.gov; Kenneth_Rapuano@who.eop.gov; Tevi_D._Troy@who.eop.gov ; Carol_R._Kuntz@ovp.eop.gov; Lance_B._Leggitt@who.eop.gov; John_C._Rood@nsc.eop.gov; Rita_L._DiCasagrande@nsc.eop.gov; Bruce_E._Miller@ovp.eop.gov; Dean_E._Clancy@omb.eop.gov;

Rita_L._DiCasagrande@nsc.eop.gov; Bruce_E._Miller@ovp.eop.gov; Dean_F._Clancy@omb.eop.gov; Norris_W._Cochran@omb.eop.gov; DL-HSC-CHEM-BIO@eopds.eop.gov; DL-HSC-SeniorStaff@eopds.eop.gov; DL-HSC-Front@eopds.eop.gov; DL-HSC-EXECSEC@eopds.eop.gov; Binita_S._Ashar@ovp.eop.gov; Steven_D._Poulin@ovp.eop.gov; Megan_E._Hauck@who.eop.gov; Barrett_Karr@who.eop.gov; Alexander_M._Mistri@who.eop.gov; Heidi_M._Smith@who.eop.gov; Desiree_T._Sayle@who.eop.gov; Marguerite_A._Murer@who.eop.gov; Michael_E._Meece@who.eop.gov; Keith_Hennessey@who.eop.gov; Richard_M._Russell@ostp.eop.gov; Catherine_Martin@who.eop.gov; Shannon_B._Burkhart@who.eop.gov; Trent_D._Duffy@who.eop.gov; Matthew_Vaeth@omb.eop.gov; Karyn_Kendall@omb.eop.gov; Michael_Casella@omb.eop.gov; Sharon_L._Hays@ostp.eop.gov; Michelle_Colby@ostp.eop.gov; Karan_Bhatia@ustr.eop.gov; Stephen_S._McMillin@omb.eop.gov; Jeremy_L._Katz@who.eop.gov; Dennis_Grace@who.eop.gov; Katherine_S._Wills@who.eop.gov
Subject: This Wednesday: Implementation of the National Strategy for Pandemic Influenza
Importance: High

All:

We will hold a meeting to discuss implementation of the National Strategy for Pandemic Influenza this Wednesday, November 9 from 1:30-3:00 PM in EEOB Rm 450. Each Department and Agency is invited to send up to two representatives. Please e-mail clearance information (DOB and SS#) to Sharon Wells (swells@who.eop.gov) by noon on Tuesday, November 8.

Issues to be discussed include:
1. Review of the pandemic influenza threat 2. Overview of the National Strategy 3. Implementation of the National Strategy - roles, roadmap and timelines 4. Q&A

Prior to this meeting, we ask that all attendees review the National Strategy and Part I of the HHS Pandemic Influenza Plan, both of which can be found at http://www.pandemicflu.gov.

Thank you.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 3:21 PM
To: Hertling, Richard
Subject: RE: Request for comments on H.R. _____, Civil RICO Reform Act of 2005

Thanks. FYI, I misspoke about Larry. He was depty counsel to Pres Johnson.

-----Original Message-----
From: Hertling, Richard
Sent: Tuesday, November 08, 2005 3:18 PM
To: Blackwood, Kristine
Cc: Clinger, James H
Subject: FW: Request for comments on H.R. _____, Civil RICO Reform Act of 2005

Kristine: before we do that, Neil Gorsuch from the Associate's Office, may want to weigh in. Check in with him before you convey anything to the Hill. Thanks. rah

-----Original Message-----
From: Brinkley, Winnie
Sent: Tuesday, November 08, 2005 3:14 PM
To: Hertling, Richard; Ansell, Frederick
Subject: FW: Request for comments on H.R. _____, Civil RICO Reform Act of 2005

FYI.

-----Original Message-----
From: Blackwood, Kristine
Sent: Tuesday, November 08, 2005 3:05 PM
To: Brinkley, Winnie
Subject: RE: Request for comments on H.R. _____, Civil RICO Reform Act of 2005

Definitely. I am putting them together for Jim Clinger now. I told him about Richard's call and he held off - was just about to forward CRM's comments to the staffer, but now will forward OLP & CRM comments (in informal form).

Kristine Blackwood
Office of Legislative Affairs
U.S. Department of Justice
(202) 514-2113

_____

From: Brinkley, Winnie
Sent: Tuesday, November 08, 2005 3:04 PM
To: Blackwood, Kristine
Subject: RE: Request for comments on H.R. _____, Civil RICO Reform Act of 2005

Kristine,

Will OLP's comments be considered?

Winnie

-----Original Message-----
From: Blackwood, Kristine
Sent: Tuesday, November 08, 2005 1:50 PM
To: Brinkley, Winnie; Jackson, Wykema C; Jones, Kevin R
Subject: Request for comments on H.R. _____, Civil RICO Reform Act of 2005

I just spoke to Richard Hertling about comments we received on this. He mentioned that OLP had submitted comments, but I cannot find them. Would you mind re-sending? Sorry.

Kristine Blackwood
Office of Legislative Affairs
U.S. Department of Justice
(202) 514-2113

_____

From: Clifton, Deborah J
Sent: Tuesday, October 25, 2005 4:57 PM
To: Lofton, Betty; Massie, Patricia; Opl, Legislation; Samuels, Julie; Libutti, Tim (CIV); Fay, Joann; Slover, George; Benderson, Judith (USAEO); Montrese, Jeanne (USAEO); Smith, David L. (USAEO); Voris, Natalie (USAEO); Boardman, Michelle; Mitchell, Dyone; Robinson, Lawan; Smith, George; Brinkley, Winnie; Jackson, Wykema C; Jones, Kevin R
Cc: Stout, Stacey L; Clinger, James H; Blackwood, Kristine; Owen, Peter B
Subject: Request for comments on H.R. _____, Civil RICO Reform Act of 2005

YOU WILL NOT RECEIVE A HARD COPY OF THIS REQUEST. PLEASE PROVIDE COMMENTS DUE TO KRISTINE BLACKWOOD, OLA, NO LATER THAN 3 pm 11/04/05.

<< File: M37control.pdf >>

<< File: FORBES_014_XML.pdf >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 5:59 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: Bb work in gitmo?

Thanks. Call is up to you and Jim. I will be here for a bit still.

As to Peter, I certainly didn't mean to exclude him and perhaps mistakenly assumed he'd already gone or at least been invited to go, given the length of his tenure and the fact that Carl already went.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Tuesday, November 08, 2005 5:53 PM
To: Gorsuch, Neil M
Subject: RE: Bb work in gitmo?

No BB in GTMO. Jim's on another call - I think maybe with the AG - I have a message into him . . . By the way, did we inadvertently leave Peter K. out of the GTMO equation?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, November 08, 2005 17:42
To: [redacted]@dodgc.osd.mil
Subject: Bb work in gitmo?

Call tonight?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 7:31 PM
To: Moschella, William
Subject: RE: JUSTICE DEPARTMENT FILES FOR CONTEMPT AGAINST GOLDEN GROVE PRISON AUTHORITIES REGARDING CONDITIONS OF CONFINEMENT

One could make an argument. Keep fighting, chief.

-----Original Message-----
From: Moschella, William
Sent: Tuesday, November 08, 2005 7:29 PM
To: Gorsuch, Neil M
Subject: FW: JUSTICE DEPARTMENT FILES FOR CONTEMPT AGAINST GOLDEN GROVE PRISON AUTHORITIES REGARDING CONDITIONS OF CONFINEMENT

Is there some irony here?

-----Original Message-----
From: USDOJ-Office of Public Affairs
Sent: Tuesday, November 08, 2005 6:08 PM
To: USDOJ-Office of Public Affairs
Subject: JUSTICE DEPARTMENT FILES FOR CONTEMPT AGAINST GOLDEN GROVE PRISON AUTHORITIES REGARDING CONDITIONS OF CONFINEMENT

<< OLE Object: Picture (Metafile) >> << OLE Object: Picture (Metafile) >>

FOR IMMEDIATE RELEASE
TUESDAY, NOVEMBER 8, 2005
WWW.USDOJ.GOV

CRT
(202) 514-2008
TDD (202) 514-1888

JUSTICE DEPARTMENT FILES FOR CONTEMPT AGAINST GOLDEN GROVE PRISON AUTHORITIES REGARDING CONDITIONS OF CONFINEMENT

WASHINGTON, D.C. - The Justice Department today announced that it filed a Show Cause Motion with the United States District Court for the Virgin Islands asking the Court to hold the Virgin Islands in contempt of a long standing Consent Decree regarding conditions of confinement at the Golden Grove Prison and Detention Facility in St. Croix.

A Consent Decree was filed in November 1986 that required Golden Grove to remedy unconstitutional conditions including operational and security procedures, medical and mental health care, and fire safety and environmental sanitation deficiencies. In the years following, the United States provided technical assistance to the Virgin Islands in the form of expert consultant reports, staffing needs assessments and other assistance. The United States also obtained supplemental Orders and agreements with the Virgin Islands on several occasions to implement the Consent Decree's requirements. In 2003, 2004 and 2005 the Justice Department conducted expert consultant visits at the facility and received reports, which were shared with the jurisdiction in an attempt to identify current and ongoing conditions that did not meet

constitutionally mandated minimum requirements of security and safety. The jurisdiction promised remedial action, but Justice Department attorneys found that conditions at the facility had regressed in all areas. The Department found a routine history of inmate on inmate assaults, lack of correctional officer staffing in housing units, and constitutionally inadequate medical and mental health care for incarcerated individuals.

"The Justice Department has made every effort to assist the Virgin Islands in meeting its obligation to remedy the deplorable current and ongoing violations at Golden Grove," said Bradley J. Schlozman, Acting Assistant Attorney General for the Civil Rights Division. "Today, we are simply asking the court to ensure this prison facility's compliance with constitutional standards."

In its filing, the Department asks the Court to find the Virgin Islands in contempt of the Consent Decree, supplemental Court Orders, and Plan of Compliance and further seeks the appointment of a Special Master to implement the requirements of the Consent Decree.

# # #

05-601

Scolinos, Tasia

From: Scolinos, Tasia
Sent: Tuesday, November 8, 2005 8:51 PM
To: Gorsuch, Neil M
Subject: Not read: 12/1 Council on Foreign Relations speech

Walker, Shelia M

From: Walker, Shelia M
Sent: Wednesday, November 9, 2005 10:13 AM
To: Gorsuch, Neil M
Subject: Read: Meeting w/ Jan Williams & Neil Gorsuch

Gunn, Currie (SMO)

Subject:	Dinner w/Bil Hughes
Start:	Thursday, December 1, 2005 6:00 PM
End:	Thursday, December 1, 2005 7:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gunn, Currie (SMO)

Marshall, C. Kevin

From: Marshall, C. Kevin
Sent: Thursday, November 10, 2005 9:29 AM
To: Gorsuch, Neil M
Subject: Read: Effective Date

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, November 10, 2005 3:33 PM
To: Scolinos, Tasia
Subject: AG speech

Tasia, I'm still working on the AG's speech and would like to continue doing so tomorrow and over the weekend. Would it be ok if I e-mail it to you early next week? I know that would mean the AG wouldn't have it for his flight outbound, but he would still have access to it during his various flights thereafter. I'm sorry this is taking longer than anticipated but I've been distracted and haven't yet had the chance to pay this the attention it deserves. NMG

Scolinos, Tasia

From: Scolinos, Tasia
Sent: Thursday, November 10, 2005 3:35 PM
To: Gorsuch, Neil M
Subject: Read: AG speech

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, November 10, 2005 4:17 PM
To: Gunn, Currie (SMO)
Subject: RE: Admiral Collins Letter for e-mail to WH

Thanks

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Thursday, November 10, 2005 4:17 PM
To: Gorsuch, Neil M
Subject: Admiral Collins Letter for e-mail to WH

<< File: Admiral Collins Letter.pdf >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, November 10, 2005 5:31 PM
To: Schlozman, Brad (CRT)
Subject: RE: Material for AG

Thanks very much
-----Original Message-----
From: Schlozman, Brad (CRT)
Sent: Thursday, November 10, 2005 5:09 PM
To: Gorsuch, Neil M
Subject: FW: Material for AG

I think this material might be of help to you in your speech. Let me know if you need something else.

-----Original Message-----
From: Zafar, Shaarik H (CRT)
Sent: Thursday, November 10, 2005 4:49 PM
To: Schlozman, Brad (CRT)
Subject: Material for AG

Brad:

Here are the following documents which may be useful to the AG's folks:

1. The AG's comments for the Iftaar event at the EU Amb. house (I don't believe he used all of them)
2. A briefing sheet I completed for the AG for the 4-12-2005 interagency meeting, which includes some talking points
3. Our Post 9/11 Backlash briefing sheet, which I have recently updated. This provides statistics, information on our cases, and detailed information on our outreach efforts.
4. Today's press release announcing the guilty plea of a man who sent an email to the Islamic Center of America threatening to kill Muslims.

Please let me know if you need additional information.

Shaarik H. Zafar
Special Counsel for Post 9-11 National Origin Discrimination
U.S. Dept. of Justice -- Civil Rights Division
PHB Room 4908
950 Pennsylvania Avenue, NW
Washington, DC 20530
Tel: (202) 616-1578
Fax: (202) 514-1005
Shaarik.H.Zafar@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, November 10, 2005 5:36 PM
To: Nichols, Carl (CIV); Reyes, Luis (SMO)
Subject: RE: Arguing Graham Amendment Live Right Now on CSPAN 2

yep
-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Thursday, November 10, 2005 5:35 PM
To: Reyes, Luis (SMO); Gorsuch, Neil M
Subject: RE: Arguing Graham Amendment Live Right Now on CSPAN 2

voting right now, i think

From: Reyes, Luis (SMO)
Sent: Thursday, November 10, 2005 4:41 PM
To: Gorsuch, Neil M; Nichols, Carl (CIV)
Subject: Arguing Graham Amendment Live Right Now on CSPAN 2

Gorsuch, Neil M

From: Gorsuch, Neil M

Sent: Thursday, November 10, 2005 5:56 PM

To: Moschella, William; '[redacted]@dodgc.osd.mil'; Bradbury, Steve; Nichols, Carl (CIV); [redacted]@osd.mil'; '[redacted]@osd.mil'; 'Michael_Allen@nsc.eop.gov'; 'Debbie_S._Fiddelke@who.eop.gov'; 'Candida_P._Wolff@who.eop.gov'; Sampson, Kyle; Elwood, Courtney; [redacted]@dodgc.osd.mil'; [redacted]@dodgc.osd.mil'; 'Harriet_Miers@who.eop.gov'; Brett Gerry (E-mail)

Subject: RE: Full Version of Graham

Graham just passed the Senate 49 to 42. McCain, Warner, and Snowe, among others, voted for the amendment; Specter voted against.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, November 10, 2005 5:57 PM
To: McCallum, Robert (SMO); Reyes, Luis (SMO)
Subject: FW: Full Version of Graham

FYI

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, November 10, 2005 5:56 PM
To: Moschella, William; [redacted]@dodgc.osd.mil'; Bradbury, Steve; Nichols, Carl (CIV); '[redacted]@osd.mil'; '[redacted]@osd.mil'; 'Michael_Allen@nsc.eop.gov'; 'Debbie_S._Fiddelke@who.eop.gov'; 'Candida_P._Wolff@who.eop.gov'; Sampson, Kyle; Elwood, Courtney; '[redacted]@dodgc.osd.mil'; '[redacted]@dodgc.osd.mil'; 'Harriet_Miers@who.eop.gov'; Brett Gerry (E-mail)
Subject: RE: Full Version of Graham

Graham just passed the Senate 49 to 42. McCain, Warner, and Snowe, among others, voted for the amendment; Specter voted against.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, November 10, 2005 6:05 PM
To: Reyes, Luis (SMO)
Subject: RE: Full Version of Graham

It's still imperfect, and our chances of getting something worthwhile remain small, but if you don't throw the Hail Mary you don't get the touchdown, right?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, November 10, 2005 6:02 PM
To: Gorsuch, Neil M
Subject: Re: Full Version of Graham

Congrats.

And.....Specter.....good grief.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Thu Nov 10 17:57:09 2005
Subject: FW: Full Version of Graham

FYI

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, November 10, 2005 5:56 PM
To: Moschella, William; [redacted]@dodgc.osd.mil'; Bradbury, Steve; Nichols, Carl (CIV); [redacted]@osd.mil'; [redacted]@osd.mil'; 'Michael_Allen@nsc.eop.gov'; 'Debbie_S._Fiddelke@who.eop.gov'; 'Candida_P._Wolff@who.eop.gov'; Sampson, Kyle; Elwood, Courtney; [redacted]@dodgc.osd.mil'; '[redacted]@dodgc.osd.mil'; 'Harriet_Miers@who.eop.gov'; Brett Gerry (E-mail)
Subject: RE: Full Version of Graham

Graham just passed the Senate 49 to 42. McCain, Warner, and Snowe, among others, voted for the amendment; Specter voted against.

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Friday, November 11, 2005 10:11 AM
To:	Bucholtz, Jeffrey (CIV); Hertling, Richard
Subject:	RE: This Wednesday: Implementation of the National Strategy for Pandemic Influenza

Richard - Thank you for jumping into the breech. How did it go? When's the next gathering and what do we need to do in the interim? NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, November 08, 2005 3:54 PM
To: Gorsuch, Neil M
Subject: RE: This Wednesday: Implementation of the National Strategy for Pandemic Influenza

Neil: Hertling will cover this.

Jeff

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 8:52 AM
To: Bucholtz, Jeffrey (CIV)
Cc: Shaw, Aloma A
Subject: FW: This Wednesday: Implementation of the National Strategy for Pandemic Influenza
Importance: High

Jeff - I cannot attend. Would you be able to substitute for me?

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Saturday, November 05, 2005 5:05 PM
To: Gorsuch, Neil M; Otis, Lee L; [redacted]
Dean_F._Clancy@omb.eop.gov; [redacted]
Cc: Frances_F._Townsend@who.eop.gov; Kenneth_Rapuano@who.eop.gov; Tevi_D._Troy@who.eop.gov
; Carol_B._Kuntz@ovp.eop.gov; Lance_B._Leggitt@who.eop.gov; John_C._Reed@nsc.eop.gov;

; Carol_R._Kuntz@ovp.eop.gov; Lance_B._Leggitt@who.eop.gov; John_C._Rood@nsc.eop.gov; Rita_L._DiCasagrande@nsc.eop.gov; Bruce_E._Miller@ovp.eop.gov; Dean_F._Clancy@omb.eop.gov; Norris_W._Cochran@omb.eop.gov; DL-HSC-CHEM-BIO@eopds.eop.gov; DL-HSC-SeniorStaff@eopds.eop.gov; DL-HSC-Front@eopds.eop.gov; DL-HSC-EXECSEC@eopds.eop.gov; Binita_S._Ashar@ovp.eop.gov; Steven_D._Poulin@ovp.eop.gov; Megan_E._Hauck@who.eop.gov; Barrett_Karr@who.eop.gov; Alexander_M._Mistri@who.eop.gov; Heidi_M._Smith@who.eop.gov; Desiree_T._Sayle@who.eop.gov; Marguerite_A._Murer@who.eop.gov; Michael_E._Meece@who.eop.gov; Keith_Hennessey@who.eop.gov; Richard_M._Russell@ostp.eop.gov; Catherine_Martin@who.eop.gov; Shannon_B._Burkhart@who.eop.gov; Trent_D._Duffy@who.eop.gov; Matthew_Vaeth@omb.eop.gov; Karyn_Kendall@omb.eop.gov; Michael_Casella@omb.eop.gov; Sharon_L._Hays@ostp.eop.gov; Michelle_Colby@ostp.eop.gov; Karan_Bhatia@ustr.eop.gov; Stephen_S._McMillin@omb.eop.gov; Jeremy_L._Katz@who.eop.gov; Dennis_Grace@who.eop.gov; Katherine_S._Wills@who.eop.gov
Subject: This Wednesday: Implementation of the National Strategy for Pandemic Influenza
Importance: High

All:

We will hold a meeting to discuss implementation of the National Strategy for Pandemic Influenza this Wednesday, November 9 from 1:30-3:00 PM in EEOB Rm 450. Each Department and Agency is invited to send up to two representatives. Please e-mail clearance information (DOB and SS#) to Sharon Wells (swells@who.eop.gov) by noon on Tuesday, November 8.

Issues to be discussed include:
1. Review of the pandemic influenza threat 2. Overview of the National Strategy 3. Implementation of the National Strategy - roles, roadmap and timelines 4. Q&A

Prior to this meeting, we ask that all attendees review the National Strategy and Part I of the HHS Pandemic Influenza Plan, both of which can be found at http://www.pandemicflu.gov.

Thank you.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, November 11, 2005 9:41 AM
To: Moschella, William
Subject: RE: Graham amendment

A pretty good article.

-----Original Message-----
From: Moschella, William
Sent: Friday, November 11, 2005 7:30 AM
To: Gorsuch, Neil M; Bradbury, Steve; Sampson, Kyle; Nichols, Carl (CIV); Keisler, Peter D. (CIV)
Subject: Graham amendment

Post story on page A7 stated that approval of the amendment "marks a partial but significant victory for the Bush Administration."

Thanks to everyone for their hard work.

Sent from my BlackBerry Wireless Handheld

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, November 11, 2005 9:41 AM
To: McCallum, Robert (SMO)
Subject: FW: Graham amendment

A not entirely unfair article on the Graham Amendment appears in today's paper at A7.

-----Original Message-----
From: Moschella, William
Sent: Friday, November 11, 2005 7:30 AM
To: Gorsuch, Neil M; Bradbury, Steve; Sampson, Kyle; Nichols, Carl (CIV); Keisler, Peter D. (CIV)
Subject: Graham amendment

Post story on page A7 stated that approval of the amendment "marks a partial but significant victory for the Bush Administration."

Thanks to everyone for their hard work.

Sent from my BlackBerry Wireless Handheld

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Friday, November 11, 2005 10:56 AM
To:	Sampson, Kyle; Otis, Lee L
Cc:	Elston, Michael (ODAG); Mercer, Bill (ODAG); McAtamney, James A; Elston, Michael J. (USAVAE); Mercer, Bill (USAMT); Hertling, Richard
Subject:	RE: Avian flu

Lee, Thanks for the update. I was unable to attend the HSC mtg b/c Robert and I were in GTMO Wednesday, but I'm happy to assist on this project in any way that is helpful. NMG

-----Original Message-----
From: Sampson, Kyle
Sent: Thursday, November 10, 2005 2:56 PM
To: Otis, Lee L
Cc: Elston, Michael (ODAG); Mercer, Bill (ODAG); McAtamney, James A;
Elston, Michael J. (USAVAE); Mercer, Bill (USAMT); Hertling, Richard;
Gorsuch, Neil M
Subject: Re: Avian flu

Thanks, Lee. Please make sure you are sync'd up with Neil Gorsuch -- he was the primary staffer on this for awhile, when McCallum the point guy before Paul's arrival. Thanks.

-----Original Message-----
From: Otis, Lee L <Lee.L.Otis@SMOJMD.USDOJ.gov>
To: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>
CC: Elston, Michael (ODAG) <Michael.Elston@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>; McAtamney, James A <James.A.McAtamney@SMOJMD.USDOJ.gov>; Elston, Michael J. (USAVAE) <Michael.J.Elston@usdoj.gov>; Mercer, Bill (USAMT) <Bill.Mercer@usdoj.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>
Sent: Thu Nov 10 14:37:02 2005
Subject: Avian flu

Kyle,

Rajeev Venkayya, Senior Director for Biodefense on the Homeland Security Council staff called a meeting of agency points-of-contact this afternoon to discuss follow-up plans to the issuance of the National Strategy for Pandemic Influenza. They are developing a government-wide Implementation Plan for which they are assembling writing teams and for which they have an initial draft of an outline. They want an initial draft of that done by late November or early December.

They then expect to have a tabletop exercise to which they will invite a subgroup of the Cabinet which

they expect will include the Attorney General, in part because they expet there to be issues about authorities. They are looking at December 10 as the likely date for this. As in the past, the AG will likely get a written invitation to participate from the White House.

Finally, they also expect each Department and agency to develop its own implementation plan about how it expects to function in the event of a pandemic. They did not set a date for these but they are targeting the beginning of the year, I think, for completion of the Implementation Plan and presumably the Department/agency plans as well.

I understand there is a fair bit of work that has been done within the Department that we should be in a position to draw on in thinking about DOJ's potential contribution to the broader Implementation Plan, in prepping the Attorney General for the exercise, and in developing our own implementation plan. Representatives of ODAG and several components assisted in the drafting of the National Response Plan and, of relevance to this issue, the Biological Incident Annex. In addition, over the course of the last several years, various components have participated in numerous exercises, including the TOPOFF series, in which biological incidents were included in the scenarios.

Although it would be helpful to have a better sense of what the master Implementation Plan is going to look like, and in particular to have more of a sense from HHS, which will have the lead for any response to a pandemic, about how they want to proceed on some key points and what resources of the Department they would like to draw on, as well as to have some guidance on the Departmental plans, in light of the December 10 likely deadline, James McAtamney and I intend to call two preliminary meetings of people within DOJ to get people thinking about and working on both. As we near the date for the exercise and as the contours of the national implementation plan become more clear, we will be in a better position to suggest the format and timing of a briefing for the Attorney General.

Give me a call at 5-3481 if you have any questions. I'll let you know when we are meeting.

Lee

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, November 11, 2005 9:56 AM
To: Henke, Tracy (SMO)
Subject: ASA letter
Attachments: statistical association ltr.doc

Tracy - Thanks so much for tackling this. I've made a few minor edits and, subject to any further edits you may have, this seems good to go. The question remains, however: who should sign it? My first instinct is that Regina is an appropriate candidate b/c she directs both BJS and NIJ and because she was a cc recipient of the letter. But you know the lay of the land better and I would appreciate your views. Thanks, NMG

Dear :

Thank you for your recent letter to the Attorney General and myself regarding the research and statistics operations of the Department of Justice. We appreciate your interest and input.

As you are aware, the Department—primarily through the Bureau of Justice Statistics (BJS) and the National Institute of Justice (NIJ)—has a long and distinguished history f conducting and supporting statistical research and analysis. Often, these efforts have contributed significantly to the development of policy and programs designed to carry out the Department's mission, values, and goals – including protecting America against the threat of terrorism, enforcing federal criminal laws, and preventing and reducing crime by assisting state, tribal, local and community-based programs. We take the missions of BJS and NIJ seriously and will continue to ensure that any appointees to potential vacancies in those components are of the highest professional caliber.

Let me assure you as well that all of the Department of Justice's statistical research activities are conducted in accordance with statutory requirements, applicable regulations, as well as quality control guidelines issued by the Department and the Office of Management and Budget. Congress and the Administration are often and quite appropriately involved in determining what issues merit research and analysis. However, to ensure the integrity, accuracy, impartiality, and objectivity of the Department's statistical research, the researcher and/or statistician independently determines the appropriate methodology to be used in each study or analysis in accordance with generally accepted research and statistical standards.

Thank you again for your interest in the Department of Justice's research and statistics.

Sincerely,

Moschella, William

From: Moschella, William
Sent: Friday, November 11, 2005 10:07 AM
To: Gorsuch, Neil M
Subject: Read: Graham amendment

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, November 11, 2005 12:34 PM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV)
Subject: RE: This Wednesday: Implementation of the National Strategy for Pandemic Influenza

Thanks, Richard

-----Original Message-----
From: Hertling, Richard
Sent: Friday, November 11, 2005 10:53 AM
To: Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Subject: Re: This Wednesday: Implementation of the National Strategy for Pandemic Influenza

Lee Otis was also there and is taking the lead for DoJ, so far as I can tell. Let me direct you to her, and if you are left with questions after consulting her, I will be happy to respond to them.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>
Sent: Fri Nov 11 10:11:25 2005
Subject: RE: This Wednesday: Implementation of the National Strategy for Pandemic Influenza

Richard - Thank you for jumping into the breech. How did it go? When's the next gathering and what do we need to do in the interim? NMG

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, November 08, 2005 3:54 PM
To: Gorsuch, Neil M
Subject: RE: This Wednesday: Implementation of the National Strategy for Pandemic Influenza

Neil: Hertling will cover this.

Jeff

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, November 08, 2005 8:52 AM

Sent: Tuesday, November 08, 2005 8:52 AM
To: Bucholtz, Jeffrey (CIV)
Cc: Shaw, Aloma A
Subject: FW: This Wednesday: Implementation of the National Strategy for Pandemic Influenza
Importance: High

Jeff - I cannot attend. Would you be able to substitute for me?

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Saturday, November 05, 2005 5:05 PM
To: Gorsuch, Neil M; Otis, Lee L; [redacted]
Dean_F._Clancy@omb.eop.gov; [redacted]
Cc: Frances_F._Townsend@who.eop.gov; Kenneth_Rapuano@who.eop.gov; Tevi_D._Troy@who.eop.gov ; Carol_R._Kuntz@ovp.eop.gov; Lance_B._Leggitt@who.eop.gov; John_C._Rood@nsc.eop.gov; Rita_L._DiCasagrande@nsc.eop.gov; Bruce_E._Miller@ovp.eop.gov; Dean_F._Clancy@omb.eop.gov; Norris_W._Cochran@omb.eop.gov; DL-HSC-CHEM-BIO@eopds.eop.gov; DL-HSC-SeniorStaff@eopds .eop.gov; DL-HSC-Front@eopds.eop.gov; DL-HSC-EXECSEC@eopds.eop.gov; Binita_S._Ashar@ovp.eop. gov; Steven_D._Poulin@ovp.eop.gov; Megan_E._Hauck@who.eop.gov; Barrett_Karr@who.eop.gov; Alexander_M._Mistri@who.eop.gov; Heidi_M._Smith@who.eop.gov; Desiree_T._Sayle@who.eop.gov; Marguerite_A._Murer@who.eop.gov; Michael_E._Meece@who.eop.gov; Keith_Hennessey@who.eop. gov; Richard_M._Russell@ostp.eop.gov; Catherine_Martin@who.eop.gov; Shannon_B._Burkhart@who. eop.gov; Trent_D._Duffy@who.eop.gov; Matthew_Vaeth@omb.eop.gov; Karyn_Kendall@omb.eop.gov; Michael_Casella@omb.eop.gov; Sharon_L._Hays@ostp.eop.gov; Michelle_Colby@ostp.eop.gov; Karan_Bhatia@ustr.eop.gov; Stephen_S._McMillin@omb.eop.gov; Jeremy_L._Katz@who.eop.gov; Dennis_Grace@who.eop.gov; Katherine_S._Wills@who.eop.gov
Subject: This Wednesday: Implementation of the National Strategy for Pandemic Influenza
Importance: High

All:

We will hold a meeting to discuss implementation of the National Strategy for Pandemic Influenza this Wednesday, November 9 from 1:30-3:00 PM in EEOB Rm 450. Each Department and Agency is invited to send up to two representatives. Please e-mail clearance information (DOB and SS#) to Sharon Wells (swells@who.eop.gov) by noon on Tuesday, November 8.

Issues to be discussed include:
1. Review of the pandemic influenza threat 2. Overview of the National Strategy 3. Implementation of the National Strategy - roles, roadmap and timelines 4. Q&A

Prior to this meeting, we ask that all attendees review the National Strategy and Part I of the HHS Pandemic Influenza Plan, both of which can be found at http://www.pandemicflu.gov.

Thank you.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, November 11, 2005 12:25 PM
To: McCallum, Robert (SMO)
Subject: telephone message

[redacted] just called the office and asked you to give him a ring. [redacted]

Hertling, Richard

From:	Hertling, Richard
Sent:	Friday, November 11, 2005 12:36 PM
To:	Gorsuch, Neil M
Subject:	Read: This Wednesday: Implementation of the National Strategy for Pandemic Influenza

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Friday, November 11, 2005 12:44 PM
To: Gorsuch, Neil M
Subject: Read: Graham amdt

Bucholtz, Jeffrey (CIV)

From:	Bucholtz, Jeffrey (CIV)
Sent:	Friday, November 11, 2005 1:16 PM
To:	Gorsuch, Neil M
Subject:	Read: This Wednesday: Implementation of the National Strategy for Pandemic Influenza

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Friday, November 11, 2005 1:19 PM
To: Gorsuch, Neil M
Subject: Read: TP

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, November 11, 2005 2:14 PM
To: Gorsuch, Neil M
Subject: Read: telephone message

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, November 11, 2005 2:14 PM
To: Gorsuch, Neil M
Subject: Read: Successes in the War on Terror

Neumayr, Mary (ENRD)

From: Neumayr, Mary (ENRD)
Sent: Friday, November 11, 2005 2:23 PM
To: Gorsuch, Neil M
Subject: Read: Duke Energy

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Friday, November 11, 2005 3:09 PM
To: Gorsuch, Neil M
Subject: Read: This Wednesday: Implementation of the National Strategy for Pandemic Influenza

McAtamney, James A

From: McAtamney, James A
Sent: Friday, November 11, 2005 5:23 PM
To: Gorsuch, Neil M
Subject: Read: Avian flu

Johnson, Kelly A. (ENRD)

From: Johnson, Kelly A. (ENRD)
Sent: Saturday, November 12, 2005 1:23 PM
To: Gorsuch, Neil M
Subject: Read: Duke Energy

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, November 14, 2005 10:09 AM
To: McCallum, Robert (SMO); Gunn, Currie (SMO)
Cc: Reyes, Luis (SMO)
Subject: RE: Thanksgiving week

Will do

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, November 14, 2005 10:02 AM
To: Gorsuch, Neil M; Gunn, Currie (SMO)
Cc: Reyes, Luis (SMO)
Subject: Thanksgiving week

You two need to figure out what regularly scheduled meetings OASG will have during the Thanksgiving week. I will be in NC and out of pocket. Robt.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, November 14, 2005 10:09 AM
To: Gorsuch, Neil M
Subject: Read: Thanksgiving week

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Monday, November 14, 2005 10:09 AM
To: Gorsuch, Neil M
Subject: Read: Thanksgiving week

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, November 14, 2005 1:01 PM
To: [redacted]@sidley.com'
Subject: RE: Newshour on Graham Amendment

I'll see what I can share and be back to you shortly.

-----Original Message-----
From: [redacted]@sidley.com [mailto[redacted]@sidley.com]
Sent: Monday, November 14, 2005 12:53 PM
To: Gorsuch, Neil M
Subject: Newshour on Graham Amendment

Neil,

The Newshour has asked me to do a segment tonight on the Graham Amendment.
I'm not sure my schedule will permit it, but I'll try hard if (a) it would be desirable from DOJ's perspective, and (b) it would be easy for you to provide me some materials, like a copy of the current version and some talkers. What do you think?

[redacted]

Sent from my BlackBerry Wireless Handheld

Sidley Austin Brown & Wood LLP mail server made the following annotations on 11/14/2005, 11:53:33 AM:

****

IRS Circular 230 Disclosure: To comply with certain U.S. Treasury regulations, we inform you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this communication, including attachments, was not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding any penalties that may be imposed on such taxpayer by the Internal Revenue Service. In addition, if any such tax advice is used or referred to by other parties in promoting, marketing or recommending any partnership or other entity, investment plan or arrangement, then (i) the advice should be construed as written in connection with the promotion or marketing by others of the transaction(s) or matter(s) addressed in this communication and (ii) the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

****

This e-mail is sent by a law firm and may contain information that is privileged or confidential. If you

This e-mail is sent by a law firm and may contain information that is privileged or confidential. If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, November 14, 2005 3:53 PM
To: [redacted]@sba.gov'; [redacted]@opm.gov
Subject: RE: Lunch

Both of those days work for me

-----Original Message-----
From: [redacted]@sba.gov [mailto:[redacted]@sba.gov]
Sent: Monday, November 14, 2005 3:48 PM
To: Gorsuch, Neil M; [redacted]@opm.gov
Subject: RE: Lunch

I am toast this week, but could do tuesday or wednesday of next.

-----Original Message-----
From: [redacted][mailto[redacted]@opm.gov]
Sent: Monday, November 14, 2005 9:30 AM
To: [redacted]; 'Neil.Gorsuch@usdoj.gov'
Subject: Lunch

Gentlemen - given that it usually takes weeks to organize any kind of joint schedule around lawyers, any interest in getting together for lunch in the next few weeks?

[redacted]
General Counsel

U.S. Office of Personnel Management

Tel: (202) 606-1700

Fax: (202) 606-2609

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free

-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
---ro

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, November 14, 2005 3:53 PM
To: Scolinos, Tasia; Roehrkasse, Brian
Cc: McCallum, Robert (SMO)
Subject: Bloomberg

I have a voice mail from a Bloomberg reporter asking to speak about the a/c waiver memo. I recall you had spoken with Bloomberg about this issue and assume that the reporter got my name from you. Correct/incorrect? What would you like me to do about this? Background is one thing but if they want a quote, shouldn't it come from Robert?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, November 14, 2005 3:59 PM
To: Roehrkasse, Brian; Scolinos, Tasia
Cc: McCallum, Robert (SMO)
Subject: RE: Bloomberg

Subject to Robert's ok, I could do tomorrow from 10-2; Weds 11-3. The fellow's name was [redacted] te[redacted]. Please could you let him know you're returning the call to me? I don't want to seem rude for not returning the call, but would strongly prefer for you to do it.

-----Original Message-----
From: Roehrkasse, Brian
Sent: Monday, November 14, 2005 3:55 PM
To: Gorsuch, Neil M; Scolinos, Tasia
Cc: McCallum, Robert (SMO)
Subject: RE: Bloomberg

I had left a message for this reporter indicating that you were our expert, but never heard back to facilitate. I will reach out to him to set up a backgrounder with the rules, etc... What times work for you either tomorrow or Wednesday?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, November 14, 2005 3:53 PM
To: Scolinos, Tasia; Roehrkasse, Brian
Cc: McCallum, Robert (SMO)
Subject: Bloomberg

I have a voice mail from a Bloomberg reporter asking to speak about the a/c waiver memo. I recall you had spoken with Bloomberg about this issue and assume that the reporter got my name from you. Correct/incorrect? What would you like me to do about this? Background is one thing but if they want a quote, shouldn't it come from Robert?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, November 14, 2005 6:16 PM
To: [redacted]@opm.gov'; [redacted]@sba.gov
Subject: RE: Lunch

Up to you, gents

-----Original Message-----
From: [redacted]@opm.gov [mailto:[redacted]@opm.gov]
Sent: Monday, November 14, 2005 5:16 PM
To: Gorsuch, Neil M; [redacted]@sba.gov
Subject: RE: Lunch

Both of those days are currently open for me too, but given that it's the week of Thanksgiving and short, I'm afraid last minutes business will lead to the inevitable last minute cancellation and rescheduling. But I'll defer to you all.

The next week is also good at this point.

[redacted]
General Counsel
U.S. Office of Personnel Management
Tel: (202) 606-1700
Fax: (202) 606-2609

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, November 14, 2005 3:53 PM
To: [redacted]@sba.gov; [redacted]
Subject: RE: Lunch

Both of those days work for me

-----Original Message-----
From: [redacted]@sba.gov [mailto[redacted]@sba.gov]
Sent: Monday, November 14, 2005 3:48 PM
To: Gorsuch, Neil M; [redacted]@opm.gov
Subject: RE: Lunch

I am toast this week, but could do tuesday or wednesday of next.

-----Original Message-----
From: [redacted] [mailto:[redacted]@opm.gov]
Sent: Monday, November 14, 2005 9:30 AM

Sent: Monday, November 14, 2005 9:30 AM
To: [redacted] 'Neil.Gorsuch@usdoj.gov'
Subject: Lunch

Gentlemen - given that it usually takes weeks to organize any kind of joint schedule around lawyers, any interest in getting together for lunch in the next few weeks?

[redacted]
General Counsel

U.S. Office of Personnel Management

Tel: (202) 606-1700

Fax: (202) 606-2609

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
----------ro

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, November 14, 2005 6:14 PM
To: McCallum, Robert (SMO); Shaw, Aloma A
Subject: RE: Haynes referral

Aloma - Please could you pass this along? This is the package from Haynes that I put in my outbox today for filing.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, November 14, 2005 6:06 PM
To: Gorsuch, Neil M
Subject: Haynes referral

Neil: Do you have the original referral package from Jim Haynes on the DOD IG press release? I sent the letter to Jim and am just going to close up the file and give it to ODAG. Can't find the original. Robt.

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, November 14, 2005 6:15 PM
To:	Otis, Lee L; Im, Saovaluck
Cc:	McAtamney, James A; Hart, Rosemary; Hertling, Richard
Subject:	RE: This Tuesday: Briefing on Pandemic Influenza Modeling and Impact of Interventions

Thanks, I plan on attending.

-----Original Message-----
From: Otis, Lee L
Sent: Monday, November 14, 2005 6:05 PM
To: Im, Saovaluck
Cc: McAtamney, James A; Hart, Rosemary; Gorsuch, Neil M; Hertling, Richard
Subject: FW: This Tuesday: Briefing on Pandemic Influenza Modeling and Impact of Interventions
Importance: High

Another White House weekend message. I think I will go just because it may give us a little better idea what people are thinking about actually doing. Would any of the rest of you like to come along? If so can you let Saovaluck know and give her clearance information? Saovaluck, can you get me cleared in and print out this stuff?

Thanks much.

Lee

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Sunday, November 13, 2005 5:01 PM
To: Gorsuch, Neil M; Otis, Lee L; [redacted]



[redacted]

Subject: This Tuesday: Briefing on Pandemic Influenza Modeling and Impact of Interventions
Importance: High

All:

In support of ongoing pandemic influenza planning efforts, we have asked the authors of recent Science and Nature papers on the subject to provide a presentation on their pandemic models and projections of the impact of various interventions on the spread of a pandemic virus. Both papers are attached.

The presentation will take place this Tuesday, Nov. 15 from 2:00-4:00 PM in EEOB Rm. 450. Departments and agencies are invited to send two representatives to the briefing. Clearance information should be provided to Sharon Wells by 3:00 PM on Monday (swells@who.eop.gov)

This work is supported by the NIH/MIDAS program, has been performed in the U.S. and U.K. and was presented at HHS last week. Further information on the MIDAS program can be found here: http://www.nigms.nih.gov/Initiatives/MIDAS/

Thank you.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, November 14, 2005 6:57 PM
To: Gorsuch, Neil M
Subject: Read: Haynes referral

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 15, 2005 8:16 AM
To: [redacted]@opm.gov'; [redacted]@sba.gov
Subject: RE: Lunch

Weds and the Caucus Room work fine on this end. Noon, or 1230?

-----Original Message-----
From: [redacted]@opm.gov [mailto:[redacted]@opm.gov]
Sent: Tuesday, November 15, 2005 8:09 AM
To: Gorsuch, Neil M; [redacted]@sba.gov
Subject: RE: Lunch

How about Wednesday instead? I've just been informed I may have to cover for my boss at a lunch speech Tuesday -- see, it's happening already!

You guys like the Caucus Room? They have a great lunch menu -- [redacted] I think we were there with [redacted] a while back.

[redacted]
General Counsel
U.S. Office of Personnel Management
Tel: (202) 606-1700
Fax: (202) 606-2609

-----Original Message-----
From: [redacted] [mailto[redacted]@sba.gov]
Sent: Monday, November 14, 2005 6:20 PM
To: 'neil.gorsuch@usdoj.gov'; [redacted]
Subject: Re: Lunch

Let's try for tues and see what happens.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted]@opm.gov <[redacted]@opm.gov>; [redacted]@sba.gov <[redacted]@sba.gov>
Sent: Mon Nov 14 18:15:43 2005
Subject: RE: Lunch

Up to you, gents

-----Original Message-----
From: [redacted]@opm.gov [mailto:[redacted]@opm.gov]
Sent: Monday, November 14, 2005 5:16 PM

Sent: Monday, November 14, 2005 3:16 PM
To: Gorsuch, Neil M; [redacted]@sba.gov
Subject: RE: Lunch

Both of those days are currently open for me too, but given that it's the week of Thanksgiving and short, I'm afraid last minutes business will lead to the inevitable last minute cancellation and rescheduling. But I'll defer to you all.

The next week is also good at this point.

[redacted]
General Counsel
U.S. Office of Personnel Management
Tel: (202) 606-1700
Fax: (202) 606-2609

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, November 14, 2005 3:53 PM
To: [redacted]@sba.gov; [redacted]
Subject: RE: Lunch

Both of those days work for me

-----Original Message-----
From: [redacted]@sba.gov [mailto:[redacted]@sba.gov]
Sent: Monday, November 14, 2005 3:48 PM
To: Gorsuch, Neil M; [redacted]@opm.gov
Subject: RE: Lunch

I am toast this week, but could do tuesday or wednesday of next.

-----Original Message-----
From: [redacted] [mailto:[redacted]@opm.gov]
Sent: Monday, November 14, 2005 9:30 AM
To: [redacted]; 'Neil.Gorsuch@usdoj.gov'
Subject: Lunch

Gentlemen - given that it usually takes weeks to organize any kind of joint schedule around lawyers, any interest in getting together for lunch in the next few weeks?

[redacted]

General Counsel

U.S. Office of Personnel Management

Tel: (202) 606-1700

Fax: (202) 606-2609

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
----------ro

Gorsuch, Neil M

Subject:	[redacted]/Robbins caucus room
Start:	Wednesday, November 23, 2005 12:00 PM
End:	Wednesday, November 23, 2005 1:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 15, 2005 10:42 AM
To: Elwood, Courtney; Brand, Rachel; Mercer, Bill (ODAG)
Cc: McCallum, Robert (SMO)
Subject: Conf Reports
Attachments: House Documents.pdf

As discussed, attached are the conf reports re: civil liberties office.

FY 06 HOUSE

Serrano

Homeland Security to issue regulations to govern gender-based asylum claims.

The Committee recognizes the important contribution the Drug Enforcement Administration (DEA) plays in disrupting and dismantling drug organizations and in protecting our national security. The Committee directs the Attorney General, in cooperation with the Director of National Intelligence, to submit a report, not later than 120 days after enactment of this Act, on the practicality of integrating the DEA, or a portion thereof, into the Intelligence Community.

The Committee is extremely disappointed with the amount of time it takes the Department to respond to hearing questions submitted for the record by Members of the Subcommittee. Many of these questions are factual and responses should not require multiple layers of review or require weeks, and often months, to submit. The Committee is concerned that in practice, this has resulted in the needless withholding of budgetary and programmatic information that is necessary to the Committee's work. The Committee believes that the open sharing of information results in a more effective relationship between the branches of government and improves the quality of legislation.

The Committee encourages the Attorney General to ensure that every contract the Department enters into that contemplates the exchange of personal data between the contractor and the Department include a provision requiring that entity to have a security policy in place that contains procedures to promptly notify any individual whose personal information was, or is reasonably believed to have been, lost or acquired by an unauthorized person. Notification could either be delayed or shall not occur if it would impede a law enforcement investigation or cause damage to national security. The Committee is concerned about the security of personal data, as highlighted recently by several security breaches at large companies that resulted in the theft of personal data.

Office of Privacy and Civil Liberties.—Since September 11, 2001, the Congress has provided both significant additional resources and broad legal authorities to the Justice Department to meet its counterterrorism responsibilities. In fiscal year 2004, the Committee directed the Department to designate a senior policy official to assume responsibility for developing appropriate civil rights safeguards, particularly as related to the war on terrorism, and for coordinating the work of all Department components involved in these efforts. For fiscal year 2005, Congress provided funding for 2 additional professional staff positions for the Office and required a report to be submitted this January detailing the specific responsibilities and authorities of the Office, with annual activity reports due in the following years. The Committee is disappointed by the Department's inability to complete the initial report and is concerned that this reflects poorly on the attitude of the Department toward the responsibilities of this Office. The Committee directs the Department of Justice to submit the initial report as soon as possible and to provide subsequent annual reports by January 30 of each year.

Gangs.—According to FBI Congressional testimony, "Gangs and other criminal enterprises, operating in the U.S. and throughout the world, pose increasing concerns for the international law en-

DOJ_NMG_ 0149090

2006 CONFERENCE REPORT

submit a report, within 90 days of enactment, to the Committees Appropriations detailing those actions that the Department and th take to implement the recommendations of the National Academ report on the coverage of affected populations by the Radiation E Compensation Act (Public Law 108-375).

Reducing the Number of Alien Absconders.--The conferees rec importance of reducing the rate of aliens who do not comply with Removal, known as absconders. However, the ability to address t not fully within the control of one Federal department. Both the I Homeland Security (DHS) and Department of Justice (DOJ) must together to achieve this goal. The conferees direct DOJ, in conjun to study existing apprehension, detention, appeal, and removal po procedures. The conferees direct DHS and DOJ to jointly submit Committees on Appropriations by February 18, 2006, on the effo Department will take to reduce the absconder rate, including prop existing policies, procedures, and laws to further assist in reducin population.

Office of Privacy and Civil Liberties.--The conference agreement adopts, by reference, language included in the House report expressing disappointment in the Department's inability to complete the initial report on the establishment of this Office. The conferees direct the Department to submit the initial report, as soon as possible, and to provide subsequent annual reports by January 30 of each year. Of the funds provided for the Departmental Leadership Program, not less than $690,000 shall be available for the Office of Privacy and Civil Liberties and for no other purpose.

Justice Information Sharing Technology

The conference agreement provides $125,000,000 for this account, instead of $135,000,000 as proposed by both the House and Senate.

The conference agreement includes $10,000,000 for the Unified Financial Management System and not less than $5,000,000 for the Public Key Infrastructure and Secure Communications program.

Information Technology Governance Board.--Given the Department's recent high profile information technology (IT) failures and the large amount of resources devoted to these programs, the conferees direct the Department to set up an Investment Review Board to be led by the Deputy Attorney General to oversee

DOJ_NMG_ 0149091

FY 05 HOUSE RPT

HOUSE APPROPRIATIONS COMMITTEE REPORT 108-576

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

The Committee recommends a total of $124,906,000 for General Administration for fiscal year 2005. This amount is $19,342,000 above the level provided in the current year and $61,645,000 below the request.

This account supports the development of policy objectives and the overall management of the Department of Justice. The recommendation fully funds the request for the Office of Intelligence Policy and Review, including a program increase of 30 additional positions and $6,592,000. The recommendation also fully funds the requested program increase of 16 additional positions and $3,020,000 for the Security and Emergency Planning Staff, including $1,500,000 for the implementation of a Department-wide personnel security tracking system. In addition, the recommendation provides an increase of $395,000 to strengthen hiring and diversity policies and $500,000 to enhance attorney recruitment and retention through the student loan repayment program. The Committee strongly supports the request for the Justice Unified Telecom Network, Public Key Infrastructure, enterprise architecture, the information sharing initiative, IT project oversight, the investment management project and the unified financial management system. The Committee recommendation assumes all of these projects will be funded by the Department's Working Capital Fund.

The Committee directs the Department to provide quarterly reports describing Department resources dedicated to Indian Country and to combating illegal activity at Native American Casinos. This report shall include: the number of agents assigned to Indian Country; man-hours worked in Indian Country; the amount and types of training provided; the number of matters initiated; the number of cases; the number of subjects/defendants; the number of convictions; the amount of restitution ordered; and the actions of the Indian Gaming Working Group, including coordination with the National Indian Gaming Commission.

Consistent with direction included in previous years, the recommendation includes necessary sums to continue efforts to replace locks used to store classified information.

Office of Privacy and Civil Liberties.—Since September 11, 2001, the Congress has provided both significant additional resources and broad legal authorities to the Justice Department to meet its counterterrorism responsibilities. In fiscal year 2004, the Committee directed the Department to designate a senior policy official to assume responsibility for developing appropriate civil rights safeguards, particularly as related to the war on terrorism, and for coordinating the work of all Department components involved in these efforts. The Committee understands that the Office of the Deputy Attorney General has appointed two officials with responsibility for reviewing civil rights and civil liberties issues. The recommendation provides not less than $690,000 for the salaries and benefits of this office, including funding for two additional professional staff positions to facilitate the work of the office. The Committee directs the Department of Justice to submit a report to the Congress, detailing the specific responsibilities and authority of the Office of Privacy and Civil Liberties protection within 30 days. Subsequently, the Committee directs the Department of Justice to report to the Committee annually on the activities of the office.

FY 05 CONF RPT

allocation within the operating year with national law enforcement priorities, in particular the counterterrorism and counterintelligence priorities, articulated by the Administration and supported by the Committees on Appropriations.

The conference agreement adopts by reference the House report language concerning fast track programs and directs the Department of Justice to submit a report within 45 days of enactment of this Act providing a list of the fast track programs operating throughout the country, and an estimate of the resources the Department of Justice saves and the costs that are avoided by these programs. The report shall also discuss opportunities to expand fast track programs to other districts.

The conferees believe that the Department of Justice needs to coordinate its efforts to address gang-related crimes. The Department of Justice is directed to submit a report to the Committees on Appropriations no later than 30 days after enactment of this Act on how the Department is addressing gang issues throughout the country.

The conference agreement adopts by reference the House report language concerning the establishment of an international law enforcement alliance.

Office of Privacy and Civil Liberties.—The conference agreement includes not less than $690,000 for the salaries and benefits of this office including funding for 2 additional professional staff positions. The conference agreement adopts by reference the House report language requiring the submission of a report detailing the specific responsibilities and authorities of the Office of Privacy and Civil Liberties within 30 days of enactment of this Act. In addition, the Department of Justice shall report to the Committees on Appropriations annually on the activities of this office. 716

Debt Collection.—The Government Accountability Office recently found that outstanding criminal debt as reported by the Department of Justice totaled about $25,000,000,000 as of September 30, 2002, almost double the amount reported by Justice 3 years earlier. Moreover, the Department of Justice reported collecting only about $800,000,000 of criminal debt for fiscal year 2002.

In view of the increase in reported outstanding criminal debt and low collections of such debt, the conferees are concerned that the Department of Justice along with other agencies still has not taken action to develop a strategic plan for improving criminal debt collection. The conferees understand one of the reasons for this outstanding criminal debt is that the Mandatory Victims Restitution Act of 1996 makes restitution mandatory in all violent crimes and most property crimes regardless of a defendant's ability to pay. Nevertheless, there appears to be criminal debt that may be collectible.

To address the large balances of outstanding criminal debt, the conferees direct the Attorney General to establish a task force within 90 days of enactment of this Act that includes other Federal agencies, including, but not limited to, the Department of the Treasury, the Office of Management and Budget, and the Administrative Office of the U.S. Courts, to participate in the task force. Led by the Department of Justice, the task force will be responsible for developing a strategic plan for improving criminal debt collection. The strategic plan shall include specific approaches for better managing, accounting for, reporting, and collecting criminal debt. Specifically, the plan shall include steps that can be taken to better and more promptly identify all collectible criminal debt so that a meaningful allowance for uncollectable criminal debt can be reported and used for measuring debt collection performance. The conferees direct the Attorney General to report to the Committees on Appropriations within 180 days of enactment of this Act on the activities of the task force and the development of a strategic plan.

Fugitive Apprehension.—In an October 19, 2004, report, the Department of Justice acknowledges that "the United States Marshals Service is the federal government's primary agency for apprehending fugitives". While the Department does not recommend transferring fugitive apprehension activities to the USMS to ensure continued departmental management flexibility, it recognizes that USMS fugitive efforts free up resources for other Federal law en-

DOJ_NMG_ 0149093

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

The Committee recommends a total of $106,664,000 for General Administration for fiscal year 2004. This amount is $16,187,000 above the level provided in fiscal year 2003, excluding supplemental amounts, and $27,108,000 below the request.

This account supports the development of policy objectives and the overall management of the Department of Justice. The recommendation provides inflationary adjustments to maintain the current operating level in fiscal year 2004, and includes an increase of $7,000,000 for the Office of the Chief Information Officer (CIO) to implement information security upgrades. The Committee remains concerned that several information technology programs are occurring throughout the Justice Department with little or no coordination, including LEO, RISS and the FBI's Operation Gateway. Toward that end, the Committee directs the Justice Management Division (JMD) to provide a report to the Committee by January 2, 2004, that catalogs all existing and planned information sharing projects. The Committee reminds the Justice Department that all information technology reprogrammings must be certified by the Department's CIO to ensure coordination of resources.

9

The recommendation also includes an increase of $6,517,000 for ongoing improvements to physical security at the RFK Justice Building. This funding is in addition to fiscal year 2003 funding of $7,917,611 provided for contract guard costs, backup power supplies, and other building safety needs. The Committee has yet to receive the Justice Department's comprehensive security assessment.

The Committee provided funding above the request to the Justice Department and other agencies within this bill in fiscal year 2003 to aggressively investigate and prosecute corporate fraud. The Justice Department is directed to submit a report by December 15, 2003, in consultation with the Securities and Exchange Commission, providing a status of joint efforts to combat corporate corruption.

The Committee remains concerned with possible illegal activity associated with gambling casinos on Native American reservations, and directs the Justice Department to submit a report to the Committee by October 12, 2003 describing all ongoing Justice Department efforts with regard to this issue.

The Committee continues to strongly support the counterterrorism efforts of the Department. In the aftermath of September 11th, the Congress has provided significant additional resources and broad new legal authorities to the Justice Department. However, the Committee is sensitive to concerns that this enhanced capability may potentially impinge on individual civil liberties. To ensure the continued effectiveness and efficiency of the Department's counterterrorism and law enforcement efforts, the Committee directs the Justice Department to designate a senior policy official to assume responsibility for developing appropriate civil rights safeguards specifically related to the war on terrorism and for coordinating the work of the Office of Inspector General, the Civil Rights Division, the U.S. Attorneys, and the various other Justice Department entities to ensure effective oversight of Departmental activities in this area. The Department is directed to consult with the Committee prior to beginning this effort.

The Committee urges the Attorney General to posthumously award the Public Safety Officers Medal of Valor to the 414 public safety officers who perished on September 11, 2001, as described in House Concurrent Resolution 243.

DOJ_NMG_0149094

DIVISION B—COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 2004

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

The conferees recommend a total of $106,687,000 for General Administration, Salaries and Expenses, instead of $106,664,000 as proposed by the House and $116,171,000 as proposed by the Senate.

The conferees note that during fiscal year 2003, the Justice Department announced a number of new initiatives without consulting Congress, including creation of the Terrorist Threat Integration Center, the Terrorist Screening Center, and the Anti-Terrorism Advisory Councils. These follow the proliferation of task forces, a massive and evolving reorganization of the Federal Bureau of Investigation, and various database initiatives in the previous fiscal year. No legislative proposals have been submitted to establish any of these entities; it is unclear what the long term funding needs associated with each of these will be; and most importantly, it is unclear what the overarching strategy is to reconcile each of these entities within the current structure of the Justice Department and blend them with other Federal law enforcement entities outside the Justice Department to ensure that law enforcement at all levels has the tools to effectively combat terrorism and protect citizens from traditional crimes. The conferees remain supportive of the Justice Department, and toward that end direct the Justice Department to submit with the fiscal year 2005 budget a rationalization of these various efforts with the goal of consolidating efforts to ensure that Federal law enforcement enhances its ability to prevent terrorist attacks and fight traditional crime.

The conference agreement adopts by reference House and Senate language providing an increase of $7,000,000 for the highest priority activities of the Chief Information Officer (CIO), as well as House language regarding a report on all existing and planned information technology sharing projects, and review and coordination of Justice Department information technology initiatives. The conferees will consider a reprogramming for information technology projects should additional funds be necessary. The conferees remain concerned with the proliferation of database initiatives and direct the Justice CIO to provide quarterly briefings. The conferees request the Justice CIO to submit a prioritized list of information technology projects to the Committees on Appropriations with the FY 2005 budget submission.

The conference agreement adopts by reference Senate language regarding funding for RFK building security needs. The conferees adopt by reference House language regarding corporate fraud and Native American gambling.

The conferees adopt by reference House language regarding the creation of a position to oversee Department of Justice activities with regard to civil rights. The conferees expect this position to be filled by a senior career official with specific knowledge and experience in civil rights. The conferees adopt by reference House language regarding posthumous award of Public Safety Officers Medal of Valor to the 414 public safety officers who perished on September 11, 2001. The conferees adopt by reference House language regarding a comprehensive review of all training programs for State and local law enforcement.

The conferees adopt by reference House and Senate language regarding the Justice Department's core financial management system and direct the Department to consider a cross-servicing arrangement with another Federal agency to provide these services rather than building a system of its own. A study of such a cross-servicing option and other options shall be submitted by March 1, 2004. The conferees will consider a reprogramming for these activities as necessary. The conferees adopt by reference House language regarding locks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 15, 2005 11:25 AM
To: Senger, Jeffrey M
Subject: RE: Legal Affairs Committee

That's an extremely kind invitation but I don't think I can make it tomorrow.

-----Original Message-----
From: Senger, Jeffrey M
Sent: Tuesday, November 15, 2005 10:14 AM
To: Gorsuch, Neil M
Subject: Legal Affairs Committee

Hi, Neil. There's a Cosmos Club lunch program tomorrow at noon I thought you might like. It's part of the Legal Affairs Committee (which I chair) and is described below. If you are interested, let me know. Jeff



Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Tuesday, November 15, 2005 11:42 AM
To:	Otis, Lee L
Cc:	Shaw, Aloma A
Subject:	RE: This Tuesday: Briefing on Pandemic Influenza Modeling and Impact of Interventions

Lee, I have a car for 145 at 10th street if you'd like to meet then and there. Best, NMG

-----Original Message-----
From: Otis, Lee L
Sent: Monday, November 14, 2005 6:05 PM
To: Im, Saovaluck
Cc: McAtamney, James A; Hart, Rosemary; Gorsuch, Neil M; Hertling, Richard
Subject: FW: This Tuesday: Briefing on Pandemic Influenza Modeling and Impact of Interventions
Importance: High

Another White House weekend message. I think I will go just because it may give us a little better idea what people are thinking about actually doing. Would any of the rest of you like to come along? If so can you let Saovaluck know and give her clearance information? Saovaluck, can you get me cleared in and print out this stuff?

Thanks much.

Lee

-----Original Message-----
From: Rajeev_V._Venkayya@who.eop.gov
[mailto:Rajeev_V._Venkayya@who.eop.gov]
Sent: Sunday, November 13, 2005 5:01 PM
To: Gorsuch, Neil M; Otis, Lee L; [redacted]



[redacted]

Subject: This Tuesday: Briefing on Pandemic Influenza Modeling and Impact of Interventions
Importance: High

All:

In support of ongoing pandemic influenza planning efforts, we have asked the authors of recent Science and Nature papers on the subject to provide a presentation on their pandemic models and projections of the impact of various interventions on the spread of a pandemic virus. Both papers are attached.

The presentation will take place this Tuesday, Nov. 15 from 2:00-4:00 PM in EEOB Rm. 450. Departments and agencies are invited to send two representatives to the briefing. Clearance information should be provided to Sharon Wells by 3:00 PM on Monday (swells@who.eop.gov)

This work is supported by the NIH/MIDAS program, has been performed in the U.S. and U.K. and was presented at HHS last week. Further information on the MIDAS program can be found here: http://www.nigms.nih.gov/Initiatives/MIDAS/

Thank you.

Rajeev

Rajeev Venkayya, MD
Senior Director for Biodefense
White House Homeland Security Council
vox: 202.456.6019
fax: 202.456.6024
cell: [redacted]
rvenkayya@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 15, 2005 11:55 AM
To: Shaw, Aloma A; McCallum, Robert (SMO)
Cc: Gunn, Currie (SMO)
Subject: RE: Haynes referral

No need - just give Robert the original. Many thanks.

-----Original Message-----
From: Shaw, Aloma A
Sent: Tuesday, November 15, 2005 11:54 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Cc: Gunn, Currie (SMO)
Subject: RE: Haynes referral

Yes, I have the original. I'll make a copy for our files.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, November 14, 2005 6:14 PM
To: McCallum, Robert (SMO); Shaw, Aloma A
Subject: RE: Haynes referral

Aloma - Please could you pass this along? This is the package from Haynes that I put in my outbox today for filing.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, November 14, 2005 6:06 PM
To: Gorsuch, Neil M
Subject: Haynes referral

Neil: Do you have the original referral package from Jim Haynes on the DOD IG press release? I sent the letter to Jim and am just going to close up the file and give it to ODAG. Can't find the original. Robt.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 15, 2005 1:39 PM
To: Fisher, Alice
Subject: AG Speech

Have you managed to corral any comments from your folks on this yet? I'd like to get him the draft today or tomorrow if possible.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 15, 2005 12:48 PM
To: Henke, Tracy (SMO)
Subject: RE: ASA letter

Many thanks. NMG

-----Original Message-----
From: Henke, Tracy (SMO)
Sent: Tuesday, November 15, 2005 12:00 PM
To: Gorsuch, Neil M
Subject: RE: ASA letter

Information has been provided to OJP. OJP will respond.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, November 11, 2005 9:56 AM
To: Henke, Tracy (SMO)
Subject: ASA letter

Tracy - Thanks so much for tackling this. I've made a few minor edits and, subject to any further edits you may have, this seems good to go. The question remains, however: who should sign it? My first instinct is that Regina is an appropriate candidate b/c she directs both BJS and NIJ and because she was a cc recipient of the letter. But you know the lay of the land better and I would appreciate your views. Thanks, NMG

<< File: statistical association ltr.doc >>

Otis, Lee L

Subject:	Updated: Pandemic Strategy Planning
Location:	4133
Start:	Thursday, November 17, 2005 3:30 PM
End:	Thursday, November 17, 2005 4:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otis, Lee L
Required Attendees:	Hertling, Richard; Gorsuch, Neil M

I apologize, the time I had suggested earlier did not work for some of you so here is the new time. Please kindly respond.
Lee Otis will chair the meeting. Thank you.

Attendees:
Rosemary Hart - ok
Art Roderick - ok

POC: Saovaluck 6-0663

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 15, 2005 6:04 PM
To: Fisher, Alice
Subject: RE: AG Speech

just tried again
-----Original Message-----
From: Fisher, Alice
Sent: Tuesday, November 15, 2005 5:38 PM
To: Gorsuch, Neil M
Subject: RE: AG Speech

please call me

From: Gorsuch, Neil M
Sent: Tuesday, November 15, 2005 3:59 PM
To: Fisher, Alice
Subject: Re: AG Speech

Just tried but missed you. Thanks. If you can feed the cmts today or tomorrow am I'd be grateful.

-----Original Message-----
From: Fisher, Alice <Alice.Fisher@usdoj.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Nov 15 15:26:26 2005
Subject: RE: AG Speech

Yes, I have some changes and I will collect changes from the others

---

From: Gorsuch, Neil M
Sent: Tuesday, November 15, 2005 1:39 PM
To: Fisher, Alice
Subject: AG Speech

Have you managed to corral any comments from your folks on this yet? I'd like to get him the draft today or tomorrow if possible.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 15, 2005 6:08 PM
To: [redacted]
Subject: RE: Seminar: Torture Policy

Tomorrow is better, call at your convenience. Sorry again about the conf, but it's been woolly lately.

-----Original Message-----
From: [redacted]
Sent: Tuesday, November 15, 2005 5:12 PM
To: Gorsuch, Neil M
Subject: FW: Seminar: Torture Policy
Importance: High

Neil
I think this is great news - looks like we have a green light to pursue this both in NY and DC. [redacted] mentioned at the Term Member conference that he thought this was one of the most important policy debates going on this year.

You free to catch up on this either this evening or tomorrow? We should follow up with [redacted] quickly [redacted]

PS - Sorry to have missed you last week.. The conf was great.

-----Original Message-----
From: [redacted]
Sent: Tuesday, November 15, 2005 4:45 PM
To: [redacted]
Subject: Seminar: Torture Policy
Importance: High

Dear [redacted] & Neil:

Greetings! I hope this email finds you well. I've just gone over your proposal for a seminar on torture policy with [redacted] and she agrees that it is an important, timely topic to examine for the term members.

- She thinks that it would be worthwhile for you to approach our Army fellow, Col. [redacted] and get his sense on how we can best frame the discussion. The main idea of a policy primer is great; but are we trying to get to a discussion which examines the efficacy of torture? or will it be a pure policy examination? [redacted] also suggested that you contact [redacted] for her opinions.

We think a panel consisting of a military person, a ngo person, and a DoD person may be best to offer

-We think a panel consisting of a military person, a ngo person, and a DoD person may be best to offer the best perspectives. (The public diplomacy speakers suggested don't seem to fit.)

-We have a date for a New York session, December 12th, from 6:30-8:30 p.m.
We don't have any DC dates available yet. Perhaps we might reprise this event in the spring as suggested on the proposal form? (to coincide with the interpretation of the McCain amendment?)

Please let me know what you think and if I've been unclear in any way.

I look forward to hearing from you.

Sincerely,
[redacted]

[redacted]
Program Associate, Term Member Program
Council on Foreign Relations
[redacted]
Tel:
Fax: [redacted]
www.cfr.org

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 15, 2005 6:15 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: Graham Amendment Passes

Thanks. Should we assume that means post-holidays?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Tuesday, November 15, 2005 6:11 PM
To: Gorsuch, Neil M
Subject: FW: Graham Amendment Passes

-----Original Message-----
From: [redacted], Hon., OSD-LA
Sent: Tuesday, November 15, 2005 18:08
To: [redacted] DoD OGC
Subject: RE: Graham Amendment Passes

House passed it months ago. They will start conference right away but it will take a while to sort through this mess.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 15, 2005 6:36 PM
To: Fisher, Alice
Subject: tried again - am leaving soon

Full Name: Admiral James M. McGarrah
Last Name: McGarrah
First Name: Admiral
Company: Department of Defense

Business Address: Office of the Administrative Review of the Defention of Enemy Combatants (OARDEC)
United States Naval Base
Guantanamo Bay Cuba
1000 Navy Pentagon
Washington, DC 20350-1000

Business: (703) 695-6487

DOJ_NMG_ 0149108

Gunn, Currie (SMO)

Subject:	Aloma AL
Start:	Wednesday, November 23, 2005 12:00 AM
End:	Thursday, November 24, 2005 12:00 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gunn, Currie (SMO)

Gunn, Currie (SMO)

Subject:	Aloma AL
Start:	Monday, December 12, 2005 12:00 AM
End:	Friday, December 16, 2005 12:00 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gunn, Currie (SMO)

Gorsuch, Neil M

Subject:	Lee Otis 4116
Start:	Thursday, November 17, 2005 9:30 AM
End:	Thursday, November 17, 2005 10:00 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Shaw, Aloma A

Subject:	Updated: Sensitive Criminal Matter
Location:	5718
Start:	Thursday, November 17, 2005 10:45 AM
End:	Thursday, November 17, 2005 11:15 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Shaw, Aloma A
Required Attendees:	Fisher, Alice; Gorsuch, Neil M; McCallum, Robert (SMO); Bianco, Joseph F.Fisher, Alice; Gorsuch, Neil M; McCallum, Robert (SMO); Bianco, Joseph F.

Joe Bianco will also attend this meeting.

Full Name: General Jay W. Hood
Last Name: Hood
First Name: General

Business Address: JTF - GTMO/CE
APO, AE 09360

Business: +53 011-5399-5037

DOJ_NMG_ 0149113

Full Name: [redacted]
Last Name: [redacted]
First Name: [redacted]
Job Title: [redacted]
Company: [redacted]

Business Address: [redacted]

Business: [redacted]
Mobile: [redacted]

E-mail: [redacted]@dodgc.osd.mil
E-mail Display As: [redacted]@dodgc.osd.mil)

assistant [redacted]

[redacted]

Gorsuch, Neil M

Subject:	Coffee with [redacted]
Start:	Tuesday, November 22, 2005 2:00 PM
End:	Tuesday, November 22, 2005 2:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Shaw, Aloma A

Subject:	Car en route to the Hill
Start:	Friday, November 18, 2005 10:45 AM
End:	Friday, November 18, 2005 10:45 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Shaw, Aloma A

Subject:	AG Reception
Location:	Room 5111
Start:	Thursday, December 8, 2005 4:00 PM
End:	Thursday, December 8, 2005 5:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Shaw, Aloma A

Subject:	Brent & Laura McIntosh
Location:	The Chevy Chase Club - 6100 Connecticut Avenue
Start:	Saturday, December 03, 2005 6:00 PM
End:	Saturday, December 03, 2005 8:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Full Name: Andrew C. McCarthy
Last Name: McCarthy
First Name: Andrew

Business: (203) 254-3768

DOJ_NMG_ 0149119

Full Name:	Andrew C. McCarthy
Last Name:	McCarthy
First Name:	Andrew
Company:	Foundation for the Defense of Democracies
Business Address:	P.O. Box 936 Southport Station Southport, CT 06890
Business:	(203) 254-3768
E-mail:	ACMcCarthy@optonline.net
E-mail Display As:	Andrew C. McCarthy (ACMcCarthy@optonline.net)

DOJ_NMG_ 0149120

McKeown, Matt (ENRD)

Subject:	Updated: Meet with Neil Gorsuch
Location:	DOJ Cafeteria
Start:	Tuesday, November 22, 2005 11:30 AM
End:	Tuesday, November 22, 2005 12:15 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	McKeown, Matt (ENRD)
Required Attendees:	Wooldridge, Sue Ellen (ENRD); Gorsuch, Neil M

POC: Cullen 4-2701

Gorsuch, Neil M

Subject:	[redacted]U Club
Start:	Tuesday, December 06, 2005 12:30 PM
End:	Tuesday, December 06, 2005 1:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Fisher, Alice

Subject:	Updated: Coffee at Cosi
Location:	10th & E Streets, NW
Start:	Tuesday, November 22, 2005 2:30 PM
End:	Tuesday, November 22, 2005 3:15 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Fisher, Alice
Required Attendees:	Gorsuch, Neil M; Fisher, AliceGorsuch, Neil M; Fisher, Alice

Participants: Neil Gorsuch and Alice Fisher

(Mr. Gorsuch will come to Room 2107)

Otis, Lee L

Subject:	Pre-Meeting re: Cabinet Briefing conference call at 9:00 am
Location:	4133
Start:	Tuesday, November 22, 2005 8:45 AM
End:	Tuesday, November 22, 2005 9:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otis, Lee L
Required Attendees:	Hart, Rosemary; McAtamney, James A; Gorsuch, Neil M; Elwood, CourtneyHart, Rosemary; McAtamney, James A; Gorsuch, Neil M; Elwood, Courtney

Please note the change of location. Also, Lee has just been called to another meeting with the AG's office until 8:50 am but will join you thereafter. Thank you

POC: Saovaluck 6-0663

Otis, Lee L

Subject:	Cabinet Briefing - Conference call - [redacted] Passcode: [redacted]
Location:	4133
Start:	Tuesday, November 22, 2005 9:00 AM
End:	Tuesday, November 22, 2005 9:30 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otis, Lee L
Required Attendees:	McAtamney, James A; Elwood, Courtney; Hart, Rosemary; Gorsuch, Neil M; Taylor, Jeffrey (OAG)McAtamney, James A; Elwood, Courtney; Hart, Rosemary; Gorsuch, Neil M; Taylor, Jeffrey (OAG)

POC: Saovaluck 6-0663

Otus2005, Ag

Subject:	Updated: AG TRAVEL TO NEW YORK
Start:	Thursday, December 1, 2005 1:15 PM
End:	Thursday, December 1, 2005 8:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Sampson, Kyle; Gorsuch, Neil M; Scolinos, TasiaSampson, Kyle; Gorsuch, Neil M; Scolinos, Tasia

Otus2005, Ag

Subject:	Updated: Senior Management Meeting
Start:	Wednesday, November 23, 2005 9:30 AM
End:	Wednesday, November 23, 2005 10:00 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:30 AM
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); McNulty, Paul J; Goodling, MonicaMcCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); McNulty, Paul J; Goodling, Monica

AG's Conference Room
DOJ: Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Roberts

Gorsuch, Neil M

Subject:	[redacted]
Start:	Friday, December 9, 2005 8:00 AM
End:	Friday, December 9, 2005 9:30 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	Lunch with Matt Waxman [redacted] Caucus Rm
Start:	Monday, December 5, 2005 12:30 PM
End:	Monday, December 5, 2005 1:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Otus2005, Ag

Subject:	Updated: Senior Management Meeting
Start:	Thursday, December 01, 2005 9:00 AM
End:	Thursday, December 01, 2005 9:30 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:30 AM
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Otus2005, Ag; McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); McNulty, Paul J; Goodling, Monica; Korn, JenniferOtus2005, Ag; McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); McNulty, Paul J; Goodling, Monica; Korn, Jennifer

AG's Conference Room
DOJ: Paul McNulty, ASG Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Jennifer Korn

Beach, Andrew

From: Beach, Andrew
Sent: Friday, December 02, 2005 7:45 AM
To: McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); McNulty, Paul J; Goodling, Monica; Korn, Jennifer
Subject: Updated: Senior Management Meeting

When: Monday, December 05, 2005 9:00 AM-9:30 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, ASG Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Jennifer Korn

Otus2005, Ag

Subject:	Graham Amendment
Start:	Wednesday, November 23, 2005 1:15 PM
End:	Wednesday, November 23, 2005 1:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Sampson, Kyle; Gorsuch, Neil M; Moschella, William; Scolinos, Tasia

When: Wednesday, November 23, 2005 1:15 PM-1:30 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Office
AO: Kyle Sampson DOJ: Neil Gorsuch, Tasia Scolinos, Will Moschella

Otus2005, Ag

Subject:	Updated: Senior Management Meeting
Start:	Wednesday, February 01, 2006 9:00 AM
End:	Wednesday, February 01, 2006 9:30 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:30 AM
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO)Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO)

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Roberts

Otus2005, Ag

From: Otus2005, Ag
Sent: Thursday, February 16, 2006 2:12 PM
To: Otus2005, Ag; Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO)
Subject: Canceled: Senior Management Meeting
Importance: High

AG's Conference Room
DOJ: Paul McNulty, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Roberts

From:

Sent: Wednesday, February 15, 2017 5:59 PM

Subject: CANCELLED - Updated: Senior Management Meeting

Otus2005, Ag

From: Otus2005, Ag
Sent: Thursday, February 09, 2006 5:18 PM
To: Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO)
Subject: Updated: Senior Management Meeting

When: Friday, February 10, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Rachel Brand, Will Moschella, Crystal Jezierski

Otus2005, Ag

From: Otus2005, Ag
Sent: Wednesday, February 08, 2006 12:35 PM
To: Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO); Hertling, Richard
Subject: Updated: Senior Management Meeting

When: Thursday, February 16, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Richard Hertling for Rachel Brand, Will Moschella, Crystal Roberts

Otus2005, Ag

From: Otus2005, Ag
Sent: Wednesday, February 08, 2006 12:36 PM
To: Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO); Hertling, Richard
Subject: Updated: Senior Management Meeting

When: Friday, February 17, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Richard Hertling for Rachel Brand, Will Moschella, Crystal Roberts

Otus2005, Ag

From: Otus2005, Ag
Sent: Wednesday, February 08, 2006 12:36 PM
To: Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO); Hertling, Richard
Subject: Updated: Senior Management Meeting

When: Tuesday, February 21, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Richard Hertling for Rachel Brand, Will Moschella, Crystal Roberts

Otus2005, Ag

From: Otus2005, Ag
Sent: Wednesday, February 08, 2006 12:37 PM
To: Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO); Hertling, Richard
Subject: Updated: Senior Management Meeting

When: Wednesday, February 22, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Richard Hertling for Rachel Brand, Will Moschella, Crystal Roberts

Otus2005, Ag

From: Otus2005, Ag
Sent: Wednesday, February 08, 2006 12:37 PM
To: Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO); Hertling, Richard
Subject: Updated: Senior Management Meeting

When: Thursday, February 23, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Richard Hertling for Rachel Brand, Will Moschella, Crystal Roberts

Otus2005, Ag

From: Otus2005, Ag
Sent: Wednesday, February 08, 2006 12:37 PM
To: Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO); Hertling, Richard
Subject: Updated: Senior Management Meeting

When: Friday, February 24, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Richard Hertling for Rachel Brand, Will Moschella, Crystal Roberts

Otus2005, Ag

From: Otus2005, Ag
Sent: Wednesday, February 08, 2006 12:38 PM
To: Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO); Hertling, Richard
Subject: Updated: Senior Management Meeting

When: Monday, February 27, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Richard Hertling for Rachel Brand, Will Moschella, Crystal Roberts

Otus2005, Ag

From: Otus2005, Ag
Sent: Friday, January 27, 2006 12:22 PM
To: Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO)
Subject: Updated: Senior Management Meeting

When: Friday, February 03, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Roberts

Otus2005, Ag

From: Otus2005, Ag
Sent: Friday, February 03, 2006 5:42 PM
To: Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO)
Subject: Updated: Senior Management Meeting

When: Tuesday, February 07, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Roberts

Otus2005, Ag

From: Otus2005, Ag
Sent: Friday, February 03, 2006 5:42 PM
To: Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO)
Subject: Updated: Senior Management Meeting

When: Wednesday, February 08, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Rachel Brand, Will Moschella, Crystal Roberts

Otus2005, Ag

From: Otus2005, Ag
Sent: Friday, February 03, 2006 5:43 PM
To: Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO)
Subject: Updated: Senior Management Meeting

When: Thursday, February 09, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Rachel Brand, Will Moschella, Crystal Roberts

Otus2005, Ag

From: Otus2005, Ag
Sent: Wednesday, February 08, 2006 12:34 PM
To: Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO); Hertling, Richard
Subject: Updated: Senior Management Meeting

When: Monday, February 13, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Richard Hertling for Rachel Brand, Will Moschella, Crystal Roberts

Otus2005, Ag

From: Otus2005, Ag
Sent: Wednesday, February 08, 2006 12:35 PM
To: Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO); Hertling, Richard
Subject: Updated: Senior Management Meeting

When: Tuesday, February 14, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Richard Hertling for Rachel Brand, Will Moschella, Crystal Roberts

Otus2005, Ag

From: Otus2005, Ag
Sent: Wednesday, February 08, 2006 12:35 PM
To: Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; McCallum, Robert (SMO); Hertling, Richard
Subject: Updated: Senior Management Meeting

When: Wednesday, February 15, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Richard Hertling for Rachel Brand, Will Moschella, Crystal Roberts

Gorsuch, Neil M

Subject:	Bill Hughes
Location:	Univ Club
Start:	Friday, December 02, 2005 12:30 PM
End:	Friday, December 02, 2005 1:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	Lunch with Javdan and Robbins
Start:	Thursday, December 8, 2005 12:00 PM
End:	Thursday, December 8, 2005 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Shaw, Aloma A

Subject:	Car en route WH
Start:	Tuesday, November 29, 2005 9:15 AM
End:	Tuesday, November 29, 2005 9:15 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Shaw, Aloma A

Subject:	Car en route DOJ
Start:	Tuesday, November 29, 2005 10:35 AM
End:	Tuesday, November 29, 2005 10:35 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Moschella, William

Subject:	Graham Amdt - Sen. Warner's staff
Location:	Russell 216
Start:	Tuesday, November 29, 2005 1:00 PM
End:	Tuesday, November 29, 2005 2:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Moschella, William
Required Attendees:	Gorsuch, Neil M

Moschella, William

Subject:	Car to Russell
Location:	9th St Gate
Start:	Tuesday, November 29, 2005 12:45 PM
End:	Tuesday, November 29, 2005 1:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Moschella, William
Required Attendees:	Gorsuch, Neil MGorsuch, Neil M

Gorsuch, Neil M

Subject:	wan kim
Start:	Monday, November 28, 2005 5:00 PM
End:	Monday, November 28, 2005 5:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	Lunch w/ Bradford Berenson
Location:	Les Halles
Start:	Thursday, December 15, 2005 12:00 PM
End:	Thursday, December 15, 2005 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	White House Open House
Start:	Monday, December 05, 2005 3:30 PM
End:	Monday, December 05, 2005 5:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Otus2005, Ag

Subject:	Updated: Senior Management Meeting
Start:	Wednesday, November 30, 2005 9:00 AM
End:	Wednesday, November 30, 2005 9:30 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:30 AM
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); McNulty, Paul J; Goodling, Monica; Moschella, William; Korn, JenniferMcCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); McNulty, Paul J; Goodling, Monica; Moschella, William; Korn, Jennifer

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Jennifer Korn

Moschella, William

Location:	Will's office - 1603
Start:	Tuesday, November 29, 2005 4:00 PM
End:	Tuesday, November 29, 2005 4:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Moschella, William
Required Attendees:	Gorsuch, Neil M

Full Name:
Last Name:
First Name:
Job Title:
Company:

Business Address:

Business:
Mobile:
Business Fax:

E-mail:
E-mail Display As:



Shaw, Aloma A

Subject:	Sub-PCC Meeting/Strategy for Pandemic Influenza
Location:	OEOB - Room 208
Start:	Wednesday, November 30, 2005 3:30 PM
End:	Wednesday, November 30, 2005 5:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

poc: Rita DiCasagrande
Director, Counterproliferation Strategy
White House National Security Council
(202) 456-9181

Shaw, Aloma A

Subject:	Car en route OEOB
Start:	Wednesday, November 30, 2005 3:15 PM
End:	Wednesday, November 30, 2005 3:15 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Shaw, Aloma A

Subject:	Brown Bag Lunch
Location:	rm 5525
Start:	Friday, December 16, 2005 12:00 PM
End:	Friday, December 16, 2005 1:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Speaker: William Barr

Sampson, Kyle

Subject:	Updated: IP Task Force Meeting
Location:	Room 5228 (OAG small conference room)
Start:	Tuesday, December 13, 2005 4:00 PM
End:	Tuesday, December 13, 2005 5:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Sampson, Kyle
Required Attendees:	Sampson, Kyle; Barnett, Thomas O.; Keisler, Peter D (CIV); Moschella, William; Brand, Rachel; Yang, Debra Wong; Fisher, Alice; Gorsuch, Neil M; Alikhan, Arif (ODAG); Reigel, Louis M (LEO); Battle, Michael (USAEO); Clement, Paul DSampson, Kyle; Barnett, Thomas O.; Keisler, Peter D (CIV); Moschella, William; Brand, Rachel; Yang, Debra Wong; Fisher, Alice; Gorsuch, Neil M; Alikhan, Arif (ODAG); Reigel, Louis M (LEO); Battle, Michael (USAEO); Clement, Paul D

DOJ: Paul Clement, Will Moschella, Tom Barnett, Mike Battle, Rachel Brand, Alice Fisher, Peter Keisler, Louis Reigel,
Debra Wong Yang, Neil Gorsuch, Arif Alikhan

Gorsuch, Neil M

Subject:	David Javdan
Start:	Wednesday, November 30, 2005 12:00 PM
End:	Wednesday, November 30, 2005 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	White House
Start:	Monday, December 12, 2005 3:30 PM
End:	Monday, December 12, 2005 5:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Otus2005, Ag

Subject:	Updated: TETERBORO, NEW JERSEY: Arrive Teterboro Airport
Start:	Thursday, December 1, 2005 4:30 PM
End:	Thursday, December 1, 2005 4:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Scolinos, Tasia; Sampson, Kyle; Gorsuch, Neil M; Oldham, Jeffrey L; Rowan, Patrick (ODAG); Wainstein, Kenneth; Nichols, Grant WScolinos, Tasia; Sampson, Kyle; Gorsuch, Neil M; Oldham, Jeffrey L; Rowan, Patrick (ODAG); Wainstein, Kenneth; Nichols, Grant W

FBO: Signature Flight Support, 401 Industrial Ave., Teterboro, NJ. Tel: [redacted] FAX: 201 288 7972

Otus2005, Ag

Subject:	Updated: Wheels up from Reagan National en route to Teterboro Airport, NJ
Start:	Thursday, December 1, 2005 3:30 PM
End:	Thursday, December 1, 2005 4:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Sampson, Kyle; Scolinos, Tasia; Gorsuch, Neil M; Nichols, Grant W; Oldham, Jeffrey L; Rowan, Patrick (ODAG); Wainstein, KennethSampson, Kyle; Scolinos, Tasia; Gorsuch, Neil M; Nichols, Grant W; Oldham, Jeffrey L; Rowan, Patrick (ODAG); Wainstein, Kenneth

Plane: [redacted]
Crew: [redacted]
[redacted]
Flight Time: 1 hour
Food Service: Beverages
Time Change: None

MANIFEST.
1. The Attorney General
2. Kyle Sampson
3. Tasia Scolinos
4. Neil Gorsuch
5. Grant Nichols
6. Jeff Oldham
7. [redacted]
8. [redacted]
9. [redacted]
10. Ken Wainstein
11. Patrick Rowan

Otus2005, Ag

Subject:	Updated: En route Council on Foreign Relations
Start:	Thursday, December 1, 2005 4:40 PM
End:	Thursday, December 1, 2005 5:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Scolinos, Tasia; Sampson, Kyle; Gorsuch, Neil M; Oldham, Jeffrey L; Rowan, Patrick (ODAG); Wainstein, Kenneth; Nichols, Grant WScolinos, Tasia; Sampson, Kyle; Gorsuch, Neil M; Oldham, Jeffrey L; Rowan, Patrick (ODAG); Wainstein, Kenneth; Nichols, Grant W

MOTORCADE OR HELICOPTER MANIFEST:

1. The Attorney General
2. Kyle Sampson
3. Tasia Scolinos
4. Neil Gorsuch
5. Grant Nichols
6. Jeff Oldham
7. Ken Wainstein
8. Patrick Rowan
9. Carrie Nelson

Otus2005, Ag

Subject:	Updated: Council on Foreign Relations
Location:	OPEN PRESS
Start:	Thursday, December 1, 2005 5:30 PM
End:	Thursday, December 1, 2005 7:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Jenkins, Linda A; Scolinos, Tasia; Sampson, Kyle; Gorsuch, Neil M; Korn, Jennifer; Oldham, Jeffrey L; Rowan, Patrick (ODAG); Wainstein, KennethJenkins, Linda A; Scolinos, Tasia; Sampson, Kyle; Gorsuch, Neil M; Korn, Jennifer; Oldham, Jeffrey L; Rowan, Patrick (ODAG); Wainstein, Kenneth
Optional Attendees:	Roberts, CrystalRoberts, Crystal

Venue: The Harold Pratt House, 58 East 68th Street, New York, NY. Phone #: 212-434-9600; FAX #: 212-434-9804
5:30 - 6:00 PM Reception (Greenberg Room)
6:00 - 7:00 PM Meeting (Peter G. Peterson Hall)
Audience: 200-250 Council on Foreign Relations' members who are U.S. citizens with an expertise in U.S. foreign policy. Each
individual must apply and be accepted for membership of the organization.
FORMAT: **AG (the only speaker) speaks for 20 mins. followed by 40 mins. of Q&A.**
AO: Kyle Sampson DOJ: Tasia Scolinos
ADVANCE: Carrie Nelson
On-site Contact: [redacted], Assistant Director, New York Meetings Program, Tel: [redacted]; FAX #:212-434-9804;
E-mail [redacted] Alternate POC: [redacted]; email[redacted]
ATTIRE: BUSINESS

Otus2005, Ag

Subject:	Updated: En route Teterboro Airport
Start:	Thursday, December 1, 2005 7:05 PM
End:	Thursday, December 1, 2005 7:50 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Scolinos, Tasia; Sampson, Kyle; Gorsuch, Neil M; Oldham, Jeffrey L; Rowan, Patrick (ODAG); Wainstein, Kenneth; Nichols, Grant WScolinos, Tasia; Sampson, Kyle; Gorsuch, Neil M; Oldham, Jeffrey L; Rowan, Patrick (ODAG); Wainstein, Kenneth; Nichols, Grant W

MOTORCADE OR HELICOPTER MANIFEST:

1. The Attorney General
2. Kyle Sampson
3. Tasia Scolinos
4. Neil Gorsuch
5. Grant Nichols
6. Jeff Oldham
7. Ken Wainstein
8. Patrick Rowan
9. Carrie Nelson

Otus2005, Ag

Subject:	Updated: Wheels up from Teterboro, NJ, en route Reagan National Airport
Start:	Thursday, December 1, 2005 8:00 PM
End:	Thursday, December 1, 2005 9:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Sampson, Kyle; Gorsuch, Neil M; Scolinos, Tasia; Oldham, Jeffrey L; Nichols, Grant W; Rowan, Patrick (ODAG); Wainstein, KennethSampson, Kyle; Gorsuch, Neil M; Scolinos, Tasia; Oldham, Jeffrey L; Nichols, Grant W; Rowan, Patrick (ODAG); Wainstein, Kenneth

Plane: [redacted]
Crew: [redacted]
[redacted]
Flight Time: 1 hour
Food Service: Light dinner
Time Change: None

MANIFEST.
1. The Attorney General
2. Kyle Sampson
3. Tasia Scolinos
4. Neil Gorsuch
5. Grant Nichols
6. Jeff Oldham
7. [redacted]
8. [redacted]
9. [redacted]
10. Ken Wainstein
11. Patrick Rowan
12. Carrie Nelson

Otus2005, Ag

Subject:	Updated: WASHINGTON, DC: Arrive Signature Flight Support, Reagan National Airport
Start:	Thursday, December 1, 2005 9:00 PM
End:	Thursday, December 1, 2005 9:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Scolinos, Tasia; Sampson, Kyle; Gorsuch, Neil M; Oldham, Jeffrey L; Rowan, Patrick (ODAG); Wainstein, Kenneth; Nichols, Grant WScolinos, Tasia; Sampson, Kyle; Gorsuch, Neil M; Oldham, Jeffrey L; Rowan, Patrick (ODAG); Wainstein, Kenneth; Nichols, Grant W

Gorsuch, Neil M

Subject:	M ohlhausen 1215
Start:	Monday, December 12, 2005 12:00 PM
End:	Monday, December 12, 2005 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Otus2005, Ag

Subject:	Updated: En route to Reagan National Airport
Start:	Thursday, December 1, 2005 3:05 PM
End:	Thursday, December 1, 2005 3:20 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Scolinos, Tasia; Sampson, Kyle; Gorsuch, Neil M; Oldham, Jeffrey L; Rowan, Patrick (ODAG); Wainstein, Kenneth; Nichols, Grant WScolinos, Tasia; Sampson, Kyle; Gorsuch, Neil M; Oldham, Jeffrey L; Rowan, Patrick (ODAG); Wainstein, Kenneth; Nichols, Grant W

MOTORCADE

1. The Attorney General
2. Kyle Sampson (driving self)
3. Tasia Scolinos (driving self)
4. Neil Gorsuch
5. Grant Nichols
6. Jeff Oldham (in motorcade)
7. Ken Wainstein (driving self)
8. Patrick Rowan (motorcade)

Staff driving themselves to the airport are requested to arrive at Signature Flight Support by 3:00 PM.

Gorsuch, Neil M

Subject:	Paul Clement
Start:	Wednesday, December 14, 2005 12:00 PM
End:	Wednesday, December 14, 2005 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 1, 2005 7:53 AM
To: 'John_B._Wiegmann@nsc.eop.gov'
Subject: Re: Any word on our language?

Sorry it is taking so long. It is a trickier drafting issue than it first appears but we are on it and should have something for you this am.

-----Original Message-----
From: John_B._Wiegmann@nsc.eop.gov <John_B._Wiegmann@nsc.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Nov 30 20:43:21 2005
Subject: Any word on our language?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 1, 2005 7:34 AM
To: Eisenberg, John; Bradbury, Steve
Subject: Fw: Any word on our language?

Our friends are anxious. If you're swamped this morning I will take a first crack, though I would like your review given that it is a tricky request. Just let me know.

-----Original Message-----
From: John_B._Wiegmann@nsc.eop.gov <John_B._Wiegmann@nsc.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Nov 30 20:43:21 2005
Subject: Any word on our language?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 1, 2005 8:02 AM
To: Prestes, Brian
Subject: Re: Any word on our language?

Thanks, Brian.

-----Original Message-----
From: Prestes, Brian <Brian.Prestes@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Dec 01 07:44:49 2005
Subject: Fw: Any word on our language?

Neil,

On my way in. Will send you language by about 8:30.

Brian S. Prestes
Office of Legal Counsel
United States Department of Justice
(202) 305-8918

-----Original Message-----
From: Bradbury, Steve <Steve.Bradbury@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Eisenberg, John <John.Eisenberg@SMOJMD.USDOJ.gov>
CC: Prestes, Brian <Brian.Prestes@SMOJMD.USDOJ.gov>
Sent: Thu Dec 01 07:39:51 2005
Subject: Re: Any word on our language?

It is tricky. Brian Prestes has been working on it, in consultation with Fed Programs. Brian: Why don't you bring Neil into the loop at this point? Thx

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Eisenberg, John <John.Eisenberg@SMOJMD.USDOJ.gov>; Bradbury, Steve <Steve.Bradbury@SMOJMD.USDOJ.gov>
Sent: Thu Dec 01 07:33:51 2005
Subject: Fw: Any word on our language?

Our friends are anxious. If you're swamped this morning I will take a first crack, though I would like your review given that it is a tricky request. Just let me know

your review given that it is a tricky request. Just let me know.

-----Original Message-----
From: John_B._Wiegmann@nsc.eop.gov <John_B._Wiegmann@nsc.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Nov 30 20:43:21 2005
Subject: Any word on our language?

Edney, Michael

From: Edney, Michael
Sent: Thursday, December 01, 2005 8:53 AM
To: Gorsuch, Neil M
Subject: Read: Any word on our language?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 01, 2005 8:55 AM
To: McCallum, Robert (SMO)
Subject: FW: Kyl article -- FYI
Attachments: tmp.htm; toplogo.gif; ns

Thought this might be of interest, esp the following boast --

Allowing terrorist detainees to file multiple lawsuits against their captors doesn't just make a mockery of our justice system, it impedes that critical intelligence function. [redacted] a lawyer for numerous Guantanamo detainees, boasted to Mother Jones magazine in March that:

"The litigation is brutal for [the Untied States]. It's huge. We have over one hundred lawyers now from big and small firms working to represent these detainees. Every time an attorney goes down there, it makes it that much harder [for the U.S. military]. You can't run an interrogation...with attorneys."

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Thursday, December 01, 2005 8:44 AM
To: Moschella, William; Gorsuch, Neil M
Subject: FW: Kyl article -- FYI

<http://www.truthnews.net/index.html>

<http://www.burstnet.com/ads/ad9184a-map.cgi/ns> Click Here

Should Foreign Terrorists Have the Right to Sue U.S. Troops?

Jon Kyl, November 28, 2005

The U.S. Supreme Court recently decided that even prisoners in the war against terrorism have a legal right to contest their "status" - even those who would kill us in an instant if given half a chance. They can do that by suing their captors under a statute that is available to criminal defendants in U.S. Courts. But this procedure (called a writ of habeas corpus) is not a Constitutional right for non-U.S. citizens. Neither prisoners of war nor terrorist detainees have ever had such a right in previous wars.

The detainees at Guantanamo Bay, Cuba, have been called the worst of the worst. These terrorist trainers, bomb makers, recruiters, financiers and bodyguards of Osama bin Laden have indiscriminately targeted civilians. For a variety of reasons, they do not qualify for the protections of the Geneva Conventions. Nonetheless, official U.S. policy is to apply Geneva standards, including access to lawyers, Red Cross visits, and so forth. A Combatant Status Review Tribunal (CSRT) system allows every detainee to challenge his designation as an enemy combatant, and the status of each is assessed annually by an Administrative Review Board. Each detainee is assigned a military officer as a personal representative, to assists in hearing preparation. Detainees have the right to testify before the tribunal, call witnesses, and introduce any other evidence. The question has been their rights to challenge the CSRT decisions in federal court.

An amendment I recently co-sponsored with Senator Lindsey Graham (R-SC) and Carl Levin (D-MI) codified the traditional assumption (overturned by the recent Supreme Court decision) that federal law does not grant enemy combatants detained outside the United States the unfettered right to file suit in U.S. federal courts. The amendment would allow a one-time federal court review of military court decisions at Guantanamo, but it would be limited to the question of whether proper procedures and standards were followed.

The amendment was adopted by a vote of 84-14 and included in the Senate Defense Authorization bill, which is now being merged with the House of Representatives' version.

It's important to make clear that this amendment does not affect the cherished and historic habeas corpus rights of American citizens. It's simply a necessary clarification for detainees since, for the first time in our history, foreign terrorists in large numbers have begun to claim the same benefits as citizens under the Constitution and our laws. More than 160 habeas cases have been brought in the DC Circuit Court on behalf of approximately 300 Guantanamo detainees. Without clarification of the law, all 500 detainees at the facility, and many more in the future, could demand federal court hearings not only on whether the government correctly classified them as enemy combatants, but on any other subject as well. Some have already sued over matters such as the kinds of reading material that are made available to them.

International law allows any nation the right to detain enemy combatants for the duration of a conflict. We certainly never "tried" captured Nazis or Japanese POWs in World War II (with the exception of a few leaders charged with war crimes), although many were held for years. The primary reason we detain members of al Qaeda is to prevent them from killing more Americans, and, secondarily, to gather useful intelligence.

Allowing terrorist detainees to file multiple lawsuits against their captors doesn't just make a mockery of our justice system, it impedes that critical intelligence function. Michael Ratner, a lawyer for numerous Guantanamo detainees, boasted to Mother Jones magazine in March that:

"The litigation is brutal for [the Untied States]. It's huge. We have over one hundred lawyers now from big and small firms working to represent these detainees. Every time an attorney goes down there, it makes it that much harder [for the U.S. military]. You can't run an interrogation...with attorneys."

My colleague Sen. Lindsey Graham of South Carolina recently responded on the Senate floor: "The detainees at Guantanamo are not American citizens facing criminal trial, [but] terrorists who have taken up arms against the United States. There has never been a time in our military history where an enemy combatant or prisoner of war has been allowed access to federal court to bring lawsuits against the people they are fighting."

In other words, foreign terrorists have never had the right to sue U.S. troops. And now is certainly not the time to give it to them.

Senator Jon Kyl, a Republican, represents Arizona in the U.S. Senate. He serves on the Senate Judiciary Committee, the Finance Committee, and the Energy and Natural Resources Committee.

Headlines

* <http://www.truthnews.net/daily/2005110160.htm> Palestinian Primary Election Suspended

* <http://www.truthnews.net/daily/2005110161.htm> Israeli Labor Party Member to Join Sharon's New Party

* <http://www.truthnews.net/daily/2005110162.htm> Vatican Publishes Policy on Homosexual Priests

* <http://www.truthnews.net/daily/2005110163.htm> Two Britons Face Charges of Leaking Government Document

* <http://www.truthnews.net/daily/2005110164.htm> French Lower House Approves New Anti-Terrorism Law

* <http://www.truthnews.net/daily/2005110165.htm> Russia Prepares to Deal With Toxic Spill From China

* <http://www.truthnews.net/daily/2005110166.htm> Bomb Blasts Hit 2 Bangladeshi Cities

* <http://www.truthnews.net/daily/2005110167.htm> Death Toll in China Mine Blast Rises to 138

* <http://www.truthnews.net/daily/2005110168.htm> Japanese Asteroid Mission May Be Stuck in Space

* <http://www.truthnews.net/daily/2005110169.htm> 60 Feared Dead, Swept Off Train in Congo

* <http://www.truthnews.net/daily/2005110170.htm> Venezuelan Opposition Pulls Out of Sunday's Election

* <http://www.truthnews.net/daily/2005110171.htm> Canadian Government Ousted by No-Confidence Vote

* <http://www.truthnews.net/daily/2005110172.htm> Bush to Deliver Major Address on Iraq War

* <http://www.truthnews.net/daily/2005110173.htm> CIA Chief Goss Defends US Intelligence Agency

Feature Articles

* <http://www.truthnews.net/month/2005110028.htm> Iran: President Says Light Surrounded Him During UN Speech

* <http://www.truthnews.net/month/2005110029.htm> Allegations Of North Korean Counterfeiting Emerge

* <http://www.truthnews.net/month/2005110030.htm> China: A Lawyer Tests The Limits

* <http://www.truthnews.net/month/2005110031.htm> Iran: U.S., EU Say Tehran Proceeding With Uranium Plans

* <http://www.truthnews.net/month/2005110019.htm> Hezbollah Rocket Barrage Batters Israel's Northern Border

* <http://www.truthnews.net/month/2005110020.htm> Sharon On Quest To Draw Final Borders

* <http://www.truthnews.net/month/2005110021.htm> Iran Receives Nuclear Warhead Blueprints

* <http://www.truthnews.net/month/2005110022.htm> Sharon Quits Likud, Knesset Disbands

Commentary

* <http://www.truthnews.net/world/2005110033.htm> America Can't Abandon 27 Million Iraqis To 10,000 Terrorists Joseph Lieberman

* <http://www.truthnews.net/world/2005110034.htm> Sending a Message of Support to the Troops in Iraq Terry Everett

* <http://www.truthnews.net/world/2005110035.htm> Should Foreign Terrorists Have the Right to Sue U.S. Troops? Jon Kyl

* <http://www.truthnews.net/world/2005110036.htm> More of the Same at the Federal Reserve Ron Paul

* <http://www.truthnews.net/world/2005110037.htm> Thanksgiving George W. Bush

* <http://www.truthnews.net/world/2005110031.htm> Slashing the Budget? Ron Paul

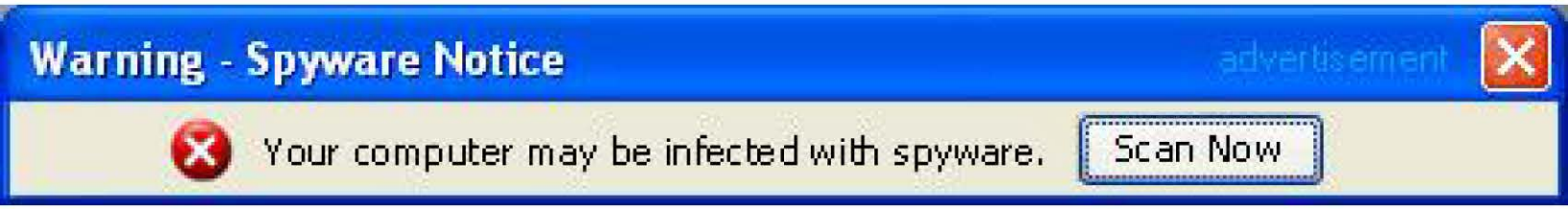
* <http://www.truthnews.net/world/2005110038.htm> Setting Priorities Joe Pitts

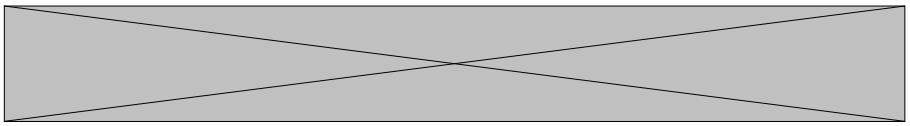
* <http://www.truthnews.net/world/2005110043.htm> U.S.-Asia Trade Relations George W. Bush

---

(c) 2005 <http://www.truthnews.net/index.html> TruthNews. All Rights Reserved.

[redacted] USAF
Legal Advisor to the Appointing Authority Office of Military Commissions (DoD) Room 532, CM3 Crystal City [redacted]


Warning - Spyware Notice
advertisement
Your computer may be infected with spyware.
Scan Now



Should Foreign Terrorists Have the Right to Sue U.S. Troops?

Jon Kyl, November 28, 2005

The U.S. Supreme Court recently decided that even prisoners in the war against terrorism have a legal right to contest their "status" - even those who would kill us in an instant if given half a chance. They can do that by suing their captors under a statute that is available to criminal defendants in U.S. Courts. But this procedure (called a writ of habeas corpus) is not a Constitutional right for non-U.S. citizens. Neither prisoners of war nor terrorist detainees have ever had such a right in previous wars.

The detainees at Guantanamo Bay, Cuba, have been called the worst of the worst. These terrorist trainers, bomb makers, recruiters, financiers and bodyguards of Osama bin Laden have indiscriminately targeted civilians. For a variety of reasons, they do not qualify for the protections of the Geneva Conventions. Nonetheless, official U.S. policy is to apply Geneva standards, including access to lawyers, Red Cross visits, and so forth. A Combatant Status Review Tribunal (CSRT) system allows every detainee to challenge his designation as an enemy combatant, and the status of each is assessed annually by an Administrative Review Board. Each detainee is assigned a military officer as a personal representative, to assists in hearing preparation. Detainees have the right to testify before the tribunal, call witnesses, and introduce any other evidence. The question has been their rights to challenge the CSRT decisions in federal court.

An amendment I recently co-sponsored with Senator Lindsey Graham (R-SC) and Carl Levin (D-MI) codified the traditional assumption (overturned by the recent Supreme Court decision) that federal law does not grant enemy combatants detained outside the United States the unfettered right to file suit in U.S. federal courts. The amendment would allow a one-time federal court review of military court decisions at Guantanamo, but it would be limited to the question of whether proper procedures and standards were followed.

The amendment was adopted by a vote of 84-14 and included in the Senate Defense Authorization bill, which is now being merged with the House of Representatives' version.

It's important to make clear that this amendment does not affect the cherished and historic habeas corpus rights of American citizens. It's simply a necessary

clarification for detainees since, for the first time in our history, foreign terrorists in large numbers have begun to claim the same benefits as citizens under the Constitution and our laws. More than 160 habeas cases have been brought in the DC Circuit Court on behalf of approximately 300 Guantanamo detainees. Without clarification of the law, all 500 detainees at the facility, and many more in the future, could demand federal court hearings not only on whether the government correctly classified them as enemy combatants, but on any other subject as well. Some have already sued over matters such as the kinds of reading material that are made available to them.

International law allows any nation the right to detain enemy combatants for the duration of a conflict. We certainly never "tried" captured Nazis or Japanese POWs in World War II (with the exception of a few leaders charged with war crimes), although many were held for years. The primary reason we detain members of al Qaeda is to prevent them from killing more Americans, and, secondarily, to gather useful intelligence.

Allowing terrorist detainees to file multiple lawsuits against their captors doesn't just make a mockery of our justice system, it impedes that critical intelligence function. Michael Ratner, a lawyer for numerous Guantanamo detainees, boasted to Mother Jones magazine in March that:

> "The litigation is brutal for [the Untied States]. It's huge. We have over one hundred lawyers now from big and small firms working to represent these detainees. Every time an attorney goes down there, it makes it that much harder [for the U.S. military]. You can't run an interrogation...with attorneys."

My colleague Sen. Lindsey Graham of South Carolina recently responded on the Senate floor: "The detainees at Guantanamo are not American citizens facing criminal trial, [but] terrorists who have taken up arms against the United States. There has never been a time in our military history where an enemy combatant or prisoner of war has been allowed access to federal court to bring lawsuits against the people they are fighting."

In other words, foreign terrorists have never had the right to sue U.S. troops. And now is certainly not the time to give it to them.

Senator Jon Kyl, a Republican, represents Arizona in the U.S. Senate. He serves on the Senate Judiciary Committee, the Finance Committee, and the Energy and Natural Resources Committee.

Headlines

- Palestinian Primary Election Suspended
- Israeli Labor Party Member to Join Sharon's New Party
- Vatican Publishes Policy on Homosexual Priests
- Two Britons Face Charges of Leaking Government Document
- French Lower House Approves New Anti-Terrorism Law
- Russia Prepares to Deal With Toxic Spill From China
- Bomb Blasts Hit 2 Bangladeshi Cities
- Death Toll in China Mine Blast Rises to 138
- Japanese Asteroid Mission May Be Stuck in Space
- 60 Feared Dead, Swept Off Train in Congo
- Venezuelan Opposition Pulls Out of Sunday's Election
- Canadian Government Ousted by No-Confidence Vote
- Bush to Deliver Major Address on Iraq War
- CIA Chief Goss Defends US Intelligence Agency

Feature Articles

- Iran: President Says Light Surrounded Him During UN Speech
- Allegations Of North Korean Counterfeiting Emerge
- China: A Lawyer Tests The Limits
- Iran: U.S., EU Say Tehran Proceeding With Uranium Plans
- Hezbollah Rocket Barrage Batters Israel's Northern Border
- Sharon On Quest To Draw Final Borders
- Iran Receives Nuclear Warhead Blueprints
- Sharon Quits Likud, Knesset Disbands

Commentary

- America Can't Abandon 27 Million Iraqis To 10,000 TerroristsJoseph Lieberman
- Sending a Message of Support to the Troops in IraqTerry Everett
- Should Foreign Terrorists Have the Right to Sue U.S. Troops?Jon Kyl
- More of the Same at the Federal ReserveRon Paul
- Thanksgiving George W. Bush
- Slashing the Budget? Ron Paul
- Setting Priorities Joe Pitts
- U.S.-Asia Trade Relations George W. Bush

© 2005 TruthNews. All Rights Reserved.

[redacted]
Office of Military Commissions (DoD)
Room 532, CM3
Crystal City
[redacted]

TruthNews

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 1, 2005 10:29 AM
To: [redacted] (DHS)
Subject: Could you give me a ring at your convenience?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 1, 2005 10:32 AM
To: Schiffer, Stuart (CIV)
Cc: Swenson, Lily F
Subject: FW:

Here's Raul's availability. Please let me know which you and your team prefers. Many thanks. NMG

-----Original Message-----
From: Raul_F._Yanes@omb.eop.gov [mailto:Raul_F._Yanes@omb.eop.gov]
Sent: Thursday, December 01, 2005 10:25 AM
To: Gorsuch, Neil M
Subject: RE:

Thanks Neil. Tomorrow afternoon, Monday morning, Tuesday afternoon are all possibilities.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 01, 2005 11:15 AM
To: Raul Yanes (E-mail)
Cc: Schiffer, Stuart (CIV); Swenson, Lily F
Subject: FW:

Raul,

Stuart Schiffer is the man in the know here. How about tomorrow morning at 10:30? Just let us know where you'd like to meet; we're happy to come to you or vv.

Best,

NMG

-----Original Message-----
From: Schiffer, Stuart (CIV)
Sent: Thursday, December 01, 2005 11:09 AM
To: Gorsuch, Neil M
Subject: RE:

I prefer tomorrow or Tuesday, but I can do Monday if necessary.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, December 01, 2005 10:32 AM
To: Schiffer, Stuart (CIV)
Cc: Swenson, Lily F
Subject: FW:

Here's Raul's availability. Please let me know which you and your team prefers. Many thanks. NMG

-----Original Message-----
From: Raul_F._Yanes@omb.eop.gov [mailto:Raul_F._Yanes@omb.eop.gov]
Sent: Thursday, December 01, 2005 10:25 AM
To: Gorsuch, Neil M
Subject: RE:

Thanks Neil. Tomorrow afternoon, Monday morning, Tuesday afternoon are all possibilities.

Hart, Rosemary

From: Hart, Rosemary
Sent: Thursday, December 1, 2005 10:21 AM
To: Gorsuch, Neil M
Subject: Read: EO Amendments

Otus2005, Ag

Subject:	Updated: WORKING LUNCH: PREP: Council on Foreign Relations Q&A
Start:	Thursday, December 1, 2005 12:30 PM
End:	Thursday, December 1, 2005 1:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Scolinos, Tasia; Gorsuch, Neil M; Fisher, Alice; Oldham, Jeffrey L; Taylor, Jeffrey (OAG)

AG's Dining Room
AO: Kyle Sampson, DOJ: Courtney Elwood, Tasia Scolinos, Neil Gorsuch, Alice Fisher, Jeff Oldham, Jeff Taylor

Otus2005, Ag

Subject:	Accepted: Updated: WORKING LUNCH: PREP: Council on Foreign Relations Q&A
Start:	Thursday, December 01, 2005 12:30 PM
End:	Thursday, December 01, 2005 1:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Gorsuch, Neil M

Subject:	Steve Benz
Location:	Oceanaire
Start:	Tuesday, December 20, 2005 12:00 PM
End:	Tuesday, December 20, 2005 1:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject: CFR Holiday Party

Start: Tuesday, December 6, 2005 6:00 PM
End: Tuesday, December 6, 2005 8:00 PM

Recurrence: (none)

Meeting Status: No response required

Organizer: Gorsuch, Neil M

Tuesday, December 6, 2005

6:00-8:00 PM

*Special location
The Washington Club
15 Dupont Circle, NW
Washington, DC 20036

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 01, 2005 11:17 AM
To: Shaw, Aloma A
Subject: FW: 12/12 CFR Meeting: "Iraq: The Way Forward" with Robert D. Blackwill

please could you accept and add to calendar?

-----Original Message-----
From: dcmeetings@cfr.org [mailto:dcmeetings@cfr.org]
Sent: Monday, November 28, 2005 3:10 PM
To: Gorsuch, Neil M
Subject: 12/12 CFR Meeting: "Iraq: The Way Forward" with Robert D. Blackwill

COUNCIL ON FOREIGN RELATIONS

WASHINGTON OFFICE
1779 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20036-2109
Email dcmeetings@cfr.org
Meetings Response Line Tel 202 518 3479
Fax 202 986 2984

DC MEETING

IRAQ: THE WAY FORWARD

[redacted] Council on Foreign Relations

[redacted] The Washington Post presiding

In the next installment of our "Iraq: The Way Forward" series, Amb. Blackwill, former presidential envoy to Iraq, will discuss the general political, military, and economic situation in the country, including the upcoming elections and the role of Iran.

Monday, December 12, 2005

12:00-12:30 PM Buffet lunch
12:30-1:30 PM Meeting

Council on Foreign Relations
1779 Massachusetts Avenue, N.W.
Washington, D.C. 20036

Washington, D.C. 20036

This meeting is on the record.

To attend, please reply directly to this email (dcmeetings@cfr.org), call the DC Meetings Response Line at (202) 518-3479, register online at www.cfr.org/member, or fax your acceptance to (202) 986-2984.

This invitation is not transferable.
CFR meetings are open to Council members only unless otherwise noted.

Please update the information below if necessary:
Member Name: Neil M. Gorsuch 00355063
Company/Affiliation: U.S. Department of Justice
Telephone: 202-305-1434
Fax: 202-514-0238
E-mail: neil.gorsuch@usdoj.gov
I prefer to receive invitations and meeting updates via: email fax

Williams, Jan

From: Williams, Jan
Sent: Thursday, December 1, 2005 2:11 PM
To: Gorsuch, Neil M
Subject: Read: [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 1, 2005 3:40 PM
To: Shaw, Aloma A
Subject: Re: Mtg w/ Raul?

Plse could you set it up with lily and stuart schiffer? Thanks.

-----Original Message-----
From: Shaw, Aloma A <Aloma.A.Shaw@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Dec 01 15:25:33 2005
Subject: Mtg w/ Raul?

Neil:
Carla called for the room number for tomorrow's mtg. There is nothing on your calendar about this mtg. She said it's at 10:30, in Main Justice and it regards "Spent Nuclear Waste." Do you know anything about this mtg?
Aloma

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 1, 2005 5:18 PM
To: [redacted]@apprisemedia.com'
Subject: Re: Detainee Treatment Roundtable

All the guys from detainee affairs would be good. I invited head of shop but he couldn't do it. adm [redacted]wpould be partic good but I had thought he might be too snr for this crowd. Let's talk. We are just few minutes away...

-----Original Message-----
From: [redacted]@apprisemedia.com <[redacted]@apprisemedia.com>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Dec 01 16:16:35 2005
Subject: FW: Detainee Treatment Roundtable

One of these guys could be interesting. What do you think?

From: [redacted]@cfr.org [mailto:[redacted]@cfr.org]
Sent: Thursday, December 01, 2005 4:07 PM
To: [redacted]
Cc: [redacted]@cfr.org; [redacted]@cfr.org
Subject: Detainee Treatment Roundtable

[redacted]

See e-mail below. I think one of these consultants would be a good possibility for the panel discussion on 12 Dec. I'll let you make contact.

Pete

COL [redacted]
Senior Military Fellow
Council on Foreign Relations
58 East 68th Street, New York, NY 10021
Tel [redacted] Fax (212) 434-9816
http://www.cfr.org

----- Forwarded by [redacted]/NY/CFR on 12/01/2005 03:30 PM -----

"[redacted] CIV, OSD-POLICY" <[redacted]@osd.mil>

12/01/2005 03:28 PM

To
"[redacted]@cfr.org'" <[redacted]@cfr.org>
cc
"[redacted]@osd.gov'" <[redacted]@osd.gov>
Subject
BRIEFING PROPOSAL

[redacted]
Delighted to touch base again after several years being in the trenches.
I'm working as the policy advisor for the Office of Detainee Affairs under the Office of Secretary of Defense. We do policy for the Department of Defense related to detainee issues Part of our charter is outreach and we have an outreach presentation related to our operations in Guantanamo Bay which I believe would be an interesting forum/presentation for the Council. The four presenters are:

1. [redacted], Principal Director, Office of Detainee Affairs, Office of the Secretary of Defense (DASD-DA)
2. RADM [redacted], Director, Office for the Administrative Review of the Detention of Enemy Combatants (OARDEC)
3. BGEN [redacted], USAF, Legal Adviser to the Appointing Authority, Office of Military Commissions (OMC)

4 COL [redacted], USAF, Detainee Affairs Division Chief, Joint Chiefs of Staff (JCS)

Given the dates of the presentation organizational substitutes may be used, but the format will be the same.
The panel is called "the Guantanamo Bay Detainee Policies, Proceses and Operations brief".
The brief is approximately 50 minutes is length and followed by a 30 minute Q and A session. Of course a closed door non attribution session with the Council experts is also possible.

Please discuss with your colleagues and let's discuss. My telephone number is: [redacted]. Hope you are enjoying my favorite town and look forward to seeing you in the near future.

Cheers,
[redacted]

Moschella, William

From: Moschella, William
Sent: Thursday, December 01, 2005 7:09 PM
To: Gorsuch, Neil M
Subject: Read:

Beach, Andrew

Subject:	Updated: Senior Management Meeting
Start:	Friday, December 2, 2005 9:00 AM
End:	Friday, December 2, 2005 9:30 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Beach, Andrew
Required Attendees:	Korn, Jennifer; McNulty, Paul J; McCallum, Robert (SMO); Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Williams, Jan; Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Gorsuch, Neil M; Mercer, Bill (ODAG); Moschella, William

When: Friday, December 02, 2005 9:00 AM-9:30 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, ASG Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Richard Hertling for Rachel Brand, Will Moschella, Jennifer Korn

Otus2005, Ag

Subject:	Canceled: Senior Management Meeting
Start:	Friday, December 02, 2005 9:00 AM
End:	Friday, December 02, 2005 9:30 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 9:00 AM to 9:30 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Otus2005, Ag; McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); McNulty, Paul J; Goodling, Monica; Korn, JenniferOtus2005, Ag; McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); McNulty, Paul J; Goodling, Monica; Korn, Jennifer
Importance:	High

AG's Conference Room
DOJ: Paul McNulty, ASG Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Jennifer Korn

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 02, 2005 10:18 AM
To: Elwood, Courtney
Subject: Speech

Want to grab a cup of coffee this morning to talk?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 2, 2005 10:27 AM
To: Elwood, Courtney
Subject: RE: Speech

On conf call now - would 11 work?

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, December 02, 2005 10:22 AM
To: Gorsuch, Neil M
Subject: Re: Speech

Sure. 10:30??

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Fri Dec 02 10:18:27 2005
Subject: Speech

Want to grab a cup of coffee this morning to talk?

Elwood, Courtney

From: Elwood, Courtney
Sent: Friday, December 02, 2005 10:28 AM
To: Gorsuch, Neil M
Subject: Read: Speech

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 2, 2005 10:35 AM
To: Elwood, Courtney
Subject: RE: Speech

how about 2?

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, December 02, 2005 10:33 AM
To: Gorsuch, Neil M
Subject: RE: Speech

Ergh. I have to cover something at 11:10 and will be busy until about noon.

Courtney Simmons Elwood
Deputy Chief of Staff and
Counselor to the Attorney General
(o) 202.514.2267
(c) 202.532.5202
(fax) 202.305-9687

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, December 02, 2005 10:27 AM
To: Elwood, Courtney
Subject: RE: Speech

On conf call now - would 11 work?

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, December 02, 2005 10:22 AM
To: Gorsuch, Neil M
Subject: Re: Speech

Sure. 10:30??

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Fri Dec 02 10:18:27 2005
Subject: Speech

Want to grab a cup of coffee this morning to talk?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 02, 2005 11:15 AM
To: Elwood, Courtney
Subject: RE: Speech

I am free now until 1215. If you free up, just let me know.

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, December 02, 2005 10:40 AM
To: Gorsuch, Neil M
Subject: RE: Speech

Unfortunately I'll be heading home about 2; it's one of my short days. If you have a free minute between now and then, just give me a shout. The only meeting I have is between 11:10 and 11:50.

Courtney Simmons Elwood
Deputy Chief of Staff and
Counselor to the Attorney General
(o) 202.514.2267
(c) 202.532.5202
(fax) 202.305-9687

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, December 02, 2005 10:35 AM
To: Elwood, Courtney
Subject: RE: Speech

how about 2?

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, December 02, 2005 10:33 AM
To: Gorsuch, Neil M
Subject: RE: Speech

Ergh. I have to cover something at 11:10 and will be busy until about noon.

Courtney Simmons Elwood

Courtney Simmons Elwood
Deputy Chief of Staff and
Counselor to the Attorney General
(o) 202.514.2267
(c) 202.532.5202
(fax) 202.305-9687

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, December 02, 2005 10:27 AM
To: Elwood, Courtney
Subject: RE: Speech

On conf call now - would 11 work?

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, December 02, 2005 10:22 AM
To: Gorsuch, Neil M
Subject: Re: Speech

Sure. 10:30??

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Fri Dec 02 10:18:27 2005
Subject: Speech

Want to grab a cup of coffee this morning to talk?

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Friday, December 2, 2005 3:31 PM
To:	Kim, Wan (CRT); Elwood, Courtney; McCallum, Robert (SMO); Scott-Finan, Nancy; Seidel, Rebecca
Cc:	Comisac, Rena (CRT); Longwitz, Tobi (CRT)
Subject:	RE: specter congressional - draft.wpd

Excellent letter. One minor nit: you might want to explain what sec 203 is, to make unequivocally clear to the uninitiated that it is directed at minority voting rights.

-----Original Message-----
From: Kim, Wan (CRT)
Sent: Friday, December 02, 2005 3:06 PM
To: Elwood, Courtney; Gorsuch, Neil M; McCallum, Robert (SMO); Scott-Finan, Nancy; Seidel, Rebecca
Cc: Comisac, Rena (CRT); Longwitz, Tobi (CRT)
Subject: specter congressional - draft.wpd

We appreciate any comments and suggestions.

Gorsuch, Neil M

Subject:	JJ/Steph in town; epa lunch
Location:	Carson Hall (Green Room) Ariel Rios Building
Start:	Tuesday, January 17, 2006 12:00 PM
End:	Tuesday, January 17, 2006 4:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Portrait unveiling at 330

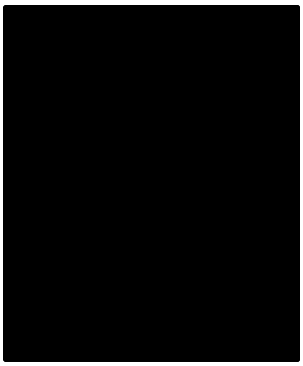
Sampson, Kyle

Subject:	Accepted: Updated: IP Task Force Meeting
Location:	Room 5228 (OAG small conference room)
Start:	Tuesday, December 13, 2005 4:00 PM
End:	Tuesday, December 13, 2005 5:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Sampson, Kyle

Full Name:
Last Name:
First Name:
Job Title:

Business Address:

Business:
Business Fax:



Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Friday, December 2, 2005 5:23 PM
To:	'dcmeetings@cfr.org'
Cc:	Shaw, Aloma A
Subject:	RE: 12/7 CFR Meeting with President George W. Bush

Please do put me down for the event. Many thanks! NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: dcmeetings@cfr.org [mailto:dcmeetings@cfr.org]
Sent: Friday, December 02, 2005 4:54 PM
To: Gorsuch, Neil M
Subject: 12/7 CFR Meeting with President George W. Bush

COUNCIL ON FOREIGN RELATIONS

WASHINGTON OFFICE
1779 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20036-2109
Email dcmeetings@cfr.org
Meetings Response Line Tel 202 518 3479
Fax 202 986 2984

The Council on Foreign Relations cordially invites you to a special
address by the President of the United States.

PRESIDENT GEORGE W. BUSH

President Bush will address Council members for approximately 50 minutes on the Global War on Terror. (No question period.)

With introduction by
[redacted]

President, Council on Foreign Relations

Wednesday, December 7, 2005
Please note special time and location

11:00 AM - 12:00 PM
(Doors close at 10:30 AM)

at

The Omni Shoreham Hotel
Blue Ballroom
2500 Calvert Street, N.W.
Washington, D.C. 20008

To attend, please reply directly to this email (dcmeetings@cfr.org),
call the DC Meetings Response Line at (202) 518-3479, or fax your acceptance to (202) 986-2984.

This invitation is not transferable. This meeting is only open to Council members - absolutely no guests can be accommodated.

You must RSVP by Tuesday, December 6th at 12 PM.

**You are not confirmed for this event until you receive word from Council staff verifying your registration. (We will contact you based on your preferred method of receiving invitations.) We anticipate this event being oversubscribed quickly; confirmations will be made in the order in which RSVPs are received. Due to security requirements, if your name is not on the roster you will not be able to attend the event. Once your registration is confirmed, you will receive additional information from the Council on security requirements for this event.

Doors will open at 9:00 AM and close at 10:30 AM.

Member Name: Neil M. Gorsuch 00355063
Company/Affiliation: U.S. Department of Justice
Telephone: 202-305-1434
Fax: 202-514-0238
E-mail: neil.gorsuch@usdoj.gov
I prefer to receive invitations and meeting updates via: email fax
(32509)

Gorsuch, Neil M

Subject:	Princeton Manuscript Due. Turnaround by Feb 17
Start:	Friday, January 20, 2006 11:30 AM
End:	Friday, January 20, 2006 12:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 2, 2005 5:47 PM
To: [redacted]@aol.com'
Cc: '[redacted]@cfr.org'
Subject: Dec 12 Roundtable

Pat,

Thanks so much for agreeing to participate in the Dec. 12 roundtable in NY on detainee interrogation/detention. [redacted]at CFR can help set up your travel arrangements and I'm cc'g her to put you two in touch. Please keep me in the loop on what you decide because I will try, if possible, to arrange to travel with you.

Best regards,

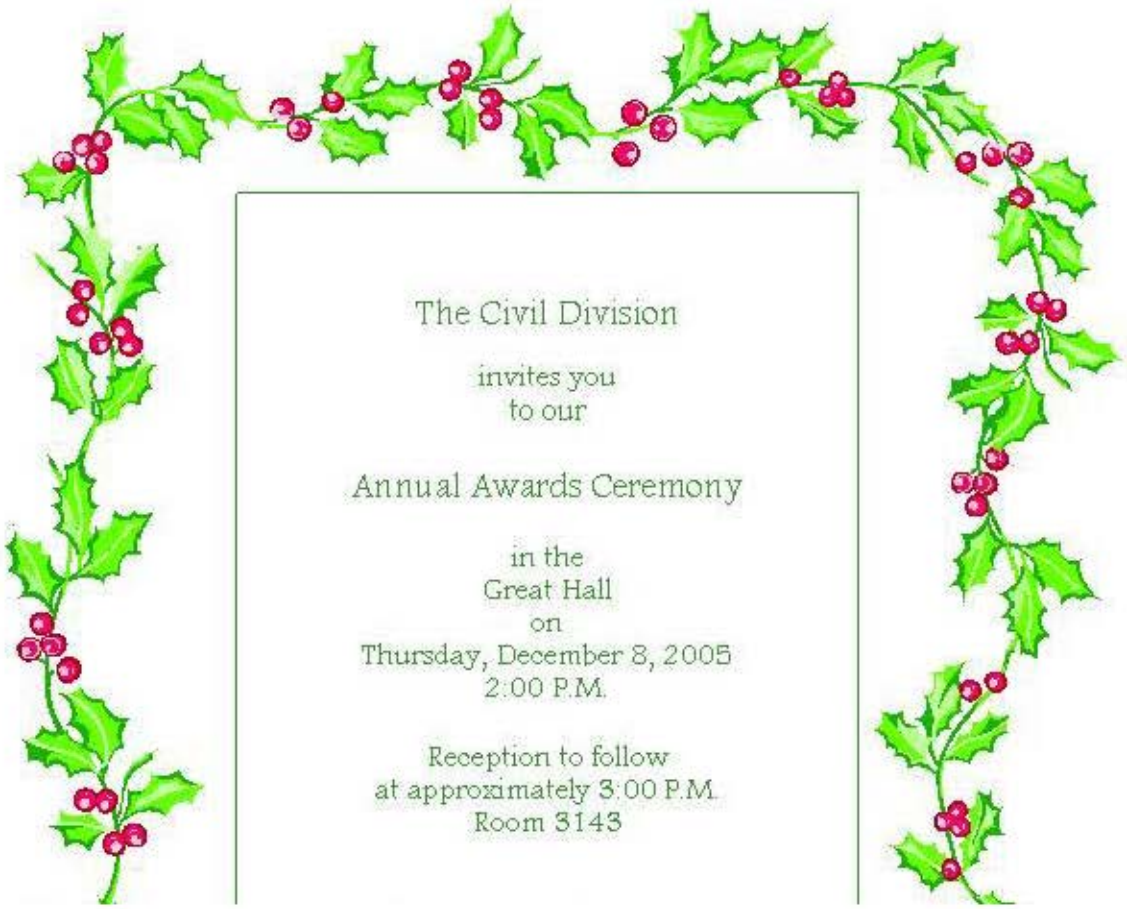
NMG

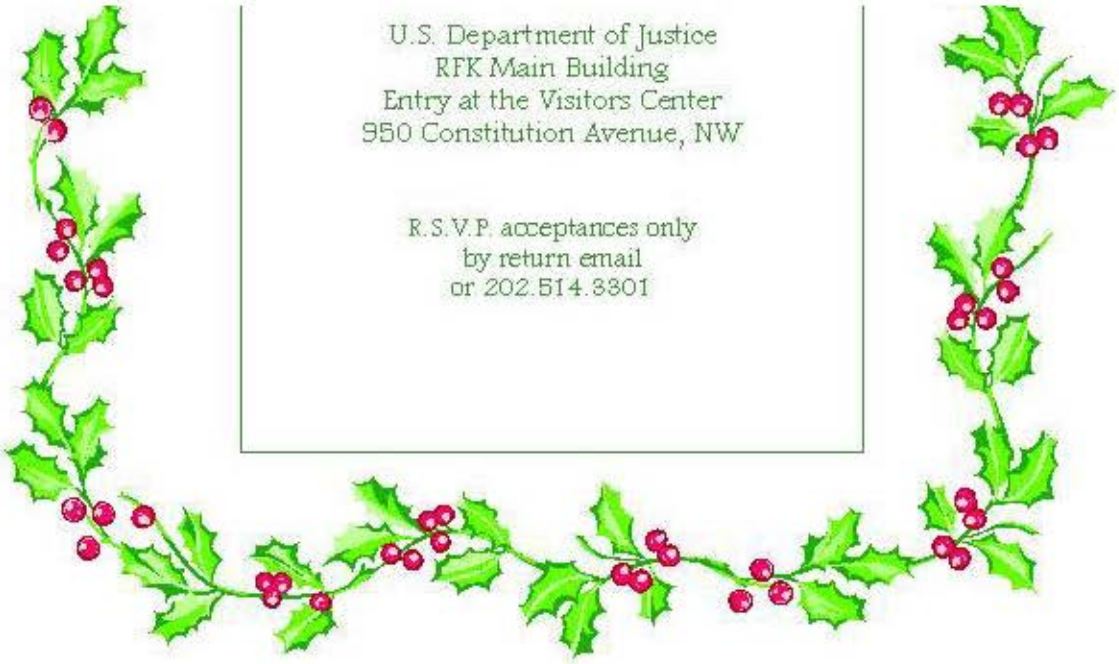
Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: [redacted]
cell: ([redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Friday, December 02, 2005 4:47 PM
To:	Shaw, Aloma A
Subject:	FW: An invitation for you from the Civil Division

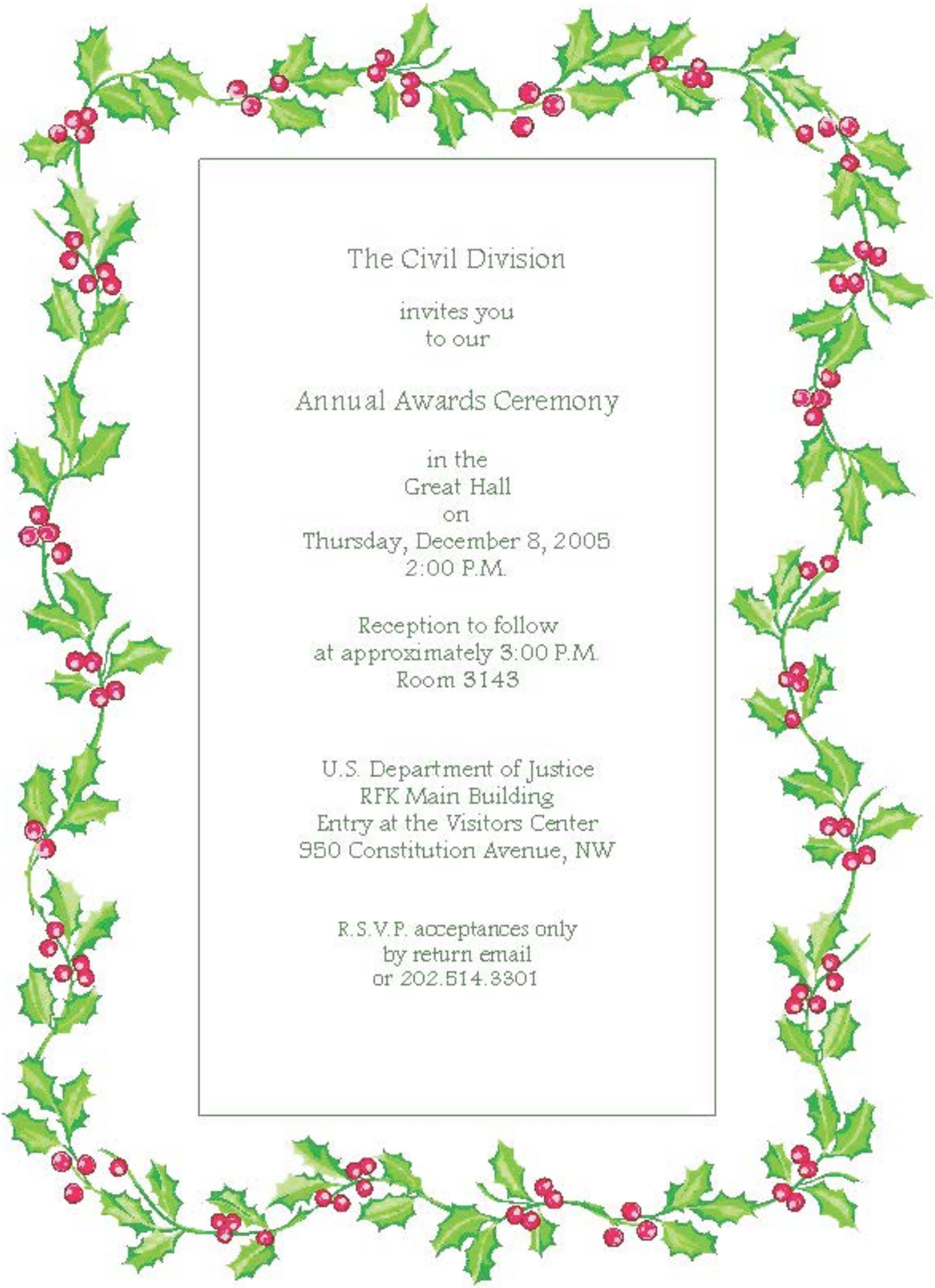
Please could you rsvp yes and add to the calendar?
-----Original Message-----
From: Calvert, Chris (CIV)
Sent: Thursday, December 01, 2005 2:52 PM
Cc: Elwood, Courtney; Oldham, Jeffrey L; Pacold, Martha M; Sampson, Kyle; Taylor, Jeffrey (OAG); Williams, Jan; McNulty, Paul J; Mercer, Bill (ODAG); Margolis, David; Otis, Lee L; McCallum, Robert (SMO); Gorsuch, Neil M; Henke, Tracy (SMO); Kessler, Elizabeth A; Reyes, Luis (SMO); Swenson, Lily F; Clement, Paul D; Garre, Gregory G; Dreeben, Michael R; Hungar, Thomas G; Kneedler, Edwin S; Bradbury, Steve; Boardman, Michelle; Elwood, John; Marshall, C. Kevin; Fisher, Alice; Barnett, Thomas O.; Wooldridge, Sue Ellen (ENRD); Cruden, John (ENRD); O'Connor, Eileen J. (AAG/TAX); Kim, Wan (CRT); King, Loretta (CRT); Schlozman, Brad (CRT); Brand, Rachel; Moschella, William; Seidel, Rebecca; Corts, Paul R; Scolinos, Tasia; Miller, Charles S; Fine, Glenn A. (OIG); Jarrett, Marshall; Baker, James; Roberts, Crystal; Battle, Michael (USAEO); Senger, Jeffrey M; Cinciotta, Linda A
Subject: An invitation for you from the Civil Division





U.S. Department of Justice
RFK Main Building
Entry at the Visitors Center
950 Constitution Avenue, NW

R.S.V.P. acceptances only
by return email
or 202.514.3301



The Civil Division

invites you
to our

Annual Awards Ceremony

in the
Great Hall
on
Thursday, December 8, 2005
2:00 P.M.

Reception to follow
at approximately 3:00 P.M.
Room 3143

U.S. Department of Justice
RFK Main Building
Entry at the Visitors Center
950 Constitution Avenue, NW

R.S.V.P. acceptances only
by return email
or 202.514.3301

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 2, 2005 5:50 PM
To: '[redacted]@aol.com'
Cc: '[redacted]@cfr.org'
Subject: RE: Dec 12 Roundtable

Realized that I missed a letter in your email address. Trying again.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, December 02, 2005 5:47 PM
To: [redacted]@aol.com'
Cc: [redacted]@cfr.org'
Subject: Dec 12 Roundtable

Pat,

Thanks so much for agreeing to participate in the Dec. 12 roundtable in NY on detainee interrogation/detention. [redacted] at CFR can help set up your travel arrangements and I'm cc'g her to put you two in touch. Please keep me in the loop on what you decide because I will try, if possible, to arrange to travel with you.

Best regards,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: [redacted]
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 02, 2005 4:57 PM
To: Shaw, Aloma A
Subject: FW: 12/7 CFR Meeting with President George W. Bush

please could you accept and put it on the calendar?

-----Original Message-----
From: dcmeetings@cfr.org [mailto:dcmeetings@cfr.org]
Sent: Friday, December 02, 2005 4:54 PM
To: Gorsuch, Neil M
Subject: 12/7 CFR Meeting with President George W. Bush

COUNCIL ON FOREIGN RELATIONS

WASHINGTON OFFICE
1779 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20036-2109
Email dcmeetings@cfr.org
Meetings Response Line Tel 202 518 3479
Fax 202 986 2984

The Council on Foreign Relations cordially invites you to a special address by the President of the United States.

PRESIDENT GEORGE W. BUSH

President Bush will address Council members for approximately 50 minutes on the Global War on Terror. (No question period.)

With introduction by
[redacted]
President, Council on Foreign Relations

Wednesday, December 7, 2005
Please note special time and location

11:00 AM - 12:00 PM
(Doors close at 10:30 AM)

at

The Omni Shoreham Hotel
Blue Ballroom
2500 Calvert Street, N.W.

2500 Calvert Street, N.W.
Washington, D.C. 20008

To attend, please reply directly to this email (dcmeetings@cfr.org),
call the DC Meetings Response Line at (202) 518-3479, or fax your acceptance to (202) 986-2984.

This invitation is not transferable. This meeting is only open to Council members - absolutely no guests can be accommodated.

You must RSVP by Tuesday, December 6th at 12 PM.

**You are not confirmed for this event until you receive word from Council staff verifying your registration. (We will contact you based on your preferred method of receiving invitations.) We anticipate this event being oversubscribed quickly; confirmations will be made in the order in which RSVPs are received. Due to security requirements, if your name is not on the roster you will not be able to attend the event. Once your registration is confirmed, you will receive additional information from the Council on security requirements for this event.

Doors will open at 9:00 AM and close at 10:30 AM.

Member Name: Neil M. Gorsuch 00355063
Company/Affiliation: U.S. Department of Justice
Telephone: 202-305-1434
Fax: 202-514-0238
E-mail: neil.gorsuch@usdoj.gov
I prefer to receive invitations and meeting updates via: email fax
(32509)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 2, 2005 4:58 PM
To: Elwood, Courtney; Sampson, Kyle; Oldham, Jeffrey L
Subject: FW: 12/7 CFR Meeting with President George W. Bush

FYI!

-----Original Message-----
From: dcmeetings@cfr.org [mailto:dcmeetings@cfr.org]
Sent: Friday, December 02, 2005 4:54 PM
To: Gorsuch, Neil M
Subject: 12/7 CFR Meeting with President George W. Bush

COUNCIL ON FOREIGN RELATIONS

WASHINGTON OFFICE
1779 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20036-2109
Email dcmeetings@cfr.org
Meetings Response Line Tel 202 518 3479
Fax 202 986 2984

The Council on Foreign Relations cordially invites you to a special address by the President of the United States.

PRESIDENT GEORGE W. BUSH

President Bush will address Council members for approximately 50 minutes on the Global War on Terror. (No question period.)

With introduction by
[redacted]
President, Council on Foreign Relations

Wednesday, December 7, 2005
Please note special time and location

11:00 AM - 12:00 PM
(Doors close at 10:30 AM)

at

The Omni Shoreham Hotel
Blue Ballroom
2500 Calvert Street, N.W.

2500 Calvert Street, N.W.
Washington, D.C. 20008

To attend, please reply directly to this email (dcmeetings@cfr.org),
call the DC Meetings Response Line at (202) 518-3479, or fax your acceptance to (202) 986-2984.

This invitation is not transferable. This meeting is only open to Council members - absolutely no guests can be accommodated.

You must RSVP by Tuesday, December 6th at 12 PM.

**You are not confirmed for this event until you receive word from Council staff verifying your registration. (We will contact you based on your preferred method of receiving invitations.) We anticipate this event being oversubscribed quickly; confirmations will be made in the order in which RSVPs are received. Due to security requirements, if your name is not on the roster you will not be able to attend the event. Once your registration is confirmed, you will receive additional information from the Council on security requirements for this event.

Doors will open at 9:00 AM and close at 10:30 AM.

Member Name: Neil M. Gorsuch 00355063
Company/Affiliation: U.S. Department of Justice
Telephone: 202-305-1434
Fax: 202-514-0238
E-mail: neil.gorsuch@usdoj.gov
I prefer to receive invitations and meeting updates via: email fax
(32509)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 2, 2005 4:58 PM
To: Scolinos, Tasia
Subject: FW: 12/7 CFR Meeting with President George W. Bush

Meant to include you.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, December 02, 2005 4:58 PM
To: Elwood, Courtney; Sampson, Kyle; Oldham, Jeffrey L
Subject: FW: 12/7 CFR Meeting with President George W. Bush

FYI!

-----Original Message-----
From: dcmeetings@cfr.org [mailto:dcmeetings@cfr.org]
Sent: Friday, December 02, 2005 4:54 PM
To: Gorsuch, Neil M
Subject: 12/7 CFR Meeting with President George W. Bush

COUNCIL ON FOREIGN RELATIONS

WASHINGTON OFFICE
1779 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20036-2109
Email dcmeetings@cfr.org
Meetings Response Line Tel 202 518 3479
Fax 202 986 2984

The Council on Foreign Relations cordially invites you to a special address by the President of the United States.

PRESIDENT GEORGE W. BUSH

President Bush will address Council members for approximately 50 minutes on the Global War on Terror. (No question period.)

With introduction by
[redacted]
President, Council on Foreign Relations

Wednesday, December 7, 2005
Please note special time and location

Please note special time and location

11:00 AM - 12:00 PM
(Doors close at 10:30 AM)

at

The Omni Shoreham Hotel
Blue Ballroom
2500 Calvert Street, N.W.
Washington, D.C. 20008

To attend, please reply directly to this email (dcmeetings@cfr.org),
call the DC Meetings Response Line at (202) 518-3479, or fax your acceptance to (202) 986-2984.

This invitation is not transferable. This meeting is only open to Council members - absolutely no guests can be accommodated.

You must RSVP by Tuesday, December 6th at 12 PM.

**You are not confirmed for this event until you receive word from Council staff verifying your registration. (We will contact you based on your preferred method of receiving invitations.) We anticipate this event being oversubscribed quickly; confirmations will be made in the order in which RSVPs are received. Due to security requirements, if your name is not on the roster you will not be able to attend the event. Once your registration is confirmed, you will receive additional information from the Council on security requirements for this event.

Doors will open at 9:00 AM and close at 10:30 AM.

Member Name: Neil M. Gorsuch 00355063
Company/Affiliation: U.S. Department of Justice
Telephone: 202-305-1434
Fax: 202-514-0238
E-mail: neil.gorsuch@usdoj.gov
I prefer to receive invitations and meeting updates via: email fax
(32509)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 2, 2005 5:22 PM
To: Scolinos, Tasia
Subject: RE: 12/7 CFR Meeting with President George W. Bush

It's good to be king!

-----Original Message-----
From: Scolinos, Tasia
Sent: Friday, December 02, 2005 5:05 PM
To: Gorsuch, Neil M
Subject: RE: 12/7 CFR Meeting with President George W. Bush

Wow - interesting!

At least they had the good sense to not allow questions - I guess you can do that when you are President.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, December 02, 2005 4:58 PM
To: Scolinos, Tasia
Subject: FW: 12/7 CFR Meeting with President George W. Bush

Meant to include you.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, December 02, 2005 4:58 PM
To: Elwood, Courtney; Sampson, Kyle; Oldham, Jeffrey L
Subject: FW: 12/7 CFR Meeting with President George W. Bush

FYI!

-----Original Message-----
From: dcmeetings@cfr.org [mailto:dcmeetings@cfr.org]
Sent: Friday, December 02, 2005 4:54 PM
To: Gorsuch, Neil M
Subject: 12/7 CFR Meeting with President George W. Bush

COUNCIL ON FOREIGN RELATIONS

WASHINGTON OFFICE
1779 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20036-2109
Email dcmeetings@cfr.org
Meetings Response Line Tel 202 518 3479
Fax 202 986 2984

The Council on Foreign Relations cordially invites you to a special address by the President of the United States.

PRESIDENT GEORGE W. BUSH

President Bush will address Council members for approximately 50 minutes on the Global War on Terror. (No question period.)

With introduction by
[redacted]
President, Council on Foreign Relations

Wednesday, December 7, 2005
Please note special time and location

11:00 AM - 12:00 PM
(Doors close at 10:30 AM)

at

The Omni Shoreham Hotel
Blue Ballroom
2500 Calvert Street, N.W.
Washington, D.C. 20008

To attend, please reply directly to this email (dcmeetings@cfr.org), call the DC Meetings Response Line at (202) 518-3479, or fax your acceptance to (202) 986-2984.

This invitation is not transferable. This meeting is only open to Council members - absolutely no guests can be accommodated.

You must RSVP by Tuesday, December 6th at 12 PM.

**You are not confirmed for this event until you receive word from Council staff verifying your registration. (We will contact you based on your preferred method of receiving invitations.) We anticipate this event being oversubscribed quickly; confirmations will be made in the order in which RSVPs are received. Due to security requirements, if your name is not on the roster you will not be able to attend the event. Once your registration is confirmed, you will receive additional information from the Council on security requirements for this event.

Doors will open at 9:00 AM and close at 10:30 AM.

Member Name: Neil M. Gorsuch 00355063

Company/Affiliation: U.S. Department of Justice
Telephone: 202-305-1434
Fax: 202-514-0238
E-mail: neil.gorsuch@usdoj.gov
I prefer to receive invitations and meeting updates via: email fax
(32509)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 02, 2005 5:22 PM
To: Shaw, Aloma A
Subject: FW: Invitation to the Office of Immigration Litigation's Annual Holiday Party
Attachments: holiday party3.pdf

please send my regrets

-----Original Message-----
From: Brown, Katrina (CIV)
Sent: Friday, December 02, 2005 4:43 PM
Subject: Invitation to the Office of Immigration Litigation's Annual Holiday Party

The Office of Immigration Litigation

Cordially Invites You To
Join Its

Holiday Celebration

Wednesday, December 14th
4:00-7:00 PM

Aria Trattoria
Ronald Reagan Trade Center
1300 Pennsylvania Ave., NW
Washington, DC 20004

Cash bar

Please R.S.V.P. to
katrina.brown@usdoj.gov
by Dec. 7th

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 02, 2005 9:31 PM
To: [redacted]@dodgc.osd.mil'; Bianco, Joseph F.; Moschella, William; Elwood, Courtney; Sampson, Kyle
Bcc: McCallum, Robert (SMO)
Subject: Re: Specter Hrg Update

Some good news for the beginning of the weekend. Thanks, Frank.

-----Original Message-----
From: [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Bianco, Joseph F. <Joseph.F.Bianco@usdoj.gov>
Sent: Fri Dec 02 19:46:41 2005
Subject: FW: Specter Hrg Update

-----Original Message-----
From: [redacted], CIV, OSD-LA
Sent: Friday, December 02, 2005 19:44
To: [redacted] DoD OGC; [redacted] DoD OGC; [redacted]
DoD OGC; [redacted], DoD OGC
Cc: [redacted], OSD-LA; [redacted], CIV, OSD-LA; [redacted]
[redacted] Col, OSD-LA
Subject: Specter Hrg Update

As a follow-up to my previous emails, Sen. Specter has decided not to hold a hearing on 12 Dec re: Padilla. Instead, the Senator will send DoJ a letter requesting some information on the matter. TY
Respectfully,

[redacted]
Special Assistant to the Assistant Secretary of Defense
Legislative Affairs
1300 Defense Pentagon, Room 3D747
Washington, D.C. 20310-1300
Phone: (703) 693-0305
Fax: (703) 697-8299
Cell: [redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative

process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

Schiffer, Stuart (CIV)

From: Schiffer, Stuart (CIV)
Sent: Monday, December 05, 2005 8:21 AM
To: Gorsuch, Neil M
Subject: Read: Stuart is getting the Bea Rosenberg award!

Gorsuch, Neil M

Subject:	Columbia Hosp Women
Location:	Mr K
Start:	Thursday, January 12, 2006 7:00 PM
End:	Thursday, January 12, 2006 9:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Shaw, Aloma A

Subject:	CFR Mtg w/ POTUS
Location:	Omni Shoreham Hotel (Blue Ball Room)
Start:	Wednesday, December 7, 2005 10:30 AM
End:	Wednesday, December 7, 2005 12:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Omni Shoreham Hotel
Blue Ballroom
2500 Calvert Street, NW
Washington, DC 20008
(Doors open at 10:30am)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 05, 2005 9:43 AM
To: [redacted]@dodgc.osd.mil'
Subject: RE: Are we still on for lunch?

Looks good on this end. Should I make the reservation, or have you or [redacted] already done so (1230, Caucus Rm, right?).

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Monday, December 05, 2005 9:28 AM
To: Gorsuch, Neil M
Subject: Are we still on for lunch?

[redacted]
Deputy General Counsel (Legal Counsel)
U.S. Department of Defense
1600 Defense Pentagon, Room 3B688
Washington, D.C. 20301-1600
[redacted] / (703)614-6745 (fax)
E-mail[redacted]@dodgc.osd.mil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 5, 2005 10:24 AM
To: [redacted]@cfr.org'
Cc: [redacted]@cfr.org[redacted]@apprisemedia.com
Subject: RE: Dec 12 Roundtable

Nichole, many thanks for this. Mike, Let's add this to our agenda on the 230 call.

-----Original Message-----
From: [redacted]@cfr.org [mailto[redacted]@cfr.org]
Sent: Monday, December 05, 2005 10:20 AM
To: Gorsuch, Neil M
Cc: [redacted]@cfr.org;[redacted]@apprisemedia.com
Subject: Re: Dec 12 Roundtable

Dear Neil and[redacted]

Many thanks for your work on this project; as you saw, I sent out the notice to term members on Friday and will send the official invite this afternoon.

The following dates are available to have a session in DC:

2/16, 2/28, 3/16, 3/28, 4/25, 5/11. 5/23, 6/15, 6/27

Please contact me with further questions or concerns and I'd be happy to help.

Sincerely,
[redacted]

[redacted]
Council on Foreign Relations
[redacted]@cfr.org
Tel:[redacted]
Fax: (212) 434-9801
www.cfr.org

"Neil.Gorsuch@usd
oj.gov"

<Neil.Gorsuch@usd To
oj.gov>[redacted]@cfr.org" [redacted]@cfr.org>
(Receipt Notification Requested)
12/02/2005 04:05 (IPM Return Requested),
PM [redacted]@cfr.org" [redacted]@cfr.org>
(Receipt Notification Requested)
(IPM Return Requested)
cc
[redacted]@apprisemedia.com"
[redacted]@apprisemedia.com>
(Receipt Notification Requested)
(IPM Return Requested)
Subject
Dec 12 Roundtable

Dear [redacted]

It was great to meet [redacted] last night. I am just sorry I wasn't able to track down [redacted]. Next time.

Per our discussion, [redacted] and I suggest sending out a notice today (or tomorrow) with the speakers we currently have lined up, though we may have more confirmed folks later. We'd also like to rename the roundtable as follows:

Term Member Roundtable on the Interrogation and Treatment of Enemy Combatants in the War on Terror.

The confirmed participants:

Patrick Philbin, Former Associate Deputy Attorney General, and former Deputy Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice.

[redacted] Human Rights Watch

Presiders/Moderators:

[redacted] and Neil Gorsuch

***

I also wanted to raise the possibility of repeating this roundtable here in DC where I would be able to draw in some pretty good speakers as well. If you're interested, what dates would work? Mike and I can get busy lining folks up.

Many thanks and best regards,

Neil Gorsuch

Keisler, Peter D (CIV)

From: Keisler, Peter D (CIV)
Sent: Monday, December 5, 2005 11:38 AM
To: Gorsuch, Neil M
Subject: Read: volunteer liability protection and pandemic flu

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 5, 2005 11:40 AM
To: McCallum, Robert (SMO); Reyes, Luis (SMO)
Subject: FW: New voting letter
Importance: High

fyi

-----Original Message-----
From: Scott-Finan, Nancy
Sent: Monday, December 05, 2005 11:36 AM
To: Kim, Wan (CRT); Elwood, Courtney; Gorsuch, Neil M; Schlozman, Brad (CRT); von Spakovsky, Hans (CRT)
Cc: Comisac, Rena (CRT); Longwitz, Tobi (CRT)
Subject: New voting letter
Importance: High

We are faxing to the CRT front office a letter from Leahy and others dated today about the [redacted] article.

-----Original Message-----
From: Kim, Wan (CRT)
Sent: Monday, December 05, 2005 10:18 AM
To: Elwood, Courtney; Scott-Finan, Nancy; Gorsuch, Neil M; McCallum, Robert (SMO); Seidel, Rebecca
Cc: Comisac, Rena (CRT); Longwitz, Tobi (CRT)
Subject: RE: specter congressional - draft.wpd

Thx for all of the helpful suggestions. Pls feel free to submit more.

This document should reflect each change; and will be sent down to OLA for Will's signature later.

-----Original Message-----
From: Elwood, Courtney
Sent: Monday, December 05, 2005 10:14 AM
To: Scott-Finan, Nancy; Kim, Wan (CRT); Gorsuch, Neil M; McCallum, Robert (SMO); Seidel, Rebecca
Cc: Comisac, Rena (CRT); Longwitz, Tobi (CRT)
Subject: RE: specter congressional - draft.wpd

Very good letter. My comments are minor:

1. When the letter refers to the current Administration, it is capatizlied, but it is lower case when it refers to the "previous administration." Shouldn't it be consistent?
2. p.1, para. 1, second sentence: insert "to" before "correct".
3. p.2-3, revise carry-over sentence to read: "It is distressing that the Post article omitted all of the information provided by the Department that shows successful and increased enforcement activities by the Civil Rights Division in virtually every area of jurisdiction - including disability rights, voting rights, housing rights, religious liberties, and the rights of institutionalized persons." 4. p.4, first line "3" should be "three"

Courtney Simmons Elwood
Deputy Chief of Staff and
Counselor to the Attorney General
(o) 202.514.2267
(c) [redacted]
(fax) 202.305-9687

-----Original Message-----
From: Scott-Finan, Nancy
Sent: Friday, December 02, 2005 4:50 PM
To: Kim, Wan (CRT); Elwood, Courtney; Gorsuch, Neil M; McCallum, Robert (SMO); Seidel, Rebecca
Cc: Comisac, Rena (CRT); Longwitz, Tobi (CRT)
Subject: RE: specter congressional - draft.wpd

This is a great letter. I have a few minor edits.
My edits--
(1) Delete the office building line in the inside address.
(2) Pg. 2, third full paragraph, do you want to say "unusually large number" of attorneys who accepted a retirement pkg---I would drop "unusually large." (3) Pg. 3, second full paragraph, third full sentence should begin "Through" our strong commitment. . ., we have (4) Pg. 4, do you need to explain Title IV and explain sec. 504 of the Rehabilitation Act?
(5) Pg. 4, since we are responding to Specter as Chairman we need to cc: The Honorable Patrick Leahy Ranking Minority Member

-----Original Message-----
From: Kim, Wan (CRT)
Sent: Friday, December 02, 2005 3:06 PM
To: Elwood, Courtney; Gorsuch, Neil M; McCallum, Robert (SMO); Scott-Finan, Nancy; Seidel, Rebecca
Cc: Comisac, Rena (CRT); Longwitz, Tobi (CRT)
Subject: specter congressional - draft.wpd

We appreciate any comments and suggestions.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 05, 2005 2:35 PM
To: [redacted]@apprisemedia.com'
Subject: RE: Following up with DOD

am on

-----Original Message-----
From: [redacted]@apprisemedia.com [mailto[redacted]@apprisemedia.com]
Sent: Monday, December 05, 2005 2:03 PM
To: Gorsuch, Neil M
Cc: [redacted]@osd.mil
Subject: RE: Following up with DOD

I have not heard from [redacted] but let's use this dial - in.
Hopefully [redacted] can join.

Tel - [redacted]

Access Code: [redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, December 05, 2005 10:13 AM
To: [redacted]
Subject: RE: Following up with DOD

Are you just going to phone us at 230?

-----Original Message-----
From: [redacted]@apprisemedia.com [mailto[redacted]@apprisemedia.com]
Sent: Monday, December 05, 2005 10:03 AM
To: Gorsuch, Neil M[redacted]@osd.mil
Subject: RE: Following up with DOD

Ok with me. 30 minutes sounds like adequate time.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, December 05, 2005 9:52 AM
To: [redacted]@osd.mil; [redacted]
Subject: RE: Following up with DOD

Subject: RE: Following up with DOD

I'm afraid I'm open only btwn 2:30 and 3 during that window.

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: [redacted]
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: [redacted]@apprisemedia.com [mailto:[redacted]@apprisemedia.com]
Sent: Monday, December 05, 2005 9:44 AM
To: Gorsuch, Neil M; [redacted]@osd.mil
Subject: Following up with DOD

Hope everyone's weekend was enjoyable. I wanted to schedule some time for the three of us to speak today on the Term Member session regarding the treatment of detainees in the War on Terror. Let me know when you have some time today to speak. I have a wide opening from 1:30-3:00 pm ET today if that works for you two.

Thanks,

[redacted]
Apprise Media LLC
450 Park Avenue
New York, NY 10022

Tel: [redacted]
Fax: (212) 751-4799
email: [redacted]@apprisemedia.com

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 05, 2005 3:08 PM
To: [redacted] (E-mail)
Subject: Lunch

[redacted]

It was great to meet you finally. I look forward to working with you as you start a very interesting new challenge at State; my contact information follows below.

In terms of the CFR meeting here in DC, would Feb 16 work? I just learned that as well that my colleague and friend, Mike Behringer, has been working with [redacted] of your office to try to secure someone from DoD for the Dec 12 event in NY that we're organizing. I will be in touch with [redacted] on this as well.

Keep up the good work!

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: [redacted]
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 05, 2005 3:12 PM
To: '[redacted]@osd.mil'
Cc: '[redacted]@apprisemedia.com'
Subject: FW: Detainee Treatment Roundtable
Attachments: tmp.htm

[redacted]

We have not yet had the chance to meet, but my friend, [redacted], indicates that he's been in touch about our Dec 12 CFR term member roundtable. We'd love to have someone from DoD round out the panel. Currently, we have an NGO rep. and [redacted], a former colleague of mine here at DoJ ([redacted] was in the Deputy AG's office and, before than, in OLC). [redacted] and I will moderate the panel to ensure fairhandedness as much as possible.

We'd be delighted to have anyone from DoD you think best. Admiral [redacted] led a tour of GTMO last month that I attended and I know he'd be a powerful voice if he's interested and available; in any event, please do sent him my regards.

Also, I should mention that we're planning on a similar roundtable in DC on Feb 16th. I had lunch today with [redacted] and have invited him to attend then, but since he's moving to State, if there's someone from Defense that would also like to attend, that would be great as well.

If you have any questions, please don't hesitate to call. My contact info. follows below.

Warm regards,

Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: [redacted]@apprisemedia.com [mailto:[redacted]@apprisemedia.com]
Sent: Monday, December 05, 2005 2:53 PM
To: Gorsuch, Neil M

Subject: FW: Detainee Treatment Roundtable

From: [redacted]@cfr.org [mailto:[redacted]@cfr.org]
Sent: Friday, December 02, 2005 8:13 AM
To: [redacted]
Cc: [redacted]@cfr.org; ngorsuch@khhte.com; [redacted]@cfr.org
Subject: Re: Detainee Treatment Roundtable

[redacted],

I encourage you to reach out directly to my DoD colleagues. [redacted] is the point of contact for this and can be reached at [redacted].
He's keenly interested in chatting with you.

Regards,

[redacted]

[redacted]
Cyrus Vance Fellow in Diplomatic Studies
Council on Foreign Relations

"[redacted]" <[redacted]@apprisemedia.com>

12/01/2005 07:47 PM

To
<[redacted]@cfr.org>
cc
<[redacted]@cfr.org>, <[redacted]@cfr.org>, <ngorsuch@khhte.com>
Subject
Re: Detainee Treatment Roundtable

[redacted],

Thanks for forwarding. These all look like compelling participants, and I believe Neil Gorsuch (who is

Thanks for forwarding. These all look like compelling participants, and I believe Neil Gorsuch, (who is coordinating with me), knows some of the presenters listed below.

Should we follow up with [redacted],
or the suggested panelists first?

[redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]@cfr.org <[redacted]@cfr.org>
To: [redacted] <[redacted]@apprisemedia.com>
CC: [redacted]@cfr.org <[redacted]@cfr.org>; [redacted]@cfr.org <[redacted]@cfr.org>
Sent: Thu Dec 01 13:06:43 2005
Subject: Detainee Treatment Roundtable

[redacted]

See e-mail below. I think one of these consultants would be a good possibility for the panel discussion on 12 Dec. I'll let you make contact.

[redacted]

COL [redacted]
Senior Military Fellow
Council on Foreign Relations
58 East 68th Street, New York, NY 10021
Tel [redacted] Fax (212) 434-9816
http://www.cfr.org <http://www.cfr.org/>

----- Forwarded by [redacted]/NY/CFR on 12/01/2005 03:30 PM -----

"[redacted] CIV, OSD-POLICY" <[redacted]@osd.mil>

12/01/2005 03:28 PM
To
"[redacted]@cfr.org'" <[redacted]@cfr.org> cc
"[redacted]@osd.gov'" <[redacted]@osd.gov> Subject
BRIEFING PROPOSAL

[redacted]

Delighted to touch base again after several years being in the trenches.

I'm working as the policy advisor for the Office of Detainee Affairs under the Office of Secretary of Defense. We do policy for the Department of Defense related to detainee issues Part of our charter is outreach and we have an outreach presentation related to our operations in Guantanamo Bay which I believe would be an interesting forum/presentation for the Council. The four presenters are:

1. [redacted] Principal Director, Office of Detainee Affairs, Office of the Secretary of Defense (DASD-DA) 2. RADM [redacted], Director, Office for the Administrative Review of the Detention of Enemy Combatants (OARDEC) 3. BGEN [redacted], USAF, Legal Adviser to the Appointing Authority, Office of Military Commissions (OMC)

4 COL [redacted], USAF, Detainee Affairs Division Chief, Joint Chiefs of Staff (JCS) Given the dates of the presentation organizational substitutes may be used, but the format will be the same. The panel is called "the Guantanamo Bay Detainee Policies, Proceses and Operations brief". The brief is approximately 50 minutes is length and followed by a 30 minute Q and A session. Of course a closed door non attribution session with the Council experts is also possible.

Please discuss with your colleagues and let's discuss. My telephone number is: [redacted]. Hope you are enjoying my favorite town and look forward to seeing you in the near future.

Cheers,
[redacted]

From: [redacted]@cfr.org [mailto:[redacted]@cfr.org]
Sent: Friday, December 02, 2005 8:13 AM
To: [redacted]
Cc: [redacted] ngorsuch@khhte.com; [redacted]@cfr.org
Subject: Re: Detainee Treatment Roundtable

[redacted]

I encourage you to reach out directly to my DoD colleagues. [redacted] is the point of contact for this and can be reached at [redacted]. He's keenly interested in chatting with you.

Regards,

[redacted]

[redacted]
Cyrus Vance Fellow in Diplomatic Studies
Council on Foreign Relations

"[redacted]
<[redacted]@apprisemedia.com>

12/01/2005 07:47 PM

To <[redacted]@cfr.org>
cc <[redacted]@cfr.org>, <[redacted]@cfr.org>, <ngorsuch@khhte.com>
Subject Re: Detainee Treatment Roundtable

[redacted]

Thanks for forwarding. These all look like compelling participants, and I believe Neil Gorsuch, (who is coordinating with me), knows some of the presenters listed below.

Should we follow up with [redacted]
or the suggested panelists first?

[redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]@cfr.org <[redacted]@cfr.org>
To [redacted] <[redacted]@apprisemedia.com>
CC: [redacted]@cfr.org <[redacted]@cfr.org>; [redacted]@cfr.org <[redacted]@cfr.org>
Sent: Thu Dec 01 13:06:43 2005
Subject: Detainee Treatment Roundtable

[redacted]

See e-mail below. I think one of these consultants would be a good possibility for the panel discussion on 12 Dec. I'll let you make contact.

[redacted]

COL [redacted]
Senior Military Fellow
Council on Foreign Relations
58 East 68th Street, New York, NY 10021
Tel [redacted] Fax (212) 434-9816
http://www.cfr.org

----- Forwarded by [redacted] NY/CFR on 12/01/2005 03:30 PM -----

"[redacted] CIV, OSD-POLICY" <[redacted]@osd.mil>

12/01/2005 03:28 PM

To
"[redacted]@cfr.org'" <[redacted]@cfr.org>

cc
"[redacted]@osd.gov'" <[redacted]@osd.gov>

Subject
BRIEFING PROPOSAL

[redacted]

Delighted to touch base again after several years being in the trenches. I'm working as the policy advisor for the Office of Detainee Affairs under the Office of Secretary of Defense. We do policy for the Department of Defense related to detainee issues Part of our charter is outreach and we have an outreach presentation related to our operations in Guantanamo Bay which I believe would be an interesting forum/presentation for the Council. The four presenters are:

1. [redacted] Principal Director, Office of Detainee Affairs, Office of the Secretary of Defense (DASD-DA)
2. RADM [redacted] Director, Office for the Administrative Review of the Detention of Enemy Combatants (OARDEC)
3. BGEN [redacted] USAF, Legal Adviser to the Appointing Authority, Office of Military Commissions (OMC)

4 COL [redacted] USAF, Detainee Affairs Division Chief, Joint Chiefs of Staff (JCS)

Given the dates of the presentation organizational substitutes may be used, but the format will be the same.
The panel is called "the Guantanamo Bay Detainee Policies, Proceses and Operations brief".
The brief is approximately 50 minutes is length and followed by a 30 minute Q and A session. Of course a closed door non attribution session with the Council experts is also possible.

Please discuss with your colleagues and let's discuss. My telephone number is: [redacted] Hope you are enjoying my favorite town and look forward to seeing you in the near future.

Cheers.
[redacted]

Shaw, Aloma A

Subject:	SG Holiday Reception
Location:	5143
Start:	Wednesday, December 14, 2005 4:30 PM
End:	Wednesday, December 14, 2005 6:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 05, 2005 4:00 PM
To: John B. Wiegmann (E-mail); Michael Allen (E-mail)
Cc: [redacted] (E-mail); Moschella, William
Subject: Graham

Any reaction from Graham's staff on our technical advise? Anything else we can/should be doing (e.g. Sensenbrenner, or otherwise)?

Gorsuch, Neil M

Subject:	Lunch with Lu Reyes - Pat Philbin Gordon Biersch12
Start:	Tuesday, December 13, 2005 12:00 PM
End:	Tuesday, December 13, 2005 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 05, 2005 4:58 PM
To: [redacted]@sidley.com'
Subject: RE: Talkers
Attachments: Graham_TPs_Nov_29 Revised.doc

[redacted]

Attached are some tps on Graham; please would you refrain from forwarding them further without prior agreement? I can provide more background orally on both amendments if you'd find that helpful.

Good luck!

NMG

-----Original Message-----
From: [redacted]@sidley.com [mailto:[redacted]@sidley.com]
Sent: Monday, December 05, 2005 3:42 PM
To: Gorsuch, Neil M
Subject: Talkers

Does the Dept have any on either the McCain or Graham amendments? I'm doing a debate at Brookings next week, and these subjects, which lie a bit outside my existing knowledge, may come up. I'd obviously like to understand and be able to represent the Admin view on these things. Any assistance you (or OPA) could provide would be much appreciated.

Sent from my BlackBerry Wireless Handheld

Sidley Austin Brown & Wood LLP mail server made the following annotations on 12/05/2005, 02:41:58 PM:

****

IRS Circular 230 Disclosure: To comply with certain U.S. Treasury regulations, we inform you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this communication, including attachments, was not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding any penalties that may be imposed on such taxpayer by the Internal Revenue Service. In addition, if any such tax advice is used or referred to by other parties in promoting, marketing or recommending any partnership or other entity, investment plan or arrangement, then (i) the advice should be construed as written in connection with the promotion or marketing by others of

the transaction(s) or matter(s) addressed in this communication and (ii) the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

****
****

This e-mail is sent by a law firm and may contain information that is privileged or confidential. If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately.

GRAHAM AMENDMENT TALKING POINTS

Some Opportunities for Improvement to S.A. 2524:

- As drafted, S.A. 2524 limits only *habeas* petitions brought DoD detainees at GTMO. It does nothing to curb *habeas* litigation by detainees in Iraq and Afghanistan.

- As drafted, the Amendment applies only *prospectively* even to GTMO detainees. It does nothing to address the avalanche of *habeas* suits already on file seeking everything from access to DVDs, dictionaries, and video messages from their families to more exercise time, faster mail delivery, and free copies of the Koran with commentary instead of the standard Koran without. Detainees' lawyers have even sued because they consider dial-up Internet access at GTMO too slow.

- As drafted, the scope of review for future GTMO lawsuits remains so broad that it is little better than existing *habeas* review.

- S.A. 2524 likewise limits only *habeas* suits and does nothing to provide protection against suits for money damages against individual members of our armed forces.

- As passed, the amendment creates an evidence exclusionary rule, prohibiting CSRTs and ARBs from considering statements obtained with "undue coercion." This undefined term is so vague that it might be misread to require even *Miranda*-style warnings before asking terrorists any questions. We recommend substituting language requiring CSRTs and ARBs to determine how statements were obtained and weigh their evidentiary value accordingly. Because CSRTs and ARBs already weigh such factors in determining evidentiary value, this alternative would simply require them to maintain their present approach.

- As passed, the amendment requires DoD to "submit" its CSRT and ARB procedures to Congress. But these procedures are already publicly available on the Internet. By contrast, the *original* Graham amendment expressly recognized the President's authority to utilize CSRTs and ARBs. Congress' imprimatur is valuable to validating these tribunals, which are more fair, thorough and extensive than those adopted even for legitimate *POWs* by any other nation in history, and should be extended to include Military Commissions.

Why *Habeas* Reform is Necessary:

- Our enemies have clogged our courts with frivolous litigation. There are 160 *habeas* cases pending on behalf of approximately 300 GTMO detainees.
    - Al Qaeda training manuals expressly promote the use of litigation to thwart our war effort.
    - Detainees have sought to litigate over everything from access to DVDs, dictionaries, and video messages from their families to more exercise time, faster mail delivery and free copies of the Koran with commentary instead of the standard Koran without.
    - Detainees' lawyers have even sued because they consider dial-up Internet access at GTMO too slow.
    - Assuming full trials in *habeas* challenges by GTMO detainees only, litigation and related costs to U.S. taxpayers could run in the tens or even hundreds of millions of dollars.
- Suits now exist by detainees in Afghanistan and Iraq, as well as GTMO. And they now seek not just *habeas* relief but money damages from individual soldiers and other government personnel.
- None of these suits would be addressed by the Graham legislation.
- Courts have never granted *habeas* petitions by detained enemies challenging either their detention or their conditions of confinement. Had these conditions existed during World War II, hundreds of thousands of captured German and Japanese soldiers would have been entitled to lawyers and hearings in federal court.
- Even our own soldiers convicted under the UCMJ are not generally entitled to challenge the substance of their convictions through *habea*s in federal court, but are limited to jurisdictional challenges. If a military court properly exercised jurisdiction and fully and fairly considered the claim, the *habeas* court will not revisit it.
- Congress has modified *habeas* many times in the past. For example:
    - Antiterrorism and Effective Death Penalty Act ("AEDPA") and the Illegal Immigration Reform and Immigrant Responsibility Act, passed in 1996. AEDPA placed a number of limitations on the scope of *habeas* relief available to persons challenging the judgment of a State court and prohibited the Supreme Court from reviewing the decision of

DOJ_NMG_ 0149268

a court of appeals to allow or to bar a state prisoner from filing successive petitions.

- Since 1996, Congress has imposed new restrictions on the availability of *habeas* in a variety of immigration-related contexts:
    - 8 U.S.C. § 1226a(b) (part of the USA PATRIOT Act of 2001) places limits on *habeas* for aliens involved in terrorism or other activity endangering national security.
    - 8 U.S.C. § 1201(i) (part of the Intelligence Reform and Terrorist Prevention Act of 2004) bars *habeas* review of certain visa revocation decisions.
    - 8 U.S.C. § 1252 (part of the REAL ID Act of 2005) eliminates *habeas* review of decisions not involving constitutional claims or questions in cases involving asylum, removal of criminal aliens, and denials of discretionary relief by DOJ or DHS.

- If Congress can place *habeas* limits on U.S. citizens and aliens who are located within the U.S. during peacetime, certainly it is appropriate for Congress to limit *habeas* petitions by aliens captured during wartime who are being held outside of the United States.

- Reform is not an attack on last year's Supreme Court decisions.
    - The Supreme Court in its 2004 *Rasul* decision recognized that Congress could amend the *habeas* statute.
    - Several Justices have called strongly for Congress to bring clarity to this area, including Justice Scalia in a written opinion and Justice O'Connor in a recent speech at West Point.
    - The Supreme Court last year clearly upheld the President's authority to detain enemy combatants to prevent them from returning to the battlefield. Reform is consistent with this authority.

- As Senator Graham said on the floor of the Senate, these are terrorists who are suing our own troops and officials in our domestic civilian courts in a time of war. There is no legal or moral imperative to treat them on par with common civilian criminals who are American citizens.

DOJ_NMG_ 0149269

CSRTs:

- Each GTMO detainee is entitled to challenge his status as an enemy combatant before a Combatant Status Review Tribunal.

- CSRT procedures are more extensive than those used by any other nation in any previous conflict to determine combat detainee status.

- The process is modeled on Army Regulation 190-8, which Justice O'Connor's opinion in *Hamdi* indicated would be sufficient process for an *American citizen.*

- Senator Graham has described the CSRT procedures as "the Geneva Convention protections on steroids."

- Detainees receive substantial protections, including the opportunity to be heard in person, the ability to present additional evidence they believe might benefit them, and the assistance of a military officer assigned to serve as their personal representative. Non-classified proceedings are open to the media.

- DoD has expended over 150,000 man-hours in holding 558 CSRTs.

- CSRTs determined that 520 detainees were properly detained as enemy combatants and that 38 were no longer enemy combatants.

ARBs:

- Every year, each GTMO detainee is entitled to a hearing to reassess whether his release is appropriate.

- DoD has gone above and beyond anything required by domestic or international law, including the Geneva Conventions, providing enemy combatants a chance to be heard and released *even while conflict is ongoing*.

- Detainees are allowed to appear in person before the tribunal, to provide information to support their release, and to receive the assistance of an officer to guide them through the process. Home countries and family members are afforded the opportunity to provide additional information. Non-classified proceedings are open to the media.

- To date, DoD has expended almost 200,000 man-hours in holding 400 ARBs, helping to ensure that no one is detained any longer than necessary.

- Of the 247 final ARB decisions to date, 10 have held that the detainee in question should be released, and 76 have concluded that the detainee should be transferred to another country. Through CSRTs, ARBs or other means, over 250 detainees have been released from GTMO since the commencement of hostilities.

DOJ_NMG_ 0149270

Military Commission Procedures:

- Military Commissions have historically been used to prosecute enemy combatants who violate the laws of war. The United States used the Military Commission process during World War II.

- Each Military Commission panel consists of a Presiding Officer who must be a judge advocate and at least three other military officers. The Presiding Officer rules upon all questions of law. All members of the Military Commission panel, except the Presiding Officer, vote on findings and, if necessary, on a sentence.

- Each accused tried by a Military Commission has the following procedural safeguards: the presumption of innocence; proof of guilt beyond a reasonable doubt; the right to call and cross examine witnesses (subject to the rules regarding production of witnesses and protection of information); nothing said by an accused to his attorney, or anything derived therefrom, may be used against him at trial; no adverse inference from remaining silent; and an overall requirement that any military commission proceeding be full and fair. Finally, to assist him in preparing a defense, each accused has a Military Defense Counsel provided at no cost. The accused may also hire a civilian defense counsel.

- A finding of guilt and the imposition of a non-capital sentence must be with the concurrence of two-thirds of the Military Commission panel members, excluding the Presiding Officer. This is the same standard that the military uses in courts-martial, when prosecuting its own soldiers for crimes under the Uniform Code of Military Justice.

- If there is a finding of guilt, the Military Commission panel members, excluding the Presiding Officer, may impose any appropriate sentence, including death. A sentence of death requires a unanimous vote from a Military Commission panel consisting of at least seven members (excluding the Presiding Officer).

- Additional layers of review follow:

    - All records of trial must be reviewed by the Appointing Authority, who may return the case to the Military Commission for further proceedings if he determines it is not administratively complete.

    - A three-member Review Panel of military officers will review all cases for material errors of law. Review Panel members may be civilians who were specifically commissioned as military officers to serve on the panel. If a majority of the Review Panel members believe a material error of law has occurred, they may return the case to the Military Commission for further proceedings.

    - Extremely qualified individuals have agreed to serve on the Review Panel:

DOJ_NMG_ 0149271

Judge Griffin Bell, a former U.S. Attorney General and former federal appellate judge from the U.S. Court of Appeals for the Fifth Circuit.

Judge Edward George Biester, Jr., a sitting judge on the Court of Common Pleas of Bucks County, Pennsylvania. He was formerly Attorney General for Pennsylvania and a Member of Congress.

William T. Coleman, former Secretary of Transportation, member of the U.S. delegation to the U.N. General Assembly, and recipient of the Presidential Medal of Freedom and the NAACP's Thurgood Marshall Lifetime Achievement Award.

Judge Frank J. Williams, currently Chief Justice of the Rhode Island Supreme Court. He was a decorated Army captain during the Vietnam War.

o After the Review Panel makes its decision, the Secretary of Defense reviews the record of trial and, if appropriate, may return it to the Military Commission for further proceedings, or forward the case to the President with a recommendation as to disposition.

o The President may either return the case to the Military Commission for further proceedings or make the final decision as to its disposition. The President may delegate final decision authority to the Secretary of Defense, in which case the Secretary may approve or disapprove the findings or change a finding of Guilty to a finding of Guilty to a lesser-included offense, or mitigate, commute, defer, or suspend the sentence imposed, or any portion thereof.

Last revised: 11/29/05

DOJ_NMG_ 0149272

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 5, 2005 5:13 PM
To: 'Michael_Allen@nsc.eop.gov'; John_B._Wiegmann@nsc.eop.gov
Cc: Moschella, William; [redacted]@dodgc.osd.mil
Subject: RE: Graham

Thanks very much for the update, Mike. Do you still expect Auth. Bill to move prior to Christmas?

Also, I assume/trust that the Graham folks understand that the technical advise we sent over covered (at their request) only a couple areas, not all of the 9 pts we need addressed.

-----Original Message-----
From: Michael_Allen@nsc.eop.gov [mailto:Michael_Allen@nsc.eop.gov]
Sent: Monday, December 05, 2005 5:06 PM
To: Gorsuch, Neil M; John_B._Wiegmann@nsc.eop.gov
Cc: Moschella, William; [redacted]@dodgc.osd.mil
Subject: Re: Graham

I've requested but not received the new language that Graham is sending to Warner as the "Senate Republican" position so to speak. As you know from our mtgs with staff, we expect it to be close to our approach but we'll have to confirm that. I know we are in good shape with Hunter - the "House Republican" position is close to our approach. Of course, neither side has brought the Ds in yet so the language will get worse we assume once they engage. But we'll stay on top of it to keep the Republicans close to our preference.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: Wiegmann, John B. <John_B._Wiegmann@nsc.eop.gov>; Allen, Michael <Michael_Allen@nsc.eop.gov>
CC: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>; [redacted](E-mail) <[redacted]@dodgc.osd.mil>
Sent: Mon Dec 05 16:00:24 2005
Subject: Graham

Any reaction from Graham's staff on our technical advise? Anything else we can/should be doing (e.g. Sensenbrenner, or otherwise)?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 05, 2005 5:27 PM
To: [redacted]@sidley.com'
Subject: RE: Talkers

I'd rather you not for now.

-----Original Message-----
From: [redacted]@sidley.com [mailto[redacted]@sidley.com]
Sent: Monday, December 05, 2005 5:23 PM
To: Gorsuch, Neil M
Subject: Re: Talkers

Wonderful. Thanks. I may call you later in the week. May I forward to [redacted] at the Manhattan Instlitute? She's my debate partner.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted] <[redacted]@sidley.com>
Sent: Mon Dec 05 16:59:13 2005
Subject: RE: Talkers

[redacted]

Attached are some tps on Graham; please would you refrain from forwarding them further without prior agreement? I can provide more background orally on both amendments if you'd find that helpful.

Good luck!

NMG

-----Original Message-----
From: [redacted]@sidley.com [mailto:[redacted]@sidley.com]
Sent: Monday, December 05, 2005 3:42 PM
To: Gorsuch, Neil M
Subject: Talkers

Does the Dept have any on either the McCain or Graham amendments? I'm doing a debate at Brookings next week, and these subjects, which lie a bit outside my existing knowledge, may come up

Brookings next week, and these subjects, which lie a bit outside my existing knowledge, may come up. I'd obviously like to understand and be able to represent the Admin view on these things. Any assistance you (or OPA) could provide would be much appreciated.

Sent from my BlackBerry Wireless Handheld

Sidley Austin Brown & Wood LLP mail server made the following annotations on 12/05/2005, 02:41:58 PM:

****

****

IRS Circular 230 Disclosure: To comply with certain U.S. Treasury regulations, we inform you that, unless expressly stated otherwise, any U.S.
federal tax advice contained in this communication, including attachments, was not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding any penalties that may be imposed on such taxpayer by the Internal Revenue Service. In addition, if any such tax advice is used or referred to by other parties in promoting, marketing or recommending any partnership or other entity, investment plan or arrangement, then (i) the advice should be construed as written in connection with the promotion or marketing by others of the transaction(s) or matter(s) addressed in this communication and (ii) the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

****

****

This e-mail is sent by a law firm and may contain information that is privileged or confidential. If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately.

Sidley Austin Brown & Wood LLP mail server made the following annotations on 12/05/2005, 04:22:44 PM:

****

****

IRS Circular 230 Disclosure: To comply with certain U.S. Treasury regulations, we inform you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this communication, including attachments, was not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding any penalties that may be imposed on such taxpayer by the Internal Revenue Service. In addition, if any such tax advice is used or referred to by other parties in promoting, marketing or recommending any partnership or other entity, investment plan or arrangement, then (i) the advice should be construed as written in connection with the promotion or marketing by others of the transaction(s) or matter(s) addressed in this communication and (ii) the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

****

****

This e-mail is sent by a law firm and may contain information that is privileged or confidential. If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 05, 2005 6:00 PM
To: Buchanan, MaryBeth
Subject: FW: a/c waiver

Mary Beth,

I believe you were the source for this, based on a recommendation from Karin, as I recall. Do you recall the name of the report or survey?

Many thanks and warmest regards.

NMG

-----Original Message-----
From: Tenpas, Ronald J (ODAG)
Sent: Monday, December 05, 2005 3:20 PM
To: Gorsuch, Neil M
Subject: a/c waiver

Neil:

Where did the data come from on the number of waiver requests that was included in the early draft of the McCallum memo (the stuff that got taken out because it wasn't terribly illuminative)? I'm interested in tracking down and looking at in full what we have done in prior surveys/research on this.

Ron

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 8:32 AM
To: Buchanan, MaryBeth
Cc: Tenpas, Ronald J (ODAG)
Subject: RE: a/c waiver

Thanks so much!

-----Original Message-----
From: Buchanan, MaryBeth
Sent: Monday, December 05, 2005 9:30 PM
To: Gorsuch, Neil M
Subject: Re: a/c waiver

This is the survey we conducted at EOUSA. I received a similar e-mail from Ron, but based upon his request, I thought he was referring to the corporate fraud task force survey. I will have a copy of the survey and results sent to you and Ron.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Buchanan, MaryBeth <MaryBeth.Buchanan@usa.usdoj.gov>
Sent: Mon Dec 05 17:59:55 2005
Subject: FW: a/c waiver

Mary Beth,

I believe you were the source for this, based on a recommendation from Karin, as I recall. Do you recall the name of the report or survey?

Many thanks and warmest regards.

NMG

-----Original Message-----
From: Tenpas, Ronald J (ODAG)
Sent: Monday, December 05, 2005 3:20 PM
To: Gorsuch, Neil M
Subject: a/c waiver

Neil:

Where did the data come from on the number of waiver requests that was included in the early draft of the McCallum memo (the stuff that got taken out because it wasn't terribly illuminative)? I'm interested in tracking down and looking at in full what we have done in prior surveys/research on this.

Ron

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 8:36 AM
To: [redacted]@apprisemedia.com' [redacted]@osd.mil
Subject: RE: Following up with DOD

Gentlemen: [redacted] Hope all is well. In terms of talking today, I'm afraid 1-3 is bad for me. I could do 3-4 or 445-515 this afternoon, or 10-11 this morning. Many thanks. NMG

-----Original Message-----
From: [redacted]@apprisemedia.com [mailto[redacted]@apprisemedia.com]
Sent: Tuesday, December 06, 2005 8:25 AM
To: [redacted]@osd.mil
Cc: Gorsuch, Neil M
Subject: Re: Following up with DOD

I am in all day meetings today, with a 12-1pm open window. Neil - could you talk to [redacted] alone if that time idn't good for you two?

[redacted] We're quite excited to have your department's presentation in this program, and appreciate your following up with us.

[redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]CIV, OSD-POLICY <[redacted]@osd.mil>
To: [redacted]@apprisemedia.com>
CC: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
Sent: Tue Dec 06 05:10:19 2005
Subject: RE: Following up with DOD

[redacted] Neil,
[redacted] Hope we can schedule the conference call this afternoon between 1-3 PM. let me know what time works for both of you.

Thanks,
[redacted]

-----Original Message-----
From: [redacted][mailto[redacted]@apprisemedia.com]

From: [redacted] [mailto[redacted]@apprisemedia.com]
Sent: Monday, December 05, 2005 9:44 AM
To: Neil.Gorsuch@usdoj.gov; [redacted]CIV, OSD-POLICY Subject: Following up with DOD

Hope everyone's weekend was enjoyable. I wanted to schedule some time for the three of us to speak today on the Term Member session regarding the treatment of detainees in the War on Terror. Let me know when you have some time today to speak. I have a wide opening from 1:30-3:00 pm ET today if that works for you two.

Thanks,

[redacted]
Apprise Media LLC
450 Park Avenue
New York, NY 10022

Tel: [redacted]
Fax: (212) 751-4799
email: [redacted]@apprisemedia.com

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 8:47 AM
To: Hungar, Thomas G; Garre, Gregory G
Cc: Brett Gerry (E-mail)
Subject: Solomon Am Case
Importance: High

Is Paul C arguing this case today? I assume so, but Brett Gerry (WH Counsel) would appreciate confirmation for WH press office. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 6, 2005 8:52 AM
To: John B. Wiegmann (E-mail)
Subject: Lunch

Are we on? If so, just to confirm details, I have down that we're meeting at the University Club at 12:30. It's located on 16th, btwn L and M, right next door to the old Russian Embassy. Let's meet in the lobby (not the restaurant) and go from there. Best regards, NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 8:30 AM
To: Moschella, William
Subject: FW: Graham

any chance you can get your hands on Graham's latest draft?

-----Original Message-----
From: Michael_Allen@nsc.eop.gov [mailto:Michael_Allen@nsc.eop.gov]
Sent: Monday, December 05, 2005 6:00 PM
To: Gorsuch, Neil M; John_B._Wiegmann@nsc.eop.gov
Cc: Moschella, William; [redacted]@dodgc.osd.mil
Subject: RE: Graham

Yes, I expect bill will move this December.
As for technical advice, we'll see what it looks like when I get it.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, December 05, 2005 5:12 PM
To: Wiegmann, John B.; Allen, Michael
Cc: William.Moschella@usdoj.gov; [redacted]@dodgc.osd.mil
Subject: RE: Graham

Thanks very much for the update, Mike. Do you still expect Auth. Bill to move prior to Christmas?

Also, I assume/trust that the Graham folks understand that the technical advise we sent over covered (at their request) only a couple areas, not all of the 9 pts we need addressed.

-----Original Message-----
From: Michael_Allen@nsc.eop.gov [mailto:Michael_Allen@nsc.eop.gov]
Sent: Monday, December 05, 2005 5:06 PM
To: Gorsuch, Neil M; John_B._Wiegmann@nsc.eop.gov
Cc: Moschella, William; [redacted]@dodgc.osd.mil
Subject: Re: Graham

I've requested but not received the new language that Graham is sending to Warner as the "Senate Republican" position so to speak. As you know from our mtgs with staff, we expect it to be close to our approach but we'll have to confirm that. I know we are in good shape with Hunter - the "House Republican" position is close to our approach. Of course, neither side has brought the Ds in yet so the language will get worse we assume once they engage. But we'll stay on top of it to keep the Republicans close to our preference.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: Wiegmann, John B. <John_B._Wiegmann@nsc.eop.gov>; Allen, Michael <Michael_Allen@nsc.eop.gov>
CC: William.Moschella@usdoj.gov <William.Moschella@usdoj.gov>; Frank Jimenez (E-mail) <[redacted]@dodgc.osd.mil>
Sent: Mon Dec 05 16:00:24 2005
Subject: Graham

Any reaction from Graham's staff on our technical advise? Anything else we can/should be doing (e.g. Sensenbrenner, or otherwise)?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 6, 2005 8:38 AM
To: Tenpas, Ronald J (ODAG)
Subject: RE: Friday lunch

Ron, No problem at all. The 15th is tough for me, but how about the 19th, or 21st? Best, NMG

-----Original Message-----
From: Tenpas, Ronald J (ODAG)
Sent: Tuesday, December 06, 2005 8:32 AM
To: Gorsuch, Neil M
Subject: Friday lunch

Neil:

Sorry about this but I need to rebook Friday lunch. How about Thursday, 12/15?

Ron

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, December 06, 2005 8:41 AM
To: Gorsuch, Neil M
Subject: Read: OASG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 6, 2005 8:50 AM
To: Hungar, Thomas G
Subject: RE: Solomon Am Case

Thanks for the quick reply

-----Original Message-----
From: Hungar, Thomas G
Sent: Tuesday, December 06, 2005 8:47 AM
To: Gorsuch, Neil M; Garre, Gregory G
Cc: Brett Gerry (E-mail)
Subject: RE: Solomon Am Case

Yes he is.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 8:47 AM
To: Hungar, Thomas G; Garre, Gregory G
Cc: Brett Gerry (E-mail)
Subject: Solomon Am Case
Importance: High

Is Paul C arguing this case today? I assume so, but Brett Gerry (WH Counsel) would appreciate confirmation for WH press office. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 9:58 AM
To: Klein, Laura F
Subject: RE: DC Bar Pro Bono Program Advice & Referral Clinic on Dec. 10

Laura,

I am planning on being there. Just let me know where I am to report for duty!

Best regards,

NMG

-----Original Message-----
From: Klein, Laura F
Sent: Wednesday, November 30, 2005 10:14 AM
To: Gorsuch, Neil M; Mathews-Novelli, Scott; Goldsmith, Scott J; Shore, Elise (CRT); Ashworth, Jennifer H; Newton, Cullen (ENRD); Hewitt, Kim (ENRD); Ivanova, Anna; Smith, Justin (ENRD-LPS Attorney); Davis, Margaret (CRM) (OCDETF); Tisi, Andrea; Peritz, Leslie; Slates, Sue Ann; Rudolph, Maureen (ENRD); Fitzgerald, Donna (ENRD); Nash, Stuart (ODAG); Draughn, Barbara; McCarthy, Colleen (CIV); Brinkley, Winnie; McCall, Melonie (CIV); Hsu, Kathy; Hillman, Noel; Toth, Brian (ENRD); Wozniak, Karen E. (TAX); Sapper, Julie; Hines, Rachel (CIV); Fusi, Susan (CRT); Pletcher, Mark; Brady, Surell; Kenney, Kathleen M.; Lane, Sandra; Payne, James (ENRD); Konschnik, Kate (ENRD); Lukas-Jackson, Jennifer (ENRD); Sanders, Matthew (ENRD); Smith, Calisa (ENRD); [redacted]; Johnson, Joanne (CIV); Dhillon, Uttam; Hamilton, Dorian (CIV); Abbate, Julie (CRT); Mlynar, Maria (EOIR); Byers, Letitia; Bain, Quynh (CIV); Schneider, Todd J (CRT); Blaskopf, Lawrence P. (TAX); Fleetwood, Tonia (ENRD); Clark, Veronica (ENRD); Stephan, Sherri; Haag, Mark (ENRD); Dunston, Jerri; Smith, Dan (ENRD); Sobota, Luke; Rikhye, Evan; Sirota, Rima; Kim, Grace (CRT); Schaeffer, Stephen J. (TAX); [redacted]; Bollock, Jamon (ENRD); Keisler, Peter D (CIV); Eisenstein, Ilana H; Meeks, Marcus (CIV); Freeman, Mark (CIV); Kinner, Russell (CIV); Greif, Michele (CIV); Heyse, Michael C.
Subject: DC Bar Pro Bono Program Advice & Referral Clinic on Dec. 10

Dear Volunteers -
DOJ will once again be staffing the DC Bar Pro Bono Program Advice & Referral Clinic on Saturday, Dec. 10th from 9:30-12:30. As always, it promises to be a fun and rewarding Saturday morning. Kick off your holiday season with helping those in need!

Please let me know if you can join us.
Thanks -
Laura Klein
DOJ Pro Bono Program Manager
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 10:36 AM
To: Brett Gerry (E-mail); [redacted] John B. Wiegmann (E-mail); Michael Allen (E-mail); William J. Haynes (E-mail); Moschella, William
Subject: Graham Article
Attachments: GrahamArticle.pdf

In case you haven't seen it already, from today's WP op/ed page.

Lindsey Graham

Rules for Our War

In my view, the attacks of Sept. 11, 2001, were an act of war, not a mere crime. Our terrorist enemies don't represent a sovereign nation, wear a uniform, follow the rules of armed conflict or show any regard for humanity. The key difference between them and us is that we care about these things.

Even during a time of war, we have chosen to be a nation of laws, with a different, higher set of values than the terrorists. We should always remember that we are Americans, possessing values superior to those of our enemy, and that there is a proper balance between the protection of our troops and the humane treatment of detainees. This value system is our national strength, not a weakness.

I support President Bush's statement that all detainees should be treated humanely, and I agree with Sen. John McCain that his detainee treatment amendment is about us, not them. With these concepts in mind, the Senate recently acted in a bipartisan fashion in two critical areas of detainee policy.

First, by a vote of 90 to 9 we passed the McCain amendment, which would require all Defense Department interrogation techniques to be standardized and contained within the Army Field Manual. As a military lawyer, I know our original policies concerning interrogation were confusing and contradictory. Unfortunately, our troops have suffered in trying to implement these flawed policies.

By standardizing procedures in one document, our troops will know what's in and out of bounds. To attempt to recapture the moral high ground, we also reaffirm our long-held position that federal agencies will not engage in techniques that violate standards against torture or inhumane treatment of detainees under the laws of armed conflict.

Any efforts to create exemptions to the McCain amendment will, in my opinion, do far more harm than good, as they may set precedents that could jeopardize our troops in future conflicts. We will win this war by showcasing the differences between the United States and the enemy.

I believe we can have sound interrogation techniques and aggressive detention and prosecution policies for enemy combatants without eroding the values for which we are fighting.

The second bipartisan Senate action was the passage, 84 to 14, of the Graham-Levin-Kyl amendment, which would create a balanced approach to the laws governing detention and prosecution of enemy combatants.

Congress has been virtually AWOL on the status of enemy combatants, resulting in contradictory federal court decisions about detainees' legal rights. Because of Congress's inaction, the Supreme Court's ruling in the case of *Rasul v. Bush* allowed foreign national enemy combatants at Guantanamo Bay to be granted habeas corpus rights like American citizens.

In the past, federal courts have reviewed military tribunal verdicts involving enemy combatants who were charged with war crimes, but for the first time in the history of warfare, enemy prisoners were granted access to our federal courts to bring lawsuits against our own forces regarding their detention.

There are now close to 200 habeas petitions filed by enemy combatants requesting better mail delivery, more exercise, judge-supervised interrogation, Internet access and the right to view DVDs.

These lawsuits are undermining our ability to gain good intelligence and are placing federal courts in a role never before known in wartime.

Did we ever intend for enemy combatants captured on the battlefield to be given the same rights as U.S. citizens in our federal courts? The answer from a bipartisan majority in the Senate was a resounding no.

The courts asked Congress to get involved in these issues, and finally, through passage of the Graham-Levin-Kyl amendment, we did.

The amendment replaces unlimited habeas petitions with a one-time appeal right to the U.S. Court of Appeals for the District of Columbia Circuit. The review covers whether the formulation and implementation of the practices in place at Guantanamo Bay are constitutional and, in each individual case, whether the military correctly followed procedures.

In addition, the amendment requires federal court review of any military commission conviction involving a war crime and a sentence of 10 or more years. The court can choose to review cases with sentences of less than 10 years, and the Supreme Court will have the right to review lower court actions if petitioned.

The Senate has created legal and congressional oversight over enemy combatant interrogation, detention, and prosecution — all in excess of what is required by the laws of armed conflict. This is something of which our nation can be proud.

The McCain and Graham-Levin-Kyl amendments, taken together, provide a package of detainee reforms recognizing that we're in a war and striking a balance between protecting our nation's interests and ensuring that we adhere to the values for which we are fighting. They should be adopted in the House-Senate conference committee and by Congress as a whole.

The writer is a Republican senator from South Carolina.

DOJ_NMG_ 0149291

Gorsuch, Neil M

Subject:	Mike Davis Bombay Club.
Start:	Wednesday, December 21, 2005 12:00 PM
End:	Wednesday, December 21, 2005 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 6, 2005 9:41 AM
To: Tenpas, Ronald J (ODAG)
Subject: RE: Friday lunch

21st it is. I'll look forward to it.

-----Original Message-----
From: Tenpas, Ronald J (ODAG)
Sent: Tuesday, December 06, 2005 9:04 AM
To: Gorsuch, Neil M
Subject: RE: Friday lunch

Let's try the 21st. Thanks for your understanding.

Ron

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 8:38 AM
To: Tenpas, Ronald J (ODAG)
Subject: RE: Friday lunch

Ron, No problem at all. The 15th is tough for me, but how about the 19th, or 21st? Best, NMG

-----Original Message-----
From: Tenpas, Ronald J (ODAG)
Sent: Tuesday, December 06, 2005 8:32 AM
To: Gorsuch, Neil M
Subject: Friday lunch

Neil:

Sorry about this but I need to rebook Friday lunch. How about Thursday, 12/15?

Ron

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 10:36 AM
To: Sampson, Kyle; Elwood, Courtney
Subject: Graham Article
Attachments: GrahamArticle.pdf

In case you haven't seen it already, this is from today's WP op-ed page.

Lindsey Graham

Rules for Our War

In my view, the attacks of Sept. 11, 2001, were an act of war, not a mere crime. Our terrorist enemies don't represent a sovereign nation, wear a uniform, follow the rules of armed conflict or show any regard for humanity. The key difference between them and us is that we care about these things.

Even during a time of war, we have chosen to be a nation of laws, with a different, higher set of values than the terrorists. We should always remember that we are Americans, possessing values superior to those of our enemy, and that there is a proper balance between the protection of our troops and the humane treatment of detainees. This value system is our national strength, not a weakness.

I support President Bush's statement that all detainees should be treated humanely, and I agree with Sen. John McCain that his detainee treatment amendment is about us, not them. With these concepts in mind, the Senate recently acted in a bipartisan fashion in two critical areas of detainee policy.

First, by a vote of 90 to 9 we passed the McCain amendment, which would require all Defense Department interrogation techniques to be standardized and contained within the Army Field Manual. As a military lawyer, I know our original policies concerning interrogation were confusing and contradictory. Unfortunately, our troops have suffered in trying to implement these flawed policies.

By standardizing procedures in one document, our troops will know what's in and out of bounds. To attempt to recapture the moral high ground, we also reaffirm our long-held position that federal agencies will not engage in techniques that violate standards against torture or inhumane treatment of detainees under the laws of armed conflict.

Any efforts to create exemptions to the McCain amendment will, in my opinion, do far more harm than good, as they may set precedents that could jeopardize our troops in future conflicts. We will win this war by showcasing the differences between the United States and the enemy.

I believe we can have sound interrogation techniques and aggressive detention and prosecution policies for enemy combatants without eroding the values for which we are fighting.

The second bipartisan Senate action was the passage, 84 to 14, of the Graham-Levin-Kyl amendment, which would create a balanced approach to the laws governing detention and prosecution of enemy combatants.

Congress has been virtually AWOL on the status of enemy combatants, resulting in contradictory federal court decisions about detainees' legal rights. Because of Congress's inaction, the Supreme Court's ruling in the case of *Rasul v. Bush* allowed foreign national enemy combatants at Guantanamo Bay to be granted habeas corpus rights like American citizens.

In the past, federal courts have reviewed military tribunal verdicts involving enemy combatants who were charged with war crimes, but for the first time in the history of warfare, enemy prisoners were granted access to our federal courts to bring lawsuits against our own forces regarding their detention.

There are now close to 200 habeas petitions filed by enemy combatants requesting better mail delivery, more exercise, judge-supervised interrogation, Internet access and the right to view DVDs.

These lawsuits are undermining our ability to gain good intelligence and are placing federal courts in a role never before known in wartime.

Did we ever intend for enemy combatants captured on the battlefield to be given the same rights as U.S. citizens in our federal courts? The answer from a bipartisan majority in the Senate was a resounding no.

The courts asked Congress to get involved in these issues, and finally, through passage of the Graham-Levin-Kyl amendment, we did.

The amendment replaces unlimited habeas petitions with a one-time appeal right to the U.S. Court of Appeals for the District of Columbia Circuit. The review covers whether the formulation and implementation of the practices in place at Guantanamo Bay are constitutional and, in each individual case, whether the military correctly followed procedures.

In addition, the amendment requires federal court review of any military commission conviction involving a war crime and a sentence of 10 or more years. The court can choose to review cases with sentences of less than 10 years, and the Supreme Court will have the right to review lower court actions if petitioned.

The Senate has created legal and congressional oversight over enemy combatant interrogation, detention, and prosecution — all in excess of what is required by the laws of armed conflict. This is something of which our nation can be proud.

The McCain and Graham-Levin-Kyl amendments, taken together, provide a package of detainee reforms recognizing that we're in a war and striking a balance between protecting our nation's interests and ensuring that we adhere to the values for which we are fighting. They should be adopted in the House-Senate conference committee and by Congress as a whole.

The writer is a Republican senator from South Carolina.

DOJ_NMG_ 0149295

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 12:14 PM
To: Davis, John S. (USAVAE); Swenson, Lily F
Subject: RE: DOJ reauth--Privacy Officer negotiation today!!

John, This is really something I defer to you and OLA on given your respective expertise. NMG

-----Original Message-----
From: Davis, John S. (USAVAE)
Sent: Tuesday, December 06, 2005 11:54 AM
To: Gorsuch, Neil M; Swenson, Lily F
Subject: FW: DOJ reauth--Privacy Officer negotiation today!!
Importance: High

Lily or Neil, do we want to say anything to House staff about the current Privacy Officer effort?

John

From: Roland, Sarah E
Sent: Tuesday, December 06, 2005 11:49 AM
To: Davis, John S (ODAG); Davis, John S. (USAVAE)
Subject: DOJ reauth--Privacy Officer negotiation today!!
Importance: High

John; House is negotiating Privacy Officer today at 2pm (they just called) with Senate. Brian Benczkowski with House staff asked if we have any additional materials on what we're doing, how it's different from proposal, etc.

Do we have any talkers on this. I know you sent me a few things way back when, but I have a new computer as of two weeks ago, and have no archives of email now.

Anything that we can give Brian as ammo, keeping in mind the reasons that they'll push back with, would be really helpful.

Sarah Elizabeth Roland

Sarah Elizabeth Rofand
U.S. Department of Justice
Office of Legislative Affairs
(202) 305-9134

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 11:45 AM
To: Beach, Andrew; Henke, Tracy (SMO); McCallum, Robert (SMO)
Cc: Sellers, Kiahna (OAG); Gunn, Currie (SMO)
Subject: RE: Interagency Council on Homelessness

Robert, As you may recall, I attended the last one of these in your absence. This group is really a HUD/VA initiative and we have few equities raised by their agenda. Accordingly, I don't think it's worth your time unless you simply want to show the flag, though even there it may not be worthwhile as, besides HUD/VA, the representation by others is generally well below your level. Unless you wish to attend, I suggest either Tracy or I go. NMG

-----Original Message-----
From: Beach, Andrew
Sent: Tuesday, December 06, 2005 11:31 AM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Cc: Sellers, Kiahna (OAG); Gunn, Currie (SMO)
Subject: Interagency Council on Homelessness

Neil/Tracy:
the next full council meeting will be held on TUESDAY, DECEMBER 13 at 11:00 AM in EEOB 350 chaired by HUD[redacted]. Contact is [redacted].

In times past I believe the Associate has represented DOJ at this meeting.
How do you want to handle this next council meeting?

REF: Exec Sec Workflow ID 916981

Andrew Beach
Assistant to the Attorney General
& Director of Scheduling
US Department of Justice
951 Constitution Ave., NW
Washington, DC 20530
Tel: (202) 514-4195; FAX: (202) 307-2825
E-mail: andrew.beach@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 12:16 PM
To: McCallum, Robert (SMO); Beach, Andrew; Henke, Tracy (SMO)
Cc: Sellers, Kiahna (OAG); Gunn, Currie (SMO)
Subject: RE: Interagency Council on Homelessness

I will coordinate with Tracy and make sure one of us covers.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, December 06, 2005 12:14 PM
To: Gorsuch, Neil M; Beach, Andrew; Henke, Tracy (SMO)
Cc: Sellers, Kiahna (OAG); Gunn, Currie (SMO)
Subject: RE: Interagency Council on Homelessness

I agree to you or Tracy going. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 11:45 AM
To: Beach, Andrew; Henke, Tracy (SMO); McCallum, Robert (SMO)
Cc: Sellers, Kiahna (OAG); Gunn, Currie (SMO)
Subject: RE: Interagency Council on Homelessness

Robert, As you may recall, I attended the last one of these in your absence. This group is really a HUD/VA initiative and we have few equities raised by their agenda. Accordingly, I don't think it's worth your time unless you simply want to show the flag, though even there it may not be worthwhile as, besides HUD/VA, the representation by others is generally well below your level. Unless you wish to attend, I suggest either Tracy or I go. NMG

-----Original Message-----
From: Beach, Andrew
Sent: Tuesday, December 06, 2005 11:31 AM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Cc: Sellers, Kiahna (OAG); Gunn, Currie (SMO)
Subject: Interagency Council on Homelessness

Neil/Tracy:
the next full council meeting will be held on TUESDAY, DECEMBER 13 at 11:00 AM in EEOB 350 chaired by HUD[redacted]. Contact is[redacted].

In times past I believe the Associate has represented DOJ at this meeting.
How do you want to handle this next council meeting?

REF: Exec Sec Workflow ID 916981

Andrew Beach
Assistant to the Attorney General
& Director of Scheduling
US Department of Justice
951 Constitution Ave., NW
Washington, DC 20530
Tel: (202) 514-4195; FAX: (202) 307-2825
E-mail: andrew.beach@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 12:16 PM
To: Henke, Tracy (SMO)
Cc: Gunn, Currie (SMO)
Subject: FW: Interagency Council on Homelessness

If you'd like to go, please be my guest! If not, I'm happy to show the flag. Just let me know.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, December 06, 2005 12:14 PM
To: Gorsuch, Neil M; Beach, Andrew; Henke, Tracy (SMO)
Cc: Sellers, Kiahna (OAG); Gunn, Currie (SMO)
Subject: RE: Interagency Council on Homelessness

I agree to you or Tracy going. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 11:45 AM
To: Beach, Andrew; Henke, Tracy (SMO); McCallum, Robert (SMO)
Cc: Sellers, Kiahna (OAG); Gunn, Currie (SMO)
Subject: RE: Interagency Council on Homelessness

Robert, As you may recall, I attended the last one of these in your absence. This group is really a HUD/VA initiative and we have few equities raised by their agenda. Accordingly, I don't think it's worth your time unless you simply want to show the flag, though even there it may not be worthwhile as, besides HUD/VA, the representation by others is generally well below your level. Unless you wish to attend, I suggest either Tracy or I go. NMG

-----Original Message-----
From: Beach, Andrew
Sent: Tuesday, December 06, 2005 11:31 AM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Cc: Sellers, Kiahna (OAG); Gunn, Currie (SMO)
Subject: Interagency Council on Homelessness

Neil/Tracy:
the next full council meeting will be held on TUESDAY, DECEMBER 13 at 11:00 AM in EEOB 350 chaired by HUD [redacted] Contact is [redacted]
In times past I believe the Associate has represented DOJ at this meeting.
How do you want to handle this next council meeting?

REF: Exec Sec Workflow ID 916981

Andrew Beach
Assistant to the Attorney General
& Director of Scheduling
US Department of Justice
951 Constitution Ave., NW
Washington, DC 20530
Tel: (202) 514-4195; FAX: (202) 307-2825
E-mail: andrew.beach@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 12:23 PM
To: Beach, Andrew; Gunn, Currie (SMO); Henke, Tracy (SMO)
Subject: Fw: Interagency Council on Homelessness

Tracy will plan to cover. I'm backup.

Tracy, no prob about today. Study up and good luck! When and where will your hrg be? I might try to stop by.

-----Original Message-----
From: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Dec 06 12:17:44 2005
Subject: Re: Interagency Council on Homelessness

I will see if I can do this one since I won't be in for today's OJP meeting. I am studying the 500 plus pages of material DHS gave me yesterday.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>
CC: Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>
Sent: Tue Dec 06 12:15:46 2005
Subject: FW: Interagency Council on Homelessness

If you'd like to go, please be my guest! If not, I'm happy to show the flag. Just let me know.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, December 06, 2005 12:14 PM
To: Gorsuch, Neil M; Beach, Andrew; Henke, Tracy (SMO)
Cc: Sellers, Kiahna (OAG); Gunn, Currie (SMO)
Subject: RE: Interagency Council on Homelessness

I agree to you or Tracy going. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 11:45 AM
To: Beach, Andrew; Henke, Tracy (SMO); McCallum, Robert (SMO)
Cc: Sellers, Kiahna (OAG); Gunn, Currie (SMO)

Cc: Sellers, Kiahna (OAG); Gunn, Currie (SMO)
Subject: RE: Interagency Council on Homelessness

Robert, As you may recall, I attended the last one of these in your absence. This group is really a HUD/VA initiative and we have few equities raised by their agenda. Accordingly, I don't think it's worth your time unless you simply want to show the flag, though even there it may not be worthwhile as, besides HUD/VA, the representation by others is generally well below your level. Unless you wish to attend, I suggest either Tracy or I go. NMG

-----Original Message-----
From: Beach, Andrew
Sent: Tuesday, December 06, 2005 11:31 AM
To: Gorsuch, Neil M; Henke, Tracy (SMO)
Cc: Sellers, Kiahna (OAG); Gunn, Currie (SMO)
Subject: Interagency Council on Homelessness

Neil/Tracy:
the next full council meeting will be held on TUESDAY, DECEMBER 13 at 11:00 AM in EEOB 350 chaired by HUD [redacted] Contact is [redacted]

In times past I believe the Associate has represented DOJ at this meeting.
How do you want to handle this next council meeting?

REF: Exec Sec Workflow ID 916981

Andrew Beach
Assistant to the Attorney General
& Director of Scheduling
US Department of Justice
951 Constitution Ave., NW
Washington, DC 20530
Tel: (202) 514-4195; FAX: (202) 307-2825
E-mail: andrew.beach@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 2:01 PM
To: Shaw, Aloma A
Subject: Ojp mtg

Am running late but should be there in five mins.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 3:17 PM
To: Perkins, Kathleen A.
Subject: RE:

I believe this may've been misdirected.
-----Original Message-----
From: Perkins, Kathleen A.
Sent: Tuesday, December 06, 2005 3:08 PM
To: Gorsuch, Neil M
Subject:

Kathleen A. Perkins
IT Specialist
Communications Engineering Branch
Desk [redacted]
Cell
Fax:
We have a passion for quality results

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 3:10 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Why are we doing this meeting? I'd appreciate just a little background. Thanks.

-----Original Message-----
From: Blomquist, Kathleen M
Sent: Tuesday, December 06, 2005 2:47 PM
To: Campbell, Benton; Trono, Robert (USMS); Voris, Natalie (USAEO); Gorsuch, Neil M; Hertling, Richard
Cc: Korn, Jennifer
Subject: Court TV Meeting Request

Good afternoon.

My name is Kat Blomquist, and I am a new member of the Office of Intergovernmental and Public Liaison.

I received a request from [redacted] of Preston Gates hoping to schedule a meeting with DOJ for his client, Court TV, to discuss DOJ's position on courtroom security / cameras in courtrooms.

The meeting would be attended by [redacted] and [redacted], General Counsel and Executive Vice President of Court TV.

[redacted] will be in Washington, D.C. next Monday and Tuesday (Dec. 12-13), and [redacted] has initially asked if we can set this up for those days. If your component would like to be present at this meeting, please let me know your availability during those days (or direct me to your scheduler) or please direct me to the appropriate person from your office who would attend.

Thank you very much. I look forward to hearing from you and meeting you, as well.

Kat Blomquist

Kathleen M. Blomquist
Associate Director
Office of Intergovernmental and Public Liaison
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C., 20530
[redacted]

Blomquist, Kathleen M

From: Blomquist, Kathleen M
Sent: Tuesday, December 6, 2005 3:10 PM
To: Gorsuch, Neil M
Subject: Read: Court TV Meeting Request

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 6, 2005 3:18 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Thanks very much.

-----Original Message-----
From: Blomquist, Kathleen M
Sent: Tuesday, December 06, 2005 3:16 PM
To: Gorsuch, Neil M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Mr. Gorsuch:

It was referred to me to coordinate. I'll look into the background and get back to you when I find out.

Kat Blomquist

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 3:10 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Why are we doing this meeting? I'd appreciate just a little background. Thanks.

-----Original Message-----
From: Blomquist, Kathleen M
Sent: Tuesday, December 06, 2005 2:47 PM
To: Campbell, Benton; Trono, Robert (USMS); Voris, Natalie (USAEO); Gorsuch, Neil M; Hertling, Richard
Cc: Korn, Jennifer
Subject: Court TV Meeting Request

Good afternoon.

My name is Kat Blomquist, and I am a new member of the Office of Intergovernmental and Public Liaison.

I received a request from [redacted] of Preston Gates hoping to schedule a meeting with DOJ for his client, Court TV, to discuss DOJ's position on courtroom security / cameras in courtrooms.

The meeting would be attended by [redacted] and [redacted], General Counsel and Executive Vice President of Court TV.

[redacted] will be in Washington, D.C. next Monday and Tuesday (Dec. 12-13), and [redacted] has initially asked if we can set this up for those days. If your component would like to be present at this meeting, please let me know your availability during those days (or direct me to your scheduler) or please direct me to the appropriate person from your office who would attend.

Thank you very much. I look forward to hearing from you and meeting you, as well.

Kat Blomquist

Kathleen M. Blomquist
Associate Director
Office of Intergovernmental and Public Liaison
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C., 20530
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 6, 2005 3:41 PM
To: Korn, Jennifer; Hertling, Richard
Cc: Blomquist, Kathleen M
Subject: RE: Court TV Meeting Request

Richard, Can you give me some background on why we're talking to court tv?

-----Original Message-----
From: Korn, Jennifer
Sent: Tuesday, December 06, 2005 3:32 PM
To: Gorsuch, Neil M
Cc: Blomquist, Kathleen M
Subject: FW: Court TV Meeting Request

Hi Neil,
We were referred by Richard to set up this meeting. Please see below and let me know if you have a different take on this. Thanks.
JK

-----Original Message-----
From: Hertling, Richard
Sent: Monday, December 05, 2005 5:45 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Kat: I sent Court TV to OIPL. OLP would be happy to sit in on such a meeting. The Criminal Division (try [redacted]), the Marshals Service (try [redacted]), and EOUSA (try Natalie Voris) are the biggest stake-holders and the components that drive DOJ's opposition to cameras in the courtroom, so at a minimum they need to participate. To be safe and ensure that civil litigation interests are protected, you should also reach out to the Associate's Office, though I do not know who there would be the appropriate person to contact, so try Neil Gorsuch, the Principal Deputy. rah

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 6, 2005 4:07 PM
To: Hertling, Richard
Subject: RE: Court TV Meeting Request

Of course

-----Original Message-----
From: Hertling, Richard
Sent: Tuesday, December 06, 2005 4:02 PM
To: Gorsuch, Neil M
Subject: Re: Court TV Meeting Request

On the Hill till 5:30 and then I have a conference call. Can we chat tomorrow on this?

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Korn, Jennifer <Jennifer.Korn@SMOJMD.USDOJ.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>
CC: Blomquist, Kathleen M <Kathleen.M.Blomquist@SMOJMD.USDOJ.gov>
Sent: Tue Dec 06 15:41:02 2005
Subject: RE: Court TV Meeting Request

Richard, Can you give me some background on why we're talking to court tv?

-----Original Message-----
From: Korn, Jennifer
Sent: Tuesday, December 06, 2005 3:32 PM
To: Gorsuch, Neil M
Cc: Blomquist, Kathleen M
Subject: FW: Court TV Meeting Request

Hi Neil,
We were referred by Richard to set up this meeting. Please see below and let me know if you have a different take on this. Thanks.
JK

-----Original Message-----
From: Hertling, Richard
Sent: Monday, December 05, 2005 5:45 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Subject: RE: Court TV Meeting Request

Kat: I sent Court TV to OIPL. OLP would be happy to sit in on such a meeting. The Criminal Division (try [redacted]), the Marshals Service (try [redacted], and EOUSA (try Natalie Voris) are the biggest stake-holders and the components that drive DOJ's opposition to cameras in the courtroom, so at a minimum they need to participate. To be safe and ensure that civil litigation interests are protected, you should also reach out to the Associate's Office, though I do not know who there would be the appropriate person to contact, so try Neil Gorsuch, the Principal Deputy. rah

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 5:33 PM
To: [redacted](E-mail)
Subject: Secretary's European Visit
Attachments: GrahamArticle.pdf

[redacted]

Just a quick note to say how pleased and proud I am of how the Secretary has kicked off her European visit. It is long overdue for the Administration to get out publicly and defend our detention policies, trumpet their successes, while also admitting the inevitable and regrettable errors. We've been in a defensive crouch telling the world to buzz off for a long time; we need more of this open and positive communication. Keep it up!

On this end, I helped draft a speech for the AG that he gave last week to similar effect before the CFR in NY, no easy audience. A copy of his remarks can be found on http://www.usdoj.gov/

Last but not least, I thought you'd find Sen Graham's op/ed in today's Post (attached) of interest, if you hadn't seen it already.

Warm regards,

NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell:[redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Lindsey Graham

Rules for Our War

In my view, the attacks of Sept. 11, 2001, were an act of war, not a mere crime. Our terrorist enemies don't represent a sovereign nation, wear a uniform, follow the rules of armed conflict or show any regard for humanity. The key difference between them and us is that we care about these things.

Even during a time of war, we have chosen to be a nation of laws, with a different, higher set of values than the terrorists. We should always remember that we are Americans, possessing values superior to those of our enemy, and that there is a proper balance between the protection of our troops and the humane treatment of detainees. This value system is our national strength, not a weakness.

I support President Bush's statement that all detainees should be treated humanely, and I agree with Sen. John McCain that his detainee treatment amendment is about us, not them. With these concepts in mind, the Senate recently acted in a bipartisan fashion in two critical areas of detainee policy.

First, by a vote of 90 to 9 we passed the McCain amendment, which would require all Defense Department interrogation techniques to be standardized and contained within the Army Field Manual. As a military lawyer, I know our original policies concerning interrogation were confusing and contradictory. Unfortunately, our troops have suffered in trying to implement these flawed policies.

By standardizing procedures in one document, our troops will know what's in and out of bounds. To attempt to recapture the moral high ground, we also reaffirm our long-held position that federal agencies will not engage in techniques that violate standards against torture or inhumane treatment of detainees under the laws of armed conflict.

Any efforts to create exemptions to the McCain amendment will, in my opinion, do far more harm than good, as they may set precedents that could jeopardize our troops in future conflicts. We will win this war by showcasing the differences between the United States and the enemy.

I believe we can have sound interrogation techniques and aggressive detention and prosecution policies for enemy combatants without eroding the values for which we are fighting.

The second bipartisan Senate action was the passage, 84 to 14, of the Graham-Levin-Kyl amendment, which would create a balanced approach to the laws governing detention and prosecution of enemy combatants.

Congress has been virtually AWOL on the status of enemy combatants, resulting in contradictory federal court decisions about detainees' legal rights. Because of Congress's inaction, the Supreme Court's ruling in the case of *Rasul v. Bush* allowed foreign national enemy combatants at Guantanamo Bay to be granted habeas corpus rights like American citizens.

In the past, federal courts have reviewed military tribunal verdicts involving enemy combatants who were charged with war crimes, but for the first time in the history of warfare, enemy prisoners were granted access to our federal courts to bring lawsuits against our own forces regarding their detention.

There are now close to 200 habeas petitions filed by enemy combatants requesting better mail delivery, more exercise, judge-supervised interrogation, Internet access and the right to view DVDs.

These lawsuits are undermining our ability to gain good intelligence and are placing federal courts in a role never before known in wartime.

Did we ever intend for enemy combatants captured on the battlefield to be given the same rights as U.S. citizens in our federal courts? The answer from a bipartisan majority in the Senate was a resounding no.

The courts asked Congress to get involved in these issues, and finally, through passage of the Graham-Levin-Kyl amendment, we did.

The amendment replaces unlimited habeas petitions with a one-time appeal right to the U.S. Court of Appeals for the District of Columbia Circuit. The review covers whether the formulation and implementation of the practices in place at Guantanamo Bay are constitutional and, in each individual case, whether the military correctly followed procedures.

In addition, the amendment requires federal court review of any military commission conviction involving a war crime and a sentence of 10 or more years. The court can choose to review cases with sentences of less than 10 years, and the Supreme Court will have the right to review lower court actions if petitioned.

The Senate has created legal and congressional oversight over enemy combatant interrogation, detention, and prosecution — all in excess of what is required by the laws of armed conflict. This is something of which our nation can be proud.

The McCain and Graham-Levin-Kyl amendments, taken together, provide a package of detainee reforms recognizing that we're in a war and striking a balance between protecting our nation's interests and ensuring that we adhere to the values for which we are fighting. They should be adopted in the House-Senate conference committee and by Congress as a whole.

The writer is a Republican senator from South Carolina.

DOJ_NMG_ 0149315

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 6, 2005 7:16 PM
To: [redacted]@apprisemedia.com'; [redacted]@cfr.org
Subject: RE: Dec 12 Roundtable

Also, is there any conflict for the date in January? If not, might it prove more likely to draw additional folks?

-----Original Message-----
From [redacted]@apprisemedia.com [mailto[redacted]@apprisemedia.com]
Sent: Tuesday, December 06, 2005 6:27 PM
To: [redacted]@cfr.org
Cc: Gorsuch, Neil M
Subject: Re: Dec 12 Roundtable

This is very light. I believe I could make some calls but would not want to proceed with such a small group.

Are most Term Members at the movie night? Could you send me the list of attendees for that event? I could guage whether it's worthwhile to make some personal calls.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]@cfr.org [redacted]@cfr.org>
To: [redacted]@apprisemedia.com>
CC: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
Sent: Tue Dec 06 13:21:23 2005
Subject: RE: Dec 12 Roundtable

Dear [redacted] Here are the attendees for Monday so far. (Not including myself, you, [redacted] and [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Council on Foreign Relations
[redacted]@cfr.org
Tel: [redacted]
Fax: [redacted]
www.cfr.org

[redacted]
[redacted]@appri To
semedia.com> [redacted]@cfr.org>
cc
12/06/2005 04:04 <Neil.Gorsuch@usdoj.gov>
PM Subject
RE: Dec 12 Roundtable

I'll make calls directly. Who is signed up now?

-----Original Message-----
From: [redacted]@cfr.org [mailto[redacted]@cfr.org]
Sent: Tuesday, December 06, 2005 3:47 PM
To: [redacted]

Cc: Neil.Gorsuch@usdoj.gov
Subject: RE: Dec 12 Roundtable

Dear [redacted]

I will place a hold on 2/16 for your second session; we can fill in details once we get closer to the date.

As of today, there are only 12 people signed up for the seminar on Monday- I've sent out reminders and the meeting is posted on the web; please let me know if you've spoken to TMs who will attend and haven't signed up yet.
(It's difficult, as you know, going up against a movie screening!)

Let me know if you or Neil need anything further.

Neil, [redacted] has not yet contacted me about travel for Monday! (I emailed him about it yesterday)

NB

[redacted]
Council on Foreign Relations
[redacted]@cfr.org
Tel [redacted]
Fax: [redacted]
www.cfr.org

[redacted]

To [redacted]@appri semedia.com> [redacted]@cfr.org>, <Neil.Gorsuch@usdoj.gov>

12/05/2005 04:42 PM

cc [redacted]@cfr.org>

Subject RE: Dec 12 Roundtable

RE: Dec 12 Roundtable

Thanks [redacted] The DOD is still to confirm their speaker for the NY event with us; we anticipate finalizing that in the next day.

For the DC session, Feb 16th would be the best date for us. If we can lock that in, we'll begin lining up speakers now.

Regards,
[redacted]

-----Original Message-----
From [redacted]@cfr.org [mailto[redacted]@cfr.org]
Sent: Monday, December 05, 2005 10:20 AM
To: Neil.Gorsuch@usdoj.gov
Cc: [redacted]@cfr.org; [redacted]
Subject: Re: Dec 12 Roundtable

Dear [redacted] and [redacted]

Many thanks for your work on this project; as you saw, I sent out the notice to term members on Friday and will send the official invite this afternoon.

The following dates are available to have a session in DC:

2/16, 2/28, 3/16, 3/28, 4/25, 5/11. 5/23, 6/15, 6/27

Please contact me with further questions or concerns and I'd be happy to help.

Sincerely,
[redacted]

[redacted]

[redacted]
Council on Foreign Relations
[redacted]@cfr.org
Tel: [redacted]
Fax: [redacted]
www.cfr.org

"Neil.Gorsuch@usd

oj.gov"

<Neil.Gorsuch@usd

To oj.gov> "[redacted]@cfr.org" <[redacted]@cfr.org>

(Receipt Notification Requested)

12/02/2005 04:05 (IPM Return Requested),

PM "[redacted]@cfr.org" <[redacted]@cfr.org>

(Receipt Notification Requested)

(IPM Return Requested)

cc "[redacted]@apprisemedia.com"

<[redacted]@apprisemedia.com>

(Receipt Notification Requested)

(IPM Return Requested)

Subject Dec 12 Roundtable

Dear [redacted] and [redacted]

It was great to meet [redacted] last night. I am just sorry I wasn't able to track down [redacted] Next time.

Per our discussion [redacted] and I suggest sending out a notice today (or tomorrow) with the speakers we currently have lined up, though we may have more confirmed folks later. We'd also like to rename the roundtable as follows:

Term Member Roundtable on the Interrogation and Treatment of Enemy Combatants in the War on Terror.

The confirmed participants:

[redacted]

Presiders/Moderators:

[redacted] and Neil Gorsuch

***

I also wanted to raise the possibility of repeating this roundtable here in DC where I would be able to draw in some pretty good speakers as well. If you're interested, what dates would work? Mike and I can get busy lining folks up.

Many thanks and best regards,

Neil Gorsuch

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 7:54 PM
To: 'dcmeetings@cfr.org'
Subject: Re: Special invitation: 12/7 CFR meeting with President George W. Bush

Thanks so much! The guests would be Luis Reyes and Jan Williams, both of DOJ. Many thanks again.
NMG

-----Original Message-----
From: dcmeetings@cfr.org <dcmeetings@cfr.org>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Dec 06 19:32:22 2005
Subject: Re: Special invitation: 12/7 CFR meeting with President George W. Bush

We have limited room for guests, but I think we could squeeze in two guests. Please send me their name and affiliation and I will send you a confirmation email shortly.

Sincerely,
DC Meetings

"Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov>
12/06/2005 06:53 PM

To
"dcmeetings@cfr.org" <dcmeetings@cfr.org> cc

Subject
Re: Special invitation: 12/7 CFR meeting with President George W. Bush

If you still have guest tickets, I would be grateful for one or two. Many thanks.

-----Original Message-----
From: dcmeetings@cfr.org <dcmeetings@cfr.org>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Dec 06 16:47:10 2005
Subject: Special invitation: 12/7 CFR meeting with President George W. Bush

Dear Mr. Gorsuch:

We are able to accommodate a limited number of guests for tomorrow's Council event with President George W. Bush at the Omni Shoreham.

**If you wish to bring a guest, please notify us before 6:00 p.m. tonight, December 6. You may do so by replying to this e-mail (dcmeetings@cfr.org), calling the DC Meetings Response Line at (202) 518-3479, or faxing your acceptance to (202) 986-2984. Please include your guest's name and affiliation.

We will confirm your guest's registration with you. Your guest is not confirmed until you receive a confirmation from the Council.

We apologize for the short notice.

DC Meetings

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 7:18 PM
To: Reyes, Luis (SMO)
Subject: RE: Trafficking Report

Many thanks

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, December 06, 2005 5:41 PM
To: Gorsuch, Neil M
Subject: Trafficking Report

Fyi, meant to report this earlier. I will be attending a meeting tomorrow going over the status of the Trafficking Report. Will make sure and push our time frame and vision forward at the meeting and will report back.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 8:18 PM
To: 'dcmeetings@cfr.org'
Subject: Re: Special invitation: 12/7 CFR meeting with President George W. Bush

Will do - and very many thanks again. NMG

-----Original Message-----
From: dcmeetings@cfr.org <dcmeetings@cfr.org>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Dec 06 19:56:36 2005
Subject: Re: Special invitation: 12/7 CFR meeting with President George W. Bush

Dear Mr. Gorsuch,

Your guests are confirmed for tomorrowâ??s event with President Bush.

Please ensure that your guest receives the following information:

All attendees must have passed through screening and have taken their seats before the President arrives, therefore the doors to the event will close promptly at 10:30 a.m. We will not be able to accommodate any latecomers. Doors will open at 9:00 a.m. We recommend that you arrive between 9:00 a.m. and 10:00 a.m. to make sure there is plenty of time to register and pass through security before the doors to the event close at 10:30 a.m.

The venue is the Blue Ballroom in the Omni Shoreham hotel (2500 Calvert Street, NW, Washington DC, 20005). There will be Council staff in the lobby to direct you to registration and security.

Metro will be your best bet for reaching the venue (Woodley Park/Zoo/Adams Morgan Metro station on the Red line; the hotel is one-half mile from the Metro station). The hotel does have valet parking should you need to drive. There is also a taxi rank at the hotel. Please keep in mind that there will be delays and road closures related to the Presidentâ??s arrival and departure.

We have arranged for a coat check and strongly suggest you check your coat (the coat check is in the hotel lobby; please indicate that you are there for the Council on Foreign Relations event). No briefcases/backpacks, etc., are allowed (a complete list of prohibited items is below); therefore you must check those items at the coat check if you bring them with you.

with you.

Please note the following security requirements:
Â· Everyone will be required to show a valid government-issued photo identification for check-in.
Â· Prohibited items include:
o Duffel Bags/Suitcases/Backpacks/Briefcases o Umbrellas o Bottles, Cans, Drinks, Food o Animals (except guide dogs) o Aerosols of any kind o Knives of any size (including Pocket Knives) o Mace, Real or Simulated Weapons/Ammunition o Fireworks/Firecrackers o Radios, Boom Boxes or other noisemakers o Flags, Banners, or Signs of any type o Laser Pointers Â· You must have on your Council nametag to be admitted to the
security screening area.

Thank you and we look forward to seeing you tomorrow.

"Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov>
12/06/2005 07:53 PM

To
"dcmeetings@cfr.org" <dcmeetings@cfr.org> cc

Subject
Re: Special invitation: 12/7 CFR meeting with President George W. Bush

Thanks so much! The guests would be Luis Reyes and Jan Williams, both of DOJ. Many thanks again. NMG

-----Original Message-----
From: dcmeetings@cfr.org <dcmeetings@cfr.org>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Dec 06 19:32:22 2005
Subject: Re: Special invitation: 12/7 CFR meeting with President George W. Bush

We have limited room for guests, but I think we could squeeze in two guests. Please send me their name and affiliation and I will send you a confirmation email shortly.

Sincerely,
DC Meetings

"Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov>
12/06/2005 06:53 PM

To
"dcmeetings@cfr.org" <dcmeetings@cfr.org> cc

Subject
Re: Special invitation: 12/7 CFR meeting with President George W. Bush

If you still have guest tickets, I would be grateful for one or two. Many

thanks.

-----Original Message-----
From: dcmeetings@cfr.org <dcmeetings@cfr.org>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Dec 06 16:47:10 2005
Subject: Special invitation: 12/7 CFR meeting with President George W. Bush

Dear Mr. Gorsuch:

We are able to accommodate a limited number of guests for tomorrow's Council event with President George W. Bush at the Omni Shoreham.

**If you wish to bring a guest, please notify us before 6:00 p.m. tonight,

December 6. You may do so by replying to this e-mail (dcmeetings@cfr.org), calling the DC Meetings Response Line at (202) 518-3479, or faxing your acceptance to (202) 986-2984. Please include your guest's name and affiliation.

We will confirm your guest's registration with you. Your guest is not confirmed until you receive a confirmation from the Council.

We apologize for the short notice.

DC Meetings

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 7:18 PM
To: Hertling, Richard
Subject: RE: Court TV Meeting Request

Let's talk tomorrow; will you be at the morning mtg?

-----Original Message-----
From: Hertling, Richard
Sent: Tuesday, December 06, 2005 6:06 PM
To: Gorsuch, Neil M
Subject: RE: Court TV Meeting Request

Neil: I am back if you want to chat. I am at 49114 if you want to call.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 4:07 PM
To: Hertling, Richard
Subject: RE: Court TV Meeting Request

Of course

-----Original Message-----
From: Hertling, Richard
Sent: Tuesday, December 06, 2005 4:02 PM
To: Gorsuch, Neil M
Subject: Re: Court TV Meeting Request

On the Hill till 5:30 and then I have a conference call. Can we chat tomorrow on this?

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Korn, Jennifer <Jennifer.Korn@SMOJMD.USDOJ.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>
CC: Blomquist, Kathleen M <Kathleen.M.Blomquist@SMOJMD.USDOJ.gov>
Sent: Tue Dec 06 15:41:02 2005
Subject: RE: Court TV Meeting Request

Richard, Can you give me some background on why we're talking to court tv?

-----Original Message-----
From: Korn, Jennifer
Sent: Tuesday, December 06, 2005 3:32 PM
To: Gorsuch, Neil M
Cc: Blomquist, Kathleen M
Subject: FW: Court TV Meeting Request

Hi Neil,
We were referred by Richard to set up this meeting. Please see below and let me know if you have a different take on this. Thanks.
JK

-----Original Message-----
From: Hertling, Richard
Sent: Monday, December 05, 2005 5:45 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Kat: I sent Court TV to OIPL. OLP would be happy to sit in on such a meeting. The Criminal Division (try Ben Campbell), the Marshals Service (try Bob Trono), and EOUSA (try Natalie Voris) are the biggest stake-holders and the components that drive DOJ's opposition to cameras in the courtroom, so at a minimum they need to participate. To be safe and ensure that civil litigation interests are protected, you should also reach out to the Associate's Office, though I do not know who there would be the appropriate person to contact, so try Neil Gorsuch, the Principal Deputy. rah

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 8:46 AM
To: [redacted]
Subject: GTMO

My report on GTMO was so effusive that a couple of the AG's aides, incl. his Chief of Staff, have gently inquired whether, if there's an extra seat or two in upcoming trips they might be considered. No push on this whatsoever; only if, as, and when it would be something DOD would want to do.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 8:48 AM
To: Michael Allen (E-mail)
Subject: Graham

Anything we should be doing?

Williams, Jan

Subject:	Updated: Mini Van depart 9th St. gate en route to Omni Shoreham Hotel
Start:	Wednesday, December 7, 2005 8:40 AM
End:	Wednesday, December 7, 2005 9:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Williams, Jan
Required Attendees:	Reyes, Luis; Gorsuch, Neil M; Cook, Elisebeth CReyes, Luis; Gorsuch, Neil M; Cook, Elisebeth C

DOJ: Jan William, Luis Reyes, Neil Gorsuch, Elisebeth Cook

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 8:40 AM
To: Moschella, William
Subject: Graham

Any word from Graham's staff or House side? I am a lilttle concerned about the lack of action on this front by the NSC.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 12:44 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: GTMO

Will do.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Wednesday, December 07, 2005 10:19 AM
To: Gorsuch, Neil M
Subject: RE: GTMO

Next trip is Jan. 11. I e-mailed Peter K. - turns out he's already been!
He suggested Paul McNulty - I told him that would be great - haven't heard back from Peter, though. A trip with Paul and Kyle would be good. Can you see whether Paul is interested?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, December 07, 2005 08:44
To: [redacted](E-mail)
Subject: GTMO

My report on GTMO was so effusive that a couple of the AG's aides, incl. his Chief of Staff, have gently inquired whether, if there's an extra seat or two in upcoming trips they might be considered. No push on this whatsoever; only if, as, and when it would be something DOD would want to do.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 7, 2005 12:46 PM
To: McNulty, Paul J; Sampson, Kyle
Subject: GTMO

DoD has asked me to pass along an invitation to you to visit GTMO on Jan. 11. It is a one-day trip, leaving Andrews early and returning around 9 pm. [redacted] (responsible for the CSRT/ARB/MC processes) will be going down that day and he, along with [redacted] provide an excellent briefing and tour of the operations. Just let me know.

Best,

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 7, 2005 12:48 PM
To: Shaw, Aloma A
Subject: RE: Vacuuming

We'll all just have to be neater! What did we do to displease the Cleaning Authorities?!

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, December 07, 2005 8:43 AM
To: Currie Gunn; Deborah Davis; Elizabeth Kessler; Jeffrey Senger; Lily Swenson; Luis Reyes; Neil Gorsuch; Robert McCallum
Cc: Cinciotta, Linda A
Subject: Vacuuming

All:

I have just been advised by the cleaning lady that there have been changes made regarding our daily cleaning regimen. First of all, we have a new cleaning lady, Audrey. Also, we will receive vacuuming one day a week, instead of daily.

Aloma

From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 12:51 PM
To: McCallum, Robert (SMO)
Subject: FW: STATEMENT OF DEPUTY ASSISTANT ATTORNEY GENERAL J. BRUCE MCDONALD REGARDING KOREAN FAIR TRADE COMMISSION'S DECISION IN ITS MICROSOFT CASE

Tracking:

Recipient	Read
McCallum, Robert (SMO)	Read: 12/7/2005 1:07 PM

Did you know of this before it went out?

-----Original Message-----
From: USDOJ- Office of Public Affairs
Sent: Wednesday, December 07, 2005 12:49 PM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF DEPUTY ASSISTANT ATTORNEY GENERAL J. BRUCE MCDONALD REGARDING KOREAN FAIR TRADE COMMISSION'S DECISION IN ITS MICROSOFT CASE

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, DECEMBER 7, 2005
WWW.USDOJ.GOV <http://WWW.USDOJ.GOV>

AT
(202) 514-2007
TDD (202) 514-1888

STATEMENT OF DEPUTY ASSISTANT ATTORNEY GENERAL J. BRUCE MCDONALD REGARDING KOREAN FAIR TRADE COMMISSION'S DECISION IN ITS MICROSOFT CASE

WASHINGTON, D.C. - J. Bruce McDonald, Deputy Assistant Attorney General for the Antitrust Division, issued the following statement today after the Korean Fair Trade Commission announced a decision in its antitrust case against Microsoft, ordering Microsoft to sell in Korea a version of its Windows operating system that includes neither Windows Media Player nor Windows Messenger functionality, requiring that Microsoft facilitate consumer downloads of third party media player and messenger products selected by the Commission, and prohibits Microsoft from selling in Korea a version of its server software that includes Windows Media Services:

"The Antitrust Division believes that Korea's remedy goes beyond what is necessary or appropriate to protect consumers, as it requires the removal of products that consumers may prefer. The Division continues to believe that imposing 'code removal' remedies that strip out functionality can ultimately harm innovation and the consumers that benefit from it. We had previously consulted with the Commission on its Microsoft case and encouraged the Commission to develop a balanced resolution that addressed its concerns without imposing unnecessary restrictions. Sound antitrust policy should protect competition, not competitors, and must avoid chilling innovation and competition even by 'dominant' companies. Furthermore, we believe that regulators should avoid substituting their judgment for the market's by determining what products are made available to consumers.

"The European Commission adopted a similar approach in its challenge to Microsoft's bundling Windows Media Player. Since then, demand in Europe for the version of the operating system with the media player code removed has been lackluster, suggesting limited effect on competition from the type of unbundling remedy the Korean Fair Trade Commission is pursuing.

"Addressing Microsoft's exclusionary conduct, the United States' final judgment provides clear and effective protection for competition and consumers. Microsoft is prohibited from preventing computer manufacturers and end users from choosing alternatives to software like Windows Media Player and Windows Messenger. The United States continues to be active in its enforcement of Microsoft's compliance with the judgment, and this work has resulted in substantial changes to Microsoft's business practices.

"Notwithstanding today's divergence, it is important to emphasize the overall strong and positive relationship between the U.S. and Korea on matters of competition policy. The continued success of this working relationship is particularly important in the context of global markets, where the sale and use of products stretch across borders. The Justice Department will continue to work constructively with Korea to develop sound antitrust enforcement policies that benefit consumers in both countries."

Background

In its investigation of Microsoft and the resulting case -- pursued over the course of almost 10 years - the United States challenged a series of exclusionary acts undertaken by Microsoft to maintain its monopoly position in Windows, including conduct designed to prevent computer manufacturers and end users from substituting the Netscape browser for Microsoft's Internet Explorer browser.

The United States filed a complaint against Microsoft in 1998, alleging that Microsoft had restrained competition in violation of U.S. antitrust laws. A lengthy trial and appeal confirmed that Microsoft had violated the Sherman Act.

Following remand of the case to the District Court, the United States reached a settlement, embodied in a final judgment, which was thoroughly reviewed and approved by the District Court and the Court of Appeals.

The final judgment prohibits Microsoft from preventing computer manufacturers and end users from substituting competitors' "middleware," giving them the ability to choose which programs they want to use. The final judgment covers the web browser that was the subject of the United States' lawsuit and the media player and instant messaging programs that are the subject of the Korean Fair Trade Commission's action.

Following these actions by the United States, in 2004 the European Commission (EC) imposed a different remedy to resolve its concerns regarding Microsoft's media player. The EC's 'code removal' order compelled Microsoft to make available to consumers in Europe two versions of its operating system: one version cannot include the software code providing media player functionality; the other, like that available in the United States under the final judgment, is allowed to include such media player functionality.

###

05-648

DOJ_NMG_ 0149339

Image not available for this document, ID: 0.7.10316.60068-000001

Image not available for this document, ID: 0.7.10316.60068-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 1:15 PM
To: Oldham, Jeffrey L; Sampson, Kyle; Elwood, Courtney
Subject: RE: Controversy at CFR

Attended the speech and it was excellent; details on recent lessons learned and successes in Najaf and Mosul were particularly effective. The beginning and end of the speech also resonated the same themes of resolve as the AG's speech last week.

-----Original Message-----
From: Oldham, Jeffrey L
Sent: Tuesday, December 06, 2005 4:41 PM
To: Gorsuch, Neil M; Sampson, Kyle; Elwood, Courtney
Subject: Controversy at CFR

Apparently the no-questions option isn't popular? (And a mention of the Judge's CFR appearance...)

http://www.washingtonpost.com/wp-dyn/content/linkset/2005/04/11/LI2005041100879.html

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 2:26 PM
To: [redacted] E-mail)
Subject: FW: GTMO

Kyle is in. Will let you know when I hear back from Paul. Very many thanks again!

-----Original Message-----
From: Sampson, Kyle
Sent: Wednesday, December 07, 2005 2:24 PM
To: Gorsuch, Neil M; McNulty, Paul J
Cc: Washington, Tracy T
Subject: RE: GTMO

I'm in.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 12:46 PM
To: McNulty, Paul J; Sampson, Kyle
Subject: GTMO

DoD has asked me to pass along an invitation to you to visit GTMO on Jan. 11. It is a one-day trip, leaving Andrews early and returning around 9 pm. [redacted] (responsible for the CSRT/ARB/MC processes) will be going down that day and he, along with [redacted] provide an excellent briefing and tour of the operations. Just let me know.

Best,

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 3:08 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: GTMO

Back to you shortly.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Wednesday, December 07, 2005 2:56 PM
To: Gorsuch, Neil M
Subject: RE: GTMO

Thanks. Will need:

Name
Rank/GS/SES/PAS Level
Title
SSN#
Security Clearance (please include security manager phone number)
Emergency POC (name and phone number)

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, December 07, 2005 14:25
To: [redacted] (E-mail)
Subject: FW: GTMO

Kyle is in. Will let you know when I hear back from Paul. Very many thanks again!

-----Original Message-----
From: Sampson, Kyle
Sent: Wednesday, December 07, 2005 2:24 PM
To: Gorsuch, Neil M; McNulty, Paul J
Cc: Washington, Tracy T
Subject: RE: GTMO

I'm in.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 12:46 PM

Sent: Wednesday, December 07, 2005 12:46 PM
To: McNulty, Paul J; Sampson, Kyle
Subject: GTMO

DoD has asked me to pass along an invitation to you to visit GTMO on Jan. 11. It is a one-day trip, leaving Andrews early and returning around 9 pm. [redacted] (responsible for the CSRT/ARB/MC processes) will be going down that day and he, along with [redacted] provide an excellent briefing and tour of the operations. Just let me know.

Best,

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 3:15 PM
To: Nichols, Carl (CIV)
Subject: RE: Sen. Graham website

This is news to me, but anything we give to the Hill we have to assume that it's in public hands. Also, on first glance it appears that this page has been up for almost a month. Would pulling it down call undue attention to it? Is there anything specific about it that is wrong?

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Wednesday, December 07, 2005 3:10 PM
To: Henry, Terry (CIV); Gorsuch, Neil M
Subject: RE: Sen. Graham website

uggh. Neil, can we try to get them to take this down.

From: Henry, Terry (CIV)
Sent: Wednesday, December 07, 2005 3:08 PM
To: Nichols, Carl (CIV)
Subject: FW: Sen. Graham website

Carl, fyi.

Terry M. Henry
Senior Trial Counsel
Civil Division, Federal Programs Branch
U.S. Department of Justice
Tel. 202.514.4107

From: Katerberg, Robert (CIV)
Sent: Wednesday, December 07, 2005 3:03 PM
To: Henry, Terry (CIV); Warden, Andrew (CIV)
Subject: Sen. Graham website

Sen. Graham's folks apparently cut-and-pasted my conversational blurbs about various GTMO motions directly on his website for all the world to see, complete with "n.b."s and shorthand abbreviations. Yikes, I almost have to cringe. I wish that in the frenetic 30 minutes I was given to compile these things and write up blurbs, someone had informed me that we were ghostwriting for Sen. Graham's website, in which case I sure would have adopted a different tone.

http://lgraham.senate.gov/index.cfm?mode=presspage&id=248690

Examples of Habeas Petitions Filed on Behalf of Detainees

* Canadian detainee who threw a grenade that killed an Army medic in firefight and who comes from family with longstanding al Qaeda ties moves for preliminary injunction forbidding interrogation of him or engaging in "cruel, inhuman, or degrading" treatment of him (n.b. this motion was denied by Judge

or engaging in "cruel, inhuman, or degrading" treatment of him (n.b. this motion was denied by Judge Bates).

* "Al Odah motion for dictionary internet security forms" -- Kuwaiti detainees seek court orders that they be provided dictionaries in contravention of GTMO's force protection policy and that their counsel be given high-speed internet access at their lodging on the base and be allowed to use classified DoD telecommunications facilities, all on the theory that otherwise their "right to counsel" is unduly burdened.

* "Alladeen -- Motion for TRO re transfer" -- Egyptian detainee who Combatant Status Review Tribunal adjudicated as no longer an enemy combatant, and who was therefore due to be released by the US, files motion to block his repatriation to Egypt.

* "Paracha -- Motion for PI re Conditions" -- Motion by high level al Qaeda detainee complaining about base security procedures, speed of mail delivery, and medical treatment; seeking an order that he be transferred to the "least onerous conditions" at GTMO and asking the court to order that GTMO allow him to keep any books and reading materials sent to him and to "report to the Court" on "his opportunities for exercise, communication, recreation, worship, etc."

* "Motion for PI re Medical Records" -- Motion by detainee accusing military's health professionals of "gross and intentional medical malpractice" in alleged violation of the 4th, 5th, 8th, and 14th Amendments, 42 USC 1981, and unspecified international agreements.

* "Abdah -- Emergency Motion re DVDs" -- "emergency" motion seeking court order requiring GTMO to set aside its normal security policies and show detainees DVDs that are purported to be family videos.

* "Petitioners' Supp. Opposition" -- Filing by detainee requesting that, as a condition of a stay of litigation pending related appeals, the Court involve itself in his medical situation and set the stage for them to second-guess the provision of medical care and other conditions of confinement.

* "Al Odah Supplement to PI Motion" -- Motion by Kuwaiti detainees unsatisfied with the Koran they are provided as standard issue by GTMO, seeking court order that they be allowed to keep various other supplementary religious materials, such as a "tafsir" or 4-volume Koran with commentary, in their cells.

Robert J. Katerberg
U.S. Department of Justice
Civil Division
Federal Programs Branch
20 Massachusetts Ave., N.W.
Washington, D.C. 20530
Tel.: (202) 616-8298
Fax: (202) 616-8460
Email: Robert.Katerberg@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 2:26 PM
To: Sampson, Kyle
Subject: RE: GTMO

I'm glad you're going; you'll find it very useful. Will pass this on to DoD.

-----Original Message-----
From: Sampson, Kyle
Sent: Wednesday, December 07, 2005 2:24 PM
To: Gorsuch, Neil M; McNulty, Paul J
Cc: Washington, Tracy T
Subject: RE: GTMO

I'm in.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 12:46 PM
To: McNulty, Paul J; Sampson, Kyle
Subject: GTMO

DoD has asked me to pass along an invitation to you to visit GTMO on Jan. 11. It is a one-day trip, leaving Andrews early and returning around 9 pm. [redacted] (responsible for the CSRT/ARB/MC processes) will be going down that day and he, along with [redacted], provide an excellent briefing and tour of the operations. Just let me know.

Best,

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 7, 2005 4:08 PM
To: [redacted] (E-mail)
Subject: FW: GTMO

Here you go.

-----Original Message-----
From: Sampson, Kyle
Sent: Wednesday, December 07, 2005 3:36 PM
To: Gorsuch, Neil M
Subject: RE: GTMO

Name: D. Kyle Sampson
Rank/GS/SES/PAS Level: [redacted]
Title: Chief of Staff, Office of the Attorney General [redacted] Security Clearance: [redacted]
Special Security Center [redacted] Emergency POC: [redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 3:09 PM
To: Sampson, Kyle
Subject: RE: GTMO

Kyle, when you get a chance, DoD will need the following --

Name
Rank/GS/SES/PAS Level
Title
SSN#
Security Clearance (please include security manager phone number)
Emergency POC (name and phone number)

-----Original Message-----
From: Sampson, Kyle
Sent: Wednesday, December 07, 2005 2:24 PM
To: Gorsuch, Neil M; McNulty, Paul J
Cc: Washington, Tracy T
Subject: RE: GTMO

I'm in

I'm in.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 12:46 PM
To: McNulty, Paul J; Sampson, Kyle
Subject: GTMO

DoD has asked me to pass along an invitation to you to visit GTMO on Jan. 11. It is a one-day trip, leaving Andrews early and returning around 9 pm. [redacted] (responsible for the CSRT/ARB/MC processes) will be going down that day and he, along with [redacted] provide an excellent briefing and tour of the operations. Just let me know.

Best,

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 7, 2005 3:09 PM
To: Sampson, Kyle
Subject: RE: GTMO

Kyle, when you get a chance, DoD will need the following --

Name
Rank/GS/SES/PAS Level
Title
SSN#
Security Clearance (please include security manager phone number)
Emergency POC (name and phone number)

-----Original Message-----
From: Sampson, Kyle
Sent: Wednesday, December 07, 2005 2:24 PM
To: Gorsuch, Neil M; McNulty, Paul J
Cc: Washington, Tracy T
Subject: RE: GTMO

I'm in.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 12:46 PM
To: McNulty, Paul J; Sampson, Kyle
Subject: GTMO

DoD has asked me to pass along an invitation to you to visit GTMO on Jan. 11. It is a one-day trip, leaving Andrews early and returning around 9 pm. [redacted] (responsible for the CSRT/ARB/MC processes) will be going down that day and he, along with [redacted] provide an excellent briefing and tour of the operations. Just let me know.

Best,

NMG

Otus2005, Ag

Subject:	Updated: Senior Management Meeting
Start:	Thursday, December 8, 2005 9:00 AM
End:	Thursday, December 8, 2005 9:30 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; Mercer, Bill (ODAG); McNulty, Paul J; Goodling, Monica; Korn, Jennifer

When: Thursday, December 08, 2005 9:00 AM-9:30 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Conference Room
DOJ: Paul McNulty, ASG Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Jennifer Korn

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 7, 2005 4:08 PM
To: Sampson, Kyle
Subject: RE: GTMO

thx

-----Original Message-----
From: Sampson, Kyle
Sent: Wednesday, December 07, 2005 3:36 PM
To: Gorsuch, Neil M
Subject: RE: GTMO

Name: D. Kyle Sampson
Rank/GS/SES/PAS Level: [redacted]
Title: Chief of Staff, Office of the Attorney General [redacted] Security Clearance: [redacted]
Special Security Center (202) 514-3738 Emergency POC: [redacted] [redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 3:09 PM
To: Sampson, Kyle
Subject: RE: GTMO

Kyle, when you get a chance, DoD will need the following --

Name
Rank/GS/SES/PAS Level
Title
SSN#
Security Clearance (please include security manager phone number)
Emergency POC (name and phone number)

-----Original Message-----
From: Sampson, Kyle
Sent: Wednesday, December 07, 2005 2:24 PM
To: Gorsuch, Neil M; McNulty, Paul J
Cc: Washington, Tracy T
Subject: RE: GTMO

I'm in.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 12:46 PM
To: McNulty, Paul J; Sampson, Kyle
Subject: GTMO

DoD has asked me to pass along an invitation to you to visit GTMO on Jan. 11. It is a one-day trip, leaving Andrews early and returning around 9 pm. [redacted] (responsible for the CSRT/ARB/MC processes) will be going down that day and he, along with [redacted] provide an excellent briefing and tour of the operations. Just let me know.

Best,

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 7, 2005 4:33 PM
To: McCallum, Robert (SMO); Gunn, Currie (SMO)
Subject: RE: draft letter to ao

Looks great

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, December 07, 2005 4:31 PM
To: Gunn, Currie (SMO)
Cc: Gorsuch, Neil M
Subject: FW: draft letter to ao

Currie: Can you put this letter on my letter head for signature. Neil: I revised it slightly to make it more informal and personal since I know these guys well. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, November 28, 2005 4:00 PM
To: McCallum, Robert (SMO)
Subject: draft letter to ao

As discussed.

draft ao letter.wpd

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 7, 2005 5:05 PM
To: McCallum, Robert (SMO)
Subject: Tenpas

Ron is in my office and we're stuck on a call but he will be with you shortly.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 7, 2005 5:15 PM
To: Reyes, Luis (SMO)
Subject: RE: Staff tomorrow

could we make it 115, or 130?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, December 07, 2005 5:15 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: Staff tomorrow

I recommend we move this to 1:00 p.m. tomorrow to allow for Robert's schedule in the late afternoon. Let me know if you have any objections.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 7, 2005 5:20 PM
To: Reyes, Luis (SMO)
Subject: RE: Staff tomorrow

great - yes

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, December 07, 2005 5:19 PM
To: Gorsuch, Neil M
Subject: RE: Staff tomorrow

1:15 okay? Civil Division awards at 2.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 5:15 PM
To: Reyes, Luis (SMO)
Subject: RE: Staff tomorrow

could we make it 115, or 130?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, December 07, 2005 5:15 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: Staff tomorrow

I recommend we move this to 1:00 p.m. tomorrow to allow for Robert's schedule in the late afternoon. Let me know if you have any objections.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 5:34 PM
To: Reyes, Luis (SMO)
Subject: RE: Staff tomorrow

it works great

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, December 07, 2005 5:34 PM
To: Gorsuch, Neil M
Subject: FW: Staff tomorrow

Friday at 11 work for you?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, December 07, 2005 5:31 PM
To: Reyes, Luis (SMO); Gorsuch, Neil M
Subject: RE: Staff tomorrow

Or we could do it Friday am at 11 or 11:30. Either works for me. Robt.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Wednesday, December 07, 2005 5:15 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: Staff tomorrow

I recommend we move this to 1:00 p.m. tomorrow to allow for Robert's schedule in the late afternoon. Let me know if you have any objections.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 8, 2005 8:19 AM
To: [redacted]
Subject: Thank You

[redacted] Thanks again for the update. I will share it with the AG this morning. When you do get your hands on the latest language, we'd of course appreciate seeing it as soon as possible. Keep up the fight! NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 08, 2005 9:51 AM
To: [redacted]@sba.gov'; [redacted]@opm.gov
Subject: RE: Lunch

works fine here

-----Original Message-----
From: [redacted]@sba.gov [mailto[redacted]@sba.gov]
Sent: Thursday, December 08, 2005 9:27 AM
To: Gorsuch, Neil M; [redacted]@opm.gov
Subject: Re: Lunch

Given your time constraints - and something that came up on my end - any objection to starting 15 minutes later? Ie, 12:15?

-----Original Message-----
From: [redacted]@opm.gov>
To: [redacted]@sba.gov>; 'neil.gorsuch@usdoj.gov' <neil.gorsuch@usdoj.gov>
Sent: Thu Dec 08 08:26:44 2005
Subject: Lunch

[redacted]â?? see you at noon at the Caucus Room. Reservations are in my name. Iâ??ve got a TRO hearing at District Court in Alexandria this morning, so will likely be coming from there. If Iâ??m not there exactly at noon, go ahead and order and Iâ??ll catch up.

[redacted]

U.S. Office of Personnel Management

[redacted]

Even though this E-Mail has been scanned and found clean of

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
---ro

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 8, 2005 11:56 AM
To: Mike Behringer (E-mail)
Subject: CFR

Tried to reach you but we seem to be missing. I'm going to let Pat know we're off for the 12th. But is there another date I should alert him to?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 08, 2005 12:26 PM
To: [redacted]
Subject: Calls

AG's schedule is really bad today; can calls wait until first thing tomorrow? how imperative are calls today?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 8, 2005 11:53 AM
To: Korn, Jennifer
Cc: Blomquist, Kathleen M
Subject: RE: Court TV Meeting Request

Richard has kindly filled me in and I'm happy to participate so long as we have an ironclad understanding that the mtg is entirely off the record.

-----Original Message-----
From: Korn, Jennifer
Sent: Tuesday, December 06, 2005 3:32 PM
To: Gorsuch, Neil M
Cc: Blomquist, Kathleen M
Subject: FW: Court TV Meeting Request

Hi Neil,
We were referred by Richard to set up this meeting. Please see below and let me know if you have a different take on this. Thanks.
JK

-----Original Message-----
From: Hertling, Richard
Sent: Monday, December 05, 2005 5:45 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Kat: I sent Court TV to OIPL. OLP would be happy to sit in on such a meeting. The Criminal Division (try [redacted]), the Marshals Service (try [redacted]), and EOUSA (try Natalie Voris) are the biggest stake-holders and the components that drive DOJ's opposition to cameras in the courtroom, so at a minimum they need to participate. To be safe and ensure that civil litigation interests are protected, you should also reach out to the Associate's Office, though I do not know who there would be the appropriate person to contact, so try Neil Gorsuch, the Principal Deputy. rah

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 8, 2005 12:03 PM
To: Shaw, Aloma A
Subject: FW: Documents Received

Are you able to pick this up for me?

-----Original Message-----
From: JCC
Sent: Thursday, December 08, 2005 12:02 PM
To: Gorsuch, Neil M
Subject: Documents Received

Sir,

JCC is in receipt of a clsfd documents for you from Terry Henry.

JCC (4.5000)

Katerberg, Robert (CIV)

From: Katerberg, Robert (CIV)
Sent: Thursday, December 08, 2005 12:06 PM
To: Gorsuch, Neil M
Subject: Read: Question

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 08, 2005 12:09 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Tuesday is much better for me - I'm open from 10 to noon. But if I need to reshuffle Monday let me know.

-----Original Message-----
From: Blomquist, Kathleen M
Sent: Thursday, December 08, 2005 12:07 PM
To: Gorsuch, Neil M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Great, thank you. [redacted] said this coming Monday is pretty good for him as well as Tuesday morning. Do you have a time on Monday or the next morning that you'd prefer?

Kat Blomquist

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 3:10 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Why are we doing this meeting? I'd appreciate just a little background. Thanks.

-----Original Message-----
From: Blomquist, Kathleen M
Sent: Tuesday, December 06, 2005 2:47 PM
To: Campbell, Benton; Trono, Robert (USMS); Voris, Natalie (USAEO); Gorsuch, Neil M; Hertling, Richard
Cc: Korn, Jennifer
Subject: Court TV Meeting Request

Good afternoon.

My name is Kat Blomquist, and I am a new member of the Office of Intergovernmental and Public Liaison.

I received a request from [redacted] of Preston Gates hoping to schedule a meeting with DOJ for his client, Court TV, to discuss DOJ's position on courtroom security / cameras in courtrooms.

The meeting would be attended by [redacted] and [redacted], General Counsel and Executive Vice President of Court TV.

[redacted] will be in Washington, D.C. next Monday and Tuesday (Dec. 12-13), and [redacted] has initially asked if we can set this up for those days. If your component would like to be present at this meeting, please let me know your availability during those days (or direct me to your scheduler) or please direct me to the appropriate person from your office who would attend.

Thank you very much. I look forward to hearing from you and meeting you, as well.

Kat Blomquist

Kathleen M. Blomquist
Associate Director
Office of Intergovernmental and Public Liaison
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C., 20530
[redacted]

Katerberg, Robert (CIV)

From: Katerberg, Robert (CIV)
Sent: Thursday, December 08, 2005 12:09 PM
To: Gorsuch, Neil M
Subject: Read: Question

Blomquist, Kathleen M

From: Blomquist, Kathleen M
Sent: Thursday, December 08, 2005 12:17 PM
To: Gorsuch, Neil M
Subject: Read: Court TV Meeting Request

Gunn, Currie (SMO)

Subject:	Updated: Farewell Dinner for Kelly Johnson
Location:	McCormick and Schmicks - 901 F Street, N.W. 202-639-8398
Start:	Monday, December 19, 2005 6:00 PM
End:	Monday, December 19, 2005 7:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Gunn, Currie (SMO)
Required Attendees:	[redacted]; [redacted]@ftc.gov'; [redacted]@ftc.gov'; [redacted]; Keisler, Peter D (CIV); Cruden, John (ENRD); Neumayr, Mary (ENRD); McCallum, Robert (SMO); Gorsuch, Neil M; Kessler, Elizabeth A; Senger, Jeffrey M; Reyes, Luis (SMO); Henke, Tracy (SMO); Swenson, Lily F; [redacted](DHS); Keisler, Peter D (CIV); [redacted]

Please verify that you are still attending I have to give the restaurant a final count.

POC: Currie Gunn 202-514-9500

Korn, Jennifer

From: Korn, Jennifer
Sent: Thursday, December 08, 2005 12:34 PM
To: Gorsuch, Neil M
Subject: Read: Court TV Meeting Request

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 8, 2005 2:36 PM
To: Nichols, Carl (CIV)
Subject: Talking Points
Attachments: 12-8 Talking Points.doc

Would appreciate your review. Will fill you in whenever you have a moment to call. Thanks, man.

Talking Points

Critical for you to get engaged in this process now

- We need your help immediately
    - Despite assurances we received from Sen. Graham's staff that problems with this bill would be fixed, we see things headed in the wrong direction
    - We're told that Sen. Levin is vetoing critical changes we need
- This legislation is important
    - We have a flood of lawsuits (160+) distracting our military
    - Detainees have sought to litigate over everything from seeking access to DVDs, more exercise time, free copies of the Koran with commentary instead of the standard Koran without. Detainees' lawyers have even sued because they consider dial-up Internet access at GTMO as slow.
    - One habeas lawyer representing several GTMO detainees has publicly boasted that: "The litigation is brutal for [the United States]. It's huge. We have over one hundred lawyers…. Every time an attorney goes down there, it makes it that much harder [for the U.S. military]. You can't run an interrogation...with attorneys."
    - GTMO detainees are seeking and obtaining from courts more rights than our military personnel, or any enemy allowed in wartime

Need your help with four issues

1. **Law must apply retroactively**
    - This is the most important point for us.
    - The bill, as drafted, would do nothing to eliminate the 160+ pending suits
    - Original Graham Bill did apply retroactively. Graham promised us that he'd "fix" the problem in his current draft, but now is talking about deferring on this issue to Sen. Levin.

2. Bill must ban all kinds of lawsuits.

- Lawsuit ban can't be limited just to habeas; otherwise, lawyers will just caption their suits differently (*Bivens*, injunctive relief for due process violations, etc.)

- Sen. Graham and his staff committed to make this change.

3. Bill must apply to all detainees

- We understand that there's now talk of allowing non-GTMO detainees to sue. But there's no reason why non-GTMO detainees held in Afghanistan or Iraq should have more rights to sue in US courts than those at GTMO.

- We understand that there's also talk of allowing those who are released from GTMO from suing. But this just defers the problem, it doesn't solve it. Alien ECs should not have rights to sue in US courts. It's like saying the Germans or Japanese should've sued for conditions at POW camps in WWII. Unprecedented in history.

- Sen. Graham and his staff committed to this objective.

4. Scope of review provision must be improved

- As drafted, the bill would require a court to review the CSRT or MC to determine whether it applied the "correct standards." This is a huge loophole, that would allow courts to impose almost any new "standards" it wishes.

- Review should be limited to determine whether the CSRT or MC followed the procedures specified by the SECDEF.

- Constitutional review must also be limited to one-time challenge on whether subjecting detainees to CSRTs and MCs is, on its face, inconsistent with the Constitution.

- Sen. Graham and staff previously agreed to make these changes, and we provided language.

Unless we get these changes made, we may have to ask Sen. Graham to fulfill his promise to withdraw the legislation if it does not meet DOD/DOJ needs.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 08, 2005 1:51 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Thanks. Off the record?

-----Original Message-----
From: Blomquist, Kathleen M
Sent: Thursday, December 08, 2005 12:38 PM
To: Gorsuch, Neil M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Thank you. It looks like it will be Tuesday morning at some point from 10 to noon for 30 minutes (per [redacted] in the OIPL conference room. I'll get back in touch with you when it's solidified.

Kat

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, December 08, 2005 12:09 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Tuesday is much better for me - I'm open from 10 to noon. But if I need to reshuffle Monday let me know.

-----Original Message-----
From: Blomquist, Kathleen M
Sent: Thursday, December 08, 2005 12:07 PM
To: Gorsuch, Neil M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Great, thank you. [redacted] said this coming Monday is pretty good for him as well as Tuesday morning. Do you have a time on Monday or the next morning that you'd prefer?

Kat Blomquist

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 3:10 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Why are we doing this meeting? I'd appreciate just a little background. Thanks.

-----Original Message-----
From: Blomquist, Kathleen M
Sent: Tuesday, December 06, 2005 2:47 PM
To: Campbell, Benton; Trono, Robert (USMS); Voris, Natalie (USAEO); Gorsuch, Neil M; Hertling, Richard
Cc: Korn, Jennifer

Subject: Court TV Meeting Request

Good afternoon.

My name is Kat Blomquist, and I am a new member of the Office of Intergovernmental and Public Liaison.

I received a request from [redacted] of Preston Gates hoping to schedule a meeting with DOJ for his client, Court TV, to discuss DOJ's position on courtroom security / cameras in courtrooms.

The meeting would be attended by [redacted] and [redacted], General Counsel and Executive Vice President of Court TV.

[redacted] will be in Washington, D.C. next Monday and Tuesday (Dec. 12-13), and [redacted] has initially asked if we can set this up for those days. If your component would like to be present at this meeting, please let me know your availability during those days (or direct me to your scheduler) or please direct me to the appropriate person from your office who would attend.

Thank you very much. I look forward to hearing from you and meeting you, as well.

Kat Blomquist

Kathleen M. Blomquist
Associate Director
Office of Intergovernmental and Public Liaison
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C., 20530
[redacted]

Korn, Jennifer

From: Korn, Jennifer
Sent: Thursday, December 8, 2005 1:58 PM
To: Gorsuch, Neil M
Subject: Read: Court TV Meeting Request

Elwood, Courtney

From: Elwood, Courtney
Sent: Thursday, December 08, 2005 1:59 PM
To: Gorsuch, Neil M
Subject: Read: AG - Graham

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 8, 2005 2:29 PM
To: Elwood, Courtney
Subject: country we discussed came to me

it is Gabon

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 8, 2005 2:39 PM
To: Bradbury, Steve; Eisenberg, John
Subject: FW: Talking Points
Attachments: 12-8 Talking Points.doc

Meant to include you; further explanatory email to follow

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, December 08, 2005 2:35 PM
To: [redacted] (E-mail); Elwood, Courtney; Moschella, William
Cc: John B. Wiegmann (E-mail); Michael Allen (E-mail)
Subject: Talking Points

I've not had very long to work with these, but attached is a set of potential talking pts for use with Cong. Hunter and Sens. Graham and Warner.

Talking Points

Critical for you to get engaged in this process now

- We need your help immediately
    - Despite assurances we received from Sen. Graham's staff that problems with this bill would be fixed, we see things headed in the wrong direction
    - We're told that Sen. Levin is vetoing critical changes we need
- This legislation is important
    - We have a flood of lawsuits (160+) distracting our military
    - Detainees have sought to litigate over everything from seeking access to DVDs, more exercise time, free copies of the Koran with commentary instead of the standard Koran without. Detainees' lawyers have even sued because they consider dial-up Internet access at GTMO as slow.
    - One habeas lawyer representing several GTMO detainees has publicly boasted that: "The litigation is brutal for [the United States]. It's huge. We have over one hundred lawyers…. Every time an attorney goes down there, it makes it that much harder [for the U.S. military]. You can't run an interrogation...with attorneys."
    - GTMO detainees are seeking and obtaining from courts more rights than our military personnel, or any enemy allowed in wartime

Need your help with four issues

1. **Law must apply retroactively**
    - This is the most important point for us.
    - The bill, as drafted, would do nothing to eliminate the 160+ pending suits
    - Original Graham Bill did apply retroactively. Graham promised us that he'd "fix" the problem in his current draft, but now is talking about deferring on this issue to Sen. Levin.

2. Bill must ban all kinds of lawsuits.

- Lawsuit ban can't be limited just to habeas; otherwise, lawyers will just caption their suits differently (*Bivens*, injunctive relief for due process violations, etc.)

- Sen. Graham and his staff committed to make this change.

3. Bill must apply to all detainees

- We understand that there's now talk of allowing non-GTMO detainees to sue. But there's no reason why non-GTMO detainees held in Afghanistan or Iraq should have more rights to sue in US courts than those at GTMO.

- We understand that there's also talk of allowing those who are released from GTMO from suing. But this just defers the problem, it doesn't solve it. Alien ECs should not have rights to sue in US courts. It's like saying the Germans or Japanese should've sued for conditions at POW camps in WWII. Unprecedented in history.

- Sen. Graham and his staff committed to this objective.

4. Scope of review provision must be improved

- As drafted, the bill would require a court to review the CSRT or MC to determine whether it applied the "correct standards." This is a huge loophole, that would allow courts to impose almost any new "standards" it wishes.

- Review should be limited to determine whether the CSRT or MC followed the procedures specified by the SECDEF.

- Constitutional review must also be limited to one-time challenge on whether subjecting detainees to CSRTs and MCs is, on its face, inconsistent with the Constitution.

- Sen. Graham and staff previously agreed to make these changes, and we provided language.

Unless we get these changes made, we may have to ask Sen. Graham to fulfill his promise to withdraw the legislation if it does not meet DOD/DOJ needs.

Otus2005, Ag

Subject:	Updated: Phone Call from Senator Graham
Start:	Thursday, December 8, 2005 3:45 PM
End:	Thursday, December 8, 2005 3:50 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Gorsuch, Neil M

When: Thursday, December 08, 2005 3:45 PM-3:50 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Office
AO: Kyle Sampson DOJ: Will Moschella, Neil Gorsuch

Otus2005, Ag

Subject:	Congressman Hunter will call AG
Start:	Thursday, December 8, 2005 4:00 PM
End:	Thursday, December 8, 2005 4:05 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Sampson, Kyle; Moschella, William; Gorsuch, Neil M; Elwood, Courtney

When: Thursday, December 08, 2005 4:00 PM-4:05 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Office
AO: Kyle Sampson DOJ: Will Moschella, Neil Gorsuch, Courtney Elwood POC: COS Vicky 202 225 5672

Clinger, James H

From: Clinger, James H
Sent: Thursday, December 8, 2005 3:33 PM
To: Gorsuch, Neil M
Subject: Read:

Otus2005, Ag

Subject:	Senator Warner will call AG
Start:	Thursday, December 8, 2005 3:50 PM
End:	Thursday, December 8, 2005 3:55 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Sampson, Kyle; Moschella, William; Gorsuch, Neil M; Elwood, Courtney

When: Thursday, December 08, 2005 3:50 PM-3:55 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

AG's Office
AO: Kyle Sampson DOJ: Will Moschella, Neil Gorsuch, Courtney Elwood POC: Doreen

Clinger, James H

From: Clinger, James H
Sent: Thursday, December 8, 2005 3:38 PM
To: Gorsuch, Neil M
Subject: Read:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 08, 2005 7:04 PM
To: Brett Gerry (E-mail)
Subject: http://thomas.loc.gov/cgi-bin/query/D?r109:1:./temp/~r109Z1ZWIC::

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 08, 2005 7:07 PM
To: Brett Gerry (E-mail)

SA 2524. Mr. GRAHAM (for himself, Mr. LEVIN, and Mr. KYL) proposed an amendment to amendment SA 2515 proposed by Mr. GRAHAM (for himself, Mr. KYL, Mr. CHAMBLISS, and Mr. CORNYN) to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. __. REVIEW OF STATUS OF DETAINEES.

(a) *Submittal of Procedures for Status Review of Detainees at Guantanamo Bay, Cuba*.--Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report setting forth the procedures of the Combatant Status Review Tribunals and the noticed Administrative Review Boards in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay.

(b) *Procedures*.--The procedures submitted to Congress pursuant to subsection (a) shall, with respect to proceedings beginning after the date of the submittal of such procedures under that subsection, ensure that--

(1) in making a determination of status of any detainee under such procedures, a Combatant Status Review Tribunal or Administrative Review Board may not consider statements derived from persons that, as determined by such Tribunal or Board, by the preponderance of the evidence, were obtained with undue coercion; and

(2) the Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advice and consent of the Senate.

(c) *Report on Modification of Procedures*.--The Secretary of Defense shall submit to the committees of Congress referred to in subsection (a) a report on any modification of the procedures submitted under subsection (a) not later than 60 days before the date on which such modification goes into effect.

(d) *Judicial Review of Detention of Enemy Combatants*.--

(1) **IN GENERAL**.--Section 2241 of title 28, United States Code, is amended by adding at the end the following:

``(e) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien outside the United States (as that term is defined in section 101(a)(38) of the Immigration and Naturalization Act (8 U.S.C. 1101(a)(38)) who is detained by the Department of Defense at Guantanamo Bay, Cuba.".

(2) **REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION**.--

(A) **IN GENERAL**.--Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any decision of a Designated Civilian Official described in subsection (b)(2) that an alien is properly detained as an enemy combatant.

(B) **LIMITATION ON CLAIMS**.--The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien--

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) **SCOPE OF REVIEW**.--The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of--

(i) whether the status determination of the Combatant Status Review Tribunal with regard to such alien applied the correct standards and was consistent with the procedures specified by the Secretary of Defense for Combatant Status Review Tribunals (including the requirement that the conclusion of the Tribunal be supported by a preponderance of the evidence and allowing a rebuttable presumption in favor the Government's evidence); and

(ii) whether subjecting an alien enemy combatant to such standards and procedures is consistent with the Constitution and laws of the United States.

(D) **TERMINATION ON RELEASE FROM CUSTODY**.--The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the

custody of the Department of Defense.

(3) **REVIEW OF FINAL DECISIONS OF MILITARY COMMISSIONS**.--

(A) **IN GENERAL**.--Subject to subparagraphs (C) and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision rendered pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order).

(B) **GRANT OF REVIEW**.--Review under this paragraph--

(i) with respect to a capital case or a case in which the alien was sentenced to a term of imprisonment of 10 years or more, shall be as of right; or

(ii) with respect to any other case, shall be at the discretion of the United States Court of Appeals for the District of Columbia Circuit.

(C) **LIMITATION ON APPEALS**.--The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to an appeal brought by or on behalf of an alien--

(i) who was, at the time of the proceedings pursuant to the military order referred to in subparagraph (A), detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a final decision has been rendered pursuant to such military order.

(D) **SCOPE OF REVIEW**.--The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on an appeal of

[Page: S12772] **GPO's PDF <http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?dbname=2005_record&page=S12772&position=all>**
a final decision with respect to an alien under this paragraph shall be limited to the consideration of--

(i) whether the final decision applied the correct standards and was consistent with the procedures specified in the military order referred to in subparagraph (A); and

(ii) whether subjecting an alien enemy combatant to such order is consistent with the Constitution and laws of the United States.

(e) *Effective Date*.--

(1) **IN GENERAL**.--Except as provided in paragraph (2), this section shall take effect on the day after the date of the enactment of this Act.

(2) **REVIEW OF COMBATANT STATUS TRIBUNAL AND MILITARY COMMISSION DECISIONS**.--Paragraphs (2) and (3) of subsection (d) shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 08, 2005 7:28 PM
To: 'Michael_Allen@nsc.eop.gov'
Cc: John_B._Wiegmann@nsc.eop.gov; [redacted]@dodgc.osd.mil
Subject: RE: Quick Question

YES. The whole point is that it's akin to a parole hearing and the detainee can present anything he thinks that will aid his release.

Link to the order setting up the ARBS and describing them follows; it shows all the many factors ARBs consider...

http://www.defenselink.mil/news/Sep2004/d20040914adminreview.pdf

-----Original Message-----
From: Michael_Allen@nsc.eop.gov [mailto:Michael_Allen@nsc.eop.gov]
Sent: Thursday, December 08, 2005 7:08 PM
To: Gorsuch, Neil M
Cc: John_B._Wiegmann@nsc.eop.gov; [redacted]@dodgc.osd.mil
Subject: Quick Question

Graham staff asks whether detainee can present "new" evidence as to their innocence at an ARB. Can they? Graham is trying to get McCain's staff on board with the Graham language.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 8, 2005 6:53 PM
To: Elwood, Courtney; Sampson, Kyle; Moschella, William; Clinger, James H
Cc: Bradbury, Steve
Subject: few items

(1) Graham tonight improved the "standards" language in response to our concerns and recvd Levin's blessing. Rather than requiring CADC to determine whether the CSRT/MC "applied the correct standards and was consistent with the procedures specified by the SECDEF," the scope of review section now requires the CSRT/MC to be "consistent with the standards and procedures specified by the SECDEF." This reduces significantly the potential for judicial creativity.

(2) DoD Asst Secty for LA spoke with HASC Staff Director [redacted] tonight to make all of our pts. [redacted], SECDEF's chief of staff and former Hunter staffer, has a call with [redacted] tomorrow morning. They're going to ask esp. for greater clarity on the retroactivity pt.

(3) I have a long scheduled [redacted] am and won't be in until 930, so I will miss the morning mtg. But I will be reachable by cell [redacted]) and have a morning call with [redacted] on Graham's staff. I will catch up with you as soon as I arrive.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 08, 2005 8:34 PM
To: 'Michael_Allen@nsc.eop.gov'; John_B._Wiegmann@nsc.eop.gov
Subject: RE: New evidence provision.doc

What is going on?! I thought we were finished but for Graham talking to McCain about undue coercion.

You should run this by [redacted]DOD. Really their equity.

Since they're shipping language, can you ask them to ship the whole amendment as it stands so we aren't working off notes?

-----Original Message-----
From: Michael_Allen@nsc.eop.gov [mailto:Michael_Allen@nsc.eop.gov]
Sent: Thursday, December 08, 2005 8:20 PM
To: Gorsuch, Neil M; John_B._Wiegmann@nsc.eop.gov
Subject: FW: New evidence provision.doc

-----Original Message-----
From: [redacted](L. Graham) [mailto:[redacted]@lgraham.senate.gov]
Sent: Thursday, December 08, 2005 8:11 PM
To: Allen, Michael
Subject: Fw: New evidence provision.doc

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted](McCain) <[redacted]@mccain.senate.gov>
To: [redacted](L. Graham) <[redacted]@lgraham.senate.gov>; [redacted] LGRAHAM <[redacted]@lgraham.senate.gov>
Sent: Thu Dec 08 20:09:18 2005
Subject: New evidence provision.doc

<<New evidence provision.doc>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 08, 2005 7:34 PM
To: McCallum, Robert (SMO); Shaw, Aloma A; Gunn, Currie (SMO)
Subject: tomorrow

I have an 8 am dental apptmt but should be in by 930. I will miss the morning meeting.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 08, 2005 8:37 PM
To: Elwood, Courtney
Subject: RE: few items

I really appreciate this. I told [redacted] that the AG had gone to bat and it was their turn to step it up. [redacted] promised he'd try v hard to get a principal call tomorrow, but knowing how ossified DoD can be your efforts will be key to getting them off the dime.

-----Original Message-----
From: Elwood, Courtney
Sent: Thursday, December 08, 2005 8:04 PM
To: Gorsuch, Neil M
Subject: RE: few items

Thanks, Neil. This is helpful. In response to Jimenez's email on their efforts -- one call from the Asst. Sec. of LA and a promised call by the Asst to the SecDef to the HASC Staff Director (not to [redacted] himself, as I read [redacted] email) -- I blasted [redacted] and gently nudged [redacted] to suggest that, if we had a principal to principal call from DOD, we might make additional progress.

I may be out tomorrow, depending on the weather. If there is school, I have [redacted] If so, I will be in a blackberry blackout until about noon.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, December 08, 2005 6:53 PM
To: Elwood, Courtney; Sampson, Kyle; Moschella, William; Clinger, James H
Cc: Bradbury, Steve
Subject: few items

(1) Graham tonight improved the "standards" language in response to our concerns and recvd Levin's blessing. Rather than requiring CADC to determine whether the CSRT/MC "applied the correct standards and was consistent with the procedures specified by the SECDEF," the scope of review section now requires the CSRT/MC to be "consistent with the standards and procedures specified by the SECDEF." This reduces significantly the potential for judicial creativity.

(2) DoD Asst Secty for LA spoke with HASC Staff Director [redacted] tonight to make all of our pts. [redacted], SECDEF's chief of staff and former Hunter staffer, has a call with [redacted] tomorrow morning. They're going to ask esp. for greater clarity on the retroactivity pt.

(3) I have a long scheduled [redacted] am and won't be in until 930, so I will miss the morning mtg. But I will be reachable by cell [redacted] and have a morning call with [redacted] on Graham's staff. I will catch up with you as soon as I arrive.

Elwood, Courtney

From: Elwood, Courtney
Sent: Thursday, December 08, 2005 8:48 PM
To: Gorsuch, Neil M
Subject: Read: few items

Kessler, Elizabeth A

From: Kessler, Elizabeth A
Sent: Thursday, December 08, 2005 9:06 PM
To: Gorsuch, Neil M
Subject: Read: OIP posting

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Thursday, December 08, 2005 9:47 PM
To: Gorsuch, Neil M
Subject: Read: tomorrow

Swenson, Lily F

From: Swenson, Lily F
Sent: Thursday, December 08, 2005 10:00 PM
To: Gorsuch, Neil M
Subject: Read: OIP posting

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 09, 2005 12:35 PM
To: [redacted] (E-mail); William J. Haynes (E-mail); John B. Wiegmann (E-mail); Michael Allen (E-mail); Moschella, William; Elwood, Courtney; Sampson, Kyle; Bradbury, Steve; Keisler, Peter D (CIV)
Subject: Graham language
Attachments: 12-9 Graham.doc

In the attached, I have tried to capture the edits made so far to the as-passed Senate language, as described to me over the phone by Graham's staff just now. While I've tried to be exact, I cannot promise that I've captured every word, nor will they share the document with us at this time. Also, as you know, nothing is final and Graham's folks continue to "field calls" from other members. But I thought it would be helpful for you to see the state of play, at least as of this hour.

SA 2524. Mr. GRAHAM (for himself, Mr. LEVIN, and Mr. KYL) proposed an amendment to amendment SA 2515 proposed by Mr. GRAHAM (for himself, Mr. KYL, Mr. CHAMBLISS, and Mr. CORNYN) to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. __. REVIEW OF STATUS OF DETAINEES.

(a) *Submittal of Procedures for Status Review of Detainees at Guantanamo Bay, Cuba*.--Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report setting forth the procedures of the Combatant Status Review Tribunals and the noticed Administrative Review Boards in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay. Not later than 180 days after the enactment of this Act, the SECDEF shall also submit … a report setting forth procedures in operation in Afghanistan and Iraq for the determination of the status of aliens detained in the custody or under the physical control of the Department of Defense in those countries.

(b) *Procedures*.--The procedures submitted to Congress pursuant to subsection (a) shall, with respect to proceedings beginning after the date of the submittal of such procedures under that subsection, ensure that--

(1) in making a determination of status of any detainee under such procedures, a Combatant Status Review Tribunal or Administrative Review Board shall consider whether any statement derived from or relating to such detainee was obtained as a result of coercion and what the probative value (if any) of such statement is; and

(2) the Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advice and consent of the Senate.

(3) The procedures submitted to Congress pursuant to subsection (a) shall provide for periodic review of new evidence that bears on the enemy combatant status of a detainee.

(4) [Language “under construction”: New reporting requirement for DoD to provide annually a report on what processes were provided to aliens outside the US, in an unclassified version, with classified annex if necessary, including

information on how many detainees were processed, as well as what procedures were employed in each location]

(c) *Report on Modification of Procedures*.--The Secretary of Defense shall submit to the committees of Congress referred to in subsection (a) a report on any modification of the procedures submitted under subsection (a) not later than 60 days before the date on which such modification goes into effect.

(d) *Judicial Review of Detention of Enemy Combatants*.--

(1) **IN GENERAL**.--Section 2241 of title 28, United States Code, is amended by adding at the end the following:

``(e) Except as provided in [subsections d2 and 3 below], no court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien outside the United States who is detained by the Department of Defense at Guantanamo Bay, Cuba, or (ii) any other action against the US or its agents relating to any aspect of the detention by DoD of an alien at GTMO who (a) is currently in military custody or (b) has been determined by CADC in accordance with [sec. below dealing with CSRTs] to have been properly detained as an enemy combatant.''.

(2) **REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION**.--

(A) **IN GENERAL**.--Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision of a CSRT that an alien is properly detained as an enemy combatant.

(B) **LIMITATION ON CLAIMS**.--The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien--

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) **SCOPE OF REVIEW**.--The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of--

(i) whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the standards and procedures

specified by the Secretary of Defense for Combatant Status Review Tribunals (including the requirement that the conclusion of the Tribunal be supported by a preponderance of the evidence and allowing a rebuttable presumption in favor the Government's evidence); and

(ii) to the extent that the Constitution and laws of the US are applicable, whether the use of such standards and procedures to make the status determination is consistent with the Constitution and laws of the US.

(D) **TERMINATION ON RELEASE FROM CUSTODY**.--The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

(3) **REVIEW OF FINAL DECISIONS OF MILITARY COMMISSIONS**.--

(A) **IN GENERAL**.--Subject to subparagraphs (B), (C) and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision rendered pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order).

(B) **GRANT OF REVIEW**.--Review under this paragraph--

(i) with respect to a capital case or a case in which the alien was sentenced to a term of imprisonment of 10 years or more, shall be as of right; or

(ii) with respect to any other case, shall be at the discretion of the United States Court of Appeals for the District of Columbia Circuit.

(C) **LIMITATION ON APPEALS**.--The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to an appeal brought by or on behalf of an alien--

(i) who was, at the time of the proceedings pursuant to the military order referred to in subparagraph (A), detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a final decision has been rendered pursuant to such military order.

(D) **SCOPE OF REVIEW**.--The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on an appeal of a final decision with respect to an alien under this paragraph shall be limited to the consideration of--

(i) whether the final decision was consistent with the standards and procedures specified in the military order referred to in subparagraph (A); and

(ii) to the extent that the Constitution and laws of the United States are applicable, whether the use of such standards and procedures to reach the final decision is consistent with the Constitution and laws of the United States.

(4) Nothing in this section shall be construed to confer any constitutional right on an alien detained as an enemy combatant outside the US.

(5) For purposes of this Section, the term the "United States," when used in a geographical sense, is defined in section 101(a)(38) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(38)), and in particular does not include the U.S. Naval Station, Guantanamo Bay, Cuba.

(6) The SECDEF shall be the named respondent in any appeal to the CADC under this Section.

(e) *Effective Date*.--

(1) **IN GENERAL**.-- This section shall take effect on the day after the date of the enactment of this Act.

(2) **REVIEW OF COMBATANT STATUS TRIBUNAL AND MILITARY COMMISSION DECISIONS**.--Paragraphs (2) and (3) of subsection (d) shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 09, 2005 5:38 PM
To: McCallum, Robert (SMO)
Subject: Spoke with [redacted]. He promised to talk to [redacted] Monday am.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Saturday, December 10, 2005 1:24 PM
To: [redacted]@dodgc.osd.mil'
Subject: Re: Fw: Graham language

Thanks for the update.

-----Original Message-----
From [redacted]@dodgc.osd.mil [redacted]@dodgc.osd.mil>
To: Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Dec 10 12:36:10 2005
Subject: Fw: Fw: Graham language

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]@mail.house.gov>
To: [redacted]@gmail.com>
CC: [redacted] DoD OGC [redacted]@dodgc.osd.mil>
Sent: Sat Dec 10 11:22:11 2005
Subject: RE: Fw: Graham language

[redacted]Have your language [redacted]and I are going to reach out to you and [redacted]n a bit after we have taken a close look at this, [redacted]

From: [redacted]@gmail.com]
Sent: Saturday, December 10, 2005 11:16 AM
To: [redacted]
Cc: [redacted] DoD OGC
Subject: Re: Fw: Graham language

[redacted] and I talked to [redacted] at length last night. I promised them language to plug the "any other action" loophole and to fix the ambiguity on retroactivity for all pending cases. Here it is.

(1) Loophole:

To this section . . .

``(e) Except as provided in [subsections d2 and 3 below], no court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien outside the United States who is detained by the Department of Defense at Guantanamo Bay, Cuba, or (ii) any other action against the US or its agents relating to any aspect of the detention by DoD of an alien at GTMO who (a) is currently in military custody or (b) has been determined by the United States Court of Appeals for the District of Columbia Circuit in accordance with [sec. below dealing with CSRTs] to have been properly detained as an enemy combatant.''

. . . ADD the following at the very end. . .

", or has been determined to be properly detained by a Combatant Status Review Tribunal in the event the detainee does not appeal to the United States Court of Appeals for the District of Columbia Circuit."

(2) To this section . . .

"(2) REVIEW OF COMBATANT STATUS TRIBUNAL AND MILITARY COMMISSION DECISIONS.--Paragraphs (2) and (3) of subsection (d) shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act."

. . . ADD the following before "(2)" . . .

"(1)," [so that the section begins "Paragraphs (1), (2) and (3) of subsection (d) . . ."]

Hit "reply all" if you reply so that my Blackberry picks it up. If you need anything else, just holler. And if you need us and DOJ to talk to anyone else on the House side, let us know. Many thanks.

On 12/10/05, [redacted] DoD OGC < [redacted] @dodgc.osd.mil> wrote:

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other
privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov < Neil.Gorsuch@usdoj.gov>
To: William.Moschella@usdoj.gov < William.Moschella@usdoj.gov>;
Courtney.Elwood@usdoj.gov < Courtney.Elwood@usdoj.gov >;
Kyle.Sampson@usdoj.gov < Kyle.Sampson@usdoj.gov>; Steve.Bradbury@usdoj.gov
< Steve.Bradbury@usdoj.gov>; Peter.D.Keisler@usdoj.gov
< Peter.D.Keisler@usdoj.gov >; [redacted] (E-mail)
< [redacted] @dodgc.osd.mil> [redacted] (E-mail) < [redacted] @dodgc.osd.mil>;
Michael Allen (E-mail) < Michael_Allen@nsc.eop.gov>; John B. Wiegmann
(E-mail) < John_B._Wiegmann@nsc.eop.gov>
Sent: Fri Dec 09 12:34:00 2005
Subject: Graham language

<<12-9 Graham.doc>> In the attached, I have tried to capture the edits made so far to the as-passed Senate language, as described to me over the phone by Graham's staff just now. While I've tried to be exact, I cannot promise
that I've captured every word, nor will they share the document with us at this time. Also, as you know, nothing is final and Graham's folks continue to "field calls" from other members. But I thought it would be helpful for
you to see the state of play, at least as of this hour.

<<12-9 Graham.doc>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 8:13 AM
To: John B. Wiegmann (E-mail)
Subject: Status

When you get a chance, could you give me an update on status with Graham. I'd like to be able to brief the AG this am. Specifically, did all of our 4 pts get into the House counter offer? Any reaction yet from the Senate? Many thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 9:18 AM
To: [redacted]@dodgc.osd.mil'
Subject: Re: Fw: Graham language

Do we know what House version says?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [redacted]@dodgc.osd.mil>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Dec 12 09:02:20 2005
Subject: FW: Fw: Graham language

-----Original Message-----
From: [redacted] DoD OGC
Sent: Monday, December 12, 2005 09:02
To: [redacted]
Subject: RE: Fw: Graham language

Let us know if/how we can help.

-----Original Message-----
From: [redacted]@mail.house.gov]
Sent: Monday, December 12, 2005 08:58
To: [redacted] DoD OGC'
Subject: RE: Fw: Graham language

We received Senate language. We anticipate responding this morning.[redacted]

From: [redacted] DoD OGC [mailto[redacted]@dodgc.osd.mil]
Sent: Monday, December 12, 2005 8:51 AM
To: [redacted]
Subject: RE: Fw: Graham language

Any word over the weekend? Did y'all receive the Senate language?

-----Original Message-----
From: [redacted]@mail.house.gov]
Sent: Saturday, December 10, 2005 11:22
To: [redacted]
Cc: [redacted]DoD OGC
Subject: RE: Fw: Graham language

[redacted]Have your language. [redacted]nd I are going to reach out to you and [redacted]n a bit after we have taken a close look at this, [redacted]

From: [redacted]
Sent: Saturday, December 10, 2005 11:16 AM
To: [redacted]
Cc: [redacted]DoD OGC
Subject: Re: Fw: Graham language

[redacted]and I talked to [redacted]at length last night. I promised them language to plug the "any other action" loophole and to fix the ambiguity on retroactivity for all pending cases. Here it is.

(1) Loophole:

To this section . . .

``(e) Except as provided in [subsections d2 and 3 below], no court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien outside the United States who is detained by the Department of Defense at Guantanamo Bay, Cuba, or (ii) any other action against the US or its agents relating to any aspect of the detention by DoD of an alien at GTMO who (a) is currently in military custody or (b) has been determined by the United States Court of Appeals for the District of Columbia Circuit in accordance with [sec. below dealing with CSRTs] to have been properly detained as an enemy combatant.''

. . . ADD the following at the very end. . .

", or has been determined to be properly detained by a Combatant Status Review Tribunal in the event the detainee does not appeal to the United States Court of Appeals for the District of Columbia Circuit."

(2) To this section . . .

"(2) REVIEW OF COMBATANT STATUS TRIBUNAL AND MILITARY COMMISSION DECISIONS.--Paragraphs (2) and (3) of subsection (d) shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act."

. . . ADD the following before "(2)" . . .

"(1)," [so that the section begins "Paragraphs (1), (2) and (3) of subsection (d) . . ."]

Hit "reply all" if you reply so that my Blackberry picks it up. If you need anything else, just holler. And if you need us and DOJ to talk to anyone else on the House side, let us know. Many thanks.

On 12/10/05 [redacted] DoD OGC [redacted] @dodgc.osd.mil <mailto [redacted] @dodgc.osd.mil > > wrote:

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other
privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <mailto:Neil.Gorsuch@usdoj.gov>
<Neil.Gorsuch@usdoj.gov <mailto:Neil.Gorsuch@usdoj.gov> >
To: William.Moschella@usdoj.gov <mailto:William.Moschella@usdoj.gov>
<William.Moschella@usdoj.gov <mailto:William.Moschella@usdoj.gov> >;

<William.Moschella@usdoj.gov <mailto:William.Moschella@usdoj.gov> >;
Courtney.Elwood@usdoj.gov <mailto:Courtney.Elwood@usdoj.gov>
<Courtney.Elwood@usdoj.gov <mailto:Courtney.Elwood@usdoj.gov> >;
Kyle.Sampson@usdoj.gov <mailto:Kyle.Sampson@usdoj.gov>
<Kyle.Sampson@usdoj.gov <mailto:Kyle.Sampson@usdoj.gov> >;
Steve.Bradbury@usdoj.gov <mailto:Steve.Bradbury@usdoj.gov>
<Steve.Bradbury@usdoj.gov <mailto:Steve.Bradbury@usdoj.gov> >;
Peter.D.Keisler@usdoj.gov <mailto:Peter.D.Keisler@usdoj.gov>
<Peter.D.Keisler@usdoj.gov <mailto:Peter.D.Keisler@usdoj.gov> >; [redacted]
[redacted](E-mail)
[redacted]@dodgc.osd.mil <mailto[redacted]@dodgc.osd.mil> >; [redacted]
(E-mail) <[redacted]@dodgc.osd.mil <mailto[redacted]@dodgc.osd.mil> >;
Michael Allen (E-mail) < Michael_Allen@nsc.eop.gov
<mailto:Michael_Allen@nsc.eop.gov> >; John B. Wiegmann
(E-mail) <John_B._Wiegmann@nsc.eop.gov <mailto:John_B._Wiegmann@nsc.eop.gov>
>
Sent: Fri Dec 09 12:34:00 2005
Subject: Graham language

<<12-9 Graham.doc>> In the attached, I have tried to capture the edits made so far to the as-passed Senate language, as described to me over the phone by Graham's staff just now. While I've tried to be exact, I cannot promise
that I've captured every word, nor will they share the document with us at this time. Also, as you know, nothing is final and Graham's folks continue to "field calls" from other members. But I thought it would be helpful for
you to see the state of play, at least as of this hour.

<<12-9 Graham.doc>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 8:24 AM
To: Reyes, Luis (SMO)
Subject: RE: Eggen's piece....

Is there any truth to the accusation that this Admin has implemented a "new policy" precluding staff from offering recommendations in Sec 5 cases? If not, have we implemented any new policy with respect to staff recommendations in such cases?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Saturday, December 10, 2005 4:35 AM
To: Holland, Eric W; Kim, Wan (CRT); McCallum, Robert (SMO); Elwood, Courtney; Scolinos, Tasia; Gorsuch, Neil M
Subject: Eggen's piece....

Pasted below. Buried in para 6 he mentions that Tanner is career. He still fudges the distinction by quoting others who dismiss him as being at the "whim" of the politicals.

-----Original Message-----
From [redacted]
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Sat Dec 10 03:48:06 2005
Subject: A washingtonpost.com article from [redacted]

You have been sent this message from [redacted] as a courtesy of washingtonpost.com

Staff Opinions Banned In Voting Rights Cases

By Dan Eggen

The Justice Department has barred staff attorneys from offering recommendations in major Voting Rights Act cases, marking a significant change in the procedures meant to insulate such decisions from politics, congressional aides and current and former employees familiar with the issue said.

Disclosure of the change comes amid growing public criticism of Justice Department decisions to approve Republican-engineered plans in Texas and Georgia that were found to hurt minority voters by career staff attorneys who analyzed the plans. Political appointees overruled staff findings in both cases.

The policy was implemented in the Georgia case, said a Justice employee who, like others interviewed, spoke on condition of anonymity because of fears of retaliation. A staff memo urged rejecting the state's plan to require photo identification at the polls because it would harm black

rejecting the state's plan to require photo identification at the polls because it would harm black voters.

But under the new policy, the recommendation was stripped out of that document and was not forwarded to higher officials in the Civil Rights Division, several sources familiar with the incident said.

The policy helps explain why the Justice Department has portrayed an Aug. 25 staff memo obtained by The Washington Post as an "early draft," even though it was dated one day before the department gave "preclearance," or approval, to the Georgia plan. The state's plan has since been halted on constitutional grounds by a federal judge who likened it to a Jim Crow-era poll tax.

The policy shift's outlines were first reported by the Dallas Morning News. Sources familiar with the change said it was implemented by John K. Tanner, the voting section chief, who is a career employee.

In response to a request to comment yesterday, Justice Department spokesman Eric Holland wrote in an e-mail: "The opinions and expertise of the career lawyers are valued and respected and continue to be an integral part of the internal deliberation process upon which the department heavily relies when making litigation decisions." He declined to elaborate.

Tensions within the voting section have been rising dramatically, culminating in an emotionally charged meeting last week in which Tanner criticized the quality of work done by staff members analyzing voting rights cases, numerous sources inside and outside the section said. Many employees were so angered that they boycotted the staff holiday party later in the week, the sources said.

Under Section 5 of the Voting Rights Act of 1965, Georgia, Texas and other states with a history of discriminatory election practices are required to receive approval from the Justice Department or a federal court for any changes to their voting systems. Section 5 prohibits changes that would be "retrogressive," or bring harm to, minority voters.

For decades, staff attorneys have made recommendations in Section 5 cases that have carried great weight within the department and that have been passed along to senior officials who make a final determination, former and current employees say.

Preventing staff members from making such recommendations is a significant departure and runs the risk of making the process appear more political, experts said.

"It's an attempt by the political hierarchy to insulate themselves from any accountability by essentially leaving it up to a chief, who's there at their whim," said Jon Greenbaum, who worked in the voting section from 1997 to 2003, and who is now director of the Voting Rights Project at the Lawyers' Committee for Civil Rights Under Law. "To me, it shows a fear of dealing with the legal issues in these cases."

Many congressional Democrats have sharply criticized the Civil Rights Division's performance, and Senate Judiciary Committee Chairman Arlen Specter (R-Pa.) said this week that he is considering holding hearings on the Texas redistricting case. Sen. Edward M. Kennedy (D-Mass.) said in a statement yesterday: "America deserves better than a Civil Rights Division that puts the political agenda of those in power over the interests of the people its serves."

Attorney General Alberto R. Gonzales and other Justice officials have disputed such criticism, saying that politics play no role in civil rights decisions. In a letter to Specter this week, Assistant Attorney General William E. Moschella criticized The Post's coverage and said the department is aggressively

enforcing a range of civil rights laws.

"From fair housing opportunities, equal access to the ballot box and criminal civil rights prosecutions to desegregation in America's schools and protection of the rights of the disabled, the division continues its noble mission with vigor," Moschella wrote.

Would you like to send this article to a friend? Go to
http://www.washingtonpost.com/ac2/wp-dyn/emailafriend?contentId=AR2005120901894&sent=no&referrer=emailarticle

Visit washingtonpost.com today for the latest in:

News - http://www.washingtonpost.com/?referrer=emailarticle

Politics - http://www.washingtonpost.com/wp-dyn/content/politics/?referrer=emailarticle

Sports - http://www.washingtonpost.com/wp-dyn/content/sports/?referrer=emailarticle

Entertainment - http://www.washingtonpost.com/wp-dyn/content/artsandliving/entertainmentguide/?referrer=emailarticle

Travel - http://www.washingtonpost.com/wp-dyn/content/artsandliving/travel/?referrer=emailarticle

Technology - http://www.washingtonpost.com/wp-dyn/content/technology/?referrer=emailarticle

Want the latest news in your inbox? Check out washingtonpost.com's e-mail newsletters:

http://www.washingtonpost.com/ac2/wp-dyn?node=admin/email&referrer=emailarticle

Washingtonpost.Newsweek Interactive
c/o E-mail Customer Care
1515 N. Courthouse Road
Arlington, VA 22201

© 2004 The Washington Post Company

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 9:59 AM
To: 'John_B._Wiegmann@nsc.eop.gov'
Cc: Michael_Allen@nsc.eop.gov; [redacted] E-mail); Moschella, William
Subject: RE: Status

Thanks for the update. FYI - Will and I called [redacted] (House Judiciary) and them to weigh in with Hunter, Warner, and Graham's folks on the importance of these changes. We also have a call in to Kyl's staff to ask their help with these pts, but haven't yet connected.

-----Original Message-----
From: John_B._Wiegmann@nsc.eop.gov [mailto:John_B._Wiegmann@nsc.eop.gov]
Sent: Monday, December 12, 2005 9:23 AM
To: Gorsuch, Neil M
Cc: Michael_Allen@nsc.eop.gov
Subject: RE: Status

Hunter is reportedly asking for 1. fix effective date, 2. fix "in DoD custody" point, 3. "exclusion of actions if released and no appeal to DC Circuit" point. Not clear to me what they are doing on scope of review -- I think asking for it to be dropped altogether as an opener.
I have not seen any text. No word yet from Senate.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, December 12, 2005 8:12 AM
To: Wiegmann, John B.
Subject: Status

When you get a chance, could you give me an update on status with Graham. I'd like to be able to brief the AG this am. Specifically, did all of our 4 pts get into the House counter offer? Any reaction yet from the Senate? Many thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 10:02 AM
To: [redacted](E-mail)
Subject: Lunch

I have down that we're set for 1215 at the Caucus Room; are we on?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 10:27 AM
To: Gunn, Currie (SMO)
Subject: RE: Please let me know asap if you have any leave to report for pp24 11/28 thru 12/30

[redacted]

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Monday, December 12, 2005 10:23 AM
To: Gunn, Currie (SMO); Swenson, Lily F; Kessler, Elizabeth A; Henke, Tracy (SMO); Reyes, Luis (SMO); Gorsuch, Neil M
Subject: RE: Please let me know asap if you have any leave to report for pp24 11/28 thru 12/30

My apologies the dates are from 11/28 thru 12/9.

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Monday, December 12, 2005 10:17 AM
To: Swenson, Lily F; Kessler, Elizabeth A; Henke, Tracy (SMO); Reyes, Luis (SMO); Gorsuch, Neil M
Subject: Please let me know asap if you have any leave to report for pp24 11/28 thru 12/30
Importance: High

Gunn, Currie (SMO)

Subject:	Car leaves 10th Street gate for WH
Start:	Monday, December 12, 2005 3:30 PM
End:	Monday, December 12, 2005 3:35 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gunn, Currie (SMO)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 1:47 PM
To: Letter, Douglas (CIV)
Subject: RE: Next NCTC Meeting

Forgive me, but what is this about and where (command center)?
-----Original Message-----
From: Letter, Douglas (CIV)
Sent: Monday, December 12, 2005 12:40 PM
To: Chipman, Jason; Kotelanski, Jorge; Rowan, Patrick (ODAG); Taxay, Michael; Eisenberg, John; Kennedy, Lionel; Bailey, Leonard; Dukes, Thomas; Elwood, Courtney; Gorsuch, Neil M; Schraibman, Sandy (CIV)
Subject: RE: Next NCTC Meeting

Jason:

This timing is not good for me. I will try to come to some of the meeting, but will likely miss most of it.

From: Chipman, Jason
Sent: Monday, December 12, 2005 12:20 PM
To: Letter, Douglas (CIV); Kotelanski, Jorge; Rowan, Patrick (ODAG); Taxay, Michael; Eisenberg, John; Kennedy, Lionel; Bailey, Leonard; Dukes, Thomas; Elwood, Courtney; Gorsuch, Neil M
Subject: Next NCTC Meeting

FYI. I received an email on Friday stating that the next secure video conference meeting is to take place tomorrow from 1 to 2:30 by secure video conference.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 2:25 PM
To: Letter, Douglas (CIV)
Subject: Re: Next NCTC Meeting

Ah yes, thanks for the reminder.

-----Original Message-----
From: Letter, Douglas (CIV) <DLetter@CIV.USDOJ.GOV>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Dec 12 14:22:05 2005
Subject: RE: Next NCTC Meeting

Neil:

It is in the Command Center. This is the issue involving DOD and the internet sites. I will report fully on it at today's meeting at 4 -- okay?

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 1:47 PM
To: Letter, Douglas (CIV)
Subject: RE: Next NCTC Meeting

Forgive me, but what is this about and where (command center)?
-----Original Message-----
From: Letter, Douglas (CIV)
Sent: Monday, December 12, 2005 12:40 PM
To: Chipman, Jason; Kotelanski, Jorge; Rowan, Patrick (ODAG); Taxay, Michael; Eisenberg, John; Kennedy, Lionel; Bailey, Leonard; Dukes, Thomas; Elwood, Courtney; Gorsuch, Neil M; Schraibman, Sandy (CIV)
Subject: RE: Next NCTC Meeting

Jason:

This timing is not good for me. I will try to come to some of the meeting, but will likely miss most of it.

From: Chipman, Jason

From: Chipman, Jason
Sent: Monday, December 12, 2005 12:20 PM
To: Letter, Douglas (CIV); Kotelanski, Jorge; Rowan, Patrick (ODAG); Taxay, Michael; Eisenberg, John; Kennedy, Lionel; Bailey, Leonard; Dukes, Thomas; Elwood, Courtney; Gorsuch, Neil M
Subject: Next NCTC Meeting

FYI. I received an email on Friday stating that the next secure video conference meeting is to take place tomorrow from 1 to 2:30 by secure video conference.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 2:26 PM
To: Chipman, Jason
Subject: Re: Next NCTC Meeting

I may be a little late but can join.

-----Original Message-----
From: Chipman, Jason <Jason.Chipman@SMOJMD.USDOJ.gov>
To: Letter, Douglas (CIV) <DLetter@CIV.USDOJ.GOV>; Kotelanski, Jorge <Jorge.Kotelanski@SMOJMD.USDOJ.gov>; Rowan, Patrick (ODAG) <Patrick.Rowan@SMOJMD.USDOJ.gov>; Taxay, Michael <Michael.Taxay@usdoj.gov>; Eisenberg, John <John.Eisenberg@SMOJMD.USDOJ.gov>; Kennedy, Lionel <Lionel.Kennedy@SMOJMD.USDOJ.gov>; Bailey, Leonard <Leonard.Bailey@usdoj.gov>; Dukes, Thomas <Thomas.Dukes@usdoj.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Dec 12 12:20:21 2005
Subject: Next NCTC Meeting

FYI. I received an email on Friday stating that the next secure video conference meeting is to take place tomorrow from 1 to 2:30 by secure video conference.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 1:50 PM
To: Elwood, Courtney
Subject: RE: Biodefense update - possible Principals meeting

I won't be able to make it but am hardly essential to this.

-----Original Message-----
From: Elwood, Courtney
Sent: Monday, December 12, 2005 1:22 PM
To: Seidel, Rebecca; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Cc: Ansell, Frederick; Hertling, Richard; Boardman, Michelle
Subject: RE: Biodefense update - possible Principals meeting

Great. Anyone who is available and interested can meet in my office at 3:15 to discuss. Thanks.

-----Original Message-----
From: Seidel, Rebecca
Sent: Monday, December 12, 2005 1:20 PM
To: Bucholtz, Jeffrey (CIV); Elwood, Courtney; Gorsuch, Neil M
Cc: Ansell, Frederick; Hertling, Richard; Boardman, Michelle
Subject: RE: Biodefense update - possible Principals meeting

that is what I am trying to find out. Will get you language as soon as I have.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Monday, December 12, 2005 1:17 PM
To: Elwood, Courtney; Seidel, Rebecca; Gorsuch, Neil M
Cc: Ansell, Frederick; Hertling, Richard; Boardman, Michelle
Subject: RE: Biodefense update - possible Principals meeting

Courtney, Rebecca: I can be available all afternoon.

Because folks have referred to so many different things as an "FDA defense," it would be very helpful to know more about what actually is in the deal apparently in the process of being cut.

Rebecca:

-----Original Message-----
From: Elwood, Courtney
Sent: Monday, December 12, 2005 1:08 PM
To: Seidel, Rebecca; Gorsuch, Neil M
Cc: Ansell, Frederick; Hertling, Richard; Bucholtz, Jeffrey (CIV); Boardman, Michelle

Cc: Ansell, Frederick; Hertling, Richard; Bucholtz, Jeffrey (CIV); Boardman, Michelle
Subject: RE: Biodefense update - possible Principals meeting

Ok. I have done my best to follow some of the email traffic, but I would benefit from someone walking me through where we are and what our objections are. Jeff and/or Michelle: Would you be available today sometime between 3 and 4? Also, what "decision" does Sec. Leavitt want to make? Has the principals meeting been scheduled?

-----Original Message-----
From: Seidel, Rebecca
Sent: Monday, December 12, 2005 1:03 PM
To: Elwood, Courtney; Gorsuch, Neil M
Cc: Ansell, Frederick; Hertling, Richard; Bucholtz, Jeffrey (CIV); Boardman, Michelle; Seidel, Rebecca
Subject: Biodefense update - possible Principals meeting
Importance: High

Courtney / Neil - Candi Wolf may call a principals meeting to discuss the "deal" that House and Senate may cut (I have pasted the info below). I am asking WH if I can weigh in with Frist's counsel on this. Jeff/Fred, are you available for a phone call this afternoon with Allen Hicks if I can arrange? we need to provide talkers to AG if he wishes to weigh in. Courtney, we have significant concerns re this FDA defense and the impact it will have on DOJ.

****

- the solution is to split the difference and put together a package with an FDA defense and a pre and post event comp fund with a trigger so it doesn't score.

Thye have been told that the Administration was not comfortable with an FDA defense and that some of our guys had concerns about a post event comp.
They were not swayed. This looks like the deal they will cut. With industry on board, I am not certain it will be changed even with objections from us.

Candi will likely call a principles meeting to discuss. I know that Sec. Leavitt wants to make this decision. Rebecca, I wanted to give you a chance to brief the AG if he wants to as well.

****

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 3:04 PM
To: 'John_B._Wiegmann@nsc.eop.gov'
Subject: Re: Status

Yes

-----Original Message-----
From: John_B._Wiegmann@nsc.eop.gov <John_B._Wiegmann@nsc.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Dec 12 15:00:53 2005
Subject: RE: Status

Right. Am I right that if we just make it say "paragraph (1), (2) and (3)" in subsection (h)(2), we're happy?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, December 12, 2005 2:53 PM
To: Allen, Michael; Wiegmann, John B.
Cc: William.Moschella@usdoj.gov; [redacted]@dodgc.osd.mil; Gerry, Brett C.
Subject: RE: Status

On a quick first review, it looks like we got (1) elimination of lawsuits for all GTMO detainees (not just DoD detainees), and (2) a fix for the litigation "loophole" for detainees who choose not to appeal; but, curiously, we did not get any further clarification on the retroactivity point.

-----Original Message-----
From: Michael_Allen@nsc.eop.gov [mailto:Michael_Allen@nsc.eop.gov]
Sent: Monday, December 12, 2005 12:20 PM
To: Gorsuch, Neil M; John_B._Wiegmann@nsc.eop.gov
Cc: Moschella, William; [redacted]@dodgc.osd.mil;
Brett_C._Gerry@who.eop.gov
Subject: RE: Status

More breaking news: all the speculation of what the House will counter with will end momentarily as the House is sending me their offer any minute now. I think they are simultaneously sending it to the Senate now also so the dye may be cast.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, December 12, 2005 12:15 PM
To: Wiegmann, John B.; Allen, Michael

To: Wiegmann, John B.; Allen, Michael
Cc: William.Moschella@usdoj.gov; jimenezf@dodgc.osd.mil
Subject: Re: Status

Very strange. Will and I spoke with Rusty this am and he seemed focused on fixing the Graham language along the lines in Brad's email this am.
Will and Mike can you get back to Hunter's folks and get to the bottom of this?

I agree that DoD's pull is the key here and focusing on Hunter and Warner makes sense. I mentioned this to [redacted] and I believe he's pushing this with [redacted]

-----Original Message-----
From: Michael_Allen@nsc.eop.gov <Michael_Allen@nsc.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>;
John_B._Wiegmann@nsc.eop.gov <John_B._Wiegmann@nsc.eop.gov>
CC: Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>;
[redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>
Sent: Mon Dec 12 11:58:40 2005
Subject: RE: Status

Brad is correct that last night Hunter's staff was going to send an offer back to the Senate correcting the issues he mentions below.
However, my sense this morning is that Hunter walked back on this and not sure they will counter with much on habeas. I just happened to talk to [redacted] at OSD who mentioned that the SECDEF would be calling Hunter and Warner so that is a good opportunity to try to get our habeas issues back in play.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, December 12, 2005 9:58 AM
To: Wiegmann, John B.
Cc: William.Moschella@usdoj.gov; [redacted](E-mail); Allen, Michael
Subject: RE: Status

Thanks for the update. FYI - Will and I called Brian Benczkowski (House Judiciary) and them to weigh in with Hunter, Warner, and Graham's folks on the importance of these changes. We also have a call in to Kyl's staff to ask their help with these pts, but haven't yet connected.

-----Original Message-----
From: John_B._Wiegmann@nsc.eop.gov [mailto:John_B._Wiegmann@nsc.eop.gov]
Sent: Monday, December 12, 2005 9:23 AM
To: Gorsuch, Neil M
Cc: Michael_Allen@nsc.eop.gov
Subject: RE: Status

Hunter is reportedly asking for 1. fix effective date, 2. fix "in DoD custody" point, 3. "exclusion of

actions if released and no appeal to DC Circuit" point. Not clear to me what they are doing on scope of review -- I think asking for it to be dropped altogether as an opener. I have not seen any text. No word yet from Senate.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, December 12, 2005 8:12 AM
To: Wiegmann, John B.
Subject: Status

When you get a chance, could you give me an update on status with Graham. I'd like to be able to brief the AG this am. Specifically, did all of our 4 pts get into the House counter offer? Any reaction yet from the Senate? Many thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 3:01 PM
To: Gunn, Currie (SMO)
Subject: What time is the car lvg and from which exit?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 3:23 PM
To: Gunn, Currie (SMO)
Subject: Re: What time is the car lvg and from which exit?

Thx!

-----Original Message-----
From: Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Dec 12 15:22:00 2005
Subject: RE: What time is the car lvg and from which exit?

3:30 10th Street gate

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 3:01 PM
To: Gunn, Currie (SMO)
Subject: What time is the car lvg and from which exit?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 3:24 PM
To: Gunn, Currie (SMO)
Subject: Re: What time is the car lvg and from which exit?

Whens the return?

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>
Sent: Mon Dec 12 15:23:23 2005
Subject: Re: What time is the car lvg and from which exit?

Thx!

-----Original Message-----
From: Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Dec 12 15:22:00 2005
Subject: RE: What time is the car lvg and from which exit?

3:30 10th Street gate

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 3:01 PM
To: Gunn, Currie (SMO)
Subject: What time is the car lvg and from which exit?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 4:34 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: Status

Good luck. When is SECDEF going to call?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Monday, December 12, 2005 3:55 PM
To: Gorsuch, Neil M
Subject: RE: Status

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, December 12, 2005 14:53
To: Michael_Allen@nsc.eop.gov; John_B._Wiegmann@nsc.eop.gov
Cc: William.Moschella@usdoj.gov; [redacted]@dodgc.osd.mil;
Brett_C._Gerry@who.eop.gov
Subject: RE: Status

On a quick first review, it looks like we got (1) elimination of lawsuits for all GTMO detainees (not just DoD detainees), and (2) a fix for the litigation "loophole" for detainees who choose not to appeal; but, curiously, we did not get any further clarification on the retroactivity point.

-----Original Message-----
From: Michael_Allen@nsc.eop.gov [mailto:Michael_Allen@nsc.eop.gov]
Sent: Monday, December 12, 2005 12:20 PM
To: Gorsuch, Neil M; John_B._Wiegmann@nsc.eop.gov
Cc: Moschella, William; [redacted]@dodgc.osd.mil; Brett_C._Gerry@who.eop.gov
Subject: RE: Status

More breaking news: all the speculation of what the House will counter with will end momentarily as the House is sending me their offer any minute now.
I think they are simultaneously sending it to the Senate now also so the dye may be cast.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, December 12, 2005 12:15 PM
To: Wiegmann, John B.; Allen, Michael
Cc: William.Moschella@usdoj.gov; jimenezf@dodgc.osd.mil

Cc: William.Moschella@usdoj.gov; jimenezr@dodgc.osd.mil
Subject: Re: Status

Very strange. Will and I spoke with Rusty this am and he seemed focused on fixing the Graham language along the lines in Brad's email this am. Will and Mike can you get back to Hunter's folks and get to the bottom of this?

I agree that DoD's pull is the key here and focusing on Hunter and Warner makes sense. I mentioned this to [redacted] and I believe he's pushing this with Robert.

-----Original Message-----
From: Michael_Allen@nsc.eop.gov <Michael_Allen@nsc.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>;
John_B._Wiegmann@nsc.eop.gov <John_B._Wiegmann@nsc.eop.gov>
CC: Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>;
[redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>
Sent: Mon Dec 12 11:58:40 2005
Subject: RE: Status

Brad is correct that last night Hunter's staff was going to send an offer back to the Senate correcting the issues he mentions below. However, my sense this morning is that Hunter walked back on this and not sure they will counter with much on habeas. I just happened to talk to [redacted] at OSD who mentioned that the SECDEF would be calling Hunter and Warner so that is a good opportunity to try to get our habeas issues back in play.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, December 12, 2005 9:58 AM
To: Wiegmann, John B.
Cc: William.Moschella@usdoj.gov; [redacted] (E-mail); Allen, Michael
Subject: RE: Status

Thanks for the update. FYI - Will and I called Brian Benczkowski (House Judiciary) and them to weigh in with Hunter, Warner, and Graham's folks on the importance of these changes. We also have a call in to Kyl's staff to ask their help with these pts, but haven't yet connected.

-----Original Message-----
From: John_B._Wiegmann@nsc.eop.gov [mailto:John_B._Wiegmann@nsc.eop.gov]
Sent: Monday, December 12, 2005 9:23 AM
To: Gorsuch, Neil M
Cc: Michael_Allen@nsc.eop.gov
Subject: RE: Status

Hunter is reportedly asking for 1. fix effective date, 2. fix "in DoD custody" point, 3. "exclusion of actions if released and no appeal to DC Circuit" point. Not clear to me what they are doing on scope of review -- I think asking for it to be dropped altogether as an opener. I have not seen any text. No word

yet from Senate.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, December 12, 2005 8:12 AM
To: Wiegmann, John B.
Subject: Status

When you get a chance, could you give me an update on status with Graham.
I'd like to be able to brief the AG this am. Specifically, did all of our 4 pts get into the House counter offer? Any reaction yet from the Senate?
Many thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 4:41 PM
To: Nichols, Carl (CIV); Hunt, Jody (CIV)
Subject: Uighur Report?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: [redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

Subject:	NCTC
Location:	Command Center
Start:	Tuesday, December 13, 2005 1:00 PM
End:	Tuesday, December 13, 2005 2:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 6:21 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: GTMO

Yepper

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Monday, December 12, 2005 5:50 PM
To: Gorsuch, Neil M
Subject: GTMO

The 11th is off due to Joint Task Force requirements. Next flight is now the 17th. In discussing this with Detainee Affairs, however, we've agreed that the best course of action, since each VIP visit drains JTF resources, is to wait for the DAG to agree on a date and then build a visit around him.
Can you check to see whether he's available the 17th?

[redacted]
Deputy General Counsel (Legal Counsel)
U.S. Department of Defense
1600 Defense Pentagon, Room 3B688
Washington, D.C. 20301-1600
[redacted] (703)614-6745 (fax)
E-mai[redacted]@dodgc.osd.mil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 6:25 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: GTMO

Sorry about that, I'm getting flip as this rather strange day passes. I will check and get back to you asap.

Any word on what the Senate counter on Graham looks like?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Monday, December 12, 2005 6:21 PM
To: Gorsuch, Neil M
Subject: RE: GTMO

Yepper, you'll check, or yepper, he is?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, December 12, 2005 18:20
To: [redacted]@dodgc.osd.mil
Subject: RE: GTMO

Yepper

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Monday, December 12, 2005 5:50 PM
To: Gorsuch, Neil M
Subject: GTMO

The 11th is off due to Joint Task Force requirements. Next flight is now the 17th. In discussing this with Detainee Affairs, however, we've agreed that the best course of action, since each VIP visit drains JTF resources, is to wait for the DAG to agree on a date and then build a visit around him.
Can you check to see whether he's available the 17th?

[redacted]
Deputy General Counsel (Legal Counsel)
U.S. Department of Defense
1600 Defense Pentagon, Room 3B688
Washington, D.C. 20301-1600
[redacted] / (703)614-6745 (fax)

[redacted]
E-mail: [redacted]@dodgc.osd.mil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 5:38 PM
To: Henke, Tracy (SMO)
Cc: Gunn, Currie (SMO)
Subject: FW: US Interagency Council on Homelessness Full Council Meeting for 12/13 has been canceled.

i believe you were going to attend.

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Monday, December 12, 2005 5:35 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: US Interagency Council on Homelessness Full Council Meeting for 12/13 has been canceled.

Gorsuch, Neil M

Subject:	CRM Christmas Party
Location:	Great Hall
Start:	Tuesday, December 13, 2005 2:30 PM
End:	Tuesday, December 13, 2005 3:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Beach, Andrew

Subject:	Strategic Initiatives
Location:	5228 OAG Conf Rm
Start:	Monday, January 2, 2006 1:30 PM
End:	Monday, January 2, 2006 2:30 PM
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 1:30 PM to 2:30 PM
Meeting Status:	Accepted
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Sellers, Kiahna (OAG); Goodling, Monica; Fisher, Alice; McNeil, Tucker (OPA)Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Sellers, Kiahna (OAG); Goodling, Monica; Fisher, Alice; McNeil, Tucker (OPA)

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Tucker McNeil

Beach, Andrew

From: Beach, Andrew
Sent: Wednesday, January 18, 2006 11:58 AM
To: Beach, Andrew
Subject: Canceled: Strategic Initiatives
Importance: High

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Laura Parsky for Alice Fisher, Tucker McNeil

Beach, Andrew

From: Beach, Andrew
Sent: Thursday, March 9, 2006 10:24 AM
To: Beach, Andrew; Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Sellers, Kiahna (OAG); Goodling, Monica; Fisher, Alice; McNeil, Tucker (OPA); Masugi, Ken (OPA); Battle, Michael (USAEO)
Subject: Canceled: Strategic Initiatives
Importance: High

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Tucker McNeil, Ken Masugi, Mike Battle

Beach, Andrew

From: Beach, Andrew
Sent: Tuesday, January 3, 2006 8:09 AM
To: Beach, Andrew; Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Sellers, Kiahna (OAG); Goodling, Monica; Fisher, Alice; McNeil, Tucker (OPA)
Subject: Updated: Strategic Initiatives

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Tucker McNeil

Beach, Andrew

From: Beach, Andrew
Sent: Monday, January 23, 2006 11:26 AM
To: Sampson, Kyle; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Sellers, Kiahna (OAG); Goodling, Monica; Fisher, Alice; McNeil, Tucker (OPA); Elwood, Courtney
Subject: Updated: Strategic Initiatives

When: Monday, January 23, 2006 1:30 PM-2:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5228 OAG Conf Rm

~~*~*~*~*~*~*~*~*~*

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Tucker McNeil

Beach, Andrew

From: Beach, Andrew
Sent: Friday, January 27, 2006 3:41 PM
To: Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Sellers, Kiahna (OAG); Goodling, Monica; Fisher, Alice; McNeil, Tucker (OPA)
Subject: Updated: Strategic Initiatives

When: Monday, January 30, 2006 4:30 PM-5:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5228 OAG Conf Rm

~~*~*~*~*~*~*~*~*~*

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Tucker McNeil

Beach, Andrew

From: Beach, Andrew
Sent: Tuesday, January 31, 2006 1:23 PM
To: Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Sellers, Kiahna (OAG); Goodling, Monica; Fisher, Alice; McNeil, Tucker (OPA); Kim, Wan (CRT)
Subject: Updated: Strategic Initiatives

When: Tuesday, February 07, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5228 OAG Conf Rm

~~*~*~*~*~*~*~*~*~*

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Tucker McNeil, Wan Kim

Beach, Andrew

From: Beach, Andrew
Sent: Thursday, March 9, 2006 10:26 AM
To: Beach, Andrew; Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Sellers, Kiahna (OAG); Goodling, Monica; Fisher, Alice; McNeil, Tucker (OPA); Masugi, Ken (OPA); Battle, Michael (USAEO)
Subject: Updated: Strategic Initiatives

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Tucker McNeil, Ken Masugi, Mike Battle

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 6:23 PM
To: McNulty, Paul J; Sampson, Kyle
Cc: Elston, Michael (ODAG)
Subject: RE: GTMO

The 11th has been scrubbed. DoD would like to know if Paul and Kyle are available Jan 17th. Could you please let me know?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 12:46 PM
To: McNulty, Paul J; Sampson, Kyle
Subject: GTMO

DoD has asked me to pass along an invitation to you to visit GTMO on Jan. 11. It is a one-day trip, leaving Andrews early and returning around 9 pm. [redacted] (responsible for the CSRT/ARB/MC processes) will be going down that day and he, along with [redacted] provide an excellent briefing and tour of the operations. Just let me know.

Best,

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 6:39 PM
To: Sampson, Kyle; McNulty, Paul J
Cc: Elston, Michael (ODAG)
Subject: RE: GTMO

Mike - Is Paul available then? If so, I can get this booked. DoD would like to know asap for its scheduling purposes. Thanks. NMG

-----Original Message-----
From: Sampson, Kyle
Sent: Monday, December 12, 2005 6:39 PM
To: Gorsuch, Neil M; McNulty, Paul J
Cc: Elston, Michael (ODAG)
Subject: RE: GTMO

I am.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, December 12, 2005 6:23 PM
To: McNulty, Paul J; Sampson, Kyle
Cc: Elston, Michael (ODAG)
Subject: RE: GTMO

The 11th has been scrubbed. DoD would like to know if Paul and Kyle are available Jan 17th. Could you please let me know?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 12:46 PM
To: McNulty, Paul J; Sampson, Kyle
Subject: GTMO

DoD has asked me to pass along an invitation to you to visit GTMO on Jan. 11. It is a one-day trip, leaving Andrews early and returning around 9 pm. [redacted] (responsible for the CSRT/ARB/MC processes) will be going down that day and he, along with [redacted] provide an excellent briefing and tour of the operations. Just let me know.

Best,

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 9:37 AM
To: [redacted]@dodgc.osd.mil'
Subject: RE: SECDEF-Warner

Good stuff. Was Warner more receptive or did he give the "Graham is running this show" talk?

-----Original Message-----
From [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Tuesday, December 13, 2005 9:21 AM
To: Moschella, William; Gorsuch, Neil M; Michael_Allen@nsc.eop.gov; John_B._Wiegmann@nsc.eop.gov; Brett_C._Gerry@who.eop.gov
Subject: SECDEF-Warner

This is what the Secretary gave Warner this morning.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 9:33 AM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

What room are we gathering in? And will someone be present to represent CRIM?

-----Original Message-----
From: Blomquist, Kathleen M
Sent: Thursday, December 08, 2005 5:57 PM
To: Gorsuch, Neil M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Hi Neil:

It looks like we're shooting for 11 a.m. on Tuesday here at OIPL for Court TV. I'm going to follow up with the offices I haven't heard back from and then I can let you know who will be in attendance.

Thank you,

Kat

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, December 08, 2005 12:09 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Tuesday is much better for me - I'm open from 10 to noon. But if I need to reshuffle Monday let me know.

-----Original Message-----
From: Blomquist, Kathleen M
Sent: Thursday, December 08, 2005 12:07 PM
To: Gorsuch, Neil M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Great, thank you. Richard said this coming Monday is pretty good for him as well as Tuesday morning. Do you have a time on Monday or the next morning that you'd prefer?

Kat Blomquist

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 3:10 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Why are we doing this meeting? I'd appreciate just a little background. Thanks.

-----Original Message-----
From: Blomquist, Kathleen M
Sent: Tuesday, December 06, 2005 2:47 PM
To: Campbell, Benton; Trono, Robert (USMS); Voris, Natalie (USAEO); Gorsuch, Neil M; Hertling, Richard
Cc: Korn, Jennifer
Subject: Court TV Meeting Request

Good afternoon.

My name is Kat Blomquist, and I am a new member of the Office of Intergovernmental and Public Liaison.

I received a request from [redacted] of Preston Gates hoping to schedule a meeting with DOJ for his client, Court TV, to discuss DOJ's position on courtroom security / cameras in courtrooms.

The meeting would be attended by [redacted] and [redacted], General Counsel and Executive Vice President of Court TV.

[redacted] will be in Washington, D.C. next Monday and Tuesday (Dec. 12-13), and [redacted] has initially asked if we can set this up for those days. If your component would like to be present at this meeting, please let me know your availability during those days (or direct me to your scheduler) or please direct me to the appropriate person from your office who would attend.

Thank you very much. I look forward to hearing from you and meeting you, as well.

Kat Blomquist

Kathleen M. Blomquist
Associate Director
Office of Intergovernmental and Public Liaison
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C., 20530
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 9:38 AM
To: Hertling, Richard
Subject: May I drop by at 1050 to discuss the Ct TV session prior to our 11 am mtg?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 9:43 AM
To: Blomquist, Kathleen M
Subject: Re: Court TV Meeting Request

Thanks very much for all your help organizing this, Kat. See you at 11.

-----Original Message-----
From: Blomquist, Kathleen M <Kathleen.M.Blomquist@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Dec 13 09:40:45 2005
Subject: RE: Court TV Meeting Request

Hi Neil:

Yes, Ben Campbell from Crim will attend. Here's the final list of participants:

Richard Hertling
Neil Gorsuch
Natalie Voris
Ben Campbell
John Nowacki
[redacted] Preston Gates, Attorney for Court TV client) [redacted] (General Counsel and Exec. VP for Court TV)

The meeting will be in the conference room of OIPL (#1629). I will meet the [redacted] and [redacted] at 10:45 to escort them here.

Kat Blomquist

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 9:33 AM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

What room are we gathering in? And will someone be present to represent CRIM?

-----Original Message-----
From: Blomquist, Kathleen M
Sent: Thursday, December 08, 2005 5:57 PM
To: Gorsuch, Neil M
Cc: Korn, Jennifer

Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Hi Neil:

It looks like we're shooting for 11 a.m. on Tuesday here at OIPL for Court TV. I'm going to follow up with the offices I haven't heard back from and then I can let you know who will be in attendance.

Thank you,

Kat

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, December 08, 2005 12:09 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Tuesday is much better for me - I'm open from 10 to noon. But if I need to reshuffle Monday let me know.

-----Original Message-----
From: Blomquist, Kathleen M
Sent: Thursday, December 08, 2005 12:07 PM
To: Gorsuch, Neil M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Great, thank you. Richard said this coming Monday is pretty good for him as well as Tuesday morning. Do you have a time on Monday or the next morning that you'd prefer?

Kat Blomquist

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 3:10 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Why are we doing this meeting? I'd appreciate just a little background. Thanks.

-----Original Message-----
From: Blomquist, Kathleen M
Sent: Tuesday, December 06, 2005 2:47 PM
To: Campbell, Benton; Trono, Robert (USMS); Voris, Natalie (USAEO); Gorsuch, Neil M; Hertling, Richard
Cc: Korn, Jennifer
Subject: Court TV Meeting Request

Good afternoon.

My name is Kat Blomquist, and I am a new member of the Office of Intergovernmental and Public Liaison.

I received a request from [redacted] of Preston Gates hoping to schedule a meeting with DOJ for his client, Court TV, to discuss DOJ's position on courtroom security / cameras in courtrooms.

The meeting would be attended by [redacted] and [redacted] General Counsel and Executive Vice President of Court TV.

[redacted] will be in Washington, D.C. next Monday and Tuesday (Dec. 12-13), and [redacted] has initially asked if we can set this up for those days. If your component would like to be present at this meeting, please let me know your availability during those days (or direct me to your scheduler) or please direct me to the appropriate person from your office who would attend.

Thank you very much. I look forward to hearing from you and meeting you, as well.

Kat Blomquist

Kathleen M. Blomquist
Associate Director
Office of Intergovernmental and Public Liaison U.S. Department of Justice 950 Pennsylvania Ave., NW
Washington, D.C., 20530 [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 9:45 AM
To: Blomquist, Kathleen M
Subject: Re: Court TV Meeting Request

Likewise!

-----Original Message-----
From: Blomquist, Kathleen M <Kathleen.M.Blomquist@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Dec 13 09:44:19 2005
Subject: RE: Court TV Meeting Request

Thank you. I look forward to meeting you. Kat

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 9:43 AM
To: Blomquist, Kathleen M
Subject: Re: Court TV Meeting Request

Thanks very much for all your help organizing this, Kat. See you at 11.

-----Original Message-----
From: Blomquist, Kathleen M <Kathleen.M.Blomquist@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Dec 13 09:40:45 2005
Subject: RE: Court TV Meeting Request

Hi Neil:

Yes, Ben Campbell from Crim will attend. Here's the final list of participants:

Richard Hertling
Neil Gorsuch
Natalie Voris
Ben Campbell
John Nowacki
[redacted] (Preston Gates, Attorney for Court TV client) [redacted] (General Counsel and Exec. VP for Court TV)

The meeting will be in the conference room of OIPL (#1629). I will meet the [redacted] and [redacted] at 10:45 to escort them here.

Kat Blomquist

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 9:33 AM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

What room are we gathering in? And will someone be present to represent CRIM?

-----Original Message-----
From: Blomquist, Kathleen M
Sent: Thursday, December 08, 2005 5:57 PM
To: Gorsuch, Neil M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Hi Neil:

It looks like we're shooting for 11 a.m. on Tuesday here at OIPL for Court TV. I'm going to follow up with the offices I haven't heard back from and then I can let you know who will be in attendance.

Thank you,

Kat

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, December 08, 2005 12:09 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Tuesday is much better for me - I'm open from 10 to noon. But if I need to reshuffle Monday let me know.

-----Original Message-----
From: Blomquist, Kathleen M
Sent: Thursday, December 08, 2005 12:07 PM
To: Gorsuch, Neil M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Great, thank you [redacted] said this coming Monday is pretty good for him as well as Tuesday morning. Do you have a time on Monday or the next morning that you'd prefer?

Kat Blomquist

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 3:10 PM
To: Blomquist, Kathleen M
Cc: Korn, Jennifer
Subject: RE: Court TV Meeting Request

Why are we doing this meeting? I'd appreciate just a little background. Thanks.

-----Original Message-----
From: Blomquist, Kathleen M
Sent: Tuesday, December 06, 2005 2:47 PM
To: Campbell, Benton; Trono, Robert (USMS); Voris, Natalie (USAEO); Gorsuch, Neil M; Hertling, Richard
Cc: Korn, Jennifer
Subject: Court TV Meeting Request

Good afternoon.

My name is Kat Blomquist, and I am a new member of the Office of Intergovernmental and Public Liaison.

I received a request from [redacted] of Preston Gates hoping to schedule a meeting with DOJ for his client, Court TV, to discuss DOJ's position on courtroom security / cameras in courtrooms.

The meeting would be attended by [redacted] and [redacted], General Counsel and Executive Vice President of Court TV.

[redacted] will be in Washington, D.C. next Monday and Tuesday (Dec. 12-13), and [redacted] has initially asked if we can set this up for those days. If your component would like to be present at this meeting, please let me know your availability during those days (or direct me to your scheduler) or please direct me to the appropriate person from your office who would attend.

Thank you very much. I look forward to hearing from you and meeting you, as well.

Kat Blomquist

Kathleen M. Blomquist
Associate Director
Office of Intergovernmental and Public Liaison U.S. Department of Justice 950 Pennsylvania Ave., NW
Washington, D.C., 20530[redacted]

Full Name:
Last Name:
First Name:
Job Title:
Company:

Business Address:

Business:

E-mail:
E-mail Display As:



Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 10:43 AM
To: Reyes, Luis (SMO)
Subject: Lunch

Are we on? If so, would you mind going a little on the early side? I have to be back for a 1pm. You name the spot.

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Tuesday, December 13, 2005 12:08 PM
To:	Bucholtz, Jeffrey (CIV); Bradbury, Steve; Fisher, Alice; Rowan, Patrick (ODAG); Nichols, Carl (CIV); Elwood, John; Marshall, C. Kevin; Eisenberg, John; Prestes, Brian; Edney, Michael
Cc:	Sampson, Kyle; Moschella, William
Subject:	RE: McCain liability protection language

From at least the civil liability perspective, I agree completely. As we've discussed, to effect this we need a sentence or two making clear that McCain (1) eliminates/limits no existing defenses and, ideally (2) creates no private rt of action. If Hunter can add his language, so much the better for our clients, but the more impt task is to retain clearly current legal protections.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, December 13, 2005 11:54 AM
To: Bradbury, Steve; Fisher, Alice; Rowan, Patrick (ODAG); Gorsuch, Neil M; Nichols, Carl (CIV); Elwood, John; Marshall, C. Kevin; Eisenberg, John; Prestes, Brian; Edney, Michael
Cc: Sampson, Kyle; Moschella, William
Subject: Re: McCain liability protection language

Steve, I just spoke to Kevin. Briefly, I think the best thing we could do is get language preserving any defenses under existing law. It doesn't seem like we're going to be able to get a new provision making it better than the status quo for tort liability, but not having it get worse would be a big victory in context.

-----Original Message-----
From: Bradbury, Steve <Steve.Bradbury@SMOJMD.USDOJ.gov>
To: Fisher, Alice <Alice.Fisher@usdoj.gov>; Rowan, Patrick (ODAG) <Patrick.Rowan@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Elwood, John <John.Elwood@SMOJMD.USDOJ.gov>; Marshall, C. Kevin <C.Kevin.Marshall@SMOJMD.USDOJ.gov>; Eisenberg, John <John.Eisenberg@SMOJMD.USDOJ.gov>; Prestes, Brian <Brian.Prestes@SMOJMD.USDOJ.gov>; Edney, Michael <Michael.Edney@SMOJMD.USDOJ.gov>
CC: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>
Sent: Tue Dec 13 11:10:25 2005
Subject: McCain liability protection language

Steve Hadley of NSC has asked whether DOJ can suggest any alternative concept and language for the McCain liability provision. He would like any ideas BY NOON TODAY. We assume that McCain will not

budge from his idea that liability protection should turn on whether the person knew his conduct was unlawful or a person of ordinary sense would have known it was unlawful. The question is whether we can come up with any additional sentence that will add to this standard of protection. The previous suggestions referring to AG opinions will not fly. Evidently Duncan Hunter's proposal using the phrase "wantonly and in reckless disregard for the law" is not acceptable to McCain, though Hunter will continue to push for it. Any thoughts or suggestions would be appreciated at your earliest possible convenience. I need to call the NSC back before noon. Thanks!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 12:16 PM
To: Hertling, Richard; Voris, Natalie (USAEO); Campbell, Benton; Nowacki, John; Moschella, William
Subject: TV's in Courtrooms

I don't know about you, but today's meeting had exactly the opposite effect on me that its sponsors intended: I am somewhat alarmed that this bill, having already passed the House, seems to have traction in the Senate and I am also convinced that, if it does have such sunny prospects, we should be more active in opposition for a variety of policy reasons.

Richard - Do you agree with the Ct TV assessment that passage looks likely? If so, should we convene a meeting to discuss strategy with Will?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 11:52 AM
To: Gunn, Currie (SMO)
Subject: Re: Pay Period 24

[redacted] - not weather - but worked a full day - and then some.

-----Original Message-----
From: Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Dec 13 11:27:49 2005
Subject: Pay Period 24

On 12/9 the government issued a 2-hour delay day, I need to know asap (for T&A coding purposes) who arrived after their regular tour of duty began so I can code correctly on the timesheets.

Thanks

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 1:20 PM
To: Moschella, William; [redacted] (E-mail); Michael Allen (E-mail); John B. Wiegmann (E-mail)
Subject: Graham

Anyone seen the latest Senate version yet?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 12:26 PM
To: Hertling, Richard; Moschella, William
Subject: RE: TV's in Courtrooms

Will - Might you be able get a better fix on prospects for this, and when might be a convenient time for a meeting? Obviously, this can wait until after this crazy week is over, but I'd like to get something on the calendar so we don't let this slip by either. NMG

-----Original Message-----
From: Hertling, Richard
Sent: Tuesday, December 13, 2005 12:20 PM
To: Gorsuch, Neil M; Voris, Natalie (USAEO); Campbell, Benton; Nowacki, John; Moschella, William
Subject: RE: TV's in Courtrooms

I would defer to OLA on that question. There are strong forces on both sides, so I think Jacobs was being a bit too rosy in his forecast, though I have no doubt Congress could adopt it next year. Frankly, if it does get passed, it will get signed, especially if it is carried in the omnibus crime bill currently carrying the judicial security bill (rather ironic, that). We ought to involve OLA to get their sense of the legs this bill has. rah

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 12:16 PM
To: Hertling, Richard; Voris, Natalie (USAEO); Campbell, Benton; Nowacki, John; Moschella, William
Subject: TV's in Courtrooms

I don't know about you, but today's meeting had exactly the opposite effect on me that its sponsors intended: I am somewhat alarmed that this bill, having already passed the House, seems to have traction in the Senate and I am also convinced that, if it does have such sunny prospects, we should be more active in opposition for a variety of policy reasons.

Richard - Do you agree with the Ct TV assessment that passage looks likely? If so, should we convene a meeting to discuss strategy with Will?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 2:53 PM
To: Immergut, Karin (USAOR); Meehan, Patrick (USAPAE)
Cc: Tenpas, Ronald J (ODAG)
Subject: RE: A/C Survey

Karin and Patrick,

As Ron reported, I'd be happy to speak anytime that's convenient for you both, and be of assistance in your efforts in any way you'd find useful.

Warm regards,

Neil

-----Original Message-----
From: Immergut, Karin (USAOR)
Sent: Tuesday, December 13, 2005 2:36 PM
To: Tenpas, Ronald J (ODAG); Meehan, Patrick (USAPAE)
Cc: Gorsuch, Neil M
Subject: RE: A/C Survey

I think it may be valuable to speak briefly with Neil before drafting a survey so that any good that any information gleened from a survey is actually responsive to complaints.

From: Tenpas, Ronald J (ODAG)
Sent: Tuesday, December 13, 2005 11:32 AM
To: Immergut, Karin (USAOR); Meehan, Patrick (USAPAE)
Cc: Gorsuch, Neil M
Subject: A/C Survey

Karin/Pat:

Good to see you guys last week. On the USAO Survey we've talked about, I've spoken with Neil Gorsuch and he'd be happy to do a telephone conference at some point and provide input on what we ought to be trying to solicit. As I think I indicated, Neil has had the point on a lot of our contacts with the outside bar folks pushing this (such as [redacted] from ABA) and has been involved in some our discussions with such groups about what the Department would like from them in terms of documenting claims of "abuse." Thus, he will have good insights on what we need to ourselves try and gather. I leave it to you as to whether it is better for us to chat before somebody starts to really

develop something or after there is the beginnings of a survey working draft/outline. In any event, when you think it will be helpful to talk, please just let us know or have a secretary schedule a conference for the four of us.

On a separate but related note (for all three of you), I have my secretary trying to set up a meeting before the holidays to discuss the draft evidence privilege rule. So you or your secretary will likely be getting a call about that also.

Ron

Otus2005, Ag

Subject:	Accepted: Updated: AG's Strategic Initiatives
Start:	Wednesday, December 14, 2005 9:30 AM
End:	Wednesday, December 14, 2005 10:30 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 3:52 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: Graham

Pick 'em. Kinda weird that we've heard so little from the Hill today, eh? Makes me a little worried about what's going on. [redacted]s tied up doing Patriot; do you think [redacted] might have some intel?

-----Original Message-----
From [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Tuesday, December 13, 2005 1:24 PM
To: Gorsuch, Neil M
Subject: RE: Graham

Nope. Or is that "noper"? :)

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, December 13, 2005 13:19
To: William.Moschella@usdoj.gov; [redacted](E-mail) [redacted]
(E-mail); [redacted](E-mail)
Subject: Graham

Anyone seen the latest Senate version yet?

Gorsuch, Neil M

Subject:	Fed Programs XMas Party
Location:	20 Mass Ave rm 7400
Start:	Monday, December 19, 2005 2:30 PM
End:	Monday, December 19, 2005 4:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 5:34 PM
To: Gunn, Currie (SMO)
Subject: Re: Do you plan to attend the SMO ethics training on Friday 12/16?

I am apparently exempt since I attended one less than six mos ago, per Janice Rofldgers.

-----Original Message-----
From: Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>
To: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Dec 13 17:29:11 2005
Subject: Do you plan to attend the SMO ethics training on Friday 12/16?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 6:30 PM
To: Swenson, Lily F
Subject: RE: I'm going to be out

No prob; will fill you in whenever you have time.

-----Original Message-----
From: Swenson, Lily F
Sent: Tuesday, December 13, 2005 6:23 PM
To: Gorsuch, Neil M
Subject: I'm going to be out

tomorrow morning at ethics training. So I am going to miss the Civil Division weekly. Just fyi.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 7:59 AM
To: Bucholtz, Jeffrey (CIV)
Subject: Re: Flu

830 would be great, thank you.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Dec 13 23:38:58 2005
Subject: Flu

Neil, I just got off a long call with Rebecca going over the latest Hill flu draft and she said you're doing the 845am principals call. Should I come to your office at 830, or 815, to go over anything you might want to go over before that call? Just let me know.

Jeff

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 8:02 AM
To: [redacted]@dodgc.osd.mil'
Subject: Re: HJC Hearing on Detainee Ops

Thanks for the heads up. I am sure you'll make an excellent witness! Yepper.

-----Original Message-----
From [redacted]@dodgc.osd.mil [redacted]@dodgc.osd.mil>
To: Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Dec 14 07:42:28 2005
Subject: Fw: HJC Hearing on Detainee Ops

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted] OSD-LA <[redacted]@osd.mil>
To: [redacted] DoD OGC <[redacted]@dodgc.osd.mil>; [redacted] DoD OGC <[redacted]@dodgc.osd.mil>; [redacted] DoD OGC <[redacted]@dodgc.osd.mil>; [redacted] OSD-POLICY <[redacted]@osd.mil>; [redacted] OSD-POLICY <[redacted]@osd.mil>; [redacted] DoD OGC <[redacted]@dodgc.osd.mil>; [redacted] DoD OGC <[redacted]@dodgc.osd.mil>; [redacted] DoD OGC <[redacted]@dodgc.osd.mil>; [redacted] POLICY <[redacted]@osd.mil>
CC: [redacted] OSD-LA <[redacted]@osd.mil>; [redacted] OSD-LA <[redacted]@osd.mil>; [redacted] OSD-LA <[redacted]@osd.mil>
Sent: Wed Dec 14 06:56:54 2005
Subject: HJC Hearing on Detainee Ops

FYI - Rep Chabot, Chairman of the Judiciary Subcommittee on the Constitution, plans on holding a hearing on GTMO detainee operations early next year. Additionally, the Congressman plans on visiting GTMO before the hearing. I will keep you advised as more details become available. TY

Respectfully,

[redacted]

1300 Defense Pentagon, [redacted]
Washington, D.C. 20310-1300
[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 7:56 AM
To: Elwood, Courtney
Subject: Re: 8:45 am Principals call Biodefense - docs needed in prep for it

Got it. If you want to talk my cell is [redacted] Robert and I will be on the call but if you have any inclination please do join.

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Ansell, Frederick <Frederick.Ansell@SMOJMD.USDOJ.gov>; Boardman, Michelle <Michelle.Boardman@SMOJMD.USDOJ.gov>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>
Sent: Wed Dec 14 07:16:13 2005
Subject: Re: 8:45 am Principals call Biodefense - docs needed in prep for it

I just spoke to the AG. Leavitt wanted to make sure that the Dept wasn't going to stand in the way of this deal. The AG assured him we would not. The AG and Leavitt both expressed concerns with the bill, as others have, but Leavitt thinks this is the best deal we can get.

Moving forward, I think we should continue to point out problems with the draft, and possible solutions where they exist. But ultimately it will be the WH's and HHS's call on whether to accept or reject the final offer.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Ansell, Frederick <Frederick.Ansell@SMOJMD.USDOJ.gov>; Boardman, Michelle <Michelle.Boardman@SMOJMD.USDOJ.gov>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>; Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
Sent: Wed Dec 14 03:18:53 2005
Subject: 8:45 am Principals call Biodefense - docs needed in prep for it

For Principals call - folks who should be on phone - Neil and Jeff (Courtney if you want - since by then hopefully you will know what happened on AG call with Leavitt, may be good for you to be on). I think Richard and Michelle should be in room in case needed, but unless Neil needs Michelle to weigh in

Richard and Michelle should be in room in case needed, but unless Neil needs Michelle to weigh in, probably only Neil and Jeff should talk - note who the participants are, WH is trying to have this high level - Leavitt / [redacted] for HHS, Harriet Meiers for WH counsels office, Bolton for OMB (however, I am not clear who is confirmed for call).

My cell is [redacted] if you want to reach me in morning before I am in.

Attached are the following (hope this is helpful)

1) pdf of draft received from Hilll (with so called "FDA defense") 12/13/05 2) HHS draft of a "FDA defense" (in Word) - that HHS is proposing be our counter offer to Hill 3) HHS draft of comp program (which [redacted] says is cleaned up version of Option 2 in Hill 12/13/05 draft) [in Word] 4) ****Outline of issue areas / points that Neil could raise on Principals call (****subject to Courtney's concurrance re where the AG is on these issues). Wish I could have done more here.
5) "Industry List" document - this lists the requests Industry emailed (their wording, not ours) and how we think the last Admin draft addresses them with unprecedented liability protection.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 7:58 AM
To: Seidel, Rebecca
Subject: Re: 8:45 am Principals call Biodefense - docs needed in prep for it

No worries whatsoever! See you shortly.

-----Original Message-----
From: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Dec 14 07:52:16 2005
Subject: Fw: 8:45 am Principals call Biodefense - docs needed in prep for it

Sorry I sent the bleow to Robt without cc'ing you, meant to, but 4am and I was groggy. You are needed to be talker, just thought if Robt available and could pipe in, great. I shouldn't have gone around you, so please discuss with Robt.

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Dec 14 05:29:58 2005
Subject: Re: 8:45 am Principals call Biodefense - docs needed in prep for it

I will be there and participate. Robt.

-----Original Message-----
From: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Wed Dec 14 04:20:37 2005
Subject: Fw: 8:45 am Principals call Biodefense - docs needed in prep for it

This call wasn't arranged until after 7pm Tues night (and arranged for 8:45 am Wed). They asked me to get my highest principal possible. I reached out to Neil because he had been involved. He is going to participate (I have attached below outline of suggested talkers), but since it appears other partcipants may be Secretary Leavitt, Josh Bolton, and Harriet Meiers, if you could pop into Neil's office and listen, pipe in if needed, that would be helpful. Leavitt tried to speak with AG yesterday, Courtney should have download of what happened on call).
Sorry to send so late (I spoke with Neil at his home at 10pm, saw last of participants after, didn't want

sorry to send so late (I spoke with Neil at his home at 10pm, saw list of participants after, didn't want to call you that late).

-----Original Message-----
From: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Ansell, Frederick <Frederick.Ansell@SMOJMD.USDOJ.gov>; Boardman, Michelle <Michelle.Boardman@SMOJMD.USDOJ.gov>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>; Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
Sent: Wed Dec 14 03:18:53 2005
Subject: 8:45 am Principals call Biodefense - docs needed in prep for it

For Principals call - folks who should be on phone - Neil and Jeff (Courtney if you want - since by then hopefully you will know what happened on AG call with Leavitt, may be good for you to be on). I think Richard and Michelle should be in room in case needed, but unless Neil needs Michelle to weigh in, probably only Neil and Jeff should talk - note who the participants are, WH is trying to have this high level - Leavitt / [redacted] for HHS, Harriet Meiers for WH counsels office, Bolton for OMB (however, I am not clear who is confirmed for call).

My cell is [redacted] if you want to reach me in morning before I am in.

Attached are the following (hope this is helpful)

1) pdf of draft received from Hilll (with so called "FDA defense") 12/13/05 2) HHS draft of a "FDA defense" (in Word) - that HHS is proposing be our counter offer to Hill 3) HHS draft of comp program (which [redacted] says is cleaned up version of Option 2 in Hill 12/13/05 draft) [in Word] 4) ****Outline of issue areas / points that Neil could raise on Principals call (****subject to Courtney's concurrance re where the AG is on these issues). Wish I could have done more here.
5) "Industry List" document - this lists the requests Industry emailed (their wording, not ours) and how we think the last Admin draft addresses them with unprecedented liability protection.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 10:19 AM
To: Katsas, Gregory (CIV)
Subject: Re: ASG meeting

Roger, thanks.

-----Original Message-----
From: Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Dec 14 09:37:57 2005
Subject: ASG meeting

I can't make it this week, but have nothing significant to report.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 9:43 AM
To: Senger, Jeffrey M
Subject: Re: War on Terror Speech on Wed, 12/14

Afraid I'm not going to make this one but thanks for the invite.

-----Original Message-----
From: Senger, Jeffrey M <Jeffrey.M.Senger@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Dec 14 09:41:52 2005
Subject: FW: War on Terror Speech on Wed, 12/14

Neil, are you going to this, and would you like to go together?
Jeff

-----Original Message-----
From: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>
Sent: Tue Dec 13 17:07:40 2005
Subject: RE: War on Terror Speech on Wed, 12/14

I would like to invite you to the President's War on Terror speech on Wednesday, December 14th. The event is in the Atrium Ballroom of the Ronald Reagan Building. Please arrive no later than 10 am. Please bring your ID. Thanks. Reply quickly because space is limited. Please rsvp by emailing me before 4pm today.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 9:43 AM
To: Seidel, Rebecca
Subject: Re: Next steps

I understand entirely. Let's talk later today.

-----Original Message-----
From: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Dec 14 08:39:05 2005
Subject: Next steps

My wonderful briefers may need some ecouragement from you and Robt if instruction is to stay in process

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 10:17 AM
To: Clement, Paul D
Subject: Lunch

Are we on for today? If so, shall I swing by at noon?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 10:25 AM
To: Elwood, Courtney
Cc: McCallum, Robert (SMO)
Subject: Flu

Can I catch you up on this am's call at some pt? Say 11.30?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 10:36 AM
To: Elwood, Courtney
Cc: McCallum, Robert (SMO)
Subject: Re: Flu

Thanks, Courtney.

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Wed Dec 14 10:34:56 2005
Subject: RE: Flu

He will call Sec. [redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 10:25 AM
To: Elwood, Courtney
Cc: McCallum, Robert (SMO)
Subject: Flu

Can I catch you up on this am's call at some pt? Say 11.30?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 1:39 PM
To: Moschella, William
Subject: Re: Graham

If loophole is closed I am happy. Thank you!

-----Original Message-----
From: Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Dec 14 13:28:02 2005
Subject: Fw: Graham

Are you satisfied?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>
To: Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>[redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>; [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>; [redacted]@osd.mil [redacted]@osd.mil>
Sent: Wed Dec 14 13:21:10 2005
Subject: Fw: Graham

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted] DoD OGC <[redacted]@dodgc.osd.mil>
To: [redacted] DoD OGC <[redacted]@dodgc.osd.mil>; [redacted] DoD OGC <[redacted]@dodgc.osd.mil>
Sent: Wed Dec 14 13:20:27 2005
Subject: Graham

Subject: Graham

[redacted] has shared with me language that apparently has been agreed to by Warner and Hunter and is awaiting McCain signoff. On the last unresolved issues of the Graham piece, it looks identical to the last House passback:
D.C. Circuit loophole closed, but retroactivity ambiguity unremoved.

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 4:13 PM
To: Williams, Jan
Subject: RE: PPO Non-Career Pay Adjustment Form

Jan, Please excuse my ignorance but I am not sure what this is about; might you be able to help explain? Many thanks, NMG

-----Original Message-----
From: Williams, Jan
Sent: Wednesday, December 14, 2005 1:32 PM
To: Williams, Jan
Cc: Washington, Tracy T
Subject: FW: PPO Non-Career Pay Adjustment Form

By Friday, 12/16, please fill out the attached form and fax back to me at 616-5117. Also, please email me a current resume.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 5:18 PM
To: [redacted]@sba.gov'
Subject: RE: REMINDER [redacted] Happy Hour Wednesday December 14 fr om 6:30 to 8:30 pm

I'm swamped at the moment with congressional stuff and am very sorry that I won't be able to make this, but thanks for the kind invite!

-----Original Message-----
From: [redacted]@sba.gov [mailto:[redacted]@sba.gov]
Sent: Wednesday, December 14, 2005 11:12 AM
To: Gorsuch, Neil M
Subject: Fw: REMINDER [redacted] Happy Hour Wednesday December 14 fr om 6:30 to 8:30 pm

Maybe not your demographic. Please feel free to come by. Also, are there any [redacted] in your office? I would love to have them join.
------Original Message------
From: [redacted]
To: [redacted]
Cc: 'Berkowitz, Jeffrey E.'
Sent: Dec 13, 2005 11:53 AM
Subject: REMINDER [redacted] Happy Hour Wednesday December 14 from 6:30 to 8:30 pm

REMINDER -- We have a great response. Please feel free to pass on this invitation and to bring family and friends. Also, we are actively inviting alumni, but do not have current email for everyone, so please reach out to anyone you know who may have taken a new job in or left the Administration.

To celebrate the holiday season, you are cordially invited to attend an informal Happy Hour for all [redacted] and Alumni

WHEN: Wednesday December 14, 2005
6:30 to 8:30 PM

WHERE: Shelly's Back Room
Front Parlor
1331 F Street, NW
Washington, DC
202-737-3003

METRO: Metro Center (take 13th Street Exit)

FOR WHOM: [redacted] and their guests

FOR WHOM: [redacted] and their guests.

COST: There is no charge for this event, but each attendee will be responsible for his or her own costs

RSVP: Kindly RSVP to [redacted] (info below)

Apologies for the short notice, but we do hope to see you all there.

Best,

[redacted]

[redacted]
General Counsel
U.S. Small Business Administration
409 Third Street, S.W.
Washington, D.C. 20416
202.205.6642 (tel)
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 5:21 PM
To: [redacted]@sba.gov'
Subject: RE: I spoke with [redacted]right after

[redacted] You're very kind. [redacted] did call me and we spoke at length. I don't know whether/how interested they are in me, or whether they've already filled the spot, but you're kind to have worried over this. Please don't feel obliged to do anything further. Warm regards, NMG

-----Original Message-----
From [redacted]@sba.gov [mailto[redacted]@sba.gov]
Sent: Wednesday, December 14, 2005 8:55 AM
To: Gorsuch, Neil M
Subject: I spoke with [redacted] right after

We had lunch, and he said he was speaking with you. Is all going well on that front? I am likely seeing him tonight and spending most of Fri evening with him.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 5:10 PM
To: Williams, Jan
Subject: RE: PPO Non-Career Pay Adjustment Form
Attachments: NMG CV.pdf

Jan - Signed hard copy of form on is on its way; cv is attached by email as requested. Thanks very much, NMG

-----Original Message-----
From: Williams, Jan
Sent: Wednesday, December 14, 2005 1:32 PM
To: Williams, Jan
Cc: Washington, Tracy T
Subject: FW: PPO Non-Career Pay Adjustment Form

By Friday, 12/16, please fill out the attached form and fax back to me at [redacted] Also, please email me a current resume.

NEIL M. GORSUCH

[redacted]
office: (202) 305-1434
home: [redacted]

EXPERIENCE

UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C.
Principal Deputy to the Associate Attorney General, June 2005-present.
Assist the Department's number three officer in managing the Justice Department's civil justice components, including the Antitrust, Tax, Civil, Civil Rights, and Environment and Natural Resources divisions. Responsible for advising the Attorney General and Associate Attorney General on civil justice, federal and local law enforcement, and public safety matters, including the oversight and management of the Department's terrorism-related litigation.

KELLOGG, HUBER, HANSEN, TODD, EVANS & FIGEL, Washington, D.C.
Partner, 1998-May 2005; Associate, 1995-1997.

Representative matters include: Conwood v. UST (trial and appeal leading to the largest affirmed private judgment in the history of federal antitrust laws, as of 2002); In re Qwest Communications International, Inc. Securities Litigation (represented former chairman and other directors in securities fraud suits and federal investigations); Teachers Retirement System of Louisiana v. Regal Entertainment (defeated derivative suit challenging a $710 million restructuring); Twombly v. SBC Communications (defeated a putative nationwide antitrust class action); Z-Tel Communications v. SBC Communications (defended SBC in an antitrust and RICO suit brought by a rival); AutoMall v. American Express (lead trial counsel for defendant American Express in a $78 million dispute); NCRIC, Inc. v. Columbia Hospital for Women (lead trial counsel for defendant hospital in which claims against it were rejected and the hospital won an $18.2 million counterclaim judgment); Zachair, Ltd. v. Driggs Corp. (lead trial and appellate counsel for plaintiff in $4 million abuse of process and tortious interference suit); Ashley v. Coopers & Lybrand (represented founder of Laura Ashley in a fraud suit against his former management consulting firm; settled during trial on undisclosed terms); Goff v. Bickerstaff & Ford Motor Company (RICO claims against client dismissed at trial); Dura Pharmaceuticals v. Broudo (represented U.S. Chamber of Commerce in securities fraud dispute before the U.S. Supreme Court); Quill v. Vacco and Washington v. Glucksberg (represented amicus American Hospital Association in U.S. Supreme Court right-to-die cases); Felzen v. ADM and Devlin v. Scardellitti (represented Council for Institutional Investors in U.S. Supreme Court cases concerning the rights of objecting shareholders in class action and derivative suit settlements); Lentell v. Merrill Lynch (securities fraud dispute before the Second Circuit).

SUPREME COURT OF THE UNITED STATES, Washington D.C.
Law clerk to Justice Byron R. White (Retired), and Justice Anthony M. Kennedy, 1993-94.

UNITED STATES COURT OF APPEALS, D.C. CIRCUIT, Washington, D.C.
Law clerk to U.S. Circuit Judge David B. Sentelle, 1991-92.

EDUCATION

OXFORD UNIVERSITY, Oxford, England.
D.Phil. in legal philosophy.
British Marshall Scholar.
Dissertation to be published in forthcoming book by Princeton Univ. Press.

HARVARD LAW SCHOOL, Cambridge, MA.
J.D. 1991 *cum laude.*
Harry S. Truman scholar (100 scholars chosen annually by U.S. Government)
Harvard Journal of Law & Public Policy, Senior Editor.
Head Teaching Fellow, political philosophy course at Harvard College.
Represented indigent criminal defendants in Boston courts.

COLUMBIA UNIVERSITY, New York, N.Y.
B.A. 1988, Political Science, with honors (G.P.A. 3.95).
Phi Beta Kappa, early selection (top 1% of class).
Elected Class Marshal by faculty.
Nachems senior honor society.
Graduated in three years.
Founded and edited student newspaper.

PUBLICATIONS The Future of Assisted Suicide and Euthanasia in America (book forthcoming from Princeton University Press, 2006); Ensuring Class Action Fairness, Federal Trade Commission Class Action Workshop (Sept. 2004); Justice White and Judicial Excellence, distributed nationally by UPI (May 2002); The Legalization of Assisted Suicide and the Law of Unintended Consequences, 2004 Wisconsin Law Review 1347; The Right to Assisted Suicide and Euthanasia, 23 Harvard Journal of Law and Public Policy 599 (2000); Liberals and Lawsuits, National Review Online (Feb. 2005). Co-author: No Loss, No Gain, The Legal Times (2005) (concerning securities fraud law suits); Settlements in Securities Fraud Class Actions: Improving Investor Protections, Washington Legal Foundation (April 2005) and reprinted in Andrews Class Action Litigation Reporter (August 2005); Will the Gentlemen Please Yield? A Defense of the Constitutionality of State-Imposed Term Limits, 20 Hofstra Law Review 341 (1991) and reprinted in Policy Analysis on Term Limits, Cato Institute Policy Analysis No. 178 (1992); The Constitutional Case for Term Limits, Wall Street Journal (Nov. 1992).

SPEECHES Speeches include before: Washington, D.C. Bar Association, Wisconsin Bar Association, Federal Trade Commission workshop, National White Collar Crime Center, American Association for the Advancement of Science, Common Good, Prime Time Radio, British Marshall Scholarship Commission, various gatherings of U.S. Department of Justice employees.

ASSOCIATIONS Term Member, Council on Foreign Relations; Harry S. Truman Scholarship 2006 Selection Committee; Columbia University Alumni Representative Committee; American Bar Association, Litigation and Antitrust sections. National high school debate champion. Listed in Who's Who in America, Who's Who in American Law.

PERSONAL [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 7:22 PM
To: Bucholtz, Jeffrey (CIV); Seidel, Rebecca; Ansell, Frederick; Boardman, Michelle
Subject: RE: tonight

While I realize I can hardly hold a candle to Jeff or [redacted] on this, if you need me tonight or over coming days in Jeff's absence I will be happy to do what I can.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, December 14, 2005 7:12 PM
To: Seidel, Rebecca; Ansell, Frederick; Boardman, Michelle
Cc: Gorsuch, Neil M
Subject: RE: tonight

Thanks for the update, Rebecca. I'll keep an eye on my bberry tonight and in the morning before my plane.

Let me echo what Fred said -- make sure you get some sleep tonight.

Fred, thanks for standing in for me tomorrow and Fri., and sorry to leave you in the lurch like this. You'll be fine, though -- you know every bit as much about this bill as I do, and more about HHS admin processes, and I don't think there's been anything we've disagreed on.

From: Seidel, Rebecca
Sent: Wednesday, December 14, 2005 6:57 PM
To: Ansell, Frederick; Bucholtz, Jeffrey (CIV); Boardman, Michelle
Cc: Gorsuch, Neil M
Subject: tonight
Importance: High

I have been told by Frist staff that they are meeting with other Hill staff right now, and likely they will not need the Adminstration tonight. (but please watch your bberries?)There is a chance they will need us tomorrow. Fred, i know you are in [redacted] in morning, I will keep you posted and will likely need you to come right to Hill when you are done if there is a meeting. Jeff, I have told them you are out of the office Thurs and Friday.

-----Original Message-----
From: Ansell, Frederick
Sent: Wednesday, December 14, 2005 6:42 PM
To: Seidel, Rebecca
Subject: any word?

I'm likely to be here until 7:30. Have that [redacted] at 9:15. Hope you get some sleep tonight.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 7:28 PM
To: Seidel, Rebecca; Ansell, Frederick
Cc: Bucholtz, Jeffrey (CIV); Boardman, Michelle
Subject: RE: tonight

Eesh.....I'm terribly embarrassed and perhaps a little tired too. Please accept my sincerest apologies, Fred. I can only plead as an excuse that I've been spending nearly all day every day for the last couple weeks with a [redacted] DoD) on Graham and various other issues.

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, December 14, 2005 7:23 PM
To: Gorsuch, Neil M
Subject: RE: tonight

you mean Fred right? :)

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 7:22 PM
To: Bucholtz, Jeffrey (CIV); Seidel, Rebecca; Ansell, Frederick; Boardman, Michelle
Subject: RE: tonight

While I realize I can hardly hold a candle to Jeff or [redacted] on this, if you need me tonight or over coming days in Jeff's absence I will be happy to do what I can.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, December 14, 2005 7:12 PM
To: Seidel, Rebecca; Ansell, Frederick; Boardman, Michelle
Cc: Gorsuch, Neil M
Subject: RE: tonight

Thanks for the update, Rebecca. I'll keep an eye on my bberry tonight and in the morning before my plane.

Let me echo what Fred said -- make sure you get some sleep tonight.

Fred, thanks for standing in for me tomorrow and Fri., and sorry to leave you in the lurch like this. You'll be fine, though -- you know every bit as much about this bill as I do, and more about HHS admin processes, and I don't think there's been anything we've disagreed on.

From: Seidel, Rebecca
Sent: Wednesday, December 14, 2005 6:57 PM
To: Ansell, Frederick; Bucholtz, Jeffrey (CIV); Boardman, Michelle
Cc: Gorsuch, Neil M
Subject: tonight
Importance: High

I have been told by Frist staff that they are meeting with other Hill staff right now, and likely they will not need the Adminstration tonight. (but please watch your bberries?)There is a chance they will need us tomorrow. Fred, i know you are in [redacted] in morning, I will keep you posted and will likely need you

to come right to Hill when you are done if there is a meeting. Jeff, I have told them you are out of the office Thurs and Friday.

-----Original Message-----
From: Ansell, Frederick
Sent: Wednesday, December 14, 2005 6:42 PM
To: Seidel, Rebecca
Subject: any word?

I'm likely to be here until 7:30. Have that [redacted] at 9:15. Hope you get some sleep tonight.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 7:31 PM
To: Bucholtz, Jeffrey (CIV)
Subject: RE:

Absolutely! If you're inclined, we might invite some of your CIV colleagues as well. In any event, it is on my calendar and I'm looking forward to it already.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, December 14, 2005 7:26 PM
To: Gorsuch, Neil M
Subject:

Hey Neil, something we didn't get to do today was talk about scheduling something fun. I'm here all next week and sure am hoping it's slower than it's been lately, so if you're here too, maybe lunch or a drink after work one day? Would Th. evening work for you?

Thank you for suggesting the el Masri meeting and for getting Robert to come to it. I think it was a good way of getting people's attention.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 7:12 PM
To: Clinger, James H
Subject: RE: Detainee amendment

Very helpful; thank you!

-----Original Message-----
From: Clinger, James H
Sent: Wednesday, December 14, 2005 6:32 PM
To: Gorsuch, Neil M
Subject: FW: Detainee amendment

Neil,

Haven't succeeded in getting him on the phone yet, but [redacted] was kind enough to shoot me this email on the status of his boss' detainee amendment. Best I can do for now.

Jim

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov [mailto[redacted]@judiciary-rep.senate.gov]
Sent: Wednesday, December 14, 2005 6:27 PM
To: Clinger, James H
Subject: Re: Detainee amendment

Jim,
As of this afternoon, the loophole was fixed, but it still isn't final. We're waiting on the final language now. We'll let you know when we get it.
[redacted]

Sent from my BlackBerry Wireless Handheld

Tenpas, Ronald J (ODAG)

Subject:	Accepted: Rules of Evidence Change: Attorney Client Privilege
Location:	Conference Room 4133
Start:	Wednesday, December 21, 2005 1:00 PM
End:	Wednesday, December 21, 2005 2:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Tenpas, Ronald J (ODAG)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 7:24 PM
To: Seidel, Rebecca
Subject: RE: tonight

Ugh! I am so sorry to hear this. If there's anything I can do to help lighten your load, don't hesitate to call. I do hope this ends soon for you and that you have extensive (and richly, richly deserved) Christmas vacation plans!

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, December 14, 2005 7:18 PM
To: Bucholtz, Jeffrey (CIV); Ansell, Frederick; Boardman, Michelle
Cc: Gorsuch, Neil M
Subject: RE: tonight
Importance: High

thank you all for being a great team.
re my sleep. Unfortunately I am on high alert - Sensenbrenner immigration bill on floor tomorrow (127 amends filed) - poor Hugh Mullane and Ryan Bounds are trapped by me, we are answering many questions from Hill
And poor Jon Cohn I have had to snag because House and Senate are finalizing DOJ AUth and VAWA reauth TONIGHT! Thanks for your concern, but it is what it is.

[redacted]

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, December 14, 2005 7:12 PM
To: Seidel, Rebecca; Ansell, Frederick; Boardman, Michelle
Cc: Gorsuch, Neil M
Subject: RE: tonight

Thanks for the update, Rebecca. I'll keep an eye on my bberry tonight and in the morning before my plane.

Let me echo what Fred said -- make sure you get some sleep tonight.

Fred, thanks for standing in for me tomorrow and Fri., and sorry to leave you in the lurch like this. You'll be fine, though -- you know every bit as much about this bill as I do, and more about HHS admin processes, and I don't think there's been anything we've disagreed on.

From: Seidel, Rebecca
Sent: Wednesday, December 14, 2005 6:57 PM
To: Ansell, Frederick; Bucholtz, Jeffrey (CIV); Boardman, Michelle
Cc: Gorsuch, Neil M
Subject: tonight
Importance: High

I have been told by Frist staff that they are meeting with other Hill staff right now, and likely they will not need the Adminstration tonight. (but please watch your bberries?)There is a chance they will need us tomorrow. Fred, i know you are in [redacted] in morning, I will keep you posted and will likely need you

to come right to Hill when you are done if there is a meeting. Jeff, I have told them you are out of the office Thurs and Friday.

-----Original Message-----
From: Ansell, Frederick
Sent: Wednesday, December 14, 2005 6:42 PM
To: Seidel, Rebecca
Subject: any word?

I'm likely to be here until 7:30. Have that [redacted] at 9:15. Hope you get some sleep tonight.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 15, 2005 8:40 AM
To: Nichols, Carl (CIV)
Subject: RE: Neil Gorsuch called you x51434

No rush at all; I will be stuck in a mtg until 930; can I call you then?

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Thursday, December 15, 2005 8:38 AM
To: Gorsuch, Neil M
Subject: Fw: Neil Gorsuch called you x51434

Not going to be in for 30 mins or so -- ok to call then?

-----Original Message-----
From: Williams, Toni (CIV) <toniwill@CIV.USDOJ.GOV>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Thu Dec 15 08:17:22 2005
Subject: Neil Gorsuch called you x51434

Thiemann, Robyn (ODAG)

Subject:	Updated: Meeting: Anti-Gang Training
Location:	ODAG Conference Room 4133
Start:	Thursday, December 15, 2005 10:15 AM
End:	Thursday, December 15, 2005 11:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Thiemann, Robyn (ODAG)
Required Attendees:	Thiemann, Robyn (ODAG); Gorsuch, Neil M; Henke, Tracy (SMO); Dhillon, UttamThiemann, Robyn (ODAG); Gorsuch, Neil M; Henke, Tracy (SMO); Dhillon, Uttam
Optional Attendees:	Fowler, LianeFowler, Liane

-NOTE: Changing the time of this meeting to 10:15.
-Robyn Thiemann
-Neil Gorsuch
-Tracy Henke
-Uttam Dhillon

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 15, 2005 10:19 AM
To: McCallum, Robert (SMO)
Subject: Re: CRT Weekly at 11 today

Will do

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Thu Dec 15 10:18:45 2005
Subject: CRT Weekly at 11 today

I am not going to make it back for the meeting so go ahead without me. Robt.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 15, 2005 11:53 AM
To: Swenson, Lily F
Subject: RE: Creation of a DOJ Privacy and Civil Liberties Office

I'm around

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, December 15, 2005 11:19 AM
To: Metcalfe, Daniel J; Mercer, Bill (ODAG); Brand, Rachel; McIntosh, Brent; Moschella, William; Burton, Dawn (ODAG); Elwood, Courtney; Corts, Paul R; Dhillon, Uttam
Cc: Gorsuch, Neil M; Davis, John S (ODAG); Davis, John S. (USAVAE); Kessler, Elizabeth A; Elston, Michael (ODAG); Nichols, Carl (CIV)
Subject: Creation of a DOJ Privacy and Civil Liberties Office

All --

To help us refine our draft proposal for a new DOJ Privacy and Civil Liberties office, I would like to convene a meeting to hear OIP's views and concerns. OIP is one of the components most affected by the current draft.

For your convenience, I've attached the proposal again below -- this is the same draft that I circulated for comments last week. It contains none of the revisions or edits that have been suggested since then, and it contains no mention of the FOIA EO that was signed by the President last night.

Please let me know your availability Tuesday through Friday of next week. We would like to have this meeting if at all possible before folks leave for the holidays. Many thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 15, 2005 2:36 PM
To: 'Raul_F._Yanes@omb.eop.gov'
Subject: RE:

Raul, Nothing annoying at all! I've heard nothing back from CIV on the revised EO, which is usually a pretty good sign, but I will ping them now. Many thanks for all your help with the nuclear fuel matter. Best, NMG

-----Original Message-----
From: Raul_F._Yanes@omb.eop.gov [mailto:Raul_F._Yanes@omb.eop.gov]
Sent: Thursday, December 15, 2005 2:21 PM
To: Gorsuch, Neil M
Subject: FW:
Importance: High

Hey Neil,

Thanks to you and Robert for accommodating us on the spent nuclear fuel issue. I am pushing the policy process as hard as I can over her to determine whether anyone wants to weigh in on this, given all the competing consideration.

Different topic: Have you all had a chance to look at the revised draft EO? You had given me comments on the original, and then we annoyingly sent you another version. Thanks.

From: Yanes, Raul F.
Sent: Tuesday, December 06, 2005 3:55 PM
To: Neil.Gorsuch@usdoj.gov
Subject:
Importance: High

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 15, 2005 1:52 PM
To: Mercer, Bill (ODAG); Elston, Michael (ODAG); Tenpas, Ronald J (ODAG)
Subject: FW: Assistance requested

Gentlemen: I'm not entirely sure to whom I should direct this among you. But below is a request that I promised to pass along, knowing that it is more properly directed to your side of the house. I don't want anyone to do anything other than that which is appropriate and traditional under these circumstances, and I'm sure neither does [redacted] but I did want you to be aware of this issue. You may know [redacted] who works for Sen Santorum and the Senate Repub Conference and is [redacted] as a serious and thoughtful person. Very many thanks. NMG

-----Original Message-----
From: [redacted]@src.senate.gov [mailto:[redacted]@src.senate.gov]
Sent: Thursday, December 15, 2005 12:44 PM
To: Gorsuch, Neil M
Subject: Assistance requested

The head of the Conference of Presidents of Major Jewish Organizations has asked for assistance :

I do not ask this favor lightly. I am personally familiar with the case and can assure that any committments will be fulfilled.
[redacted] s a prisoner in the Federal institution in [redacted] He is serving a term for non violent crimes (i.e. fraud).His number is [redacted] On the night of [redacted] and he is requesting a 24 hour furlough. It will mean alot to the family which has suffered alot.
Thank you very much for your efforts. It is greatly appreciated.
Best regards,

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 15, 2005 3:02 PM
To: [redacted]@src.senate.gov'
Subject: RE: Assistance requested

[redacted] Thank you for bringing this to my attention. I have forward this request to the appropriate people in the Deputy Attorney General's office who oversee such things. While I cannot guarantee any particular result, I am confident they will give it appropriate attention. Don't hesitate to call with anything further. Warmest wishes, NMG

From: [redacted]@src.senate.gov [mailto[redacted]@src.senate.gov]
Sent: Thursday, December 15, 2005 12:44 PM
To: Gorsuch, Neil M
Subject: Assistance requested

The head of the Conference of Presidents of Major Jewish Organizations has asked for assistance :

I do not ask this favor lightly. I am personally familiar with the case and can assure that any committments will be fulfilled
[redacted] is a prisoner in the Federal institution in [redacted] He is serving a term for non violent crimes (i.e. fraud).His number is [redacted] On the night of [redacted] and he is requesting a 24 hour furlough. It will mean alot to the family which has suffered alot.
Thank you very much for your efforts. It is greatly appreciated.
Best regards,

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 15, 2005 3:09 PM
To: [redacted]
Subject: RE: Adam Pearlman

[redacted] Thanks for bringing this to my attention. [redacted] seems to be interested in a job in CRIM overseen by the DAG's office. He's in touch with exactly the right folks, John Davis, an Associate Depty AG in ODAG, and Joe Bianco, a Depty Asst AG in CRIM. Our office hasn't any real authority over this area. What I can do, however, is email John Davis and alert him to the "gap" issue as well as [redacted] continued interest in the job and [redacted] impending potential loss of employment -- and I will do that now. If there's more you can think of that I might usefully do, however, don't hesitate to make a suggestion. Unfortunately, this job doesn't fall on my side of the "house" where I might be able to do more. Best, NMG

-----Original Message-----
From: [redacted]
[mailto [redacted]
Sent: Thursday, December 08, 2005 3:33 PM
To: Gorsuch, Neil M
Subject: [redacted]

Neil:

I attach [redacted] resume. I asked him about his employment status, and he sent me the explanation below. [redacted]

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 15, 2005 3:14 PM
To: Davis, John S (ODAG)
Subject: FW: [redacted]
Attachments: tmp.htm; [redacted].doc

John,

[redacted] has apparently been in touch with you about a job in CRIM. I don't know the individual and can't vouch in any way for him. But it does seem that, if CRIM is interested in him, it might be better to act sooner rather than later - [redacted] Again, however, please do not do anything other than that which you'd ordinarily do and think appropriate. I simply pass this information along for your information.

Many thanks,

NMG

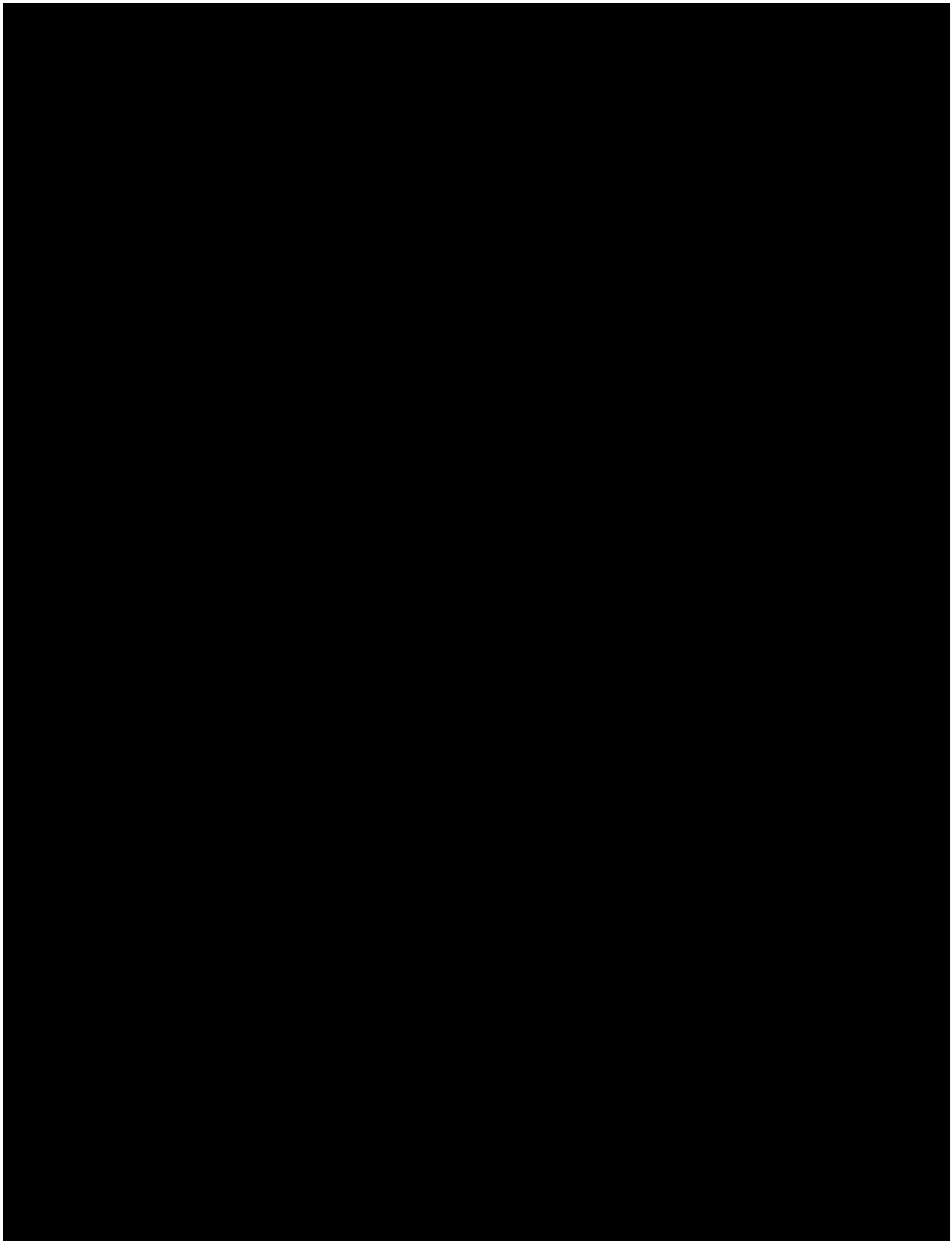
-----Original Message-----
From: [redacted]
[mailto [redacted]
Sent: Thursday, December 08, 2005 3:33 PM
To: Gorsuch, Neil M
Subject: [redacted]

Neil:

I attach [redacted] resume. I asked him about his employment status, and he sent me the explanation below. [redacted]

[redacted]

[redacted]



[redacted]

Neil:

I attach [redacted] resume. I asked him about his employment status, and he sent me the explanation below. [redacted]

[redacted]

Gunn, Currie (SMO)

Subject:	Updated: New Computer Install (Jeff, Tracy, Currie and Neil)
Start:	Monday, December 19, 2005 1:00 PM
End:	Monday, December 19, 2005 2:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Senger, Jeffrey M; Gorsuch, Neil M; Gunn, Currie (SMO)Senger, Jeffrey M; Gorsuch, Neil M; Gunn, Currie (SMO)

Tenpas, Ronald J (ODAG)

Subject:	Updated: A/C Survey
Location:	Telephone Conference
Start:	Friday, December 16, 2005 11:15 AM
End:	Friday, December 16, 2005 11:45 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Tenpas, Ronald J (ODAG)
Required Attendees:	Gorsuch, Neil M; Meehan, Patrick (USAPAE); Immergut, Karin (USAOR); Malloy, Sandra (USAPAE)

POC: Pam Moye 305-8831
Call in number is: 202-353-0878 Pass Code: 1107

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 15, 2005 5:19 PM
To: Bucholtz, Jeffrey (CIV); Figley, Paul (CIV)
Cc: Seidel, Rebecca
Subject: RE: PCC on Pandemic Flu - International Containment and Response Strategy

Does this mean I should plan on attending?

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Thursday, December 15, 2005 10:48 AM
To: Gorsuch, Neil M; Figley, Paul (CIV)
Cc: Seidel, Rebecca
Subject: Fw: PCC on Pandemic Flu - International Containment and Response Strategy

Neil, I don't think this will relate to the liability issues.

Paul, I don't think you'll need to attend.

-----Original Message-----
From: Rita_L._DiCasagrande@nsc.eop.gov <Rita_L._DiCasagrande@nsc.eop.gov>
To: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; [redacted]@state.gov <[redacted]@state.gov>; [redacted]@ha.osd.mil <[redacted]@ha.osd.mil>; [redacted]@hhs.gov [redacted]@hhs.gov>; [redacted] (DHS) <[redacted]@dhs.gov>; [redacted]@usaid.gov [redacted]@usaid.gov>; [redacted]@usda.gov <[redacted]@usda.gov>; [redacted]@js.pentagon.mil <[redacted]@js.pentagon.mil>; Brian_H._Hook@who.eop.gov <Brian_H._Hook@who.eop.gov>; Norris_W._Cochran@omb.eop.gov <Norris_W._Cochran@omb.eop.gov>; Carol_R._Kuntz@ovp.eop.gov <Carol_R._Kuntz@ovp.eop.gov>; [redacted]@nic.odci.gov [redacted]@nic.odci.gov>; [redacted]@dot.gov [redacted]@dot.gov>; [redacted]@va.gov <[redacted]@va.gov>; [redacted] (DHS) [redacted]@dhs.gov>; [redacted]@doc.gov <[redacted]@doc.gov>
CC: Figley, Paul (CIV) <PFigley@CIV.USDOJ.GOV>; [redacted]@hhs.gov [redacted]@hhs.gov>; [redacted]@ha.osd.mil <[redacted]@ha.osd.mil>; [redacted]@usaid.gov <[redacted]@usaid.gov>; [redacted]@state.gov <[redacted]@state.gov>; [redacted]@hhs.gov <[redacted]@hhs.gov>; Steven_D._Poulin@ovp.eop.gov <Steven_D._Poulin@ovp.eop.gov>; Binita_S._Ashar@ovp.eop.gov <Binita_S._Ashar@ovp.eop.gov>; Matthew_Vaeth@omb.eop.gov <Matthew_Vaeth@omb.eop.gov>; Michael_Casella@omb.eop.gov <Michael_Casella@omb.eop.gov>; John_M._Mitnick@who.eop.gov <John_M._Mitnick@who.eop.gov>; Joel_B._Bagnal@who.eop.gov <Joel_B._Bagnal@who.eop.gov>; Kirstjen_M._Nielsen@who.eop.gov <Kirstjen_M._Nielsen@who.eop.gov>; [redacted]@HHS.GOV <[redacted]@HHS.GOV>; [redacted]@osophs.dhhs.gov <[redacted]@osophs.dhhs.gov>; [redacted] (DHS)

[redacted]@dhs.gov> [redacted](DHS) [redacted]@dhs.gov>; Rajeev_V._Venkayya@who.eop.gov <Rajeev_V._Venkayya@who.eop.gov>; John_C._Rood@nsc.eop.gov <John_C._Rood@nsc.eop.gov>; Lance_B._Leggitt@who.eop.gov <Lance_B._Leggitt@who.eop.gov>; Alexander_M._Mistri@who.eop.gov <Alexander_M._Mistri@who.eop.gov>; Michael_Allen@nsc.eop.gov <Michael_Allen@nsc.eop.gov>; Kurt_W._Tidd@nsc.eop.gov <Kurt_W._Tidd@nsc.eop.gov>; Juan_C._Zarate@nsc.eop.gov <Juan_C._Zarate@nsc.eop.gov>; [redacted]@state.gov [redacted]@state.gov>; Sonyia_Matthews@nsc.eop.gov <Sonyia_Matthews@nsc.eop.gov>; Douglas_B._Baker@who.eop.gov <Douglas_B._Baker@who.eop.gov>; Kirstjen_M._Nielsen@who.eop.gov <Kirstjen_M._Nielsen@who.eop.gov>; Jed_Meline@nsc.eop.gov <Jed_Meline@nsc.eop.gov>; [redacted]@state.gov [redacted]@state.gov> [redacted]@osd.mil [redacted]@osd.mil>; Lawrence_D._Kerr@who.eop.gov <Lawrence_D._Kerr@who.eop.gov>; Dana_M._Perino@who.eop.gov <Dana_M._Perino@who.eop.gov>; [redacted](DHS) [redacted]@dhs.gov>
Sent: Thu Dec 15 10:40:37 2005
Subject: PCC on Pandemic Flu - International Containment and Response Strategy

As previously announced, the National Security Council will hold a Policy Coordinating Committee (PCC) meeting on the International Containment and Response Strategy on Friday, December 16, from 3:30-4:30 PM in Room 180 of the EEOB. An official invitation will be washfaxed separately with a read-ahead paper.

The purpose of the meeting is to approve the draft International Containment and Response Strategy and discuss policy options for a U.S.
contribution to an international stockpile of countermeasures. Policy options for entry/exit restrictions will be addressed in a separate NSC/HSC PCC.

Attendance is limited to principals plus one. Please forward clearance information to Sonyia Matthews (cc'd above) on 202-456-9181. Feel free to call with any questions. Rita

Rita DiCasagrande
Director, Counterproliferation Strategy
White House National Security Council
phone: 202.456.9181
fax: 202.456.9180
rdicasagrande@nsc.eop.gov <mailto:rdicasagrande@nsc.eop.gov>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 15, 2005 5:30 PM
To: John B. Wiegmann (E-mail); Michael Allen (E-mail); [redacted] (E-mail)
Subject: Nightline Prep
Importance: High

I'm about to go help prep the AG for an appearance on Nightline. One thing he will want to raise is Graham -- that is, if it's a done deal. If it's not, of course, we may want to remain silent. So, can you tell me here whether we are done and good to go publicly, or whether it's still so tenuous we ought to remain mute? Thanks

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 15, 2005 5:31 PM
To: Bucholtz, Jeffrey (CIV); Figley, Paul (CIV)
Cc: Seidel, Rebecca
Subject: RE: PCC on Pandemic Flu - International Containment and Response Strategy

Then I won't plan on going unless anyone else thinks differently.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Thursday, December 15, 2005 5:22 PM
To: Gorsuch, Neil M; Figley, Paul (CIV)
Cc: Seidel, Rebecca
Subject: Re: PCC on Pandemic Flu - International Containment and Response Strategy

I doubt it's essential for any substantive reason that DOJ attend. If DOJ needs to attend anyway, I don't know who it should be. I was just sending it fyi.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Figley, Paul (CIV) <PFigley@CIV.USDOJ.GOV>
CC: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
Sent: Thu Dec 15 17:18:40 2005
Subject: RE: PCC on Pandemic Flu - International Containment and Response Strategy

Does this mean I should plan on attending?

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Thursday, December 15, 2005 10:48 AM
To: Gorsuch, Neil M; Figley, Paul (CIV)
Cc: Seidel, Rebecca
Subject: Fw: PCC on Pandemic Flu - International Containment and Response Strategy

Neil, I don't think this will relate to the liability issues.

Paul, I don't think you'll need to attend.

-----Original Message-----
From: Rita_L._DiCasagrande@nsc.eop.gov <Rita_L._DiCasagrande@nsc.eop.gov>
To: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; [redacted]@state.gov <[redacted]@state.gov>; [redacted]@ha.osd.mil [redacted]@ha.osd.mil>; [redacted]@hhs.gov [redacted]@hhs.gov>; [redacted] (DHS) <[redacted]@dhs.gov>; [redacted]@usaid.gov [redacted]@usaid.gov>; [redacted]@usda.gov <[redacted]@usda.gov>; [redacted]@js.pentagon.mil <[redacted]@js.pentagon.mil>; Brian_H._Hook@who.eop.gov <Brian_H._Hook@who.eop.gov>; Norris_W._Cochran@omb.eop.gov <Norris_W._Cochran@omb.eop.gov>; Carol_R._Kuntz@ovp.eop.gov <Carol_R._Kuntz@ovp.eop.gov>; [redacted]@nic.odci.gov [redacted]@nic.odci.gov>; [redacted]@dot.gov <[redacted]@dot.gov>; [redacted]@va.gov <[redacted]@va.gov>; [redacted] (DHS) [redacted]@dhs.gov>; [redacted]@doc.gov <[redacted]@doc.gov>
CC: Figley, Paul (CIV) <PFigley@CIV.USDOJ.GOV>; [redacted]@hhs.gov [redacted]@hhs.gov>; [redacted]@ha.osd.mil <[redacted]@ha.osd.mil>; [redacted]@usaid.gov <[redacted]@usaid.gov>; [redacted]@state.gov <[redacted]@state.gov>; [redacted]@hhs.gov <[redacted]@hhs.gov>; Steven_D._Poulin@ovp.eop.gov <Steven_D._Poulin@ovp.eop.gov>; Binita_S._Ashar@ovp.eop.gov <Binita_S._Ashar@ovp.eop.gov>; Matthew_Vaeth@omb.eop.gov <Matthew_Vaeth@omb.eop.gov>; Michael_Casella@omb.eop.gov <Michael_Casella@omb.eop.gov>; John_M._Mitnick@who.eop.gov <John_M._Mitnick@who.eop.gov>; Joel_B._Bagnal@who.eop.gov <Joel_B._Bagnal@who.eop.gov>; Kirstjen_M._Nielsen@who.eop.gov <Kirstjen_M._Nielsen@who.eop.gov>; [redacted]@HHS.GOV <[redacted]@HHS.GOV>; [redacted]@osophs.dhhs.gov <[redacted]@osophs.dhhs.gov>; [redacted] (DHS) [redacted]@dhs.gov> [redacted] (DHS) <[redacted]@dhs.gov>; Rajeev_V._Venkayya@who.eop.gov <Rajeev_V._Venkayya@who.eop.gov>; John_C._Rood@nsc.eop.gov <John_C._Rood@nsc.eop.gov>; Lance_B._Leggitt@who.eop.gov <Lance_B._Leggitt@who.eop.gov>; Alexander_M._Mistri@who.eop.gov <Alexander_M._Mistri@who.eop.gov>; Michael_Allen@nsc.eop.gov <Michael_Allen@nsc.eop.gov>; Kurt_W._Tidd@nsc.eop.gov <Kurt_W._Tidd@nsc.eop.gov>; Juan_C._Zarate@nsc.eop.gov <Juan_C._Zarate@nsc.eop.gov>; [redacted]@state.gov [redacted]@state.gov>; Sonyia_Matthews@nsc.eop.gov <Sonyia_Matthews@nsc.eop.gov>; Douglas_B._Baker@who.eop.gov <Douglas_B._Baker@who.eop.gov>; Kirstjen_M._Nielsen@who.eop.gov <Kirstjen_M._Nielsen@who.eop.gov>; Jed_Meline@nsc.eop.gov <Jed_Meline@nsc.eop.gov>; [redacted]@state.gov [redacted]@state.gov>; [redacted]@osd.mil <[redacted]@osd.mil>; Lawrence_D._Kerr@who.eop.gov <Lawrence_D._Kerr@who.eop.gov>; Dana_M._Perino@who.eop.gov <Dana_M._Perino@who.eop.gov>; [redacted] (DHS) <[redacted]@dhs.gov>
Sent: Thu Dec 15 10:40:37 2005
Subject: PCC on Pandemic Flu - International Containment and Response Strategy

As previously announced, the National Security Council will hold a Policy Coordinating Committee (PCC) meeting on the International Containment and Response Strategy on Friday, December 16, from 3:30-4:30 PM in Room 180 of the EEOB. An official invitation will be washfaxed separately with a read-ahead paper.

The purpose of the meeting is to approve the draft International Containment and Response Strategy and discuss policy options for a U.S.
contribution to an international stockpile of countermeasures. Policy options for entry/exit restrictions will be addressed in a separate NSC/HSC PCC.

Attendance is limited to principals plus one. Please forward clearance information to Sonyia Matthews (cc'd above) on 202-456-9181. Feel free to call with any questions. Rita

Rita DiCasagrande
Director, Counterproliferation Strategy
White House National Security Council
phone: 202.456.9181
fax: 202.456.9180
rdicasagrande@nsc.eop.gov <mailto:rdicasagrande@nsc.eop.gov>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 15, 2005 5:36 PM
To: 'John_B._Wiegmann@nsc.eop.gov'
Subject: RE: Nightline Prep

Tried but got no answer. Would you mind calling me when you can at [redacted] or [redacted]? I go in to the AG's conf at 6. Thanks!

-----Original Message-----
From: John_B._Wiegmann@nsc.eop.gov [mailto:John_B._Wiegmann@nsc.eop.gov]
Sent: Thursday, December 15, 2005 5:32 PM
To: Gorsuch, Neil M
Subject: Re: Nightline Prep

Call me

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted] (E-mail) <[redacted]@dodgc.osd.mil>; Allen, Michael <Michael_Allen@nsc.eop.gov>; Wiegmann, John B. <John_B._Wiegmann@nsc.eop.gov>
Sent: Thu Dec 15 17:30:32 2005
Subject: Nightline Prep

I'm about to go help prep the AG for an appearance on Nightline. One thing he will want to raise is Graham -- that is, if it's a done deal. If it's not, of course, we may want to remain silent. So, can you tell me here whether we are done and good to go publicly, or whether it's still so tenuous we ought to remain mute? Thanks

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 15, 2005 5:44 PM
To: 'Michael_Allen@nsc.eop.gov'
Subject: RE: Nightline Prep

Roger, thank you!

-----Original Message-----
From: Michael_Allen@nsc.eop.gov [mailto:Michael_Allen@nsc.eop.gov]
Sent: Thursday, December 15, 2005 5:35 PM
To: Gorsuch, Neil M; [redacted]@dodgc.osd.mil;
John_B._Wiegmann@nsc.eop.gov
Subject: RE: Nightline Prep

We are trying to get Hunter a ltr on the McCain stuff now so that he will close the conference. If this happens, the Graham stuff will be done and headed for passage.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, December 15, 2005 5:31 PM
To: [redacted] E-mail); Allen, Michael; Wiegmann, John B.
Subject: Nightline Prep
Importance: High

I'm about to go help prep the AG for an appearance on Nightline. One thing he will want to raise is Graham -- that is, if it's a done deal.
If it's not, of course, we may want to remain silent. So, can you tell me here whether we are done and good to go publicly, or whether it's still so tenuous we ought to remain mute? Thanks

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 15, 2005 5:47 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: Nightline Prep

Right, thanks

-----Original Message-----
From[redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Thursday, December 15, 2005 5:33 PM
To: Gorsuch, Neil M
Subject: RE: Nightline Prep

My understanding is that we don't have Hunter sign-off yet.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, December 15, 2005 17:31
To:[redacted]E-mail); Michael Allen (E-mail); John B. Wiegmann (E-mail)
Subject: Nightline Prep
Importance: High

I'm about to go help prep the AG for an appearance on Nightline. One thing he will want to raise is Graham -- that is, if it's a done deal. If it's not, of course, we may want to remain silent. So, can you tell me here whether we are done and good to go publicly, or whether it's still so tenuous we ought to remain mute? Thanks

Otus2005, Ag

Subject:	Accepted: Updated: PREP: Nightline Interview Re: PATRIOT ACT and McCain Ammendment
Start:	Thursday, December 15, 2005 6:00 PM
End:	Thursday, December 15, 2005 6:20 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 15, 2005 5:17 PM
To: Mercer, Bill (ODAG)
Cc: Swenson, Lily F
Subject: RE: Creation of a DOJ Privacy and Civil Liberties Office

Thanks very much.

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Thursday, December 15, 2005 5:00 PM
To: Swenson, Lily F; Henderson, Charles V
Cc: Gorsuch, Neil M
Subject: Re: Creation of a DOJ Privacy and Civil Liberties Office

CVH: Can you let Lily know when I might be available next week?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
To: Metcalfe, Daniel J <Daniel.J.Metcalfe@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>; Brand, Rachel <Rachel.Brand@SMOJMD.USDOJ.gov>; McIntosh, Brent <Brent.McIntosh@SMOJMD.USDOJ.gov>; Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>; Burton, Dawn (ODAG) <Dawn.Burton@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Corts, Paul R <Paul.R.Corts@SMOJMD.USDOJ.gov>; Dhillon, Uttam <Uttam.Dhillon@SMOJMD.USDOJ.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Davis, John S (ODAG) <John.S.Davis@SMOJMD.USDOJ.gov>; Davis, John S. (USAVAE) <John.S.Davis2@usdoj.gov>; Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>; Elston, Michael (ODAG) <Michael.Elston@SMOJMD.USDOJ.gov>; Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Thu Dec 15 11:19:17 2005
Subject: Creation of a DOJ Privacy and Civil Liberties Office

All --

To help us refine our draft proposal for a new DOJ Privacy and Civil Liberties office, I would like to convene a meeting to hear OIP's views and concerns. OIP is one of the components most affected by the current draft.

For your convenience, I've attached the proposal again below -- this is the same draft that I circulated for comments last week. It contains none of the revisions or edits that have been suggested since then, and it contains no mention of the FOIA EO that was signed by the President last night.

Please let me know your availability Tuesday through Friday of next week. We would like to have this meeting if at all possible before folks leave for the holidays. Many thanks.

Gorsuch, Neil M

Subject:	PCC :30-4:30 PM in Room 180 of the EEOB.
Start:	Friday, December 16, 2005 3:30 PM
End:	Friday, December 16, 2005 4:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Otus2005, Ag

Subject:	Updated: PREP: Nightline Interview Re: PATRIOT ACT and McCain Ammendment
Start:	Thursday, December 15, 2005 6:15 PM
End:	Thursday, December 15, 2005 6:35 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Sampson, Kyle; Scolinos, Tasia; Bradbury, Steve; Gorsuch, Neil M

VENUE: TBD: 7th Floor Conference Center
AO: Kyle Sampson DOJ: Tasia Scolinos, Steve Bradbury, Neil Gorsuch

Gorsuch, Neil M

Subject:	ATR Mtg on VISA
Start:	Wednesday, December 21, 2005 9:30 AM
End:	Wednesday, December 21, 2005 10:30 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 8:21 AM
To: Seidel, Rebecca
Subject: Re: Drafts/Schedule

I will be very late in getting to office. I am fine w fred handling the call. But if you need me try my cell [redacted]

-----Original Message-----
From: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
To: Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Ansell, Frederick <Frederick.Ansell@SMOJMD.USDOJ.gov>; Boardman, Michelle <Michelle.Boardman@SMOJMD.USDOJ.gov>; 'paul.figley@usdoj.gov' <paul.figley@usdoj.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Dec 16 06:53:57 2005
Subject: Fw: Drafts/Schedule

-----Original Message-----
From: Megan_E._Hauck@who.eop.gov <Megan_E._Hauck@who.eop.gov>
To: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; [redacted]@hhs.gov [redacted]@hhs.gov>
Sent: Fri Dec 16 06:12:20 2005
Subject: Fw: Drafts/Schedule

Can this work? I'd rather not push the time back unless we really need to. Let me know what you think.

-----Original Message-----
From: [redacted]@frist.senate.gov>
To: Hauck, Megan E. <Megan_E._Hauck@who.eop.gov>
Sent: Fri Dec 16 00:38:40 2005
Subject: Drafts/Schedule

The plan for tomorrow is to have a draft to send you by 8:00 AM. We would like to have a Speaker staff, Leader staff, [redacted] and company meeting tomorrow at noon. Please let me know if this does not work. We will do it in H-419.

We have a few bracketed issues that will be elevated to the Member level:

1) Tort Reforms - Cap on Non-economic Damages and Punitives 2) Compensation - Exhaustion, exclusivity and election

In the draft you will also see a couple of bracketed pieces that we were unable to resolve at the staff meeting that we hope to use the opportunity of the Administration meeting to resolve between Leadership staff:

1) language [redacted] wants for pandemic vaccine manufacturers and how their products are handled outside of the timeframe specified by the declaration (your comments said it was not necessary and that is where the Senate is, but [redacted] was fighting hard) 2) applying a clear and convincing standard to causation (this is something the Senate will recede to the House)

Following the noon meeting, the Senate plans to hold a Member meeting. It is going to be rough on our side to get this done, but hang with us.

[redacted]

Senate Majority Leader William H. Frist, MD [redacted]@frist.senate.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 8:24 AM
To: McCallum, Robert (SMO)
Cc: Gunn, Currie (SMO)
Subject: This am

The roads are bad out here and I'm stuck in traffic due to an accident. Chances are that I will miss the morning mtg, but I will catch up w you as soon as I manage to get in.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 8:30 AM
To: Shaw, Aloma A
Subject: Fw: This am

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
CC: Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>
Sent: Fri Dec 16 08:23:38 2005
Subject: This am

The roads are bad out here and I'm stuck in traffic due to an accident. Chances are that I will miss the morning mtg, but I will catch up w you as soon as I manage to get in.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 12:10 PM
To: [redacted] (E-mail); Harriet Miers (E-mail); Brett Gerry (E-mail); John B. Wiegmann (E-mail); Michael Allen (E-mail); Elwood, Courtney; Sampson, Kyle; Scolinos, Tasia; McCallum, Robert (SMO); Bradbury, Steve; Keisler, Peter D (CIV); Clement, Paul D
Subject: NYT Editorial
Attachments: BanTortureArticle.pdf

In case you haven't seen it, attached is the lead editorial in today's NYT which focuses the spotlight on the revised Graham amendment more than we've seen so far.

Ban Torture. Period.

It should have been unmitigated good news yesterday when President Bush finally announced that he would back Senator John McCain's proposal to ban torture and "cruel, inhuman or degrading" treatment at United States prison camps. Nothing should be more obvious for an American president than to support a ban on torture.

But this is the president who scrapped the rules on the decent treatment of prisoners in the first place and whose lawyers concocted memos on legalizing torture. On further reflection, the feeling of relief faded fast.

Mr. McCain's amendment is attached to a malignant measure — introduced by Senator Lindsey Graham, Republican of South Carolina, and now cosponsored by Senator Carl Levin of Michigan, the top Democrat on the Senate Armed Services Committee — that would do grievous harm to the rule that the government cannot just lock you up without showing cause to a court. This fundamental principle of democratic justice must not be watered down so the Bush administration does not have to answer for the illegal detentions of hundreds of men at Guantánamo Bay and other prison camps.

Mr. Graham's original measure would at least have barred the use of coerced confessions from prisoners like those at Guantánamo. But the current version actually appears to allow coerced evidence. Lawmakers were also discussing language that would strip United States courts, including the Supreme Court, of the power to review detentions. Bruce Ackerman, a professor of law at Yale University, said that Congress had not attacked the courts in this fashion since Reconstruction.

Mr. Bush had barely announced his deal with Mr. McCain before Attorney General Alberto Gonzales made it crystal clear that the administration would define torture any way it liked. He said on CNN that torture meant the intentional infliction of severe physical or mental harm, and repeated the word "severe" twice. He would not even say whether that included "waterboarding" — tormenting a prisoner by making him think he is being drowned.

Then Duncan Hunter, chairman of the House Armed Services Committee, announced that he would oppose the McCain measure unless the White House guaranteed in writing that it would have no effect on intelligence-gathering. Mr. Hunter's legitimate concerns have already been addressed with a provision that would allow C.I.A. agents to defend themselves against torture charges by saying they were following legal orders. That protection is already provided to uniformed soldiers. The latest objections by Mr. Hunter, who has helped Vice President Dick Cheney try to block Mr. McCain's amendment, are just a smokescreen.

What is at stake here, and so harmful to America's reputation, is the routine mistreatment of prisoners swept up in the so-called war on terror. The Senate voted 90 to 9 for the McCain measure without the extra baggage. And the House passed a nonbinding resolution supporting it. Both should stand firm. The nation and its fighting men and women need moral clarity, not more legalistic wiggle room.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 12:11 PM
To: Nichols, Carl (CIV); Eisenberg, John; Prestes, Brian
Subject: FW: NYT Editorial
Attachments: BanTortureArticle.pdf

Meant to include you.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 12:10 PM
To: Frank Jimenez (E-mail); Harriet Miers (E-mail); Brett Gerry (E-mail); John B. Wiegmann (E-mail); Michael Allen (E-mail); Elwood, Courtney; Sampson, Kyle; Scolinos, Tasia; McCallum, Robert (SMO); Bradbury, Steve; Keisler, Peter D (CIV); Clement, Paul D
Subject: NYT Editorial

In case you haven't seen it, attached is the lead editorial in today's NYT which focuses the spotlight on the revised Graham amendment more than we've seen so far.

Ban Torture. Period.

It should have been unmitigated good news yesterday when President Bush finally announced that he would back Senator John McCain's proposal to ban torture and "cruel, inhuman or degrading" treatment at United States prison camps. Nothing should be more obvious for an American president than to support a ban on torture.

But this is the president who scrapped the rules on the decent treatment of prisoners in the first place and whose lawyers concocted memos on legalizing torture. On further reflection, the feeling of relief faded fast.

Mr. McCain's amendment is attached to a malignant measure — introduced by Senator Lindsey Graham, Republican of South Carolina, and now cosponsored by Senator Carl Levin of Michigan, the top Democrat on the Senate Armed Services Committee — that would do grievous harm to the rule that the government cannot just lock you up without showing cause to a court. This fundamental principle of democratic justice must not be watered down so the Bush administration does not have to answer for the illegal detentions of hundreds of men at Guantánamo Bay and other prison camps.

Mr. Graham's original measure would at least have barred the use of coerced confessions from prisoners like those at Guantánamo. But the current version actually appears to allow coerced evidence. Lawmakers were also discussing language that would strip United States courts, including the Supreme Court, of the power to review detentions. Bruce Ackerman, a professor of law at Yale University, said that Congress had not attacked the courts in this fashion since Reconstruction.

Mr. Bush had barely announced his deal with Mr. McCain before Attorney General Alberto Gonzales made it crystal clear that the administration would define torture any way it liked. He said on CNN that torture meant the intentional infliction of severe physical or mental harm, and repeated the word "severe" twice. He would not even say whether that included "waterboarding" — tormenting a prisoner by making him think he is being drowned.

Then Duncan Hunter, chairman of the House Armed Services Committee, announced that he would oppose the McCain measure unless the White House guaranteed in writing that it would have no effect on intelligence-gathering. Mr. Hunter's legitimate concerns have already been addressed with a provision that would allow C.I.A. agents to defend themselves against torture charges by saying they were following legal orders. That protection is already provided to uniformed soldiers. The latest objections by Mr. Hunter, who has helped Vice President Dick Cheney try to block Mr. McCain's amendment, are just a smokescreen.

What is at stake here, and so harmful to America's reputation, is the routine mistreatment of prisoners swept up in the so-called war on terror. The Senate voted 90 to 9 for the McCain measure without the extra baggage. And the House passed a nonbinding resolution supporting it. Both should stand firm. The nation and its fighting men and women need moral clarity, not more legalistic wiggle room.

Seidel, Rebecca

Subject:	Updated: potential principals call
Location:	Neil's office?
Start:	Friday, December 16, 2005 11:00 AM
End:	Friday, December 16, 2005 11:30 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Seidel, Rebecca
Required Attendees:	Gorsuch, Neil M; Hertling, Richard; Boardman, Michelle; Ansell, FrederickGorsuch, Neil M; Hertling, Richard; Boardman, Michelle; Ansell, Frederick
Importance:	High

(202) 395-6392; passcode: 0224179

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 12:13 PM
To: Ansell, Frederick
Subject: RE: thanks, Neil

Not at all. You're doing the real work -- and wonderfully well at it. Many thanks.

-----Original Message-----
From: Ansell, Frederick
Sent: Friday, December 16, 2005 11:45 AM
To: Gorsuch, Neil M
Subject: thanks, Neil

We didn't want to have a situation where we went up to the Hill and HHS thought the preemption language was fine and we had serious concerns. Hence the pre-meeting call to get everyone on the same page.

Fred

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 1:41 PM
To: 'Michael_Allen@nsc.eop.gov' [redacted]@dodgc.osd.mil
Cc: John_B._Wiegmann@nsc.eop.gov
Subject: RE: McCain/Hadley Language

Thanks very much for passing this along, Mike. On first glance, the Graham language looks faithful to what I understood to be the "final" version. When do you expect a vote on Def Auth?

-----Original Message-----
From: Michael_Allen@nsc.eop.gov [mailto:Michael_Allen@nsc.eop.gov]
Sent: Friday, December 16, 2005 1:11 PM
To: Gorsuch, Neil M[redacted]@dodgc.osd.mil
Cc: John_B._Wiegmann@nsc.eop.gov
Subject: FW: McCain/Hadley Language

I believe this to be the final version of the McCain-Hadley-Graham-Levin-Kyl language that will go into DoD Authorization. I'm certain this is the final McCain-Hadley language.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 1:17 PM
To: Moschella, William; Clinger, James H
Subject: When are House and Senate going to vote on Def Authorization (and thus McCain/Graham)?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 2:09 PM
To: McCallum, Robert (SMO)
Subject: Patriot

Just failed cloture. W/r/t those refusing a 3 mo extension, Sen. Leahy was quoted making just the sort of threat you predicted this morning:

"None of us wants it to expire, and those who threaten to let it expire rather than fix it are playing a dangerous game," said Sen. Patrick Leahy, a Vermont Democrat.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 2:10 PM
To: Taylor, Jeffrey (OAG)
Subject: FW: NYT Editorial
Attachments: BanTortureArticle.pdf

Meant to include you on this

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 12:10 PM
To: Frank Jimenez (E-mail); Harriet Miers (E-mail); Brett Gerry (E-mail); John B. Wiegmann (E-mail); Michael Allen (E-mail); Elwood, Courtney; Sampson, Kyle; Scolinos, Tasia; McCallum, Robert (SMO); Bradbury, Steve; Keisler, Peter D (CIV); Clement, Paul D
Subject: NYT Editorial

In case you haven't seen it, attached is the lead editorial in today's NYT which focuses the spotlight on the revised Graham amendment more than we've seen so far.

Ban Torture. Period.

It should have been unmitigated good news yesterday when President Bush finally announced that he would back Senator John McCain's proposal to ban torture and "cruel, inhuman or degrading" treatment at United States prison camps. Nothing should be more obvious for an American president than to support a ban on torture.

But this is the president who scrapped the rules on the decent treatment of prisoners in the first place and whose lawyers concocted memos on legalizing torture. On further reflection, the feeling of relief faded fast.

Mr. McCain's amendment is attached to a malignant measure — introduced by Senator Lindsey Graham, Republican of South Carolina, and now cosponsored by Senator Carl Levin of Michigan, the top Democrat on the Senate Armed Services Committee — that would do grievous harm to the rule that the government cannot just lock you up without showing cause to a court. This fundamental principle of democratic justice must not be watered down so the Bush administration does not have to answer for the illegal detentions of hundreds of men at Guantánamo Bay and other prison camps.

Mr. Graham's original measure would at least have barred the use of coerced confessions from prisoners like those at Guantánamo. But the current version actually appears to allow coerced evidence. Lawmakers were also discussing language that would strip United States courts, including the Supreme Court, of the power to review detentions. Bruce Ackerman, a professor of law at Yale University, said that Congress had not attacked the courts in this fashion since Reconstruction.

Mr. Bush had barely announced his deal with Mr. McCain before Attorney General Alberto Gonzales made it crystal clear that the administration would define torture any way it liked. He said on CNN that torture meant the intentional infliction of severe physical or mental harm, and repeated the word "severe" twice. He would not even say whether that included "waterboarding" — tormenting a prisoner by making him think he is being drowned.

Then Duncan Hunter, chairman of the House Armed Services Committee, announced that he would oppose the McCain measure unless the White House guaranteed in writing that it would have no effect on intelligence-gathering. Mr. Hunter's legitimate concerns have already been addressed with a provision that would allow C.I.A. agents to defend themselves against torture charges by saying they were following legal orders. That protection is already provided to uniformed soldiers. The latest objections by Mr. Hunter, who has helped Vice President Dick Cheney try to block Mr. McCain's amendment, are just a smokescreen.

What is at stake here, and so harmful to America's reputation, is the routine mistreatment of prisoners swept up in the so-called war on terror. The Senate voted 90 to 9 for the McCain measure without the extra baggage. And the House passed a nonbinding resolution supporting it. Both should stand firm. The nation and its fighting men and women need moral clarity, not more legalistic wiggle room.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 3:11 PM
To: [redacted]@src.senate.gov'
Subject: RE: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists

[redacted] As you know I can't promise any particular result, but I haven't heard of this before and I can promise that I will look into it with care. Thank you for passing this information along. NMG

-----Original Message-----
From: [redacted]@src.senate.gov [mailto:[redacted]@src.senate.gov]
Sent: Friday, December 16, 2005 3:03 PM
To: Gorsuch, Neil M
Subject: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists
Importance: High

Someone from DOJ is scheduled to attend. That is a mistake.

The New York Sun

December 16, 2005 Edition > Section: National > Printer-Friendly Version

State, Justice Will Appear at MPAC, Causing Concern

BY MEGHAN CLYNE - Staff Reporter of the Sun
December 16, 2005
URL: http://www.nysun.com/article/24544

WASHINGTON - **Outrage and puzzlement are mounting over the Bush administration's participation this weekend in the fifth annual convention of the Muslim Public Affairs Council, to be headlined by a vociferous administration critic and a former ambassador to Iraq, Joseph Wilson. The convention also will include leaders of MPAC who have made statements considered by many to be anti-Israel and anti-Semitic, and to be supportive of the terrorist organizations Hamas and Hezbollah.**

"It's really regrettable, because it sends the wrong message," the vice president of the Conference of Presidents of Major Jewish Organizations, Malcolm Hoenlein, said. "We try to counter the extremism in other countries and seem here to countenance it."

MPAC is a large and influential national Muslim-American organization with headquarters in Washington and Los Angeles. Its convention, on the theme "Examining Our Role in America," will be held tomorrow at the Long Beach Convention Center in Long Beach, Calif. Among the speakers confirmed for the event are the deputy assistant secretary of state for education and cultural affairs, Alina Romanowski, and the western regional director of community relations for the Department of Justice, Ron Wakabayashi.

They will be joined by representatives of the American Civil Liberties Union and the Council on American Islamic Relations; Britain's consul general in Los Angeles, Robert Peirce; the former counterterrorism chief at the Washington field office of the FBI, Michael Rolince, and, if he is not detained in Washington by votes in the House, Long Beach's Republican congressman, Rep. Dana Rohrabacher.

Conference speakers, according to MPAC, are not receiving honoraria, but are having their mid-December travel expenses to Southern California covered by the organization.

Another participant, by video, is Tariq Ramadan, an author and Muslim scholar who had his visa to teach at the University of Notre Dame revoked by the American government in 2004 over concerns about his alleged ties to terrorism.

Also speaking at the MPAC conference are its executive director, Salam Al-Marayati, and its senior adviser, Maher Hathout, both of whom have made remarks considered to be anti-Israel, anti-Semitic, and supportive of terrorist organizations.

In 2001, for example, following the bombing of a Sbarro pizzeria in Jerusalem that killed 15 people, including seven children, MPAC issued a press release stating that the bombing was "the expected bitter result of the reckless policy of Israeli assassination that did not spare children and political figures," adding that MPAC "holds Israel responsible for this pattern of violence."

Speaking on PBS's NewsHour with Jim Lehrer in November 1999, Mr. Al-Marayati said: "If the Lebanese people are resisting Israeli intransigence on Lebanese soil, then that is the right of resistance and they have the right to target Israeli soldiers in this conflict. That is not terrorism. That is a legitimate resistance." Mr. Al-Marayati's appointment to a Congressional Commission on Counterterrorism was withdrawn by then House Minority Leader Richard Gephardt in July 1999.

In 2001, at an MPAC symposium on Jerusalem held at Cal-State Fullerton, according to an account from the Investigative Project, Mr. Hathout said: "It is obvious that at least from our perspective that the United States is also under Israeli occupation. So, we have a Congress that beats the Knesset in being pro-Zionist."

According to materials made available by the Investigative Project, an October 2000 rally organized by the then-political director of MPAC, Mahdi Bray, featured remarks by a prominent Muslim activist now serving 23 years in federal prison, Aburahman Alamoudi. At the rally, Mr. Alamoudi - who pleaded guilty in 2004 to participating in a Libyan plot to assassinate a Saudi prince, and who was recently identified by the Treasury Department as a financier of Al Qaeda in America - said: "We are all supporters of Hamas," and said, of "the media in New York" that had reported on his alleged ties to terrorism, "I wish they added that I am also a supporter of Hezbollah." An MPAC representative said yesterday that the organization is not responsible for Mr. Alamoudi's statements.

A spokeswoman for MPAC, Edina Lekovic, said yesterday, in response to repeated allegations that MPAC leaders have made anti-Semitic comments: "They're clearly taken out of context. We can go through them one by one."

MPAC, according to many observers, is one of the most moderate Muslim-American groups. Its Web site features a denunciation of recent anti-Israel statements made by Iran's president, Mahmoud Ahmandinejad, and the group, unlike other similar organizations, has as its stated policy a refusal to accept any foreign money.

That the State and Justice Departments would participate in an MPAC conference headlined by Messrs. Hathout and Al-Marayati, however, still drew ire from Jewish leaders and others outraged by their statements.

"I think that in general, this is a mistake, because we undermine the true Muslims in the American community by this giving recognition to those who espouse extremist views," Mr. Hoenlein said of MPAC.

The president of the Zionist Organization of America, Morton Klein, said: "It's absurd that U.S. officials would attend and give credibility to an organization whose leaders have praised terrorist groups, shown sympathy to Holocaust deniers, and who oppose any concessions with Israel."

Mr. Rohrabacher said that if he had attended the conference, "I was planning on telling them that I think the Muslim community in the U.S. is being misled by liberal Democrats to conduct themselves in a way that looks disloyal to average Americans." Representatives of the State and Justice Departments, however, would be "bland government officials there who won't confront someone on the issues I just talked about."

The chairman of the American Islamic Forum for Democracy, Zuhdi Jasser, too, expressed dismay at the government's participation in the conference. "I'm surprised that the administration has agreed to participate," Dr. Jasser, a Phoenix-based internist, said. "Especially with the presence of someone like Joe Wilson, where you have basically so much of the taxpayers' funds being spent on this investigation that has just been going on for years with basically no grounds." Mr. Wilson, who accused the administration of falsifying intelligence in the lead-up to the Iraq war, is married to CIA agent Valerie Plame, the central figure in an ongoing investigation into possible White House leaks revealing her identity.

Mr. Wilson is delivering the keynote address at the conference during its fund-raising segment tomorrow night.

A State Department spokesman, Gregory Sullivan, responded that MPAC was a moderate group that on its Web site had explicitly condemned terrorism in Iraq, and said: "This is an influential organization that has publicly preached as a message of tolerance and engagement."

A spokesman for the Justice Department, Eric Holland, responded to queries about Justice's participation in the MPAC conference by saying that the department's "Community Relations Service serves as a 'peacemaker' for community conflicts," adding: "Part of this mission consists of sending CRS professionals to assist people of different backgrounds to work and live together in harmony."

December 16, 2005 Edition > Section: National > Printer-Friendly Version

The New York Sun

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 3:37 PM
To: Nichols, Carl (CIV)
Subject: Colo Volunteer Issues
Importance: High

Brett called. He's really in need of an answer from us on both questions we discussed. Can I get the memo today or Mon am at the very latest? And can we please schedule a time to sit down with Peter to discuss the second question sometime today or Monday?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 3:43 PM
To: [redacted]@src.senate.gov'
Subject: RE: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists

very helpful, as always

-----Original Message-----
From: [redacted]@src.senate.gov
[mailto:[redacted]@src.senate.gov]
Sent: Friday, December 16, 2005 3:12 PM
To: Gorsuch, Neil M
Subject: RE: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists

I am not surprised you hadn't heard of it before. Neither had the two people I sent it to at the WH! Just trying to be helpful.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Friday, December 16, 2005 3:11 PM
To [redacted] (Republican-Conf)
Subject: RE: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists

[redacted] As you know I can't promise any particular result, but I haven't heard of this before and I can promise that I will look into it with care. Thank you for passing this information along. NMG

-----Original Message-----
From: [redacted]@src.senate.gov
[mailto:[redacted]@src.senate.gov]
Sent: Friday, December 16, 2005 3:03 PM
To: Gorsuch, Neil M
Subject: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists
Importance: High

Someone from DOJ is scheduled to attend. That is a mistake.

December 16, 2005 Edition > Section: National > Printer-Friendly Version

State, Justice Will Appear at MPAC, Causing Concern

BY MEGHAN CLYNE - Staff Reporter of the Sun December 16, 2005 URL: http://www.nysun.com/article/24544

WASHINGTON - Outrage and puzzlement are mounting over the Bush administration's participation this weekend in the fifth annual convention of the Muslim Public Affairs Council, to be headlined by a vociferous administration critic and a former ambassador to Iraq, Joseph Wilson. The convention also will include leaders of MPAC who have made statements considered by many to be anti-Israel and anti-Semitic, and to be supportive of the terrorist organizations Hamas and Hezbollah.

"It's really regrettable, because it sends the wrong message," the vice president of the Conference of Presidents of Major Jewish Organizations, Malcolm Hoenlein, said. "We try to counter the extremism in other countries and seem here to countenance it."

MPAC is a large and influential national Muslim-American organization with headquarters in Washington and Los Angeles. Its convention, on the theme "Examining Our Role in America," will be held tomorrow at the Long Beach Convention Center in Long Beach, Calif. Among the speakers confirmed for the event are the deputy assistant secretary of state for education and cultural affairs, Alina Romanowski, and the western regional director of community relations for the Department of Justice, Ron Wakabayashi.

They will be joined by representatives of the American Civil Liberties Union and the Council on American Islamic Relations; Britain's consul general in Los Angeles, Robert Peirce; the former counterterrorism chief at the Washington field office of the FBI, Michael Rolince, and, if he is not detained in Washington by votes in the House, Long Beach's Republican congressman, Rep. Dana Rohrabacher.

Conference speakers, according to MPAC, are not receiving honoraria, but are having their mid-December travel expenses to Southern California covered by the organization.

Another participant, by video, is Tariq Ramadan, an author and Muslim scholar who had his visa to teach at the University of Notre Dame revoked by the American government in 2004 over concerns about his alleged ties to terrorism.

Also speaking at the MPAC conference are its executive director, Salam Al-Marayati, and its senior adviser, Maher Hathout, both of whom have made remarks considered to be anti-Israel, anti-Semitic, and supportive of terrorist organizations.

In 2001, for example, following the bombing of a Sbarro pizzeria in Jerusalem that killed 15 people, including seven children, MPAC issued a press release stating that the bombing was "the expected

bitter result of the reckless policy of Israeli assassination that did not spare children and political figures," adding that MPAC "holds Israel responsible for this pattern of violence."

Speaking on PBS's NewsHour with Jim Lehrer in November 1999, Mr.
Al-Marayati said: "If the Lebanese people are resisting Israeli intransigence on Lebanese soil, then that is the right of resistance and they have the right to target Israeli soldiers in this conflict. That is not terrorism. That is a legitimate resistance." Mr. Al-Marayati's appointment to a Congressional Commission on Counterterrorism was withdrawn by then House Minority Leader Richard Gephardt in July 1999.

In 2001, at an MPAC symposium on Jerusalem held at Cal-State Fullerton, according to an account from the Investigative Project, Mr. Hathout said: "It is obvious that at least from our perspective that the United States is also under Israeli occupation. So, we have a Congress that beats the Knesset in being pro-Zionist."

According to materials made available by the Investigative Project, an October 2000 rally organized by the then-political director of MPAC, Mahdi Bray, featured remarks by a prominent Muslim activist now serving 23 years in federal prison, Aburahman Alamoudi. At the rally, Mr.
Alamoudi - who pleaded guilty in 2004 to participating in a Libyan plot to assassinate a Saudi prince, and who was recently identified by the Treasury Department as a financier of Al Qaeda in America - said: "We are all supporters of Hamas," and said, of "the media in New York" that had reported on his alleged ties to terrorism, "I wish they added that I am also a supporter of Hezbollah." An MPAC representative said yesterday that the organization is not responsible for Mr. Alamoudi's statements.

A spokeswoman for MPAC, Edina Lekovic, said yesterday, in response to repeated allegations that MPAC leaders have made anti-Semitic comments:
"They're clearly taken out of context. We can go through them one by one."

MPAC, according to many observers, is one of the most moderate Muslim-American groups. Its Web site features a denunciation of recent anti-Israel statements made by Iran's president, Mahmoud Ahmandinejad, and the group, unlike other similar organizations, has as its stated policy a refusal to accept any foreign money.

That the State and Justice Departments would participate in an MPAC conference headlined by Messrs. Hathout and Al-Marayati, however, still drew ire from Jewish leaders and others outraged by their statements.

"I think that in general, this is a mistake, because we undermine the true Muslims in the American community by this giving recognition to those who espouse extremist views," Mr. Hoenlein said of MPAC.

The president of the Zionist Organization of America, Morton Klein, said: "It's absurd that U.S. officials would attend and give credibility to an organization whose leaders have praised terrorist groups, shown sympathy to Holocaust deniers, and who oppose any concessions with Israel."

Mr. Rohrabacher said that if he had attended the conference, "I was planning on telling them that I think the Muslim community in the U.S.
is being misled by liberal Democrats to conduct themselves in a way that looks disloyal to average Americans." Representatives of the State and Justice Departments, however, would be "bland government officials there who won't confront someone on the issues I just talked about."

The chairman of the American Islamic Forum for Democracy, Zuhdi Jasser, too, expressed dismay at the government's participation in the conference. "I'm surprised that the administration has agreed to participate," Dr. Jasser, a Phoenix-based internist, said. "Especially with the presence of someone like Joe Wilson, where you have basically so much of the taxpayers' funds being spent on this investigation that has just been going on for years with basically no grounds." Mr. Wilson, who accused the administration of falsifying intelligence in the lead-up to the Iraq war, is married to CIA agent Valerie Plame, the central figure in an ongoing investigation into possible White House leaks revealing her identity.

Mr. Wilson is delivering the keynote address at the conference during its fund-raising segment tomorrow night.

A State Department spokesman, Gregory Sullivan, responded that MPAC was a moderate group that on its Web site had explicitly condemned terrorism in Iraq, and said: "This is an influential organization that has publicly preached as a message of tolerance and engagement."

A spokesman for the Justice Department, Eric Holland, responded to queries about Justice's participation in the MPAC conference by saying that the department's "Community Relations Service serves as a 'peacemaker' for community conflicts," adding: "Part of this mission consists of sending CRS professionals to assist people of different backgrounds to work and live together in harmony."

December 16, 2005 Edition > Section: National > Printer-Friendly Version

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Friday, December 16, 2005 3:09 PM
To:	Reyes, Luis (SMO)
Cc:	McCallum, Robert (SMO)
Subject:	FW: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists
Importance:	High

I don't know what the right answer here is, but I hadn't heard about this and wondered whether you have (it apparently involves CRS). Is it right and appropriate for our folks to attend?

By way of background, [redacted] works for the Sen Repub Conf (Sen Santorum).

-----Original Message-----
From: [redacted]@src.senate.gov [mailto:[redacted]@src.senate.gov]
Sent: Friday, December 16, 2005 3:03 PM
To: Gorsuch, Neil M
Subject: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists
Importance: High

Someone from DOJ is scheduled to attend. That is a mistake.

The New York Sun

December 16, 2005 Edition > Section: National > Printer-Friendly Version

State, Justice Will Appear at MPAC, Causing Concern

BY MEGHAN CLYNE - Staff Reporter of the Sun
December 16, 2005
URL: http://www.nysun.com/article/24544

WASHINGTON - **Outrage and puzzlement are mounting over the Bush administration's participation this weekend in the fifth annual convention of the Muslim Public Affairs Council, to be headlined by a vociferous administration critic and a former ambassador to Iraq, Joseph Wilson. The convention also will include leaders of MPAC who have made statements considered by many to be anti-Israel and anti-Semitic, and to be supportive of the terrorist organizations Hamas and Hezbollah.**

"It's really regrettable, because it sends the wrong message," the vice president of the Conference of Presidents of Major Jewish Organizations, Malcolm Hoenlein, said. "We try to counter the extremism in other countries and seem here to countenance it."

MPAC is a large and influential national Muslim-American organization with headquarters in Washington and

Los Angeles. Its convention, on the theme "Examining Our Role in America," will be held tomorrow at the Long Beach Convention Center in Long Beach, Calif. Among the speakers confirmed for the event are the deputy assistant secretary of state for education and cultural affairs, Alina Romanowski, and the western regional director of community relations for the Department of Justice, Ron Wakabayashi.

They will be joined by representatives of the American Civil Liberties Union and the Council on American Islamic Relations; Britain's consul general in Los Angeles, Robert Peirce; the former counterterrorism chief at the Washington field office of the FBI, Michael Rolince, and, if he is not detained in Washington by votes in the House, Long Beach's Republican congressman, Rep. Dana Rohrabacher.

Conference speakers, according to MPAC, are not receiving honoraria, but are having their mid-December travel expenses to Southern California covered by the organization.

Another participant, by video, is Tariq Ramadan, an author and Muslim scholar who had his visa to teach at the University of Notre Dame revoked by the American government in 2004 over concerns about his alleged ties to terrorism.

Also speaking at the MPAC conference are its executive director, Salam Al-Marayati, and its senior adviser, Maher Hathout, both of whom have made remarks considered to be anti-Israel, anti-Semitic, and supportive of terrorist organizations.

In 2001, for example, following the bombing of a Sbarro pizzeria in Jerusalem that killed 15 people, including seven children, MPAC issued a press release stating that the bombing was "the expected bitter result of the reckless policy of Israeli assassination that did not spare children and political figures," adding that MPAC "holds Israel responsible for this pattern of violence."

Speaking on PBS's NewsHour with Jim Lehrer in November 1999, Mr. Al-Marayati said: "If the Lebanese people are resisting Israeli intransigence on Lebanese soil, then that is the right of resistance and they have the right to target Israeli soldiers in this conflict. That is not terrorism. That is a legitimate resistance." Mr. Al-Marayati's appointment to a Congressional Commission on Counterterrorism was withdrawn by then House Minority Leader Richard Gephardt in July 1999.

In 2001, at an MPAC symposium on Jerusalem held at Cal-State Fullerton, according to an account from the Investigative Project, Mr. Hathout said: "It is obvious that at least from our perspective that the United States is also under Israeli occupation. So, we have a Congress that beats the Knesset in being pro-Zionist."

According to materials made available by the Investigative Project, an October 2000 rally organized by the then-political director of MPAC, Mahdi Bray, featured remarks by a prominent Muslim activist now serving 23 years in federal prison, Aburahman Alamoudi. At the rally, Mr. Alamoudi - who pleaded guilty in 2004 to participating in a Libyan plot to assassinate a Saudi prince, and who was recently identified by the Treasury Department as a financier of Al Qaeda in America - said: "We are all supporters of Hamas," and said, of "the media in New York" that had reported on his alleged ties to terrorism, "I wish they added that I am also a supporter of Hezbollah." An MPAC representative said yesterday that the organization is not responsible for Mr. Alamoudi's statements.

A spokeswoman for MPAC, Edina Lekovic, said yesterday, in response to repeated allegations that MPAC leaders have made anti-Semitic comments: "They're clearly taken out of context. We can go through them one by one."

MPAC, according to many observers, is one of the most moderate Muslim-American groups. Its Web site

features a denunciation of recent anti-Israel statements made by Iran's president, Mahmoud Ahmandinejad, and the group, unlike other similar organizations, has as its stated policy a refusal to accept any foreign money.

That the State and Justice Departments would participate in an MPAC conference headlined by Messrs. Hathout and Al-Marayati, however, still drew ire from Jewish leaders and others outraged by their statements.

"I think that in general, this is a mistake, because we undermine the true Muslims in the American community by this giving recognition to those who espouse extremist views," Mr. Hoenlein said of MPAC.

The president of the Zionist Organization of America, Morton Klein, said: "It's absurd that U.S. officials would attend and give credibility to an organization whose leaders have praised terrorist groups, shown sympathy to Holocaust deniers, and who oppose any concessions with Israel."

Mr. Rohrabacher said that if he had attended the conference, "I was planning on telling them that I think the Muslim community in the U.S. is being misled by liberal Democrats to conduct themselves in a way that looks disloyal to average Americans." Representatives of the State and Justice Departments, however, would be "bland government officials there who won't confront someone on the issues I just talked about."

The chairman of the American Islamic Forum for Democracy, Zuhdi Jasser, too, expressed dismay at the government's participation in the conference. "I'm surprised that the administration has agreed to participate," Dr. Jasser, a Phoenix-based internist, said. "Especially with the presence of someone like Joe Wilson, where you have basically so much of the taxpayers' funds being spent on this investigation that has just been going on for years with basically no grounds." Mr. Wilson, who accused the administration of falsifying intelligence in the lead-up to the Iraq war, is married to CIA agent Valerie Plame, the central figure in an ongoing investigation into possible White House leaks revealing her identity.

Mr. Wilson is delivering the keynote address at the conference during its fund-raising segment tomorrow night.

A State Department spokesman, Gregory Sullivan, responded that MPAC was a moderate group that on its Web site had explicitly condemned terrorism in Iraq, and said: "This is an influential organization that has publicly preached as a message of tolerance and engagement."

A spokesman for the Justice Department, Eric Holland, responded to queries about Justice's participation in the MPAC conference by saying that the department's "Community Relations Service serves as a 'peacemaker' for community conflicts," adding: "Part of this mission consists of sending CRS professionals to assist people of different backgrounds to work and live together in harmony."

December 16, 2005 Edition > Section: National > Printer-Friendly Version

The New York Sun

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 4:22 PM
To: Nichols, Carl (CIV)
Subject: Re: Colo Volunteer Issues

Thanks. Brett is really anxious that he needs to give his people answers by no later than Monday.

-----Original Message-----
From: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Dec 16 16:00:45 2005
Subject: RE: Colo Volunteer Issues

I have an email into the torts people looking for a timetable on the memo. I haven't had time to talk to Peter about the other issue.

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 3:37 PM
To: Nichols, Carl (CIV)
Subject: Colo Volunteer Issues
Importance: High

Brett called. He's really in need of an answer from us on both questions we discussed. Can I get the memo today or Mon am at the very latest? And can we please schedule a time to sit down with Peter to discuss the second question sometime today or Monday?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 4:30 PM
To: Nichols, Carl (CIV)
Subject: RE: Rep Memo

Really appreciate it; thanks.
-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Friday, December 16, 2005 4:28 PM
To: Gorsuch, Neil M
Subject: Rep Memo

Electronic version coming this evening. Hard copy tonight or Monday.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 4:31 PM
To: [redacted]@src.senate.gov'
Subject: RE: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists

What's your phone no? I'd like to speak directly
-----Original Message-----
From: [redacted]@src.senate.gov [mailto:[redacted]@src.senate.gov]
Sent: Friday, December 16, 2005 3:03 PM
To: Gorsuch, Neil M
Subject: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists
Importance: High

Someone from DOJ is scheduled to attend. That is a mistake.

The New York Sun

December 16, 2005 Edition > Section: National > Printer-Friendly Version

State, Justice Will Appear at MPAC, Causing Concern

BY MEGHAN CLYNE - Staff Reporter of the Sun
December 16, 2005
URL: http://www.nysun.com/article/24544

WASHINGTON - **Outrage and puzzlement are mounting over the Bush administration's participation this weekend in the fifth annual convention of the Muslim Public Affairs Council, to be headlined by a vociferous administration critic and a former ambassador to Iraq, Joseph Wilson. The convention also will include leaders of MPAC who have made statements considered by many to be anti-Israel and anti-Semitic, and to be supportive of the terrorist organizations Hamas and Hezbollah.**

"It's really regrettable, because it sends the wrong message," the vice president of the Conference of Presidents of Major Jewish Organizations, Malcolm Hoenlein, said. "We try to counter the extremism in other countries and seem here to countenance it."

MPAC is a large and influential national Muslim-American organization with headquarters in Washington and Los Angeles. Its convention, on the theme "Examining Our Role in America," will be held tomorrow at the Long Beach Convention Center in Long Beach, Calif. Among the speakers confirmed for the event are the deputy assistant secretary of state for education and cultural affairs, Alina Romanowski, and the western regional director of community relations for the Department of Justice, Ron Wakabayashi.

They will be joined by representatives of the American Civil Liberties Union and the Council on American Islamic Relations; Britain's consul general in Los Angeles, Robert Peirce; the former counterterrorism chief at

the Washington field office of the FBI, Michael Rolince, and, if he is not detained in Washington by votes in the House, Long Beach's Republican congressman, Rep. Dana Rohrabacher.

Conference speakers, according to MPAC, are not receiving honoraria, but are having their mid-December travel expenses to Southern California covered by the organization.

Another participant, by video, is Tariq Ramadan, an author and Muslim scholar who had his visa to teach at the University of Notre Dame revoked by the American government in 2004 over concerns about his alleged ties to terrorism.

Also speaking at the MPAC conference are its executive director, Salam Al-Marayati, and its senior adviser, Maher Hathout, both of whom have made remarks considered to be anti-Israel, anti-Semitic, and supportive of terrorist organizations.

In 2001, for example, following the bombing of a Sbarro pizzeria in Jerusalem that killed 15 people, including seven children, MPAC issued a press release stating that the bombing was "the expected bitter result of the reckless policy of Israeli assassination that did not spare children and political figures," adding that MPAC "holds Israel responsible for this pattern of violence."

Speaking on PBS's NewsHour with Jim Lehrer in November 1999, Mr. Al-Marayati said: "If the Lebanese people are resisting Israeli intransigence on Lebanese soil, then that is the right of resistance and they have the right to target Israeli soldiers in this conflict. That is not terrorism. That is a legitimate resistance." Mr. Al-Marayati's appointment to a Congressional Commission on Counterterrorism was withdrawn by then House Minority Leader Richard Gephardt in July 1999.

In 2001, at an MPAC symposium on Jerusalem held at Cal-State Fullerton, according to an account from the Investigative Project, Mr. Hathout said: "It is obvious that at least from our perspective that the United States is also under Israeli occupation. So, we have a Congress that beats the Knesset in being pro-Zionist."

According to materials made available by the Investigative Project, an October 2000 rally organized by the then-political director of MPAC, Mahdi Bray, featured remarks by a prominent Muslim activist now serving 23 years in federal prison, Aburahman Alamoudi. At the rally, Mr. Alamoudi - who pleaded guilty in 2004 to participating in a Libyan plot to assassinate a Saudi prince, and who was recently identified by the Treasury Department as a financier of Al Qaeda in America - said: "We are all supporters of Hamas," and said, of "the media in New York" that had reported on his alleged ties to terrorism, "I wish they added that I am also a supporter of Hezbollah." An MPAC representative said yesterday that the organization is not responsible for Mr. Alamoudi's statements.

A spokeswoman for MPAC, Edina Lekovic, said yesterday, in response to repeated allegations that MPAC leaders have made anti-Semitic comments: "They're clearly taken out of context. We can go through them one by one."

MPAC, according to many observers, is one of the most moderate Muslim-American groups. Its Web site features a denunciation of recent anti-Israel statements made by Iran's president, Mahmoud Ahmandinejad, and the group, unlike other similar organizations, has as its stated policy a refusal to accept any foreign money.

That the State and Justice Departments would participate in an MPAC conference headlined by Messrs. Hathout and Al-Marayati, however, still drew ire from Jewish leaders and others outraged by their statements.

"I think that in general, this is a mistake, because we undermine the true Muslims in the American community by this rising recognition to those who espouse extremist views," Mr. Hoenlein said of MPAC.

this giving recognition to those who espouse extremist views," Mr. Hoenlein said of MPAC.

The president of the Zionist Organization of America, Morton Klein, said: "It's absurd that U.S. officials would attend and give credibility to an organization whose leaders have praised terrorist groups, shown sympathy to Holocaust deniers, and who oppose any concessions with Israel."

Mr. Rohrabacher said that if he had attended the conference, "I was planning on telling them that I think the Muslim community in the U.S. is being misled by liberal Democrats to conduct themselves in a way that looks disloyal to average Americans." Representatives of the State and Justice Departments, however, would be "bland government officials there who won't confront someone on the issues I just talked about."

The chairman of the American Islamic Forum for Democracy, Zuhdi Jasser, too, expressed dismay at the government's participation in the conference. "I'm surprised that the administration has agreed to participate," Dr. Jasser, a Phoenix-based internist, said. "Especially with the presence of someone like Joe Wilson, where you have basically so much of the taxpayers' funds being spent on this investigation that has just been going on for years with basically no grounds." Mr. Wilson, who accused the administration of falsifying intelligence in the lead-up to the Iraq war, is married to CIA agent Valerie Plame, the central figure in an ongoing investigation into possible White House leaks revealing her identity.

Mr. Wilson is delivering the keynote address at the conference during its fund-raising segment tomorrow night.

A State Department spokesman, Gregory Sullivan, responded that MPAC was a moderate group that on its Web site had explicitly condemned terrorism in Iraq, and said: "This is an influential organization that has publicly preached as a message of tolerance and engagement."

A spokesman for the Justice Department, Eric Holland, responded to queries about Justice's participation in the MPAC conference by saying that the department's "Community Relations Service serves as a 'peacemaker' for community conflicts," adding: "Part of this mission consists of sending CRS professionals to assist people of different backgrounds to work and live together in harmony."

December 16, 2005 Edition > Section: National > Printer-Friendly Version

The New York Sun

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Friday, December 16, 2005 3:38 PM
To:	Reyes, Luis (SMO)
Subject:	RE: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists

Article says CRS is attending...

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, December 16, 2005 3:35 PM
To: Zafar, Shaarik H (CRT)
Cc: Gorsuch, Neil M; Schlozman, Brad (CRT); Kim, Wan (CRT)
Subject: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists

Rik, do you know anything about this? WHo from Justice is supposedly attending?

The New York Sun

December 16, 2005 Edition > Section: National > Printer-Friendly Version

State, Justice Will Appear at MPAC, Causing Concern

BY MEGHAN CLYNE - Staff Reporter of the Sun
December 16, 2005
URL: http://www.nysun.com/article/24544

WASHINGTON - **Outrage and puzzlement are mounting over the Bush administration's participation this weekend in the fifth annual convention of the Muslim Public Affairs Council, to be headlined by a vociferous administration critic and a former ambassador to Iraq, Joseph Wilson. The convention also will include leaders of MPAC who have made statements considered by many to be anti-Israel and anti-Semitic, and to be supportive of the terrorist organizations Hamas and Hezbollah.**

"It's really regrettable, because it sends the wrong message," the vice president of the Conference of Presidents of Major Jewish Organizations, Malcolm Hoenlein, said. "We try to counter the extremism in other countries and seem here to countenance it."

MPAC is a large and influential national Muslim-American organization with headquarters in Washington and Los Angeles. Its convention, on the theme "Examining Our Role in America," will be held tomorrow at the Long Beach Convention Center in Long Beach, Calif. Among the speakers confirmed for the event are the deputy assistant secretary of state for education and cultural affairs, Alina Romanowski, and the western regional

director of community relations for the Department of Justice, Ron Wakabayashi.

They will be joined by representatives of the American Civil Liberties Union and the Council on American Islamic Relations; Britain's consul general in Los Angeles, Robert Peirce; the former counterterrorism chief at the Washington field office of the FBI, Michael Rolince, and, if he is not detained in Washington by votes in the House, Long Beach's Republican congressman, Rep. Dana Rohrabacher.

Conference speakers, according to MPAC, are not receiving honoraria, but are having their mid-December travel expenses to Southern California covered by the organization.

Another participant, by video, is Tariq Ramadan, an author and Muslim scholar who had his visa to teach at the University of Notre Dame revoked by the American government in 2004 over concerns about his alleged ties to terrorism.

Also speaking at the MPAC conference are its executive director, Salam Al-Marayati, and its senior adviser, Maher Hathout, both of whom have made remarks considered to be anti-Israel, anti-Semitic, and supportive of terrorist organizations.

In 2001, for example, following the bombing of a Sbarro pizzeria in Jerusalem that killed 15 people, including seven children, MPAC issued a press release stating that the bombing was "the expected bitter result of the reckless policy of Israeli assassination that did not spare children and political figures," adding that MPAC "holds Israel responsible for this pattern of violence."

Speaking on PBS's NewsHour with Jim Lehrer in November 1999, Mr. Al-Marayati said: "If the Lebanese people are resisting Israeli intransigence on Lebanese soil, then that is the right of resistance and they have the right to target Israeli soldiers in this conflict. That is not terrorism. That is a legitimate resistance." Mr. Al-Marayati's appointment to a Congressional Commission on Counterterrorism was withdrawn by then House Minority Leader Richard Gephardt in July 1999.

In 2001, at an MPAC symposium on Jerusalem held at Cal-State Fullerton, according to an account from the Investigative Project, Mr. Hathout said: "It is obvious that at least from our perspective that the United States is also under Israeli occupation. So, we have a Congress that beats the Knesset in being pro-Zionist."

According to materials made available by the Investigative Project, an October 2000 rally organized by the then-political director of MPAC, Mahdi Bray, featured remarks by a prominent Muslim activist now serving 23 years in federal prison, Aburahman Alamoudi. At the rally, Mr. Alamoudi - who pleaded guilty in 2004 to participating in a Libyan plot to assassinate a Saudi prince, and who was recently identified by the Treasury Department as a financier of Al Qaeda in America - said: "We are all supporters of Hamas," and said, of "the media in New York" that had reported on his alleged ties to terrorism, "I wish they added that I am also a supporter of Hezbollah." An MPAC representative said yesterday that the organization is not responsible for Mr. Alamoudi's statements.

A spokeswoman for MPAC, Edina Lekovic, said yesterday, in response to repeated allegations that MPAC leaders have made anti-Semitic comments: "They're clearly taken out of context. We can go through them one by one."

MPAC, according to many observers, is one of the most moderate Muslim-American groups. Its Web site features a denunciation of recent anti-Israel statements made by Iran's president, Mahmoud Ahmandinejad, and the group, unlike other similar organizations, has as its stated policy a refusal to accept any foreign money.

That the State and Justice Departments would participate in an MPAC conference headlined by Messrs. Hathout and Al-Marayati, however, still drew ire from Jewish leaders and others outraged by their statements.

"I think that in general, this is a mistake, because we undermine the true Muslims in the American community by this giving recognition to those who espouse extremist views," Mr. Hoenlein said of MPAC.

The president of the Zionist Organization of America, Morton Klein, said: "It's absurd that U.S. officials would attend and give credibility to an organization whose leaders have praised terrorist groups, shown sympathy to Holocaust deniers, and who oppose any concessions with Israel."

Mr. Rohrabacher said that if he had attended the conference, "I was planning on telling them that I think the Muslim community in the U.S. is being misled by liberal Democrats to conduct themselves in a way that looks disloyal to average Americans." Representatives of the State and Justice Departments, however, would be "bland government officials there who won't confront someone on the issues I just talked about."

The chairman of the American Islamic Forum for Democracy, Zuhdi Jasser, too, expressed dismay at the government's participation in the conference. "I'm surprised that the administration has agreed to participate," Dr. Jasser, a Phoenix-based internist, said. "Especially with the presence of someone like Joe Wilson, where you have basically so much of the taxpayers' funds being spent on this investigation that has just been going on for years with basically no grounds." Mr. Wilson, who accused the administration of falsifying intelligence in the lead-up to the Iraq war, is married to CIA agent Valerie Plame, the central figure in an ongoing investigation into possible White House leaks revealing her identity.

Mr. Wilson is delivering the keynote address at the conference during its fund-raising segment tomorrow night.

A State Department spokesman, Gregory Sullivan, responded that MPAC was a moderate group that on its Web site had explicitly condemned terrorism in Iraq, and said: "This is an influential organization that has publicly preached as a message of tolerance and engagement."

A spokesman for the Justice Department, Eric Holland, responded to queries about Justice's participation in the MPAC conference by saying that the department's "Community Relations Service serves as a 'peacemaker' for community conflicts," adding: "Part of this mission consists of sending CRS professionals to assist people of different backgrounds to work and live together in harmony."

December 16, 2005 Edition > Section: National > Printer-Friendly Version

The New York Sun

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Friday, December 16, 2005 3:38 PM
To:	Reyes, Luis (SMO)
Subject:	RE: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists

Thanks, chief
-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, December 16, 2005 3:33 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M; Scolinos, Tasia; Mercer, Bill (ODAG); Elwood, Courtney; Kim, Wan (CRT); Korn, Jennifer
Subject: RE: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists

This had not been in any routine reports, oral or written, that we receive from CRS. I have a call into Steve now, and am copying Wan. Yes, any participation in such conferences would and should be cleared through OIPL, and depending on the substance, folks on the law enforcement side of things should be aware as well. Copying Jenny Korn. I am finding out more now.
-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Friday, December 16, 2005 3:15 PM
To: Reyes, Luis (SMO)
Cc: Gorsuch, Neil M; Scolinos, Tasia; Mercer, Bill (ODAG); Elwood, Courtney
Subject: RE: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists

I have heard nothing about this. Is not participation in such conferences cleared through OIPL? Alerting Tasia by cc in case this gets some press attention. Robt
-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 3:09 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: FW: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists
Importance: High

I don't know what the right answer here is, but I hadn't heard about this and wondered whether you have (it apparently involves CRS). Is it right and appropriate for our folks to attend?

By way of background, [redacted] works for the Sen Repub Conf (Sen Santorum).

-----Original Message-----
From: [redacted]@src.senate.gov [mailto:[redacted]@src.senate.gov]
Sent: Friday, December 16, 2005 3:03 PM
To: Gorsuch, Neil M
Subject: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists
Importance: High

Someone from DOJ is scheduled to attend. That is a mistake.



December 16, 2005 Edition > Section: National > Printer-Friendly Version

State, Justice Will Appear at MPAC, Causing Concern

BY MEGHAN CLYNE - Staff Reporter of the Sun
December 16, 2005
URL: http://www.nysun.com/article/24544

WASHINGTON - **Outrage and puzzlement are mounting over the Bush administration's participation this weekend in the fifth annual convention of the Muslim Public Affairs Council, to be headlined by a vociferous administration critic and a former ambassador to Iraq, Joseph Wilson. The convention also will include leaders of MPAC who have made statements considered by many to be anti-Israel and anti-Semitic, and to be supportive of the terrorist organizations Hamas and Hezbollah.**

"It's really regrettable, because it sends the wrong message," the vice president of the Conference of Presidents of Major Jewish Organizations, Malcolm Hoenlein, said. "We try to counter the extremism in other countries and seem here to countenance it."

MPAC is a large and influential national Muslim-American organization with headquarters in Washington and Los Angeles. Its convention, on the theme "Examining Our Role in America," will be held tomorrow at the Long Beach Convention Center in Long Beach, Calif. Among the speakers confirmed for the event are the deputy assistant secretary of state for education and cultural affairs, Alina Romanowski, and the western regional director of community relations for the Department of Justice, Ron Wakabayashi.

They will be joined by representatives of the American Civil Liberties Union and the Council on American Islamic Relations; Britain's consul general in Los Angeles, Robert Peirce; the former counterterrorism chief at the Washington field office of the FBI, Michael Rolince, and, if he is not detained in Washington by votes in the House, Long Beach's Republican congressman, Rep. Dana Rohrabacher.

Conference speakers, according to MPAC, are not receiving honoraria, but are having their mid-December travel expenses to Southern California covered by the organization.

Another participant, by video, is Tariq Ramadan, an author and Muslim scholar who had his visa to teach at the University of Notre Dame revoked by the American government in 2004 over concerns about his alleged ties to terrorism.

Also speaking at the MPAC conference are its executive director, Salam Al-Marayati, and its senior adviser, Maher Hathout, both of whom have made remarks considered to be anti-Israel, anti-Semitic, and supportive of terrorist organizations.

In 2001, for example, following the bombing of a Sbarro pizzeria in Jerusalem that killed 15 people, including seven children, MPAC issued a press release stating that the bombing was "the expected bitter result of the reckless policy of Israeli assassination that did not spare children and political figures," adding that MPAC "holds Israel responsible for this pattern of violence."

Speaking on PBS's NewsHour with Jim Lehrer in November 1999, Mr. Al-Marayati said: "If the Lebanese people are resisting Israeli intransigence on Lebanese soil, then that is the right of resistance and they have the

right to target Israeli soldiers in this conflict. That is not terrorism. That is a legitimate resistance." Mr. Al-Marayati's appointment to a Congressional Commission on Counterterrorism was withdrawn by then House Minority Leader Richard Gephardt in July 1999.

In 2001, at an MPAC symposium on Jerusalem held at Cal-State Fullerton, according to an account from the Investigative Project, Mr. Hathout said: "It is obvious that at least from our perspective that the United States is also under Israeli occupation. So, we have a Congress that beats the Knesset in being pro-Zionist."

According to materials made available by the Investigative Project, an October 2000 rally organized by the then-political director of MPAC, Mahdi Bray, featured remarks by a prominent Muslim activist now serving 23 years in federal prison, Aburahman Alamoudi. At the rally, Mr. Alamoudi - who pleaded guilty in 2004 to participating in a Libyan plot to assassinate a Saudi prince, and who was recently identified by the Treasury Department as a financier of Al Qaeda in America - said: "We are all supporters of Hamas," and said, of "the media in New York" that had reported on his alleged ties to terrorism, "I wish they added that I am also a supporter of Hezbollah." An MPAC representative said yesterday that the organization is not responsible for Mr. Alamoudi's statements.

A spokeswoman for MPAC, Edina Lekovic, said yesterday, in response to repeated allegations that MPAC leaders have made anti-Semitic comments: "They're clearly taken out of context. We can go through them one by one."

MPAC, according to many observers, is one of the most moderate Muslim-American groups. Its Web site features a denunciation of recent anti-Israel statements made by Iran's president, Mahmoud Ahmandinejad, and the group, unlike other similar organizations, has as its stated policy a refusal to accept any foreign money.

That the State and Justice Departments would participate in an MPAC conference headlined by Messrs. Hathout and Al-Marayati, however, still drew ire from Jewish leaders and others outraged by their statements.

"I think that in general, this is a mistake, because we undermine the true Muslims in the American community by this giving recognition to those who espouse extremist views," Mr. Hoenlein said of MPAC.

The president of the Zionist Organization of America, Morton Klein, said: "It's absurd that U.S. officials would attend and give credibility to an organization whose leaders have praised terrorist groups, shown sympathy to Holocaust deniers, and who oppose any concessions with Israel."

Mr. Rohrabacher said that if he had attended the conference, "I was planning on telling them that I think the Muslim community in the U.S. is being misled by liberal Democrats to conduct themselves in a way that looks disloyal to average Americans." Representatives of the State and Justice Departments, however, would be "bland government officials there who won't confront someone on the issues I just talked about."

The chairman of the American Islamic Forum for Democracy, Zuhdi Jasser, too, expressed dismay at the government's participation in the conference. "I'm surprised that the administration has agreed to participate," Dr. Jasser, a Phoenix-based internist, said. "Especially with the presence of someone like Joe Wilson, where you have basically so much of the taxpayers' funds being spent on this investigation that has just been going on for years with basically no grounds." Mr. Wilson, who accused the administration of falsifying intelligence in the lead-up to the Iraq war, is married to CIA agent Valerie Plame, the central figure in an ongoing investigation into possible White House leaks revealing her identity.

Mr. Wilson is delivering the keynote address at the conference during its fund-raising segment tomorrow night.

A State Department spokesman, Gregory Sullivan, responded that MPAC was a moderate group that on its

Web site had explicitly condemned terrorism in Iraq, and said: "This is an influential organization that has publicly preached as a message of tolerance and engagement."

A spokesman for the Justice Department, Eric Holland, responded to queries about Justice's participation in the MPAC conference by saying that the department's "Community Relations Service serves as a 'peacemaker' for community conflicts," adding: "Part of this mission consists of sending CRS professionals to assist people of different backgrounds to work and live together in harmony."

December 16, 2005 Edition > Section: National > Printer-Friendly Version

The New York Sun

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 3:40 PM
To: Reyes, Luis (SMO)
Subject: RE: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists

Got it, thanks
-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, December 16, 2005 3:39 PM
To: Gorsuch, Neil M
Subject: RE: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists

Right, but sometimes they get this wrong and Rik's, I know, has attended similar events. Of course, Eric seems to have confirmed that, but I am just double checking.
-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 3:38 PM
To: Reyes, Luis (SMO)
Subject: RE: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists

Article says CRS is attending...

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, December 16, 2005 3:35 PM
To: Zafar, Shaarik H (CRT)
Cc: Gorsuch, Neil M; Schlozman, Brad (CRT); Kim, Wan (CRT)
Subject: DOJ participating in conf featuring [redacted] and anti-Semitic leaders sympathetic to terrorists

Rik, do you know anything about this? WHo from Justice is supposedly attending?

The NEW YORK Sun

December 16, 2005 Edition > Section: National > Printer-Friendly Version

State, Justice Will Appear at MPAC, Causing Concern

BY MEGHAN CLYNE - Staff Reporter of the Sun
December 16, 2005
URL: http://www.nysun.com/article/24544

WASHINGTON - **Outrage and puzzlement are mounting over the Bush administration's participation**

this weekend in the fifth annual convention of the Muslim Public Affairs Council, to be headlined by a vociferous administration critic and a former ambassador to Iraq, Joseph Wilson. The convention also will include leaders of MPAC who have made statements considered by many to be anti-Israel and anti-Semitic, and to be supportive of the terrorist organizations Hamas and Hezbollah.

"It's really regrettable, because it sends the wrong message," the vice president of the Conference of Presidents of Major Jewish Organizations, Malcolm Hoenlein, said. "We try to counter the extremism in other countries and seem here to countenance it."

MPAC is a large and influential national Muslim-American organization with headquarters in Washington and Los Angeles. Its convention, on the theme "Examining Our Role in America," will be held tomorrow at the Long Beach Convention Center in Long Beach, Calif. Among the speakers confirmed for the event are the deputy assistant secretary of state for education and cultural affairs, Alina Romanowski, and the western regional director of community relations for the Department of Justice, Ron Wakabayashi.

They will be joined by representatives of the American Civil Liberties Union and the Council on American Islamic Relations; Britain's consul general in Los Angeles, Robert Peirce; the former counterterrorism chief at the Washington field office of the FBI, Michael Rolince, and, if he is not detained in Washington by votes in the House, Long Beach's Republican congressman, Rep. Dana Rohrabacher.

Conference speakers, according to MPAC, are not receiving honoraria, but are having their mid-December travel expenses to Southern California covered by the organization.

Another participant, by video, is Tariq Ramadan, an author and Muslim scholar who had his visa to teach at the University of Notre Dame revoked by the American government in 2004 over concerns about his alleged ties to terrorism.

Also speaking at the MPAC conference are its executive director, Salam Al-Marayati, and its senior adviser, Maher Hathout, both of whom have made remarks considered to be anti-Israel, anti-Semitic, and supportive of terrorist organizations.

In 2001, for example, following the bombing of a Sbarro pizzeria in Jerusalem that killed 15 people, including seven children, MPAC issued a press release stating that the bombing was "the expected bitter result of the reckless policy of Israeli assassination that did not spare children and political figures," adding that MPAC "holds Israel responsible for this pattern of violence."

Speaking on PBS's NewsHour with Jim Lehrer in November 1999, Mr. Al-Marayati said: "If the Lebanese people are resisting Israeli intransigence on Lebanese soil, then that is the right of resistance and they have the right to target Israeli soldiers in this conflict. That is not terrorism. That is a legitimate resistance." Mr. Al-Marayati's appointment to a Congressional Commission on Counterterrorism was withdrawn by then House Minority Leader Richard Gephardt in July 1999.

In 2001, at an MPAC symposium on Jerusalem held at Cal-State Fullerton, according to an account from the Investigative Project, Mr. Hathout said: "It is obvious that at least from our perspective that the United States is also under Israeli occupation. So, we have a Congress that beats the Knesset in being pro-Zionist."

According to materials made available by the Investigative Project, an October 2000 rally organized by the then-political director of MPAC, Mahdi Bray, featured remarks by a prominent Muslim activist now serving 23 years in federal prison, Aburahman Alamoudi. At the rally, Mr. Alamoudi - who pleaded guilty in 2004 to participating in a Libyan plot to assassinate a Saudi prince, and who was recently identified by the Treasury Department as a financier of Al Qaeda in America - said: "We are all supporters of Hamas," and said, of "the

Department as a financier of Al Qaeda in America - said: "We are all supporters of Hamas," and said, of the media in New York" that had reported on his alleged ties to terrorism, "I wish they added that I am also a supporter of Hezbollah." An MPAC representative said yesterday that the organization is not responsible for Mr. Alamoudi's statements.

A spokeswoman for MPAC, Edina Lekovic, said yesterday, in response to repeated allegations that MPAC leaders have made anti-Semitic comments: "They're clearly taken out of context. We can go through them one by one."

MPAC, according to many observers, is one of the most moderate Muslim-American groups. Its Web site features a denunciation of recent anti-Israel statements made by Iran's president, Mahmoud Ahmandinejad, and the group, unlike other similar organizations, has as its stated policy a refusal to accept any foreign money.

That the State and Justice Departments would participate in an MPAC conference headlined by Messrs. Hathout and Al-Marayati, however, still drew ire from Jewish leaders and others outraged by their statements.

"I think that in general, this is a mistake, because we undermine the true Muslims in the American community by this giving recognition to those who espouse extremist views," Mr. Hoenlein said of MPAC.

The president of the Zionist Organization of America, Morton Klein, said: "It's absurd that U.S. officials would attend and give credibility to an organization whose leaders have praised terrorist groups, shown sympathy to Holocaust deniers, and who oppose any concessions with Israel."

Mr. Rohrabacher said that if he had attended the conference, "I was planning on telling them that I think the Muslim community in the U.S. is being misled by liberal Democrats to conduct themselves in a way that looks disloyal to average Americans." Representatives of the State and Justice Departments, however, would be "bland government officials there who won't confront someone on the issues I just talked about."

The chairman of the American Islamic Forum for Democracy, Zuhdi Jasser, too, expressed dismay at the government's participation in the conference. "I'm surprised that the administration has agreed to participate," Dr. Jasser, a Phoenix-based internist, said. "Especially with the presence of someone like Joe Wilson, where you have basically so much of the taxpayers' funds being spent on this investigation that has just been going on for years with basically no grounds." Mr. Wilson, who accused the administration of falsifying intelligence in the lead-up to the Iraq war, is married to CIA agent Valerie Plame, the central figure in an ongoing investigation into possible White House leaks revealing her identity.

Mr. Wilson is delivering the keynote address at the conference during its fund-raising segment tomorrow night.

A State Department spokesman, Gregory Sullivan, responded that MPAC was a moderate group that on its Web site had explicitly condemned terrorism in Iraq, and said: "This is an influential organization that has publicly preached as a message of tolerance and engagement."

A spokesman for the Justice Department, Eric Holland, responded to queries about Justice's participation in the MPAC conference by saying that the department's "Community Relations Service serves as a 'peacemaker' for community conflicts," adding: "Part of this mission consists of sending CRS professionals to assist people of different backgrounds to work and live together in harmony."

December 16, 2005 Edition > Section: National > Printer-Friendly Version

The New York Sun

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 3:42 PM
To: Kessler, Elizabeth A
Cc: Reyes, Luis (SMO); McCallum, Robert (SMO)
Subject: RE: Congratulations....

Liz, I look forward to congratulate you in person and will stop by shortly but: Wow, indeed, and many, many congratulations, Your Honor! We will miss you. NMG

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Friday, December 16, 2005 3:19 PM
To: Kessler, Elizabeth A
Cc: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: RE: Congratulations....

WOW!!!!! That was fast. Congrats. We can talk Monday about the transition. Alerting Neil and Lu of this news. Robt.

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Friday, December 16, 2005 3:02 PM
To: McCallum, Robert (SMO)
Subject: FW: Congratulations....

Robert: I had hoped to tell you the below in person (and I wanted you to know first), but it does not look like our schedules will cooincide this afternoon. [redacted] We can talk more on Monday. I'm talking to EOIR about a start date sometime in January. - Liz

-----Original Message-----
From: Ohlson, Kevin (EOIR)
Sent: Friday, December 16, 2005 2:00 PM
To: Kessler, Elizabeth A
Subject: Congratulations....

Liz -

We just received word from the Department that the Acting Deputy Attorney General signed the paperwork yesterday officially appointing you as an immigration judge. Congratulations.

Kevin

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 4:55 PM
To: Brett Gerry (E-mail)
Attachments: BanTortureArticle.pdf

Brett, In case (as it seemed) you need cheering up about the legislation this week, see below. The Administration's victory is not well known but its significance shouldn't be understated. And I have lit a fire in CIV. Memo will be finished over the weekend if need be and you will have a definitive answer (whatever it is) on Monday. NMG

http://www.cbsnews.com/stories/2005/12/05/opinion/main1096782.shtml
http://www.aclu.org/legislative/index.html

Ban Torture. Period.

It should have been unmitigated good news yesterday when President Bush finally announced that he would back Senator John McCain's proposal to ban torture and "cruel, inhuman or degrading" treatment at United States prison camps. Nothing should be more obvious for an American president than to support a ban on torture.

But this is the president who scrapped the rules on the decent treatment of prisoners in the first place and whose lawyers concocted memos on legalizing torture. On further reflection, the feeling of relief faded fast.

Mr. McCain's amendment is attached to a malignant measure — introduced by Senator Lindsey Graham, Republican of South Carolina, and now cosponsored by Senator Carl Levin of Michigan, the top Democrat on the Senate Armed Services Committee — that would do grievous harm to the rule that the government cannot just lock you up without showing cause to a court. This fundamental principle of democratic justice must not be watered down so the Bush administration does not have to answer for the illegal detentions of hundreds of men at Guantánamo Bay and other prison camps.

Mr. Graham's original measure would at least have barred the use of coerced confessions from prisoners like those at Guantánamo. But the current version actually appears to allow coerced evidence. Lawmakers were also discussing language that would strip United States courts, including the Supreme Court, of the power to review detentions. Bruce Ackerman, a professor of law at Yale University, said that Congress had not attacked the courts in this fashion since Reconstruction.

Mr. Bush had barely announced his deal with Mr. McCain before Attorney General Alberto Gonzales made it crystal clear that the administration would define torture any way it liked. He said on CNN that torture meant the intentional infliction of severe physical or mental harm, and repeated the word "severe" twice. He would not even say whether that included "waterboarding" — tormenting a prisoner by making him think he is being drowned.

Then Duncan Hunter, chairman of the House Armed Services Committee, announced that he would oppose the McCain measure unless the White House guaranteed in writing that it would have no effect on intelligence-gathering. Mr. Hunter's legitimate concerns have already been addressed with a provision that would allow C.I.A. agents to defend themselves against torture charges by saying they were following legal orders. That protection is already provided to uniformed soldiers. The latest objections by Mr. Hunter, who has helped Vice President Dick Cheney try to block Mr. McCain's amendment, are just a smokescreen.

What is at stake here, and so harmful to America's reputation, is the routine mistreatment of prisoners swept up in the so-called war on terror. The Senate voted 90 to 9 for the McCain measure without the extra baggage. And the House passed a nonbinding resolution supporting it. Both should stand firm. The nation and its fighting men and women need moral clarity, not more legalistic wiggle room.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 4:56 PM
To: [redacted]
Subject: FW:
Attachments: BanTortureArticle.pdf

The Administration's legislative success is not well known but its significance shouldn't be understated.

http://www.cbsnews.com/stories/2005/12/05/opinion/main1096782.shtml
http://www.aclu.org/legislative/index.html

Ban Torture. Period.

It should have been unmitigated good news yesterday when President Bush finally announced that he would back Senator John McCain's proposal to ban torture and "cruel, inhuman or degrading" treatment at United States prison camps. Nothing should be more obvious for an American president than to support a ban on torture.

But this is the president who scrapped the rules on the decent treatment of prisoners in the first place and whose lawyers concocted memos on legalizing torture. On further reflection, the feeling of relief faded fast.

Mr. McCain's amendment is attached to a malignant measure — introduced by Senator Lindsey Graham, Republican of South Carolina, and now cosponsored by Senator Carl Levin of Michigan, the top Democrat on the Senate Armed Services Committee — that would do grievous harm to the rule that the government cannot just lock you up without showing cause to a court. This fundamental principle of democratic justice must not be watered down so the Bush administration does not have to answer for the illegal detentions of hundreds of men at Guantánamo Bay and other prison camps.

Mr. Graham's original measure would at least have barred the use of coerced confessions from prisoners like those at Guantánamo. But the current version actually appears to allow coerced evidence. Lawmakers were also discussing language that would strip United States courts, including the Supreme Court, of the power to review detentions. Bruce Ackerman, a professor of law at Yale University, said that Congress had not attacked the courts in this fashion since Reconstruction.

Mr. Bush had barely announced his deal with Mr. McCain before Attorney General Alberto Gonzales made it crystal clear that the administration would define torture any way it liked. He said on CNN that torture meant the intentional infliction of severe physical or mental harm, and repeated the word "severe" twice. He would not even say whether that included "waterboarding" — tormenting a prisoner by making him think he is being drowned.

Then Duncan Hunter, chairman of the House Armed Services Committee, announced that he would oppose the McCain measure unless the White House guaranteed in writing that it would have no effect on intelligence-gathering. Mr. Hunter's legitimate concerns have already been addressed with a provision that would allow C.I.A. agents to defend themselves against torture charges by saying they were following legal orders. That protection is already provided to uniformed soldiers. The latest objections by Mr. Hunter, who has helped Vice President Dick Cheney try to block Mr. McCain's amendment, are just a smokescreen.

What is at stake here, and so harmful to America's reputation, is the routine mistreatment of prisoners swept up in the so-called war on terror. The Senate voted 90 to 9 for the McCain measure without the extra baggage. And the House passed a nonbinding resolution supporting it. Both should stand firm. The nation and its fighting men and women need moral clarity, not more legalistic wiggle room.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 4:56 PM
To: Katsas, Gregory (CIV)
Subject: FW:
Attachments: BanTortureArticle.pdf

In case (as it seemed) you need cheering up about the Graham legislation, see below.

http://www.cbsnews.com/stories/2005/12/05/opinion/main1096782.shtml
http://www.aclu.org/legislative/index.html

Ban Torture. Period.

It should have been unmitigated good news yesterday when President Bush finally announced that he would back Senator John McCain's proposal to ban torture and "cruel, inhuman or degrading" treatment at United States prison camps. Nothing should be more obvious for an American president than to support a ban on torture.

But this is the president who scrapped the rules on the decent treatment of prisoners in the first place and whose lawyers concocted memos on legalizing torture. On further reflection, the feeling of relief faded fast.

Mr. McCain's amendment is attached to a malignant measure — introduced by Senator Lindsey Graham, Republican of South Carolina, and now cosponsored by Senator Carl Levin of Michigan, the top Democrat on the Senate Armed Services Committee — that would do grievous harm to the rule that the government cannot just lock you up without showing cause to a court. This fundamental principle of democratic justice must not be watered down so the Bush administration does not have to answer for the illegal detentions of hundreds of men at Guantánamo Bay and other prison camps.

Mr. Graham's original measure would at least have barred the use of coerced confessions from prisoners like those at Guantánamo. But the current version actually appears to allow coerced evidence. Lawmakers were also discussing language that would strip United States courts, including the Supreme Court, of the power to review detentions. Bruce Ackerman, a professor of law at Yale University, said that Congress had not attacked the courts in this fashion since Reconstruction.

Mr. Bush had barely announced his deal with Mr. McCain before Attorney General Alberto Gonzales made it crystal clear that the administration would define torture any way it liked. He said on CNN that torture meant the intentional infliction of severe physical or mental harm, and repeated the word "severe" twice. He would not even say whether that included "waterboarding" — tormenting a prisoner by making him think he is being drowned.

Then Duncan Hunter, chairman of the House Armed Services Committee, announced that he would oppose the McCain measure unless the White House guaranteed in writing that it would have no effect on intelligence-gathering. Mr. Hunter's legitimate concerns have already been addressed with a provision that would allow C.I.A. agents to defend themselves against torture charges by saying they were following legal orders. That protection is already provided to uniformed soldiers. The latest objections by Mr. Hunter, who has helped Vice President Dick Cheney try to block Mr. McCain's amendment, are just a smokescreen.

What is at stake here, and so harmful to America's reputation, is the routine mistreatment of prisoners swept up in the so-called war on terror. The Senate voted 90 to 9 for the McCain measure without the extra baggage. And the House passed a nonbinding resolution supporting it. Both should stand firm. The nation and its fighting men and women need moral clarity, not more legalistic wiggle room.

Swenson, Lily F

Subject:	Accepted: Creation of a DOJ Privacy and Civil Liberties Office
Location:	OASG Conference Room (5710)
Start:	Thursday, January 5, 2006 2:30 PM
End:	Thursday, January 5, 2006 4:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Swenson, Lily F

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 4:59 PM
To: Elwood, Courtney
Subject:
Attachments: BanTortureArticle.pdf

Some have begun to catch on to the Administration's upside...

http://www.cbsnews.com/stories/2005/12/05/opinion/main1096782.shtml
http://www.aclu.org/legislative/index.html

Ban Torture. Period.

It should have been unmitigated good news yesterday when President Bush finally announced that he would back Senator John McCain's proposal to ban torture and "cruel, inhuman or degrading" treatment at United States prison camps. Nothing should be more obvious for an American president than to support a ban on torture.

But this is the president who scrapped the rules on the decent treatment of prisoners in the first place and whose lawyers concocted memos on legalizing torture. On further reflection, the feeling of relief faded fast.

Mr. McCain's amendment is attached to a malignant measure — introduced by Senator Lindsey Graham, Republican of South Carolina, and now cosponsored by Senator Carl Levin of Michigan, the top Democrat on the Senate Armed Services Committee — that would do grievous harm to the rule that the government cannot just lock you up without showing cause to a court. This fundamental principle of democratic justice must not be watered down so the Bush administration does not have to answer for the illegal detentions of hundreds of men at Guantánamo Bay and other prison camps.

Mr. Graham's original measure would at least have barred the use of coerced confessions from prisoners like those at Guantánamo. But the current version actually appears to allow coerced evidence. Lawmakers were also discussing language that would strip United States courts, including the Supreme Court, of the power to review detentions. Bruce Ackerman, a professor of law at Yale University, said that Congress had not attacked the courts in this fashion since Reconstruction.

Mr. Bush had barely announced his deal with Mr. McCain before Attorney General Alberto Gonzales made it crystal clear that the administration would define torture any way it liked. He said on CNN that torture meant the intentional infliction of severe physical or mental harm, and repeated the word "severe" twice. He would not even say whether that included "waterboarding" — tormenting a prisoner by making him think he is being drowned.

Then Duncan Hunter, chairman of the House Armed Services Committee, announced that he would oppose the McCain measure unless the White House guaranteed in writing that it would have no effect on intelligence-gathering. Mr. Hunter's legitimate concerns have already been addressed with a provision that would allow C.I.A. agents to defend themselves against torture charges by saying they were following legal orders. That protection is already provided to uniformed soldiers. The latest objections by Mr. Hunter, who has helped Vice President Dick Cheney try to block Mr. McCain's amendment, are just a smokescreen.

What is at stake here, and so harmful to America's reputation, is the routine mistreatment of prisoners swept up in the so-called war on terror. The Senate voted 90 to 9 for the McCain measure without the extra baggage. And the House passed a nonbinding resolution supporting it. Both should stand firm. The nation and its fighting men and women need moral clarity, not more legalistic wiggle room.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 5:00 PM
To: Reyes, Luis (SMO); McCallum, Robert (SMO)
Subject:
Attachments: BanTortureArticle.pdf

Some more have begun to catch on to the Administration's upside in this week's legislation...

http://www.cbsnews.com/stories/2005/12/05/opinion/main1096782.shtml
http://www.aclu.org/legislative/index.html

Ban Torture. Period.

It should have been unmitigated good news yesterday when President Bush finally announced that he would back Senator John McCain's proposal to ban torture and "cruel, inhuman or degrading" treatment at United States prison camps. Nothing should be more obvious for an American president than to support a ban on torture.

But this is the president who scrapped the rules on the decent treatment of prisoners in the first place and whose lawyers concocted memos on legalizing torture. On further reflection, the feeling of relief faded fast.

Mr. McCain's amendment is attached to a malignant measure — introduced by Senator Lindsey Graham, Republican of South Carolina, and now cosponsored by Senator Carl Levin of Michigan, the top Democrat on the Senate Armed Services Committee — that would do grievous harm to the rule that the government cannot just lock you up without showing cause to a court. This fundamental principle of democratic justice must not be watered down so the Bush administration does not have to answer for the illegal detentions of hundreds of men at Guantánamo Bay and other prison camps.

Mr. Graham's original measure would at least have barred the use of coerced confessions from prisoners like those at Guantánamo. But the current version actually appears to allow coerced evidence. Lawmakers were also discussing language that would strip United States courts, including the Supreme Court, of the power to review detentions. Bruce Ackerman, a professor of law at Yale University, said that Congress had not attacked the courts in this fashion since Reconstruction.

Mr. Bush had barely announced his deal with Mr. McCain before Attorney General Alberto Gonzales made it crystal clear that the administration would define torture any way it liked. He said on CNN that torture meant the intentional infliction of severe physical or mental harm, and repeated the word "severe" twice. He would not even say whether that included "waterboarding" — tormenting a prisoner by making him think he is being drowned.

Then Duncan Hunter, chairman of the House Armed Services Committee, announced that he would oppose the McCain measure unless the White House guaranteed in writing that it would have no effect on intelligence-gathering. Mr. Hunter's legitimate concerns have already been addressed with a provision that would allow C.I.A. agents to defend themselves against torture charges by saying they were following legal orders. That protection is already provided to uniformed soldiers. The latest objections by Mr. Hunter, who has helped Vice President Dick Cheney try to block Mr. McCain's amendment, are just a smokescreen.

What is at stake here, and so harmful to America's reputation, is the routine mistreatment of prisoners swept up in the so-called war on terror. The Senate voted 90 to 9 for the McCain measure without the extra baggage. And the House passed a nonbinding resolution supporting it. Both should stand firm. The nation and its fighting men and women need moral clarity, not more legalistic wiggle room.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 5:25 PM
To: Taylor, Jeffrey (OAG)
Subject: FW:
Attachments: BanTortureArticle.pdf

More evidence that some have begun to catch on to the Administration's upside...

http://www.cbsnews.com/stories/2005/12/05/opinion/main1096782.shtml
http://www.aclu.org/legislative/index.html

Ban Torture. Period.

It should have been unmitigated good news yesterday when President Bush finally announced that he would back Senator John McCain's proposal to ban torture and "cruel, inhuman or degrading" treatment at United States prison camps. Nothing should be more obvious for an American president than to support a ban on torture.

But this is the president who scrapped the rules on the decent treatment of prisoners in the first place and whose lawyers concocted memos on legalizing torture. On further reflection, the feeling of relief faded fast.

Mr. McCain's amendment is attached to a malignant measure — introduced by Senator Lindsey Graham, Republican of South Carolina, and now cosponsored by Senator Carl Levin of Michigan, the top Democrat on the Senate Armed Services Committee — that would do grievous harm to the rule that the government cannot just lock you up without showing cause to a court. This fundamental principle of democratic justice must not be watered down so the Bush administration does not have to answer for the illegal detentions of hundreds of men at Guantánamo Bay and other prison camps.

Mr. Graham's original measure would at least have barred the use of coerced confessions from prisoners like those at Guantánamo. But the current version actually appears to allow coerced evidence. Lawmakers were also discussing language that would strip United States courts, including the Supreme Court, of the power to review detentions. Bruce Ackerman, a professor of law at Yale University, said that Congress had not attacked the courts in this fashion since Reconstruction.

Mr. Bush had barely announced his deal with Mr. McCain before Attorney General Alberto Gonzales made it crystal clear that the administration would define torture any way it liked. He said on CNN that torture meant the intentional infliction of severe physical or mental harm, and repeated the word "severe" twice. He would not even say whether that included "waterboarding" — tormenting a prisoner by making him think he is being drowned.

Then Duncan Hunter, chairman of the House Armed Services Committee, announced that he would oppose the McCain measure unless the White House guaranteed in writing that it would have no effect on intelligence-gathering. Mr. Hunter's legitimate concerns have already been addressed with a provision that would allow C.I.A. agents to defend themselves against torture charges by saying they were following legal orders. That protection is already provided to uniformed soldiers. The latest objections by Mr. Hunter, who has helped Vice President Dick Cheney try to block Mr. McCain's amendment, are just a smokescreen.

What is at stake here, and so harmful to America's reputation, is the routine mistreatment of prisoners swept up in the so-called war on terror. The Senate voted 90 to 9 for the McCain measure without the extra baggage. And the House passed a nonbinding resolution supporting it. Both should stand firm. The nation and its fighting men and women need moral clarity, not more legalistic wiggle room.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 7:18 PM
To: Michael Allen (E-mail); Moschella, William
Subject: FW: Colloquy on defense auth bill 12-16-05
Attachments: tmp.htm; Colloquy on defense auth bill 12-16-05.doc
Importance: High

Any chance we can see draft colloquy language on Graham amendment? We forwarded some material to Joe Matal and I know he was working on something.

-----Original Message-----
From: Bradbury, Steve
Sent: Friday, December 16, 2005 6:24 PM
To: Edney, Michael; Gorsuch, Neil M; Bucholtz, Jeffrey (CIV); Nichols, Carl (CIV); Fisher, Alice; Sampson, Kyle; Elwood, Courtney; Elwood, John; Marshall, C. Kevin; Boardman, Michelle; Moschella, William
Subject: FW: Colloquy on defense auth bill 12-16-05
Importance: High

Draft colloquy language from the Senators re McCain. Suggestions for improving?

-----Original Message-----
From: John_B._Wiegmann@nsc.eop.gov [mailto:John_B._Wiegmann@nsc.eop.gov]
Sent: Friday, December 16, 2005 5:44 PM
To: Bradbury, Steve
Subject: FW: Colloquy on defense auth bill 12-16-05
Importance: High

FYI, as discussed

From: Allen, Michael
Sent: Friday, December 16, 2005 5:32 PM
To: Wiegmann, John B.
Subject: FW: Colloquy on defense auth bill 12-16-05
Importance: High

What do you think of this?
-----Original Message-----
From: Olson, Jen (L. Graham) [mailto:Jen_Olson@lgraham.senate.gov]
Sent: Friday, December 16, 2005 3:16 PM

To: Allen, Michael
Subject: FW: Colloquy on defense auth bill 12-16-05
Importance: High

Enjoy. We will not agree to this as is...either it creates a private right of action or it doesn't. Can't have it both ways.

From: [redacted](McCain)
Sent: Friday, December 16, 2005 2:47 PM
To: [redacted](Armed Services); [redacted](Armed Services); [redacted](Armed Services); [redacted](Judiciary); [redacted] (L. Graham); [redacted] LGRAHAM
Cc: [redacted](Indian Affairs); [redacted](McCain)
Subject: Colloquy on defense auth bill 12-16-05

Pursuant to the deal with the White House, attached is a colloquy among our bosses. You can send edits/changes/insults back to me . . . thanks, [redacted]

Colloquy on Department of Defense Authorization Conference Report

MR. McCAIN. I would like to thank the Chairman and the Ranking Member for their untiring work to bring the Defense Authorization bill to closure. In doing so, Congress takes a major step in ensuring that America stays true to its fundamental values. By establishing uniform standards for the interrogation of Department of Defense detainees, and by ensuring that the United States will not subject any individual to cruel, inhuman or degrading treatment or punishment, we are better able to wage and win the war on terror. This would not have been possible without the work of the Chairman, the Ranking Member, and other members of this committee, including most notably the Senator from South Carolina.

I would also like to thank the President and the National Security Advisor for their efforts in resolving the difficult issues underlying the amendment. In reaching agreement, we make sure that the world knows that the United States does not – and by law cannot – engage in torture or cruel, inhuman or degrading treatment. During our talks, the administration raised legitimate concerns about legal claims facing civilian interrogators. Based on these concerns, the bill includes language that will allow accused civilian interrogators - like military interrogators – a robust defense if a person of ordinary sense and understanding would have believed he was following a lawful directive. It further includes language providing legal counsel to interrogators. These provisions are modeled on provisions drawn from the Uniform Code of Military Justice.

With the detainee treatment provisions, Congress has clearly spoken that the prohibition against torture should be enforced and that anyone engaging in or authorizing torture or cruel, inhuman or degrading treatment, whether at home or overseas, is violating the law. Sections 1402 and 1403 of Title XIV of this bill do not create a new private right of action. At the same time, these provisions do not eliminate or diminish any private right of action otherwise available. It's also worth noting that the legal standards provided for under this legislation may apply in a lawsuit brought under another cause of action. It is our intent not to disable that in any way.

MR. WARNER. I am proud to have been at the forefront of the effort to get this particular legislation passed. I would reiterate that the "McCain Amendment" does not create a private right of action, and I note that it will constitute a new legal standard that may be applied to actions brought under other statutes. [plus whatever Warner staff would like to add/change]

MR. LEVIN. I am pleased that the conference report contains the full text of the McCain amendment on torture, without change. This language firmly establishes in law that the United States will not subject any individual in our custody, regardless of nationality or physical location, to cruel, inhuman, or degrading treatment or punishment. The amendment provides a single standard for "cruel, inhuman, or degrading treatment or punishment," without regard to what agency holds a detainee, what the nationality of the detainee is, or where the detainee is held.

It has never been my understanding that the McCain amendment would, by itself, create a private right of action. I do not believe that the amendment was intended either to create such a private right of action, or to eliminate or undercut any private right of action – such as a claim under the Alien Tort Statute – that is otherwise available to an alien detainee. Rather, the McCain amendment would establish a legal standard applicable to any criminal prosecution or any private right of action that is otherwise available under law. That would not be changed in any way by the affirmative defense added in the new section. [plus whatever Levin staff would like to add/change]

MR. GRAHAM. I was pleased to support this legislation and work toward its enactment from the beginning. Under section 1402, our troops now have one standard – the Army Field Manual – for their interrogations. In section 1403, we close the loophole in the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. As National Security Advisor Stephen Hadley said, "those standards, as a technical, legal matter, did not apply abroad. And that's what Senator McCain, in the second section of his legislation, wanted to address -- wanted to make clear that those would apply abroad. We applied them abroad as a matter of policy; he wanted to make sure they applied as a matter of law. And when this legislation is adopted, it will."

I agree that these sections do not create a new private right of action, but that they are binding on the executive and create a standard applicable to actions brought under other statutes. [plus whatever Graham staff would like to add/change]

FYI, as discussed

From: Allen, Michael
Sent: Friday, December 16, 2005 5:32 PM
To: Wiegmann, John B.
Subject: FW: Colloquy on defense auth bill 12-16-05
Importance: High

What do you think of this?
-----Original Message-----
From: [redacted](L. Graham) [mailto:[redacted]@lgraham.senate.gov]
Sent: Friday, December 16, 2005 3:16 PM
To: Allen, Michael
Subject: FW: Colloquy on defense auth bill 12-16-05
Importance: High

Enjoy. We will not agree to this as is...either it creates a private right of action or it doesn't. Can't have it both ways.

From: [redacted](McCain)
Sent: Friday, December 16, 2005 2:47 PM
To: [redacted](Armed Services); [redacted](Armed Services); [redacted](Armed Services); [redacted](Judiciary); [redacted](L. Graham); [redacted]LGRAHAM
Cc: [redacted](Indian Affairs); [redacted](McCain)
Subject: Colloquy on defense auth bill 12-16-05

Pursuant to the deal with the White House, attached is a colloquy among our bosses. You can send edits/changes/insults back to me . . . thanks. [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 16, 2005 7:11 PM
To: Reyes, Luis (SMO)
Cc: McCallum, Robert (SMO)
Subject: RE: Hans Von Spakovsky

Good for Hans!

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, December 16, 2005 6:39 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: Hans Von Spakovsky

The President announced today that he intends to nominate Hans Von Spakovsky to the Federal Election Commission to fill an unexpired term that ends in 2011.

OPA is aware. There will be stories and it will be a little bit of a fight in the press. Hans is ready and I am happy to see this for him.

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Saturday, December 17, 2005 6:20 PM
To:	Holland, Eric W; Seidel, Rebecca
Cc:	Scott-Finan, Nancy; Reyes, Luis (SMO)
Subject:	Re: Administration participating in conference featuring anti-Semitic leaders sympathetic to terrorists?

I leave to others on what to say but you should know that crs has decided not to attend.

-----Original Message-----
From: Holland, Eric W <Eric.W.Holland@SMOJMD.USDOJ.gov>
To: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Scott-Finan, Nancy <Nancy.Scott-Finan@SMOJMD.USDOJ.gov>
Sent: Sat Dec 17 15:36:21 2005
Subject: Re: Administration participating in conference featuring anti-Semitic leaders sympathetic to terrorists?

We shouldn't go beyond what we said in the NY Sun article.

-----Original Message-----
From: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Holland, Eric W <Eric.W.Holland@SMOJMD.USDOJ.gov>; Scott-Finan, Nancy <Nancy.Scott-Finan@SMOJMD.USDOJ.gov>
Sent: Sat Dec 17 14:34:21 2005
Subject: Fw: Administration participating in conference featuring anti-Semitic leaders sympathetic to terrorists?

Neil, for some reason I can't pull up CRS folks email on my bberry. Any thoughts re what we can say to Coburn staff? (In addition to OPA quote). Eric, any thoughts re the comment about [redacted] participation and dOJ being there?

-----Original Message-----
From: Megan_E._Hauck@who.eop.gov <Megan_E._Hauck@who.eop.gov>
To: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; [redacted]@coburn.senate.gov [redacted]@coburn.senate.gov> [redacted]@state.gov <[redacted]@state.gov>
CC: Debbie_S._Fiddelke@who.eop.gov <Debbie_S._Fiddelke@who.eop.gov>
Sent: Sat Dec 17 13:37:02 2005

Subject: RE: Administration participating in conference featuring anti-Semitic leaders sympathetic to terrorists?

[redacted] I will refer you to DOJ and State Department Leg. I know they are happy to help with whatever information you need. Thanks, Megan

---

From [redacted]@coburn.senate.gov]
Sent: Friday, December 16, 2005 11:29 AM
To: Hauck, Megan E.
Subject: FW: Administration participating in conference featuring anti-Semitic leaders sympathetic to terrorists?

Was this decision made by a bureaucrat? This doesn't seem like a good idea.

<http://www.nysun.com>

<https://www.nysun.com/subscribe.php>
<https://www.nysun.com/subscribe.php>
<https://www.nysun.com/subscribe.php>

December 16, 2005 Edition > Section: National <http://www.nysun.com/section/2> > Printer-Friendly Version

State, Justice Will Appear at MPAC, Causing Concern

BY MEGHAN CLYNE - Staff Reporter of the Sun December 16, 2005 URL: http://www.nysun.com/article/24544

WASHINGTON - Outrage and puzzlement are mounting over the Bush administration's participation this weekend in the fifth annual convention of the Muslim Public Affairs Council, to be headlined by a vociferous administration critic and a former ambassador to Iraq, Joseph Wilson. The convention also will include leaders of MPAC who have made statements considered by many to be anti-Israel and anti-Semitic, and to be supportive of the terrorist organizations Hamas and Hezbollah.

"It's really regrettable, because it sends the wrong message," the vice president of the Conference of

Presidents of Major Jewish Organizations, Malcolm Hoenlein, said. "We try to counter the extremism in other countries and seem here to countenance it."

MPAC is a large and influential national Muslim-American organization with headquarters in Washington and Los Angeles. Its convention, on the theme "Examining Our Role in America," will be held tomorrow at the Long Beach Convention Center in Long Beach, Calif. Among the speakers confirmed for the event are the deputy assistant secretary of state for education and cultural affairs, Alina Romanowski, and the western regional director of community relations for the Department of Justice, Ron Wakabayashi.

They will be joined by representatives of the American Civil Liberties Union and the Council on American Islamic Relations; Britain's consul general in Los Angeles, Robert Peirce; the former counterterrorism chief at the Washington field office of the FBI, Michael Rolince, and, if he is not detained in Washington by votes in the House, Long Beach's Republican congressman, Rep. Dana Rohrabacher.

Conference speakers, according to MPAC, are not receiving honoraria, but are having their mid-December travel expenses to Southern California covered by the organization.

Another participant, by video, is Tariq Ramadan, an author and Muslim scholar who had his visa to teach at the University of Notre Dame revoked by the American government in 2004 over concerns about his alleged ties to terrorism.

Also speaking at the MPAC conference are its executive director, Salam Al-Marayati, and its senior adviser, Maher Hathout, both of whom have made remarks considered to be anti-Israel, anti-Semitic, and supportive of terrorist organizations.

In 2001, for example, following the bombing of a Sbarro pizzeria in Jerusalem that killed 15 people, including seven children, MPAC issued a press release stating that the bombing was "the expected bitter result of the reckless policy of Israeli assassination that did not spare children and political figures," adding that MPAC "holds Israel responsible for this pattern of violence."

Speaking on PBS's NewsHour with Jim Lehrer in November 1999, Mr.
Al-Marayati said: "If the Lebanese people are resisting Israeli intransigence on Lebanese soil, then that is the right of resistance and they have the right to target Israeli soldiers in this conflict. That is not terrorism. That is a legitimate resistance." Mr. Al-Marayati's appointment to a Congressional Commission on Counterterrorism was withdrawn by then House Minority Leader Richard Gephardt in July 1999.

In 2001, at an MPAC symposium on Jerusalem held at Cal-State Fullerton, according to an account from the Investigative Project, Mr. Hathout said: "It is obvious that at least from our perspective that the United States is also under Israeli occupation. So, we have a Congress that beats the Knesset in being pro-Zionist."

According to materials made available by the Investigative Project, an October 2000 rally organized by the then-political director of MPAC, Mahdi Bray, featured remarks by a prominent Muslim activist now serving 23 years in federal prison, Aburahman Alamoudi. At the rally, Mr.
Alamoudi - who pleaded guilty in 2004 to participating in a Libyan plot to assassinate a Saudi prince, and who was recently identified by the Treasury Department as a financier of Al Qaeda in America - said: "We are all supporters of Hamas," and said, of "the media in New York" that had reported on his

alleged ties to terrorism, "I wish they added that I am also a supporter of Hezbollah." An MPAC representative said yesterday that the organization is not responsible for Mr. Alamoudi's statements.

A spokeswoman for MPAC, Edina Lekovic, said yesterday, in response to repeated allegations that MPAC leaders have made anti-Semitic comments:
"They're clearly taken out of context. We can go through them one by one."

MPAC, according to many observers, is one of the most moderate Muslim-American groups. Its Web site features a denunciation of recent anti-Israel statements made by Iran's president, Mahmoud Ahmandinejad, and the group, unlike other similar organizations, has as its stated policy a refusal to accept any foreign money.

That the State and Justice Departments would participate in an MPAC conference headlined by Messrs. Hathout and Al-Marayati, however, still drew ire from Jewish leaders and others outraged by their statements.

"I think that in general, this is a mistake, because we undermine the true Muslims in the American community by this giving recognition to those who espouse extremist views," Mr. Hoenlein said of MPAC.

The president of the Zionist Organization of America, Morton Klein, said: "It's absurd that U.S. officials would attend and give credibility to an organization whose leaders have praised terrorist groups, shown sympathy to Holocaust deniers, and who oppose any concessions with Israel."

Mr. Rohrabacher said that if he had attended the conference, "I was planning on telling them that I think the Muslim community in the U.S.
is being misled by liberal Democrats to conduct themselves in a way that looks disloyal to average Americans." Representatives of the State and Justice Departments, however, would be "bland government officials there who won't confront someone on the issues I just talked about."

The chairman of the American Islamic Forum for Democracy, Zuhdi Jasser, too, expressed dismay at the government's participation in the conference. "I'm surprised that the administration has agreed to participate," Dr. Jasser, a Phoenix-based internist, said. "Especially with the presence of someone like Joe Wilson, where you have basically so much of the taxpayers' funds being spent on this investigation that has just been going on for years with basically no grounds." Mr. Wilson, who accused the administration of falsifying intelligence in the lead-up to the Iraq war, is married to CIA agent Valerie Plame, the central figure in an ongoing investigation into possible White House leaks revealing her identity.

Mr. Wilson is delivering the keynote address at the conference during its fund-raising segment tomorrow night.

A State Department spokesman, Gregory Sullivan, responded that MPAC was a moderate group that on its Web site had explicitly condemned terrorism in Iraq, and said: "This is an influential organization that has publicly preached as a message of tolerance and engagement."

A spokesman for the Justice Department, Eric Holland, responded to queries about Justice's participation in the MPAC conference by saying that the department's "Community Relations Service serves as a 'peacemaker' for community conflicts," adding: "Part of this mission consists of sending CRS professionals to assist people of different backgrounds to work and live together in harmony."

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Saturday, December 17, 2005 6:21 PM
To: McCallum, Robert (SMO)
Subject: Fw: Administration participating in conference featuring anti-Semitic leaders sympathetic to terrorists?

Fyi.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Holland, Eric W <Eric.W.Holland@SMOJMD.USDOJ.gov>; Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
CC: Scott-Finan, Nancy <Nancy.Scott-Finan@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Sat Dec 17 18:20:04 2005
Subject: Re: Administration participating in conference featuring anti-Semitic leaders sympathetic to terrorists?

I leave to others on what to say but you should know that crs has decided not to attend.

-----Original Message-----
From: Holland, Eric W <Eric.W.Holland@SMOJMD.USDOJ.gov>
To: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Scott-Finan, Nancy <Nancy.Scott-Finan@SMOJMD.USDOJ.gov>
Sent: Sat Dec 17 15:36:21 2005
Subject: Re: Administration participating in conference featuring anti-Semitic leaders sympathetic to terrorists?

We shouldn't go beyond what we said in the NY Sun article.

-----Original Message-----
From: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Holland, Eric W <Eric.W.Holland@SMOJMD.USDOJ.gov>; Scott-Finan, Nancy <Nancy.Scott-Finan@SMOJMD.USDOJ.gov>
Sent: Sat Dec 17 14:34:21 2005
Subject: Fw: Administration participating in conference featuring anti-Semitic leaders sympathetic to terrorists?

Neil, for some reason I can't pull up CRS folks email on my bberry. Any thoughts re what we can say to Coburn staff? (In addition to OPA quote). Eric, any thoughts re the comment about [redacted] participation and dOJ being there?

-----Original Message-----
From: Megan_E._Hauck@who.eop.gov <Megan_E._Hauck@who.eop.gov>
To: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; [redacted]@coburn.senate.gov [redacted]@coburn.senate.gov>; [redacted]@state.gov <[redacted]@state.gov>
CC: Debbie_S._Fiddelke@who.eop.gov <Debbie_S._Fiddelke@who.eop.gov>
Sent: Sat Dec 17 13:37:02 2005
Subject: RE: Administration participating in conference featuring anti-Semitic leaders sympathetic to terrorists?

[redacted] I will refer you to DOJ and State Department Leg. I know they are happy to help with whatever information you need. Thanks, Megan

_____

From: [redacted]@coburn.senate.gov]
Sent: Friday, December 16, 2005 11:29 AM
To: Hauck, Megan E.
Subject: FW: Administration participating in conference featuring anti-Semitic leaders sympathetic to terrorists?

Was this decision made by a bureaucrat? This doesn't seem like a good idea.

<http://www.nysun.com>

<https://www.nysun.com/subscribe.php>
<https://www.nysun.com/subscribe.php>
<https://www.nysun.com/subscribe.php>

December 16, 2005 Edition > Section: National <http://www.nysun.com/section/2> > Printer-Friendly Version

State, Justice Will Appear at MPAC, Causing Concern

BY MEGHAN CLYNE - Staff Reporter of the Sun December 16, 2005 URL: http://www.nysun.com/article/24544

WASHINGTON - Outrage and puzzlement are mounting over the Bush administration's participation this weekend in the fifth annual convention of the Muslim Public Affairs Council, to be headlined by a vociferous administration critic and a former ambassador to Iraq, Joseph Wilson. The convention also will include leaders of MPAC who have made statements considered by many to be anti-Israel and anti-Semitic, and to be supportive of the terrorist organizations Hamas and Hezbollah.

"It's really regrettable, because it sends the wrong message," the vice president of the Conference of Presidents of Major Jewish Organizations, Malcolm Hoenlein, said. "We try to counter the extremism in other countries and seem here to countenance it."

MPAC is a large and influential national Muslim-American organization with headquarters in Washington and Los Angeles. Its convention, on the theme "Examining Our Role in America," will be held tomorrow at the Long Beach Convention Center in Long Beach, Calif. Among the speakers confirmed for the event are the deputy assistant secretary of state for education and cultural affairs, Alina Romanowski, and the western regional director of community relations for the Department of Justice, Ron Wakabayashi.

They will be joined by representatives of the American Civil Liberties Union and the Council on American Islamic Relations; Britain's consul general in Los Angeles, Robert Peirce; the former counterterrorism chief at the Washington field office of the FBI, Michael Rolince, and, if he is not detained in Washington by votes in the House, Long Beach's Republican congressman, Rep. Dana Rohrabacher.

Conference speakers, according to MPAC, are not receiving honoraria, but are having their mid-December travel expenses to Southern California covered by the organization.

Another participant, by video, is Tariq Ramadan, an author and Muslim scholar who had his visa to teach at the University of Notre Dame revoked by the American government in 2004 over concerns about his alleged ties to terrorism.

Also speaking at the MPAC conference are its executive director, Salam Al-Marayati, and its senior adviser, Maher Hathout, both of whom have made remarks considered to be anti-Israel, anti-Semitic, and supportive of terrorist organizations.

In 2001, for example, following the bombing of a Sbarro pizzeria in Jerusalem that killed 15 people, including seven children, MPAC issued a press release stating that the bombing was "the expected bitter result of the reckless policy of Israeli assassination that did not spare children and political figures," adding that MPAC "holds Israel responsible for this pattern of violence."

Speaking on PBS's NewsHour with Jim Lehrer in November 1999, Mr.
Al-Marayati said: "If the Lebanese people are resisting Israeli intransigence on Lebanese soil, then that is the right of resistance and they have the right to target Israeli soldiers in this conflict. That is not terrorism. That is a legitimate resistance." Mr. Al-Marayati's appointment to a Congressional Commission on Counterterrorism was withdrawn by then House Minority Leader Richard Gephardt in July 1999.

July 1999.

In 2001, at an MPAC symposium on Jerusalem held at Cal-State Fullerton, according to an account from the Investigative Project, Mr. Hathout said: "It is obvious that at least from our perspective that the United States is also under Israeli occupation. So, we have a Congress that beats the Knesset in being pro-Zionist."

According to materials made available by the Investigative Project, an October 2000 rally organized by the then-political director of MPAC, Mahdi Bray, featured remarks by a prominent Muslim activist now serving 23 years in federal prison, Aburahman Alamoudi. At the rally, Mr.
Alamoudi - who pleaded guilty in 2004 to participating in a Libyan plot to assassinate a Saudi prince, and who was recently identified by the Treasury Department as a financier of Al Qaeda in America - said: "We are all supporters of Hamas," and said, of "the media in New York" that had reported on his alleged ties to terrorism, "I wish they added that I am also a supporter of Hezbollah." An MPAC representative said yesterday that the organization is not responsible for Mr. Alamoudi's statements.

A spokeswoman for MPAC, Edina Lekovic, said yesterday, in response to repeated allegations that MPAC leaders have made anti-Semitic comments:
"They're clearly taken out of context. We can go through them one by one."

MPAC, according to many observers, is one of the most moderate Muslim-American groups. Its Web site features a denunciation of recent anti-Israel statements made by Iran's president, Mahmoud Ahmandinejad, and the group, unlike other similar organizations, has as its stated policy a refusal to accept any foreign money.

That the State and Justice Departments would participate in an MPAC conference headlined by Messrs. Hathout and Al-Marayati, however, still drew ire from Jewish leaders and others outraged by their statements.

"I think that in general, this is a mistake, because we undermine the true Muslims in the American community by this giving recognition to those who espouse extremist views," Mr. Hoenlein said of MPAC.

The president of the Zionist Organization of America, Morton Klein, said: "It's absurd that U.S. officials would attend and give credibility to an organization whose leaders have praised terrorist groups, shown sympathy to Holocaust deniers, and who oppose any concessions with Israel."

Mr. Rohrabacher said that if he had attended the conference, "I was planning on telling them that I think the Muslim community in the U.S.
is being misled by liberal Democrats to conduct themselves in a way that looks disloyal to average Americans." Representatives of the State and Justice Departments, however, would be "bland government officials there who won't confront someone on the issues I just talked about."

The chairman of the American Islamic Forum for Democracy, Zuhdi Jasser, too, expressed dismay at the government's participation in the conference. "I'm surprised that the administration has agreed to participate," Dr. Jasser, a Phoenix-based internist, said. "Especially with the presence of someone like Joe Wilson, where you have basically so much of the taxpayers' funds being spent on this investigation that has just been going on for years with basically no grounds." Mr. Wilson, who accused the administration of falsifying intelligence in the lead-up to the Iraq war, is married to CIA agent Valerie Plame, the central figure in an ongoing investigation into possible White House leaks revealing her identity.

Mr. Wilson is delivering the keynote address at the conference during its fund-raising segment tomorrow night.

A State Department spokesman, Gregory Sullivan, responded that MPAC was a moderate group that on its Web site had explicitly condemned terrorism in Iraq, and said: "This is an influential organization that has publicly preached as a message of tolerance and engagement."

A spokesman for the Justice Department, Eric Holland, responded to queries about Justice's participation in the MPAC conference by saying that the department's "Community Relations Service serves as a 'peacemaker' for community conflicts," adding: "Part of this mission consists of sending CRS professionals to assist people of different backgrounds to work and live together in harmony."

December 16, 2005 Edition > Section: National <http://www.nysun.com/section/2> > Printer-Friendly Version

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 19, 2005 8:19 AM
To: [redacted]
Subject: Fw: Graham / McCain Language
Attachments: tmp.htm; t14_XML.PDF

-----Original Message-----
From: [redacted]@osd.mil <[redacted]@osd.mil>
To: Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov> [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>; [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>; [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>; [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>; [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>; [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>; [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>; [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>; [redacted]@osd.mil <[redacted]@osd.mil>; [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>; [redacted]@osd.mil <[redacted]@osd.mil>; [redacted]@osd.mil <[redacted]@osd.mil>; [redacted]@osd.mil <[redacted]@osd.mil>; [redacted]@osd.mil <[redacted]@osd.mil>
CC: [redacted]@osd.mil <[redacted]@osd.mil>; [redacted]@osd.mil <[redacted]@osd.mil>
Sent: Mon Dec 19 06:33:02 2005
Subject: Graham / McCain Language

Attached is the final language to the McCain / Graham amendments. TY

Respectfully,

[redacted]
Legislative Affairs
1300 Defense Pentagon, Room 3D747
Washington, D.C. 20310-1300
[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a

written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

TITLE XIV—MATTERS RELATING TO DETAINEES

Sec. 1401. Short title
Sec. 1402. Uniform standards for the interrogation of persons under the detention of the Department of Defense
Sec. 1403. Prohibition on cruel, inhuman, or degrading treatment or punishment of persons under custody or control of the United States Government
Sec. 1404. Protection of United States Government personnel engaged in authorized interrogations
Sec. 1405. Procedures for status review of detainees outside the United States
Sec. 1406. Training of Iraqi security forces regarding treatment of detainees

SEC. 1401. SHORT TITLE.

This title may be cited as the ''Detainee Treatment Act of 2005''.

SEC. 1402. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(b) APPLICABILITY.—Subsection (a) shall not apply with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(c) CONSTRUCTION.—Nothing in this section shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

SEC. 1403. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) LIMITATION ON SUPERSEDURE.—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term ''cruel, inhuman, or degrading treatment or punishment''

DOJ_NMG_ 0149630

means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

SEC. 1404. PROTECTION OF UNITED STATES GOVERNMENT PERSONNEL ENGAGED IN AUTHORIZED INTERROGATIONS.

(a) PROTECTION OF UNITED STATES GOVERNMENT PERSONNEL.—In any civil action or criminal prosecution against an officer, employee, member of the Armed Forces, or other agent of the United States Government who is a United States person, arising out of the officer, employee, member of the Armed Forces, or other agent's engaging in specific operational practices, that involve detention and interrogation of aliens who the President or his designees have determined are believed to be engaged in or associated with international terrorist activity that poses a serious, continuing threat to the United States, its interests, or its allies, and that were officially authorized and determined to be lawful at the time that they were conducted, it shall be a defense that such officer, em-

DOJ_NMG_ 0149631

ployee, member of the Armed Forces, or other agent did not know that the practices were unlawful and a person of ordinary sense and understanding would not know the practices were unlawful. Good faith reliance on advice of counsel should be an important factor, among others, to consider in assessing whether a person of ordinary sense and understanding would have known the practices to be unlawful. Nothing in this section shall be construed to limit or extinguish any defense or protection otherwise available to any person or entity from suit, civil or criminal liability, or damages, or to provide immunity from prosecution for any criminal offense by the proper authorities.

(b) COUNSEL.—The United States Government may provide or employ counsel, and pay counsel fees, court costs, bail, and other expenses incident to the representation of an officer, employee, member of the Armed Forces, or other agent described in subsection (a), with respect to any civil action or criminal prosecution arising out of practices described in that subsection, under the same conditions, and to the same extent, to which such services and payments are authorized under section 1037 of title 10, United States Code.

DOJ_NMG_ 0149632

SEC. 1405. PROCEDURES FOR STATUS REVIEW OF DETAINEES OUTSIDE THE UNITED STATES.

(a) SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA, AND IN AFGHANISTAN AND IRAQ.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on the Judiciary of the Senate and the Committee on Armed Services and the Committee on the Judiciary of the House of Representatives a report setting forth—

(A) the procedures of the Combatant Status Review Tribunals and the Administrative Review Boards established by direction of the Secretary of Defense that are in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay or to provide an annual review to determine the need to continue to detain an alien who is a detainee; and

(B) the procedures in operation in Afghanistan and Iraq for a determination of the status of aliens detained in the custody or under the physical control of the Department of Defense in those countries.

DOJ_NMG_ 0149633

(2) DESIGNATED CIVILIAN OFFICIAL.—The procedures submitted to Congress pursuant to paragraph (1)(A) shall ensure that the official of the Department of Defense who is designated by the President or Secretary of Defense to be the final review authority within the Department of Defense with respect to decisions of any such tribunal or board (referred to as the ''Designated Civilian Official'') shall be a civilian officer of the Department of Defense holding an office to which appointments are required by law to be made by the President, by and with the advice and consent of the Senate.

(3) CONSIDERATION OF NEW EVIDENCE.—The procedures submitted under paragraph (1)(A) shall provide for periodic review of any new evidence that may become available relating to the enemy combatant status of a detainee.

(b) CONSIDERATION OF STATEMENTS DERIVED WITH COERCION.—

(1) ASSESSMENT.—The procedures submitted to Congress pursuant to subsection (a)(1)(A) shall ensure that a Combatant Status Review Tribunal or Administrative Review Board, or any similar or successor administrative tribunal or board, in making a determination of status or disposition of any de-

DOJ_NMG_ 0149634

tainee under such procedures, shall, to the extent practicable, assess—

(A) whether any statement derived from or relating to such detainee was obtained as a result of coercion; and

(B) the probative value, if any, of any such statement.

(2) APPLICABILITY.—Paragraph (1) applies with respect to any proceeding beginning on or after the date of the enactment of this Act.

(c) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the committees specified in subsection (a)(1) a report on any modification of the procedures submitted under subsection (a). Any such report shall be submitted not later than 60 days before the date on which such modification goes into effect.

(d) ANNUAL REPORT.—

(1) REPORT REQUIRED.—The Secretary of Defense shall submit to Congress an annual report on the annual review process for aliens in the custody of the Department of Defense outside the United States. Each such report shall be submitted in unclassified form, with a classified annex, if necessary. The report shall be submitted not later than December 31 each year.

DOJ_NMG_ 0149635

(2) ELEMENTS OF REPORT.—Each such report shall include the following with respect to the year covered by the report:

(A) The number of detainees whose status was reviewed.

(B) The procedures used at each location.

(e) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

(1) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

''(e) Except as provided in section 1405 of the Detainee Treatment Act of 2005, no court, justice, or judge shall have jurisdiction to hear or consider—

''(1) an application for a writ of habeas corpus filed by or on behalf of an alien detained by the Department of Defense at Guantanamo Bay, Cuba; or

''(2) any other action against the United States or its agents relating to any aspect of the detention by the Department of Defense of an alien at Guantanamo Bay, Cuba, who—

''(A) is currently in military custody; or

''(B) has been determined by the United States Court of Appeals for the District of Columbia Circuit in accordance with the proce-

dures set forth in section 1405(e) of the Detainee Treatment Act of 2005 to have been properly detained as an enemy combatant.''.

(2) REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision of a Combatant Status Review Tribunal that an alien is properly detained as an enemy combatant.

(B) LIMITATION ON CLAIMS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursu-

DOJ_NMG_ 0149637

ant to applicable procedures specified by the Secretary of Defense.

(C) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the standards and procedures specified by the Secretary of Defense for Combatant Status Review Tribunals (including the requirement that the conclusion of the Tribunal be supported by a preponderance of the evidence and allowing a rebuttable presumption in favor the Government's evidence); and

(ii) to the extent the Constitution and laws of the United States are applicable, whether the use of such standards and procedures to make the determination is consistent with the Constitution and laws of the United States.

DOJ_NMG_ 0149638

(D) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

(3) REVIEW OF FINAL DECISIONS OF MILITARY COMMISSIONS.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision rendered pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order).

(B) GRANT OF REVIEW.—Review under this paragraph—

(i) with respect to a capital case or a case in which the alien was sentenced to a term of imprisonment of 10 years or more, shall be as of right; or

(ii) with respect to any other case, shall be at the discretion of the United

DOJ_NMG_ 0149639

States Court of Appeals for the District of Columbia Circuit.

(C) LIMITATION ON APPEALS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to an appeal brought by or on behalf of an alien—

(i) who was, at the time of the proceedings pursuant to the military order referred to in subparagraph (A), detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a final decision has been rendered pursuant to such military order.

(D) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on an appeal of a final decision with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the final decision was consistent with the standards and procedures specified in the military order referred to in subparagraph (A); and

DOJ_NMG_ 0149640

(ii) to the extent the Constitution and laws of the United States are applicable, whether the use of such standards and procedures to reach the final decision is consistent with the Constitution and laws of the United States.

(4) RESPONDENT.—The Secretary of Defense shall be the named respondent in any appeal to the United States Court of Appeals for the District of Columbia Circuit under this subsection.

(f) CONSTRUCTION.—Nothing in this section shall be construed to confer any constitutional right on an alien detained as an enemy combatant outside the United States.

(g) UNITED STATES DEFINED.—For purposes of this section, the term ''United States'', when used in a geographic sense, is as defined in section 101(a)(38) of the Immigration and Nationality Act and, in particular, does not include the United States Naval Station, Guantanamo Bay, Cuba.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall take effect on the date of the enactment of this Act.

(2) REVIEW OF COMBATANT STATUS TRIBUNAL AND MILITARY COMMISSION DECISIONS.—Para-

DOJ_NMG_ 0149641

graphs (2) and (3) of subsection (e) shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act.

SEC. 1406. TRAINING OF IRAQI SECURITY FORCES REGARDING TREATMENT OF DETAINEES.

(a) REQUIRED POLICIES.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe policies designed to ensure that all military and civilian Department of Defense personnel or contractor personnel of the Department of Defense responsible for the training of any unit of the Iraqi Security Forces provide training to such units regarding the international obligations and laws applicable to the humane treatment of detainees, including protections afforded under the Geneva Conventions and the Convention Against Torture.

(2) ACKNOWLEDGMENT OF TRAINING.—The Secretary shall ensure that, for all personnel of the Iraqi Security Forces who are provided training referred to in paragraph (1), there is documented acknowledgment that such training has been provided.

(3) DEADLINE FOR POLICIES TO BE PRESCRIBED.—The policies required by paragraph (1)

DOJ_NMG_ 0149642

shall be prescribed not later than 180 days after the date of the enactment of this Act.

(b) ARMY FIELD MANUAL.—

(1) TRANSLATION.—The Secretary of Defense shall provide for the unclassified portions of the United States Army Field Manual on Intelligence Interrogation to be translated into Arabic and any other language the Secretary determines appropriate for use by members of the Iraqi security forces.

(2) DISTRIBUTION.—The Secretary of Defense shall provide for such manual, as translated, to be distributed to all appropriate officials of the Iraqi Government, including, but not limited to, the Iraqi Minister of Defense, the Iraqi Minister of Interior, senior Iraqi military personnel, and appropriate members of the Iraqi Security Forces with a recommendation that the principles that underlay the manual be adopted by the Iraqis as the basis for their policies on interrogation of detainees.

(c) TRANSMITTAL TO CONGRESSIONAL COMMITTEES.—Not less than 30 days after the date on which policies are first prescribed under subsection (a), the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives copies of such regula-

DOJ_NMG_ 0149643

tions, policies, or orders, together with a report on steps taken to the date of the report to implement this section.

(d) ANNUAL REPORT.—Not less than one year after the date of the enactment of this Act, and annually thereafter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of this section.



Attached is the final language to the McCain / Graham amendments. TY

Respectfully,

[redacted]

Legislative Affairs
1300 Defense Pentagon, Room 3D747
Washington, D.C. 20310-1300
[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 19, 2005 11:06 AM
To: Seidel, Rebecca; McCallum, Robert (SMO)
Cc: Senger, Jeffrey M; Kessler, Elizabeth A; Swenson, Lily F
Subject: Re: Assoc mtg today

No worries. Keep up the fight.

-----Original Message-----
From: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
CC: Senger, Jeffrey M <Jeffrey.M.Senger@SMOJMD.USDOJ.gov>; Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Mon Dec 19 10:53:26 2005
Subject: Assoc mtg today

I am not sure if OLA will be able to attend, Will, Jim and I running around a little crazy.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 19, 2005 1:55 PM
To: Reyes, Luis (SMO)
Cc: Brand, Rachel; Hertling, Richard
Subject: Trafficking report

Could you make sure Rachel and her team get ample chance to review and revise drafts of the trafficking rept as they become available?

Full Name:	Carl Nichols
Last Name:	Nichols
First Name:	Carl
Company:	CIV
Business Address:	Main Justice 950 Pennsylvania Ave. NW Washington, DC 30013CE5
Business:	202-514-3310
Mobile:	202-532-5632
Business Fax:	202-514-8071
E-mail:	canichol@CIV.USDOJ.GOV
E-mail Display As:	Carl Nichols (canichol@CIV.USDOJ.GOV)

DOJ_NMG_ 0149648

Full Name:	Lily Swenson
Last Name:	Swenson
First Name:	Lily
Company:	SMO
Business Address:	Main Justice Bldg. 950 Penn Ave, NW Room 5730 Washington, DC 20530-0001
Business:	202-514-9500
E-mail:	Lily.Fu.Swenson@SMOJMD.USDOJ.gov
E-mail Display As:	Lily Swenson (Lily.Fu.Swenson@SMOJMD.USDOJ.gov)

DOJ_NMG_ 0149649

Full Name:	Peter Keisler
Last Name:	Keisler
First Name:	Peter
Company:	CIV
Business Address:	Main Justice 950 Pennsylvania Avenue, NW. Washington, DC 20530 10053805
Business:	202-514-3301
Mobile:	202-532-5632
Business Fax:	202-514-8071
E-mail:	pkeisler@CIV.USDOJ.GOV
E-mail Display As:	Peter Keisler (pkeisler@CIV.USDOJ.GOV)

DOJ_NMG_ 0149650

Full Name:	Jeffrey Bucholtz
Last Name:	Bucholtz
First Name:	Jeffrey
Company:	CIV
Business Address:	Main Justice 950 Pennsylvania Avenue, NW. Washington, DC 20530 10069583
Business:	202-514-3045
Mobile:	202-532-5990
Business Fax:	202-514-8071
E-mail:	JBucholt@CIV.USDOJ.GOV
E-mail Display As:	Jeffrey Bucholtz (JBucholt@CIV.USDOJ.GOV)

DOJ_NMG_ 0149651

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 19, 2005 8:05 PM
To: Katsas, Gregory (CIV); Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Keisler, Peter D (CIV)
Subject: Re: GTMO Mtg

4 works fine for me as well.

-----Original Message-----
From: Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV> ; Keisler, Peter D (CIV) <pkeisler@CIV.USDOJ.GOV>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Dec 19 18:21:50 2005
Subject: RE: GTMO Mtg

Ditto.

From: Nichols, Carl (CIV)
Sent: Monday, December 19, 2005 6:11 PM
To: Bucholtz, Jeffrey (CIV); Keisler, Peter D (CIV); Katsas, Gregory (CIV); Gorsuch, Neil M
Subject: RE: GTMO Mtg

same here

From: Bucholtz, Jeffrey (CIV)
Sent: Monday, December 19, 2005 6:10 PM
To: Keisler, Peter D (CIV); Nichols, Carl (CIV); Katsas, Gregory (CIV); Gorsuch, Neil M
Subject: RE: GTMO Mtg

4pm or later tomorrow would be fine with me.

From: Keisler, Peter D (CIV)
Sent: Monday, December 19, 2005 6:03 PM
To: Nichols, Carl (CIV); Katsas, Gregory (CIV); Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Subject: RE: GTMO Mtg

Subject: RE: GTMO Mtg

I could meet at 4 or later, if that works for others....

From: Nichols, Carl (CIV)
Sent: Monday, December 19, 2005 6:01 PM
To: Katsas, Gregory (CIV); Keisler, Peter D (CIV); Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Subject: GTMO Mtg

Would it be possible to do a time other than 11am? In an ideal world, I'd attend the DKT argument [USAID funding/speech case] that is scheduled at that time.

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Tuesday, December 20, 2005 8:50 AM
To:	Katsas, Gregory (CIV); Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Keisler, Peter D (CIV)
Subject:	RE: GTMO Mtg

Are we meeting at 4 or some other time? If so, where?
-----Original Message-----
From: Katsas, Gregory (CIV)
Sent: Monday, December 19, 2005 6:22 PM
To: Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Keisler, Peter D (CIV); Gorsuch, Neil M
Subject: RE: GTMO Mtg

Ditto.

From: Nichols, Carl (CIV)
Sent: Monday, December 19, 2005 6:11 PM
To: Bucholtz, Jeffrey (CIV); Keisler, Peter D (CIV); Katsas, Gregory (CIV); Gorsuch, Neil M
Subject: RE: GTMO Mtg

same here

From: Bucholtz, Jeffrey (CIV)
Sent: Monday, December 19, 2005 6:10 PM
To: Keisler, Peter D (CIV); Nichols, Carl (CIV); Katsas, Gregory (CIV); Gorsuch, Neil M
Subject: RE: GTMO Mtg

4pm or later tomorrow would be fine with me.

From: Keisler, Peter D (CIV)
Sent: Monday, December 19, 2005 6:03 PM
To: Nichols, Carl (CIV); Katsas, Gregory (CIV); Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Subject: RE: GTMO Mtg

I could meet at 4 or later, if that works for others....

From: Nichols, Carl (CIV)
Sent: Monday, December 19, 2005 6:01 PM
To: Katsas, Gregory (CIV); Keisler, Peter D (CIV); Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Subject: GTMO Mtg

Would it be possible to do a time other than 11am? In an ideal world, I'd attend the DKT argument [USAID funding/speech case] that is scheduled at that time.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 8:51 AM
To: Keisler, Peter D (CIV); Katsas, Gregory (CIV); Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Meron, Daniel (CIV)
Subject: RE: GTMO Mtg

See you then and there; thanks Peter.
-----Original Message-----
From: Keisler, Peter D (CIV)
Sent: Tuesday, December 20, 2005 8:50 AM
To: Gorsuch, Neil M; Katsas, Gregory (CIV); Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Meron, Daniel (CIV)
Subject: RE: GTMO Mtg

How about 4:00 in my office?

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 8:50 AM
To: Katsas, Gregory (CIV); Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Keisler, Peter D (CIV)
Subject: RE: GTMO Mtg

Are we meeting at 4 or some other time? If so, where?
-----Original Message-----
From: Katsas, Gregory (CIV)
Sent: Monday, December 19, 2005 6:22 PM
To: Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Keisler, Peter D (CIV); Gorsuch, Neil M
Subject: RE: GTMO Mtg

Ditto.

From: Nichols, Carl (CIV)
Sent: Monday, December 19, 2005 6:11 PM
To: Bucholtz, Jeffrey (CIV); Keisler, Peter D (CIV); Katsas, Gregory (CIV); Gorsuch, Neil M
Subject: RE: GTMO Mtg

same here

From: Bucholtz, Jeffrey (CIV)
Sent: Monday, December 19, 2005 6:10 PM
To: Keisler, Peter D (CIV); Nichols, Carl (CIV); Katsas, Gregory (CIV); Gorsuch, Neil M
Subject: RE: GTMO Mtg

4pm or later tomorrow would be fine with me.

From: Keisler, Peter D (CIV)
Sent: Monday, December 19, 2005 6:03 PM
To: Nichols, Carl (CIV); Katsas, Gregory (CIV); Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Subject: RE: GTMO Mtg

I could meet at 4 or later, if that works for others....

From: Nichols, Carl (CIV)
Sent: Monday, December 19, 2005 6:01 PM
To: Katsas, Gregory (CIV); Keisler, Peter D (CIV); Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Subject: GTMO Mtg

Would it be possible to do a time other than 11am? In an ideal world, I'd attend the DKT argument [USAID funding/speech case] that is scheduled at that time.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 8:53 AM
To: Kessler, Elizabeth A
Subject: RE: [redacted]

[redacted]

-----Original Message-----
From: Kessler, Elizabeth A
Sent: Tuesday, December 20, 2005 7:24 AM
To: Gunn, Currie (SMO); McCallum, Robert (SMO); Gorsuch, Neil M; Reyes, Luis (SMO); Davis, Deborah J
Subject: [redacted]

I need to stay home today. [redacted] I'll be checking blackberry and voicemail.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 9:44 AM
To: Mercer, Bill (ODAG)
Bcc: McCallum, Robert (SMO)
Subject: Depty mtg

Paul mentioned that he may want Robt to attend a dc mtg today. If so, could you let me know the details asap so we can rejigger his schedule? Many thanks, friend. NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 10:09 AM
To: McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); Monheim, Thomas
Subject: RE: WH Mtg at noon

Will do

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, December 20, 2005 10:08 AM
To: Gorsuch, Neil M
Cc: Mercer, Bill (ODAG); Monheim, Thomas
Subject: FW: WH Mtg at noon

FYI re noon DC meeting on detainees. It appears that Tom and I are going. Tom: When can you and I meet for a briefing on the issues to get me prepped. Neil: You may have to proceed with the ANT meeting at 11am without me. Robt.

From: Gunn, Currie (SMO)
Sent: Tuesday, December 20, 2005 10:05 AM
To: McCallum, Robert (SMO)
Subject: WH Mtg at noon

I have spoken with the DAG's office, they indicated that they have cleared you and Tom Monheim (as the plus 1) in for the mtg at the WH at noon re: Detainees. I have left word for Tom Monheim to contact me, he is in a mtg with the Paul and the AG.

Currie

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 11:05 AM
To: Cohn, Jonathan (CIV)
Cc: Frank Jimenez (E-mail); Karen L. Hecker (E-mail); Carl Nichols (E-mail)
Subject: Binder

GTMO has another binder they'd like you to review. Please could you give Frank or Karen a call? Also feel free to give me a ring to discuss details. Thanks, NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 11:33 AM
To: Nichols, Carl (CIV)
Subject: Colo Volunteers

Where do we stand? I need to get back to Brett. Thanks

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 11:34 AM
To: [redacted]
Subject: FW: 1/09 CFR Meeting: "Iraq: The Way Forward" with [redacted]

please could you rsvp yes and put it on my calendar? Thanks.

-----Original Message-----
From: [redacted]@cfr.org [mailto:[redacted]@cfr.org]
Sent: Tuesday, December 20, 2005 10:29 AM
To: Gorsuch, Neil M
Subject: 1/09 CFR Meeting: "Iraq: The Way Forward" with [redacted]
[redacted]

COUNCIL ON FOREIGN RELATIONS

WASHINGTON OFFICE
1779 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20036-2109
Email [redacted]@cfr.org
Meetings Response Line Tel [redacted]
Fax [redacted]

DC MEETING

"IRAQ: THE WAY FORWARD"
A VIEW FROM TREASURY

[redacted]
Deputy Secretary, U.S. Department of the Treasury

[redacted]
Senior Writer, U.S. News and World Report presiding

In the next installment of our "Iraq: The Way Forward" series, Deputy Secretary [redacted] will discuss the Iraqi economy and the economic aspects of reconstruction.

Monday, January 9, 2006

6:00-6:30 PM Reception
6:30-7:30 PM Meeting

at

Council on Foreign Relations

Council on Foreign Relations
1779 Massachusetts Avenue, N.W.
Washington, D.C. 20036

This meeting is on the record.

To attend, please reply directly to this e-mail ([redacted]@cfr.org), call the DC Meetings Response Line at [redacted] register online at www.cfr.org/member, or fax your acceptance to [redacted]

This invitation is not transferable.
CFR meetings are open to Council members only unless otherwise noted.

Please update the information below if necessary:
Member Name: Neil M. Gorsuch 00355063
Company/Affiliation: U.S. Department of Justice
Telephone: 202-305-1434
Fax: 202-514-0238
E-mail: neil.gorsuch@usdoj.gov
I prefer to receive invitations and meeting updates via: email fax

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 12:19 PM
To: Gorsuch, Neil M
Subject: Eddie tripp currie

Gunn, Currie (SMO)

Subject:	Computer Install and blackberry upgrade
Start:	Tuesday, December 20, 2005 4:30 PM
End:	Tuesday, December 20, 2005 5:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M; Swenson, Lily F
Optional Attendees:	Shaw, Aloma A

When: Tuesday, December 20, 2005 3:00 PM-4:00 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 1:47 PM
To: Cohn, Jonathan (CIV)
Subject: RE: Binder

Anytime

-----Original Message-----
From: Cohn, Jonathan (CIV)
Sent: Tuesday, December 20, 2005 1:44 PM
To: Gorsuch, Neil M
Subject: RE: Binder

Thanks, Neil. I'll give you a call this afternoon, if that's ok.

Jon

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 11:05 AM
To: Cohn, Jonathan (CIV)
Cc: Frank Jimenez (E-mail); Karen L. Hecker (E-mail); Nichols, Carl (CIV)
Subject: Binder

GTMO has another binder they'd like you to review. Please could you give Frank or Karen a call? Also feel free to give me a ring to discuss details. Thanks, NMG

Shaw, Aloma A

Subject:	CFR Meeting: "Iraq: The Way Forward"
Location:	1779 Mass Ave., NW
Start:	Monday, January 09, 2006 6:00 PM
End:	Monday, January 09, 2006 7:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

"Iraq: The Way Forward" series, Deputy Secretary Kimmitt will discuss the Iraqi economy and the economic aspects of reconstruction.

Poc: dcmeetings@cfr.org - (202) 518-3479

Otus2005, Ag

Subject:	Updated: PREP: Steve Hadley Meeting
Start:	Tuesday, December 20, 2005 4:15 PM
End:	Tuesday, December 20, 2005 4:30 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Wednesday from 2:30 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Otus2005, Ag; McNulty, Paul J; Taylor, Jeffrey (OAG); Sampson, Kyle; Mercer, Bill (ODAG); Elwood, Courtney; Mercer, Bill (ODAG); Fisher, Alice; Gorsuch, Neil MOtus2005, Ag; McNulty, Paul J; Taylor, Jeffrey (OAG); Sampson, Kyle; Mercer, Bill (ODAG); Elwood, Courtney; Mercer, Bill (ODAG); Fisher, Alice; Gorsuch, Neil M

AG's Conference Room
AO: Jeff Taylor, DOJ: Kyle Sampson, Paul McNulty, Bill Mercer, Alice Fisher, Neil Gorsuch

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 2:59 PM
To: McCallum, Robert (SMO); Reyes, Luis (SMO)
Subject: RE: AG-led initiatives

A good list.

Some potential adds -- (1) avian flu response, both w/r/t security and civil liability; (2) privacy/civil liberties restructuring initiative; (3) continued emphasis on human trafficking efforts; (4) resuscitation of the IP task force; (5) settlement of first Cobell-style tribal claim on very favorable terms; (6) gang training initiative (rationalizing existing programs and focusing on best programs); (7) new bullet proof vest regulatory regime; (8) continued aggressive defense of war on terror related litigation.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, December 20, 2005 2:03 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: FW: AG-led initiatives

Thoughts? Attny client priv. waiver, detainee legislation/Graham amendment, Immigration litigation issues with Judicial branch and legislative fixes, NAACP outreach, Bankruptcy reform Act, coordination of issues and relationships with Judic. Conference committees, OJP Civ Litig. Stats, Cobell legislation, …… Other things? Robt.

From: Elwood, Courtney
Sent: Tuesday, December 20, 2005 1:45 PM
To: Sampson, Kyle; Brand, Rachel; Fisher, Alice; Goodling, Monica; Gorsuch, Neil M; McCallum, Robert (SMO); McNeil, Tucker (OPA); Mercer, Bill (ODAG); Moschella, William; Oldham, Jeffrey L; Pacold, Martha M; Roberts, Crystal; Scolinos, Tasia; Taylor, Jeffrey (OAG); McNulty, Paul J
Subject: AG-led initiatives

The Attorney General has asked us to prepare a list of initiatives or projects that the Department has launched or pursued at his direction during the year that he has been Attorney General (e.g., the gang initiative). Please identify for me any projects or initiatives that you believe fit this description.

Let me know if you have any questions.

Many thanks,
Courtney

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 3:03 PM
To: McCallum, Robert (SMO); Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: RE: AG-led initiatives

Tracy - Any other thoughts?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, December 20, 2005 3:02 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: RE: AG-led initiatives

Let's check with Tracy to see if there are any other things going on in OJP, OVW (like local justice centers), COPS, CRS, etc. I overlooked several important matters below. What about Katrina related matters? Robt.

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 2:59 PM
To: McCallum, Robert (SMO); Reyes, Luis (SMO)
Subject: RE: AG-led initiatives

A good list.

Some potential adds -- (1) avian flu response, both w/r/t security and civil liability; (2) privacy/civil liberties restructuring initiative; (3) continued emphasis on human trafficking efforts; (4) resuscitation of the IP task force; (5) settlement of first Cobell-style tribal claim on very favorable terms; (6) gang training initiative (rationalizing existing programs and focusing on best programs); (7) new bullet proof vest regulatory regime; (8) continued aggressive defense of war on terror related litigation.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, December 20, 2005 2:03 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: FW: AG-led initiatives

Thoughts? Attny client priv. waiver, detainee legislation/Graham amendment, Immigration litigation issues with Judicial branch and legislative fixes, NAACP outreach, Bankruptcy reform Act, coordination of issues and relationships with Judic. Conference committees, OJP Civ Litig. Stats, Cobell legislation, …… Other things? Robt.

From: Elwood, Courtney
Sent: Tuesday, December 20, 2005 1:45 PM
To: Sampson, Kyle; Brand, Rachel; Fisher, Alice; Goodling, Monica; Gorsuch, Neil M; McCallum, Robert (SMO); McNeil, Tucker (OPA); Mercer, Bill (ODAG); Moschella, William; Oldham, Jeffrey L; Pacold, Martha M; Roberts, Crystal; Scolinos, Tasia; Taylor, Jeffrey (OAG); McNulty, Paul J
Subject: AG-led initiatives

The Attorney General has asked us to prepare a list of initiatives or projects that the Department has launched or pursued at his direction during the year that he has been Attorney General (e.g., the gang

initiative). Please identify for me any projects or initiatives that you believe fit this description.

Let me know if you have any questions.

Many thanks,
Courtney

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 3:25 PM
To: McCallum, Robert (SMO); Reyes, Luis (SMO)
Cc: Henke, Tracy (SMO)
Subject: RE: AG-led initiatives

Absolutely

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, December 20, 2005 3:24 PM
To: Reyes, Luis (SMO); Gorsuch, Neil M
Cc: Henke, Tracy (SMO)
Subject: RE: AG-led initiatives

Neil: Since I am heading out this afternoon, will you respond to Courtney and copy me? Thanks. Robt.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, December 20, 2005 3:20 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Cc: Henke, Tracy (SMO)
Subject: Re: AG-led initiatives

Meant to copy you on this Tracy.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Tue Dec 20 15:14:44 2005
Subject: Re: AG-led initiatives

Would add sex offender registry , any initiatives we had on judicial security, (copying Tracy to make sure we can claim these), continuation of corporate integrity (i.e. KPMG), and meth initiatives.

Also, I know that we had a historic year in enforcing the language provisions of the Voting Rights Act - that is, we filed more Section 203 cases (giving access to the polls to more folks) than have ever been filed in a single year.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Tue Dec 20 14:58:52 2005
Subject: RE: AG-led initiatives

A good list.

Some potential adds -- (1) avian flu response, both w/r/t security and civil liability; (2) privacy/civil liberties restructuring initiative; (3) continued emphasis on human trafficking efforts; (4) resuscitation of the IP task force; (5) settlement of first Cobell-style tribal claim on very favorable terms; (6) gang training initiative (rationalizing existing programs and focusing on best programs); (7) new bullet proof vest regulatory regime; (8) continued aggressive defense of war on terror related litigation.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, December 20, 2005 2:03 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: FW: AG-led initiatives

Thoughts? Attny client priv. waiver, detainee legislation/Graham amendment, Immigration litigation issues with Judicial branch and legislative fixes, NAACP outreach, Bankruptcy reform Act, coordination of issues and relationships with Judic. Conference committees, OJP Civ Litig. Stats, Cobell legislation, ... Other things? Robt.

From: Elwood, Courtney
Sent: Tuesday, December 20, 2005 1:45 PM
To: Sampson, Kyle; Brand, Rachel; Fisher, Alice; Goodling, Monica; Gorsuch, Neil M; McCallum, Robert (SMO); McNeil, Tucker (OPA); Mercer, Bill (ODAG); Moschella, William; Oldham, Jeffrey L; Pacold, Martha M; Roberts, Crystal; Scolinos, Tasia; Taylor, Jeffrey (OAG); McNulty, Paul J
Subject: AG-led initiatives

The Attorney General has asked us to prepare a list of initiatives or projects that the Department has launched or pursued at his direction during the year that he has been Attorney General (e.g., the gang initiative). Please identify for me any projects or initiatives that you believe fit this description.

Let me know if you have any questions.

Many thanks,
Courtney

Shaw, Aloma A

Subject:	Computer Set-Up
Start:	Wednesday, December 21, 2005 11:00 AM
End:	Wednesday, December 21, 2005 11:45 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 3:59 PM
To: Reyes, Luis (SMO); Henke, Tracy (SMO); Swenson, Lily F
Cc: McCallum, Robert (SMO)
Subject: RE: AG-led initiatives

Here's the list as I have it. Please let me know if you have any additional ideas or suggested edits.

Advent of national sex offender registry & likelihood of covering virtually all states soon Historic number of enforcement actions regarding the language provisions of the Voting Rights Act (Sec. 203) Continued emphasis on human trafficking prosecutions compared with prior years Detainee legislation/Graham amendment NAACP outreach New bullet proof vest regulatory regime Implementation of bankruptcy reform act Settlement of first, model tribal Cobell-style claim on favorable terms; efforts aimed at Cobell legislation Attorney client priv. waiver policy directive Coordination of relationships with Judicial Conference Advancing studies of civil justice statistics to inform "tort reform" debate Continuation of corporate and political integrity investigations (eg KPMG; Conyngham; Abramoff; Libby) Avian flu response, both w/r/t security and civil liability Privacy/civil liberties restructuring initiative Immigration litigation reform initiative Revival of the IP task force Gang training initiative (rationalizing existing programs and focusing on best programs) Continued aggressive defense of war on terror related litigation

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, December 20, 2005 2:03 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: FW: AG-led initiatives

Thoughts? Attny client priv. waiver, detainee legislation/Graham amendment, Immigration litigation issues with Judicial branch and legislative fixes, NAACP outreach, Bankruptcy reform Act, coordination of issues and relationships with Judic. Conference committees, OJP Civ Litig. Stats, Cobell legislation, ... Other things? Robt.

From: Elwood, Courtney
Sent: Tuesday, December 20, 2005 1:45 PM
To: Sampson, Kyle; Brand, Rachel; Fisher, Alice; Goodling, Monica; Gorsuch, Neil M; McCallum, Robert (SMO); McNeil, Tucker (OPA); Mercer, Bill (ODAG); Moschella, William; Oldham, Jeffrey L; Pacold, Martha M; Roberts, Crystal; Scolinos, Tasia; Taylor, Jeffrey (OAG); McNulty, Paul J
Subject: AG-led initiatives

The Attorney General has asked us to prepare a list of initiatives or projects that the Department has launched or pursued at his direction during the year that he has been Attorney General (e.g., the gang

initiative). Please identify for me any projects or initiatives that you believe fit this description.

Let me know if you have any questions.

Many thanks,
Courtney

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 4:07 PM
To: '[redacted]@dodgc.osd.mil'; [redacted]@dodgc.osd.mil; [redacted]
Subject: RE: T/C with [redacted] re Graham litigation

Thanks. [redacted] please could you add this to the calendar?

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:Heckerk@dodgc.osd.mil]
Sent: Tuesday, December 20, 2005 3:40 PM
To: Gorsuch, Neil M; [redacted]@dodgc.osd.mil
Subject: RE: T/C with [redacted] re Graham litigation

We're a go for 1430. GTMO wanted an agenda for the call, I'll cobble together something. I will send around call in info asap.

[redacted]
Office of the DoD General Counsel (Legal Counsel)

Room 3B652
[redacted]
(703) 614-6745 (fax)

This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without prior approval from the Office of the DoD General Counsel.

Otus2005, Ag

Subject:	Senior Management Meeting
Start:	Wednesday, December 21, 2005 9:00 AM
End:	Wednesday, December 21, 2005 9:30 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Williams, Jan; Roberts, Crystal; Gorsuch, Neil M; McNulty, Paul J

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jan Williams, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Roberts

Tenpas, Ronald J (ODAG)

Subject:	Updated: Rules of Evidence Change: Attorney Client Privilege
Location:	Conference Room 4133
Start:	Wednesday, December 21, 2005 1:00 PM
End:	Wednesday, December 21, 2005 2:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Tenpas, Ronald J (ODAG)
Required Attendees:	Brand, Rachel; Fisher, Alice; Keisler, Peter D (CIV); Gorsuch, Neil M; Immergut, Karin (USAOR); Meehan, Patrick (USAPAE); Shapiro, Elizabeth (CIV); Rutledge, Sue (USAOR)

POC: Pam Moye 305-8831

Voice Conference Number and Code for Karin Immergut, Sue Rutledge and Patrick Meehan
Call in Telephone Number: 202-353-0879 Pass Code: 7884

Gorsuch, Neil M

Subject:	JJ and Steph Visiting16-19
Start:	Monday, January 16, 2006 8:30 AM
End:	Monday, January 16, 2006 9:00 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	CFR Event NYC
Start:	Tuesday, January 24, 2006 6:00 PM
End:	Tuesday, January 24, 2006 8:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 21, 2005 8:26 AM
To: Gunn, Currie (SMO)
Subject: RE: Merry Christmas

Thank you for all you do! You've made me feel very warmly welcomed into this office. Warmest Christmas wishes to you and yours, Neil

-----Original Message-----
From: Gunn, Currie (SMO)
Sent: Tuesday, December 20, 2005 6:11 PM
To: Shaw, Aloma A; Davis, Deborah J; Cinciotta, Linda A; McCallum, Robert (SMO); Gorsuch, Neil M; Henke, Tracy (SMO); Kessler, Elizabeth A; Reyes, Luis (SMO); Senger, Jeffrey M; Swenson, Lily F
Subject: Merry Christmas

I want to take this opportunity to thank you all for the gifts and kindness you have shown during this year.

From my family to yours, wishing you all a safe, healthy, happy holiday.

Peace and Blessings!

Currie

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 21, 2005 8:34 AM
To: Elwood, Courtney
Cc: McCallum, Robert (SMO); Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: FW: AG-led initiatives

Courtney, Below is a list of some items Robert, Lu, Tracy and I could think of immediately. We'll continue thinking on this, but do let us know if we can be of any further help, NMG

Advent of national sex offender registry & likelihood of covering virtually all states soon Historic number of enforcement actions regarding the language provisions of the Voting Rights Act (Sec. 203) Continued strong emphasis on human trafficking prosecutions Detainee legislation - Graham amendment NAACP outreach New bullet proof vest regulatory regime Implementation of bankruptcy reform act Settlement of first, model tribal Cobell-style claim on favorable terms; efforts aimed at Cobell legislation Attorney client privilege waiver policy directive Coordination of relationships with Judicial Conference Advancing studies of civil justice statistics to inform "tort reform" debate Continued strong emphasis on corporate and political integrity investigations (eg KPMG; Conyngham; Abramoff; Libby) Avian flu response, both w/r/t security issues and civil liability Privacy/civil liberties restructuring initiative Immigration litigation reform initiative Revival of the IP task force Gang training initiative (rationalizing existing programs and focusing on best programs) Continued aggressive defense of war on terror related litigation

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 21, 2005 8:35 AM
To: Sampson, Kyle; Taylor, Jeffrey (OAG)
Subject: FW: AG-led initiatives

Gents: Should've included you on this as well. NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, December 21, 2005 8:34 AM
To: Elwood, Courtney
Cc: McCallum, Robert (SMO); Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: FW: AG-led initiatives

Courtney, Below is a list of some items Robert, Lu, Tracy and I could think of immediately. We'll continue thinking on this, but do let us know if we can be of any further help, NMG

Advent of national sex offender registry & likelihood of covering virtually all states soon Historic number of enforcement actions regarding the language provisions of the Voting Rights Act (Sec. 203) Continued strong emphasis on human trafficking prosecutions Detainee legislation - Graham amendment NAACP outreach New bullet proof vest regulatory regime Implementation of bankruptcy reform act Settlement of first, model tribal Cobell-style claim on favorable terms; efforts aimed at Cobell legislation Attorney client privilege waiver policy directive Coordination of relationships with Judicial Conference Advancing studies of civil justice statistics to inform "tort reform" debate Continued strong emphasis on corporate and political integrity investigations (eg KPMG; Conyngham; Abramoff; Libby) Avian flu response, both w/r/t security issues and civil liability Privacy/civil liberties restructuring initiative Immigration litigation reform initiative Revival of the IP task force Gang training initiative (rationalizing existing programs and focusing on best programs) Continued aggressive defense of war on terror related litigation

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 21, 2005 9:01 AM
To: Reyes, Luis (SMO)
Subject: Re: Later this morning

Superb.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Dec 21 09:00:01 2005
Subject: Later this morning

I will be sending you an update on trafficking issues:

1. Latest draft of report (with a copy to Rachel and Richard.

2. Options and recommendations re: which trafficking sentencing to use for AG announcement

3. Options and recommendations re: grants announcements and OJPs propose press on this as it stands.

Tieing this all together now.

Bookmarks

Personal Toolbar Folder

DOJ NET
DOJ WORLDTALK

Channels

Autos
Business
Computing and Internet
Education
Entertainment
Games
Health
Family
Lifestyles
Local
Netscape
News
Personal Finance
Real Estate
Shopping
Small Business
Sports
Travel

RealPlayer

Netscape.com

Search

About.com
Ask Jeeves
Excite
Google
GoTo.com
LookSmart
Lycos
Netscape Search
Snap.com

Business and Finance

Career Center
DiTech.com
Finance Directory
Gartner Group Interactive
Personal Finance Channel
Postage Center
Real Estate Directory
Small Business Directory
worldlyinvestor.com

Computers and Internet

@vantage
Computing Channel
eBay Computers
Free Software
Hardware Channel
Insight-Computing Products
Shareware Directory
TechSearch
Toshiba

Directories

4anything.com Directories
BellSouth-Real WhitePages
Britannica.com
Find Celebrities
GTE SuperPages
Home Pages Directory
Netscape Yellow Pages
People Finder
YellowPages AtHand

Entertainment and Lifestyles

Celebrities Channel
Discovery Health
eNutrition
ET Online
Movies Channel
Rolling Stone Network
theglobe.com community
TV Channel.com
Women.com

News and Sports

ABCNEWS.com
Business Journal

Business Journal
eBay Sports
Entertainment News
Music News Directory
News and Media Directory
News Channel
Sports Channel
Today's Tech News

Shopping and Classifieds

Amazon.com
CoolSavings Coupons
DealDeal.com Auctions
Fine Gifts and Housewares
Free Forum Freebies
FreeRide
KBkids.com
Music Boulevard
Rent.Net

Travel and Leisure

Leisure Planet
Local Channel
Maps Directory
Outdoors Directory
Regional Directory
Travelocity
Travel Directory
Vacations
World Directory

What's New and Cool

Advertise with Netscape
Become a Directory Editor
Instant Messenger
My Netscape
New Netscape Search
Search from Your Browser
Site Central
What's Cool
What's New

Personal Bookmarks

RealPlayer Home Page

Media

Real.com Radio Tuner

Imported IE Favorites

Corel on the Web

Corel eStore
Corel Studio
Corel Support
Corel's Business Applications Community
Corel's Graphics Community
COREL.COM

Imported bookmarks

Business and Finance

Career Center
DiTech.com
Finance Directory
Gartner Group Interactive
Personal Finance Channel
Postage Center
Real Estate Directory
Small Business Directory
worldlyinvestor.com

Computers and Internet

@vantage
Computing Channel
eBay Computers
Free Software
Hardware Channel
Insight-Computing Products
Shareware Directory
TechSearch
Toshiba

Directories

4anything.com Directories
BellSouth-Real WhitePages
Britannica.com
Find Celebrities
GTE SuperPages
Home Pages Directory
Netscape Yellow Pages

People Finder
YellowPages AtHand

Entertainment and Lifestyles

Celebrities Channel
Discovery Health
eNutrition
ET Online
Movies Channel
Rolling Stone Network
theglobe.com community
TV Channel.com
Women.com

Netscape.com

News and Sports

ABCNEWS.com
Business Journal
eBay Sports
Entertainment News
Music News Directory
News and Media Directory
News Channel
Sports Channel
Today's Tech News

Personal Bookmarks

Personal Toolbar Folder

Channels

Autos
Business
Computing and Internet
Education
Entertainment
Family
Games
Health
Lifestyles
Local
Netscape
News
Personal Finance
Real Estate
Shopping

Small Business
Sports
Travel

DOJ NET
DOJ WORLDTALK

Search

About.com
Ask Jeeves
Excite
Google
GoTo.com
LookSmart
Lycos
Netscape Search
Snap.com

Shopping and Classifieds

Amazon.com
CoolSavings Coupons
DealDeal.com Auctions
Fine Gifts and Housewares
Free Forum Freebies
FreeRide
KBkids.com
Music Boulevard
Rent.Net

Travel and Leisure

Leisure Planet
Local Channel
Maps Directory
Outdoors Directory
Regional Directory
Travel Directory
Travelocity
Vacations
World Directory

What's New and Cool

Advertise with Netscape
Become a Directory Editor
Instant Messenger
My Netscape
New Netscape Search
Search from Your Browser

Search from Your Browser
Site Central
What's Cool
What's New

Links

Customize Links
Free Hotmail
Windows

Media

Bloomberg
Capitol Records
CBS
CNBC Dow Jones Business Video
CNET Today - Technology News
CNN Videoselect
Disney
ESPN Sports
Fox News
Fox Sports
Hollywood Online
Internet Radio Guide
MSNBC
MUSICVIDEOS.COM
NBC VideoSeeker
TV Guide Entertainment Network
Universal Studios Online
Warner Bros. Hip Clips
What's On Now
Windows Media Showcase

MSN
Radio Station Guide
Web Events

Nightingale Alliance® Euthanasia Opposition - Resources, End of Life Alternatives

Shaw, Aloma A

Subject:	Car en route to Bombay Club - 10th St. Gate
Location:	815 Ct Ave
Start:	Wednesday, December 21, 2005 11:50 AM
End:	Wednesday, December 21, 2005 11:50 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Shaw, Aloma A

Subject:	Car en route DOJ
Start:	Wednesday, December 21, 2005 12:50 PM
End:	Wednesday, December 21, 2005 12:50 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Gunn, Currie (SMO)

Subject:	Canceled: Tax Bi-Weekly Meeting
Location:	5710
Start:	Thursday, December 22, 2005 10:00 AM
End:	Thursday, December 22, 2005 11:00 AM
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Thursday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); O'Connor, Eileen J. (AAG/TAX); Fallon, Claire (TAX); Morrison, Richard T. (TAX); Hofer, Patrick F. (TAX); Reyes, Luis (SMO); Gorsuch, Neil M; Boente, Dana J. (TAX); Fallon, Claire (TAX); Oldham, Jeffrey LMcCallum, Robert (SMO); O'Connor, Eileen J. (AAG/TAX); Fallon, Claire (TAX); Morrison, Richard T. (TAX); Hofer, Patrick F. (TAX); Reyes, Luis (SMO); Gorsuch, Neil M; Boente, Dana J. (TAX); Fallon, Claire (TAX); Oldham, Jeffrey L
Optional Attendees:	Shaw, Aloma AShaw, Aloma A
Importance:	High

Meeting canceled per Tax.

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Eileen O'Connor-AAG Tax, Claire Fallon-Tax, Dana Boente-Tax, Patrick Hoffer-Tax, Luis Reyes-OASG

POC: Currie Gunn x4-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 21, 2005 12:07 PM
To: '[redacted]@gwb43.com'
Subject: Should be there in a few mins - sorry am running a little behind schedule today

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 21, 2005 12:12 PM
To: Shaw, Aloma A
Subject: Re: Mr. Sampson is riding along. You'll have to go down right away!

Ok. Can you make return car for 1pm instead of 1250?

-----Original Message-----
From: Shaw, Aloma A <Aloma.A.Shaw@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Dec 21 11:53:40 2005
Subject: Mr. Sampson is riding along. You'll have to go down right away!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 21, 2005 4:58 PM
To: [redacted]@gwb43.com'
Subject: RE:

It's nothing you don't richly deserve.

-----Original Message-----
From: [redacted]@gwb43.com [mailto:[redacted]@gwb43.com]
Sent: Wednesday, December 21, 2005 4:58 PM
To: Gorsuch, Neil M
Subject:

Got your VM. Sounds great. THANK YOU!

[redacted] Associate Director
The White House Office of Political Affairs [redacted] (direct)
[redacted] (cell)
202-456-6521 (fax)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 21, 2005 5:14 PM
To: Karen L. Hecker ([redacted]@dodgc.osd.mil)
Subject: Graham

What's the status of the defense authorization (not approps) bill in the Senate and when do your folks expect passage (or is it tangled up in approps fight)? Many thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 21, 2005 7:38 PM
To: Elwood, Courtney; Sampson, Kyle; Shaw, Aloma A
Subject: Morning mtg

FYI - I will not make tomorrow's mtg but will be in later and reachable by cell.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 22, 2005 9:45 AM
To: Shaw, Aloma A
Subject: Please could you cancel staff for today?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 22, 2005 9:49 AM
To: Tenpas, Ronald J (ODAG)
Subject: Lunch

Are we on for today? If so, would 1230 work for you? You name the venue. All the best, NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 22, 2005 10:25 AM
To: Tenpas, Ronald J (ODAG)
Subject: RE: Lunch

Sounds great.

-----Original Message-----
From: Tenpas, Ronald J (ODAG)
Sent: Thursday, December 22, 2005 10:23 AM
To: Gorsuch, Neil M
Subject: Re: Lunch

Still works for me. How about if I just come by your office at 12:30 and we go from there?

R

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Tenpas, Ronald J (ODAG) <Ronald.J.Tenpas@SMOJMD.USDOJ.gov>
Sent: Thu Dec 22 09:48:33 2005
Subject: Lunch

Are we on for today? If so, would 1230 work for you? You name the venue. All the best, NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 22, 2005 12:20 PM
To: John B. Wiegmann (John_B._Wiegmann@nsc.eop.gov)
Subject: GRAHAM TALKING POINTS 12-22
Attachments: GRAHAM TALKING POINTS 12-22.doc

Brad - Per our talk yesterday, a draft for your consideration. NMG

DRAFT 2/15/2017

GRAHAM-LEVIN TALKING POINTS

A Bipartisan Effort We Can Be Proud Of

- Graham-Levin amendment was a bipartisan effort that passed the Senate 84-14, and was later approved as part of the Defense Authorization Bill on a voice vote in the Senate

- The amendment affords each Al Qaeda detainee at Guantanamo with: (1) a guaranteed right of access to the courts to challenge whether he should be detained as an enemy combatant, (2) a second, guaranteed opportunity for judicial review if he is convicted of serious war crimes; and (3) the right to an annual administrative review to determine whether he should be released (akin to a parole board hearing).

- Graham-Levin adopts and codifies the Administration's CSRT, ARB, and MC regime for adjudication of detainees at Guantanamo, endorsing the procedures and protections created by DoD. It is a vindication of the care and thought that went into the development of the Administration's procedures.

- The codified CSRT procedures are more extensive than those used by any other nation in any previous conflict to determine combat detainee status. The process is modeled on Army Regulation 190-8, which Justice O'Connor's opinion in *Hamdi* indicated would be ample process even for *American citizens.*

- Detainees receive substantial protections in CSRT proceedings, including the opportunity to be heard in person, the ability to present additional evidence they believe might benefit them, and the assistance of a military officer assigned to serve as their personal representative. Non-classified proceedings are open to the media.

- Every year, each GTMO detainee is *also* entitled to an ARB hearing to reassess whether his release is appropriate. DoD has gone above and beyond anything required by domestic or international law, including the Geneva Conventions, providing enemy combatants a chance to be heard and released *even while conflict is ongoing*.

- Through CSRTs, ARBs or other means, over 200 detainees have been released from GTMO since the commencement of hostilities. Showing how it has erred on the side of release, DoD reports that over 10 have been either recaptured or killed on the battlefield fighting against the U.S.

- The Military Commission process now adopted by Congress has historically been used to prosecute enemy combatants who violate the laws of war for fixed terms of confinement. The United States used the Military Commission process during World War II. Each accused tried by a Military Commission has the following

procedural safeguards: the presumption of innocence; proof of guilt beyond a reasonable doubt; the right to call and cross examine witnesses (subject to the rules regarding production of witnesses and protection of information); nothing said by an accused to his attorney, or anything derived therefrom, may be used against him at trial; no adverse inference for remaining silent; overall requirement that any military commission proceeding be full and fair. Finally, to assist him in preparing a defense, each accused has a Military Defense Counsel provided at no cost. Alternatively, the accused may also hire a civilian defense counsel.

- Additional layers of review follow, including a three-member Review Panel who will review all cases for material errors of law. Extremely qualified individuals have agreed to serve on the Review Panel: Judge Griffin Bell, a former U.S. Attorney General and former federal appellate judge from the U.S. Court of Appeals for the Fifth Circuit; Judge Edward George Biester, Jr., a sitting judge on the Court of Common Pleas of Bucks County, Pennsylvania and former Attorney General in Pennsylvania and Member of Congress; William T. Coleman, former Secretary of Transportation and member of the U.S. delegation to the U.N. General Assembly; Judge Frank J. Williams, currently Chief Justice of the Rhode Island Supreme Court.

The Need for Litigation Reform

- There was a profound need for Graham-Levin to sort our which litigation rights detainees should and should not have. Our enemies have clogged our courts with frivolous litigation. There are, for example, 160 *habeas* cases pending on behalf of approximately 300 GTMO detainees.

    - Al Qaeda training manuals expressly promote the use of litigation to thwart our war effort.

    - Detainees have sought to litigate over everything from seeking access to DVDs, dictionaries, more exercise time, faster mail delivery, access to video messages from their families, copies of the Koran with commentary instead of the standard Koran without.

    - Detainees' lawyers have even sued because they consider dial-up Internet access at GTMO as slow.

- Suits now exist from Afghanistan and Iraq, as well as GTMO. And they now seek not just *habeas* relief but money damages from individual soldiers.

- Detained enemies have never before been allowed to challenge in court either their detention or their conditions of confinement. Had these conditions existed during World War II, hundreds of thousands of captured German and Japanese soldiers would have been entitled to lawyers and hearings in federal court.

DOJ_NMG_ 0149706

- Even our own soldiers convicted under the UCMJ are not entitled to challenge the substance of their convictions through *habeas* in federal court, only whether the military court had jurisdiction over them as members of the armed forces. The Graham Amendment provides terrorists more process in courts than this.

Why There's Nothing Alarming or Unusual About Limiting Habeas

- Congress has modified the *habeas* statutes many times in the past. For example:

    - Antiterrorism and Effective Death Penalty Act ("AEDPA") and the Illegal Immigration Reform and Immigrant Responsibility Act, passed in 1996. AEDPA placed a number of limitations on the scope of *habeas* relief available to persons challenging the judgment of a State court and prohibited the Supreme Court from reviewing the decision of a circuit court to allow or to bar a state prisoner from filing successive petitions.

    - 8 U.S.C. § 1226a(b) (part of the USA PATRIOT Act of 2001) places limits on *habeas* for aliens involved in terrorism or other activity endangering national security.

    - 8 U.S.C. § 1201(i) (part of the Intelligence Reform and Terrorist Prevention Act of 2004) bars *habeas* review of certain visa revocation decisions.

    - 8 U.S.C. § 1252 (part of the REAL ID Act of 2005) eliminates *habeas* review of decisions not involving constitutional claims or questions in cases involving asylum, removal of criminal aliens, and denials of discretionary relief by DoJ or DHS.

- If Congress can place *habeas* limits on U.S. citizens and aliens who are located within the U.S. during peacetime, certainly it is appropriate for Congress to limit *habeas* petitions for aliens captured during wartime who are being held outside of the United States.

- Reform is not an attack on last year's Supreme Court decisions. The Supreme Court in its 2004 *Rasul* decision recognized that Congress could amend the *habeas* statute. And several Justices have expressly called strongly for Congress to bring clarity to this area, including Justice Scalia in a written opinion and Justice O'Connor in a recent speech at West Point.

- As Senator Graham said on the floor of the Senate, these are terrorists who are suing our own troops and officials in our domestic civilian courts in a time of war. There is no legal or moral imperative to treat them on par with common civilian criminals who are American citizens. Even so, this bill does not cut off terrorist litigation but specifically allows even those found to be enemy combatants, as well as those found guilty of war crimes in trials before military commissions, the

right to appeal to the Court of Appeals for the DC Circuit – the so-called "second highest court in the land."

DOJ_NMG_ 0149708

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 22, 2005 12:24 PM
To: Shaw, Aloma A; Gunn, Currie (SMO)
Cc: McCallum, Robert (SMO)
Subject: FW: SMO meetings

FYI

From: Sampson, Kyle
Sent: Thursday, December 22, 2005 12:21 PM
To: McNulty, Paul J; Mercer, Bill (ODAG); McCallum, Robert (SMO); Gorsuch, Neil M; Moschella, William; Scolinos, Tasia; Brand, Rachel; Roberts, Crystal; Beach, Andrew; Bennett, Catherine T; Elwood, Courtney; Jenkins, Linda A; Meadows, Bessie L; Nelson, Carrie; Nichols, Grant W; Oldham, Jeffrey L; Pacold, Martha M; Sampson, Kyle; Schreiber, Jayne; Sellers, Kiahna (OAG); Smith, Mauri E; Sours, Raquel; Taylor, Jeffrey (OAG); Underhill, Deborah; Walker, Shelia M; Washington, Tracy T; Williams, Jan
Subject: SMO meetings

All, we are cancelling our daily Senior Management Meeting from 12/23 to 1/2, commencing again on Tuesday, 1/3. If there are others who should receive this notice (ODAG/OASG schedulers), please let them know. Merry Christmas.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 22, 2005 12:34 PM
To: [redacted]@dodgc.osd.mil); [redacted] ([redacted]dodgc.osd.mil); William Kelly (William_K._Kelley@who.eop.gov); [redacted]@state.gov); Elwood, Courtney; Moschella, William; Scolinos, Tasia; Brett Gerry (bgerry@who.eop.gov); McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG)
Subject: FW: GRAHAM TALKING POINTS 12-22
Attachments: GRAHAM TALKING POINTS 12-22.doc

At NSC's suggestion, we put together some draft tps related to the passage of Graham-Levin as part of the Def Authorization Bill that just cleared the Senate. I thought these might be of use to you as well. Any additions/comments most welcome. NMG

From: Gorsuch, Neil M
Sent: Thursday, December 22, 2005 12:20 PM
To: John B. Wiegmann (John_B._Wiegmann@nsc.eop.gov)
Subject: GRAHAM TALKING POINTS 12-22

Brad - Per our talk yesterday, a draft for your consideration. NMG

DRAFT 2/15/2017

GRAHAM-LEVIN TALKING POINTS

A Bipartisan Effort We Can Be Proud Of

- Graham-Levin amendment was a bipartisan effort that passed the Senate 84-14, and was later approved as part of the Defense Authorization Bill on a voice vote in the Senate

- The amendment affords each Al Qaeda detainee at Guantanamo with: (1) a guaranteed right of access to the courts to challenge whether he should be detained as an enemy combatant, (2) a second, guaranteed opportunity for judicial review if he is convicted of serious war crimes; and (3) the right to an annual administrative review to determine whether he should be released (akin to a parole board hearing).

- Graham-Levin adopts and codifies the Administration's CSRT, ARB, and MC regime for adjudication of detainees at Guantanamo, endorsing the procedures and protections created by DoD. It is a vindication of the care and thought that went into the development of the Administration's procedures.

- The codified CSRT procedures are more extensive than those used by any other nation in any previous conflict to determine combat detainee status. The process is modeled on Army Regulation 190-8, which Justice O'Connor's opinion in *Hamdi* indicated would be ample process even for *American citizens.*

- Detainees receive substantial protections in CSRT proceedings, including the opportunity to be heard in person, the ability to present additional evidence they believe might benefit them, and the assistance of a military officer assigned to serve as their personal representative. Non-classified proceedings are open to the media.

- Every year, each GTMO detainee is *also* entitled to an ARB hearing to reassess whether his release is appropriate. DoD has gone above and beyond anything required by domestic or international law, including the Geneva Conventions, providing enemy combatants a chance to be heard and released *even while conflict is ongoing*.

- Through CSRTs, ARBs or other means, over 200 detainees have been released from GTMO since the commencement of hostilities. Showing how it has erred on the side of release, DoD reports that over 10 have been either recaptured or killed on the battlefield fighting against the U.S.

- The Military Commission process now adopted by Congress has historically been used to prosecute enemy combatants who violate the laws of war for fixed terms of confinement. The United States used the Military Commission process during World War II. Each accused tried by a Military Commission has the following

procedural safeguards: the presumption of innocence; proof of guilt beyond a reasonable doubt; the right to call and cross examine witnesses (subject to the rules regarding production of witnesses and protection of information); nothing said by an accused to his attorney, or anything derived therefrom, may be used against him at trial; no adverse inference for remaining silent; overall requirement that any military commission proceeding be full and fair. Finally, to assist him in preparing a defense, each accused has a Military Defense Counsel provided at no cost. Alternatively, the accused may also hire a civilian defense counsel.

- Additional layers of review follow, including a three-member Review Panel who will review all cases for material errors of law. Extremely qualified individuals have agreed to serve on the Review Panel: Judge Griffin Bell, a former U.S. Attorney General and former federal appellate judge from the U.S. Court of Appeals for the Fifth Circuit; Judge Edward George Biester, Jr., a sitting judge on the Court of Common Pleas of Bucks County, Pennsylvania and former Attorney General in Pennsylvania and Member of Congress; William T. Coleman, former Secretary of Transportation and member of the U.S. delegation to the U.N. General Assembly; Judge Frank J. Williams, currently Chief Justice of the Rhode Island Supreme Court.

The Need for Litigation Reform

- There was a profound need for Graham-Levin to sort our which litigation rights detainees should and should not have. Our enemies have clogged our courts with frivolous litigation. There are, for example, 160 *habeas* cases pending on behalf of approximately 300 GTMO detainees.

    - Al Qaeda training manuals expressly promote the use of litigation to thwart our war effort.

    - Detainees have sought to litigate over everything from seeking access to DVDs, dictionaries, more exercise time, faster mail delivery, access to video messages from their families, copies of the Koran with commentary instead of the standard Koran without.

    - Detainees' lawyers have even sued because they consider dial-up Internet access at GTMO as slow.

- Suits now exist from Afghanistan and Iraq, as well as GTMO. And they now seek not just *habeas* relief but money damages from individual soldiers.

- Detained enemies have never before been allowed to challenge in court either their detention or their conditions of confinement. Had these conditions existed during World War II, hundreds of thousands of captured German and Japanese soldiers would have been entitled to lawyers and hearings in federal court.

- Even our own soldiers convicted under the UCMJ are not entitled to challenge the substance of their convictions through *habeas* in federal court, only whether the military court had jurisdiction over them as members of the armed forces. The Graham Amendment provides terrorists more process in courts than this.

Why There's Nothing Alarming or Unusual About Limiting Habeas

- Congress has modified the *habeas* statutes many times in the past. For example:

    - Antiterrorism and Effective Death Penalty Act ("AEDPA") and the Illegal Immigration Reform and Immigrant Responsibility Act, passed in 1996. AEDPA placed a number of limitations on the scope of *habeas* relief available to persons challenging the judgment of a State court and prohibited the Supreme Court from reviewing the decision of a circuit court to allow or to bar a state prisoner from filing successive petitions.

    - 8 U.S.C. § 1226a(b) (part of the USA PATRIOT Act of 2001) places limits on *habeas* for aliens involved in terrorism or other activity endangering national security.

    - 8 U.S.C. § 1201(i) (part of the Intelligence Reform and Terrorist Prevention Act of 2004) bars *habeas* review of certain visa revocation decisions.

    - 8 U.S.C. § 1252 (part of the REAL ID Act of 2005) eliminates *habeas* review of decisions not involving constitutional claims or questions in cases involving asylum, removal of criminal aliens, and denials of discretionary relief by DoJ or DHS.

- If Congress can place *habeas* limits on U.S. citizens and aliens who are located within the U.S. during peacetime, certainly it is appropriate for Congress to limit *habeas* petitions for aliens captured during wartime who are being held outside of the United States.

- Reform is not an attack on last year's Supreme Court decisions. The Supreme Court in its 2004 *Rasul* decision recognized that Congress could amend the *habeas* statute. And several Justices have expressly called strongly for Congress to bring clarity to this area, including Justice Scalia in a written opinion and Justice O'Connor in a recent speech at West Point.

- As Senator Graham said on the floor of the Senate, these are terrorists who are suing our own troops and officials in our domestic civilian courts in a time of war. There is no legal or moral imperative to treat them on par with common civilian criminals who are American citizens. Even so, this bill does not cut off terrorist litigation but specifically allows even those found to be enemy combatants, as well as those found guilty of war crimes in trials before military commissions, the

right to appeal to the Court of Appeals for the DC Circuit – the so-called "second highest court in the land."

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 22, 2005 4:16 PM
To: Pacold, Martha M
Subject: GRAHAM TALKING POINTS
Attachments: GRAHAM TALKING POINTS 12-22.doc; ARM05R69_xml.pdf

TITLE XIV—MATTERS RELATING TO DETAINEES

Sec. 1401. Short title.
Sec. 1402. Uniform standards for the interrogation of persons under the detention of the Department of Defense.
Sec. 1403. Prohibition on cruel, inhuman, or degrading treatment or punishment of persons under custody or control of the United States Government.
Sec. 1404. Protection of United States Government personnel engaged in authorized interrogations.
Sec. 1405. Procedures for status review of detainees outside the United States.
Sec. 1406. Training of Iraqi forces regarding treatment of detainees.

SEC. 1401. SHORT TITLE.

This title may be cited as the ''Detainee Treatment Act of 2005''.

SEC. 1402. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(b) APPLICABILITY.—Subsection (a) shall not apply with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(c) CONSTRUCTION.—Nothing in this section shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

SEC. 1403. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) LIMITATION ON SUPERSEDURE.—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term ''cruel, inhuman, or degrading treatment or punishment''

means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

SEC. 1404. PROTECTION OF UNITED STATES GOVERNMENT PERSONNEL ENGAGED IN AUTHORIZED INTERROGATIONS.

(a) PROTECTION OF UNITED STATES GOVERNMENT PERSONNEL.—In any civil action or criminal prosecution against an officer, employee, member of the Armed Forces, or other agent of the United States Government who is a United States person, arising out of the officer, employee, member of the Armed Forces, or other agent's engaging in specific operational practices, that involve detention and interrogation of aliens who the President or his designees have determined are believed to be engaged in or associated with international terrorist activity that poses a serious, continuing threat to the United States, its interests, or its allies, and that were officially authorized and determined to be lawful at the time that they were conducted, it shall be a defense that such officer, em-

ployee, member of the Armed Forces, or other agent did not know that the practices were unlawful and a person of ordinary sense and understanding would not know the practices were unlawful. Good faith reliance on advice of counsel should be an important factor, among others, to consider in assessing whether a person of ordinary sense and understanding would have known the practices to be unlawful. Nothing in this section shall be construed to limit or extinguish any defense or protection otherwise available to any person or entity from suit, civil or criminal liability, or damages, or to provide immunity from prosecution for any criminal offense by the proper authorities.

(b) COUNSEL.—The United States Government may provide or employ counsel, and pay counsel fees, court costs, bail, and other expenses incident to the representation of an officer, employee, member of the Armed Forces, or other agent described in subsection (b), with respect to any civil action or criminal prosecution arising out of practices described in that subsection, under the same conditions, and to the same extent, to which such services and payments are authorized under section 1037 of title 10, United States Code.

SEC. 1405. PROCEDURES FOR STATUS REVIEW OF DETAINEES OUTSIDE THE UNITED STATES.

(a) SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA, AND IN AFGHANISTAN AND IRAQ.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on the Judiciary of the Senate and the Committee on Armed Services and the Committee on the Judiciary of the House of Representatives a report setting forth—

(A) the procedures of the Combatant Status Review Tribunals and the Administrative Review Boards established by direction of the Secretary of Defense that are in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay or to provide an annual review to determine the need to continue to detain an alien who is a detainee; and

(B) the procedures in operation in Afghanistan and Iraq for a determination of the status of aliens detained in the custody or under the physical control of the Department of Defense in those countries.

(2) DESIGNATED CIVILIAN OFFICIAL.—The procedures submitted to Congress pursuant to paragraph (1)(A) shall ensure that the official of the Department of Defense who is designated by the President or Secretary of Defense to be the final review authority within the Department of Defense with respect to decisions of any such tribunal or board (referred to as the ''Designated Civilian Official'') shall be a civilian officer of the Department of Defense holding an office to which appointments are required by law to be made by the President, by and with the advice and consent of the Senate.

(3) CONSIDERATION OF NEW EVIDENCE.—The procedures submitted under paragraph (1)(A) shall provide for periodic review of any new evidence that may become available relating to the enemy combatant status of a detainee.

(b) CONSIDERATION OF STATEMENTS DERIVED WITH COERCION.—

(1) ASSESSMENT.—The procedures submitted to Congress pursuant to subsection (a)(1)(A) shall ensure that a Combatant Status Review Tribunal or Administrative Review Board, or any similar or successor administrative tribunal or board, in making a determination of status or disposition of any de-

tainee under such procedures, shall, to the extent practicable, assess—

(A) whether any statement derived from or relating to such detainee was obtained as a result of coercion; and

(B) the probative value (if any) of any such statement.

(2) APPLICABILITY.—Paragraph (1) applies with respect to any proceeding beginning on or after the date of the enactment of this Act.

(c) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the committees specified in subsection (a)(1) a report on any modification of the procedures submitted under subsection (a). Any such report shall be submitted not later than 60 days before the date on which such modification goes into effect.

(d) ANNUAL REPORT.—

(1) REPORT REQUIRED.—The Secretary of Defense shall submit to Congress an annual report on the annual review process for aliens in the custody of the Department of Defense outside the United States. Each such report shall be submitted in unclassified form, with a classified annex, if necessary. The report shall be submitted not later than December 31 each year.

(2) ELEMENTS OF REPORT.—Each such report shall include the following with respect to the year covered by the report:

(A) The number of detainees whose status was reviewed.

(B) The procedures used at each location.

(e) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

(1) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

''(e) Except as provided in section 1405 of the National Defense Authorization Act for Fiscal Year 2006, no court, justice, or judge shall have jurisdiction to hear or consider—

''(1) an application for a writ of habeas corpus filed by or on behalf of an alien detained by the Department of Defense at Guantanamo Bay, Cuba; or

''(2) any other action against the United States or its agents relating to any aspect of the detention by the Department of Defense of an alien at Guantanamo Bay, Cuba, who—

''(A) is currently in military custody; or

''(B) has been determined by the United States Court of Appeals for the District of Co-

lumbia Circuit in accordance with the procedures set forth in section 1405(e) of the National Defense Authorization Act for Fiscal Year 2006 to have been properly detained as an enemy combatant.''.

(2) REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision of a Combatant Status Review Tribunal that an alien is properly detained as an enemy combatant.

(B) LIMITATION ON CLAIMS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the standards and procedures specified by the Secretary of Defense for Combatant Status Review Tribunals (including the requirement that the conclusion of the Tribunal be supported by a preponderance of the evidence and allowing a rebuttable presumption in favor the Government's evidence); and

(ii) to the extent the Constitution and laws of the United States are applicable, whether the use of such standards and procedures to make the determination is

consistent with the Constitution and laws of the United States.

(D) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

(3) REVIEW OF FINAL DECISIONS OF MILITARY COMMISSIONS.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision rendered pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order).

(B) GRANT OF REVIEW.—Review under this paragraph—

(i) with respect to a capital case or a case in which the alien was sentenced to a term of imprisonment of 10 years or more, shall be as of right; or

(ii) with respect to any other case, shall be at the discretion of the United States Court of Appeals for the District of Columbia Circuit.

(C) LIMITATION ON APPEALS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to an appeal brought by or on behalf of an alien—

(i) who was, at the time of the proceedings pursuant to the military order referred to in subparagraph (A), detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a final decision has been rendered pursuant to such military order.

(D) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on an appeal of a final decision with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the final decision was consistent with the standards and procedures

specified in the military order referred to in subparagraph (A); and

(ii) to the extent the Constitution and laws of the United States are applicable, whether the use of such standards and procedures to reach the final decision is consistent with the Constitution and laws of the United States.

(4) RESPONDENT.—The Secretary of Defense shall be the named respondent in any appeal to the United States Court of Appeals for the District of Columbia Circuit under this subsection.

(f) CONSTRUCTION.—Nothing in this section shall be construed to confer any constitutional right on an alien detained as an enemy combatant outside the United States.

(g) UNITED STATES DEFINED.—For purposes of this section, the term ''United States'', when used in a geographic sense, is as defined in section 101(a)(38) of the Immigration and Nationality Act and, in particular, does not include the United States Naval Station, Guantanamo Bay, Cuba.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall take effect on the date of the enactment of this Act.

(2) REVIEW OF COMBATANT STATUS TRIBUNAL AND MILITARY COMMISSION DECISIONS.—Paragraphs (2) and (3) of subsection (e) shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act.

SEC. 1406. TRAINING OF IRAQI FORCES REGARDING TREATMENT OF DETAINEES.

(a) REQUIRED POLICIES.—

(1) IN GENERAL.—The Secretary of Defense shall ensure that policies are prescribed regarding procedures for military and civilian personnel of the Department of Defense and contractor personnel of the Department of Defense in Iraq that are intended to ensure that members of the Armed Forces, and all persons acting on behalf of the Armed Forces or within facilities of the Armed Forces, ensure that all personnel of Iraqi military forces who are trained by Department of Defense personnel and contractor personnel of the Department of Defense receive training regarding the international obligations and laws applicable to the humane detention of detainees, including protections afforded under the Geneva Conventions and the Convention Against Torture.

(2) ACKNOWLEDGMENT OF TRAINING.—The Secretary shall ensure that, for all personnel of the Iraqi Security Forces who are provided training referred to in paragraph (1), there is documented acknowledgment of such training having been provided.

(3) DEADLINE FOR POLICIES TO BE PRESCRIBED.—The policies required by paragraph (1) shall be prescribed not later than 180 days after the date of the enactment of this Act.

(b) ARMY FIELD MANUAL.—

(1) TRANSLATION.—The Secretary of Defense shall provide for the United States Army Field Manual on Intelligence Interrogation to be translated into arabic and any other language the Secretary determines appropriate for use by members of the Iraqi military forces.

(2) DISTRIBUTION.—The Secretary of Defense shall provide for such manual, as translated, to be provided to each unit of the Iraqi military forces trained by Department of Defense personnel or contractor personnel of the Department of Defense.

(c) TRANSMITTAL OF REGULATIONS.—Not less than 30 days after the date on which regulation, policies, and orders are first prescribed under subsection (a), the Sec-

retary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives copies of such regulations, policies, or orders, together with a report on steps taken to the date of the report to implement this section.

(d) ANNUAL REPORT.—Not less than one year after the date of the enactment of this Act, and annually thereafter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of this section.

DRAFT 2/15/2017

GRAHAM-LEVIN TALKING POINTS

A Bipartisan Effort We Can Be Proud Of

- Graham-Levin amendment was a bipartisan effort that passed the Senate 84-14, and was later approved as part of the Defense Authorization Bill on a voice vote in the Senate

- The amendment affords each Al Qaeda detainee at Guantanamo with: (1) a guaranteed right of access to the courts to challenge whether he should be detained as an enemy combatant, (2) a second, guaranteed opportunity for judicial review if he is convicted of serious war crimes; and (3) the right to an annual administrative review to determine whether he should be released (akin to a parole board hearing).

- Graham-Levin adopts and codifies the Administration's CSRT, ARB, and MC regime for adjudication of detainees at Guantanamo, endorsing the procedures and protections created by DoD. It is a vindication of the care and thought that went into the development of the Administration's procedures.

- The codified CSRT procedures are more extensive than those used by any other nation in any previous conflict to determine combat detainee status. The process is modeled on Army Regulation 190-8, which Justice O'Connor's opinion in *Hamdi* indicated would be ample process even for *American citizens.*

- Detainees receive substantial protections in CSRT proceedings, including the opportunity to be heard in person, the ability to present additional evidence they believe might benefit them, and the assistance of a military officer assigned to serve as their personal representative. Non-classified proceedings are open to the media.

- Every year, each GTMO detainee is *also* entitled to an ARB hearing to reassess whether his release is appropriate. DoD has gone above and beyond anything required by domestic or international law, including the Geneva Conventions, providing enemy combatants a chance to be heard and released *even while conflict is ongoing*.

- Through CSRTs, ARBs or other means, over 200 detainees have been released from GTMO since the commencement of hostilities. Showing how it has erred on the side of release, DoD reports that over 10 have been either recaptured or killed on the battlefield fighting against the U.S.

- The Military Commission process now adopted by Congress has historically been used to prosecute enemy combatants who violate the laws of war for fixed terms of confinement. The United States used the Military Commission process during World War II. Each accused tried by a Military Commission has the following

procedural safeguards: the presumption of innocence; proof of guilt beyond a reasonable doubt; the right to call and cross examine witnesses (subject to the rules regarding production of witnesses and protection of information); nothing said by an accused to his attorney, or anything derived therefrom, may be used against him at trial; no adverse inference for remaining silent; overall requirement that any military commission proceeding be full and fair. Finally, to assist him in preparing a defense, each accused has a Military Defense Counsel provided at no cost. Alternatively, the accused may also hire a civilian defense counsel.

- Additional layers of review follow, including a three-member Review Panel who will review all cases for material errors of law. Extremely qualified individuals have agreed to serve on the Review Panel: Judge Griffin Bell, a former U.S. Attorney General and former federal appellate judge from the U.S. Court of Appeals for the Fifth Circuit; Judge Edward George Biester, Jr., a sitting judge on the Court of Common Pleas of Bucks County, Pennsylvania and former Attorney General in Pennsylvania and Member of Congress; William T. Coleman, former Secretary of Transportation and member of the U.S. delegation to the U.N. General Assembly; Judge Frank J. Williams, currently Chief Justice of the Rhode Island Supreme Court.

The Need for Litigation Reform

- There was a profound need for Graham-Levin to sort our which litigation rights detainees should and should not have. Our enemies have clogged our courts with frivolous litigation. There are, for example, 160 *habeas* cases pending on behalf of approximately 300 GTMO detainees.

    - Al Qaeda training manuals expressly promote the use of litigation to thwart our war effort.

    - Detainees have sought to litigate over everything from seeking access to DVDs, dictionaries, more exercise time, faster mail delivery, access to video messages from their families, copies of the Koran with commentary instead of the standard Koran without.

    - Detainees' lawyers have even sued because they consider dial-up Internet access at GTMO as slow.

- Suits now exist from Afghanistan and Iraq, as well as GTMO. And they now seek not just *habeas* relief but money damages from individual soldiers.

- Detained enemies have never before been allowed to challenge in court either their detention or their conditions of confinement. Had these conditions existed during World War II, hundreds of thousands of captured German and Japanese soldiers would have been entitled to lawyers and hearings in federal court.

- Even our own soldiers convicted under the UCMJ are not entitled to challenge the substance of their convictions through *habeas* in federal court, only whether the military court had jurisdiction over them as members of the armed forces. The Graham Amendment provides terrorists more process in courts than this.

Why There's Nothing Alarming or Unusual About Limiting Habeas

- Congress has modified the *habeas* statutes many times in the past. For example:

    - Antiterrorism and Effective Death Penalty Act ("AEDPA") and the Illegal Immigration Reform and Immigrant Responsibility Act, passed in 1996. AEDPA placed a number of limitations on the scope of *habeas* relief available to persons challenging the judgment of a State court and prohibited the Supreme Court from reviewing the decision of a circuit court to allow or to bar a state prisoner from filing successive petitions.

    - 8 U.S.C. § 1226a(b) (part of the USA PATRIOT Act of 2001) places limits on *habeas* for aliens involved in terrorism or other activity endangering national security.

    - 8 U.S.C. § 1201(i) (part of the Intelligence Reform and Terrorist Prevention Act of 2004) bars *habeas* review of certain visa revocation decisions.

    - 8 U.S.C. § 1252 (part of the REAL ID Act of 2005) eliminates *habeas* review of decisions not involving constitutional claims or questions in cases involving asylum, removal of criminal aliens, and denials of discretionary relief by DoJ or DHS.

- If Congress can place *habeas* limits on U.S. citizens and aliens who are located within the U.S. during peacetime, certainly it is appropriate for Congress to limit *habeas* petitions for aliens captured during wartime who are being held outside of the United States.

- Reform is not an attack on last year's Supreme Court decisions. The Supreme Court in its 2004 *Rasul* decision recognized that Congress could amend the *habeas* statute. And several Justices have expressly called strongly for Congress to bring clarity to this area, including Justice Scalia in a written opinion and Justice O'Connor in a recent speech at West Point.

- As Senator Graham said on the floor of the Senate, these are terrorists who are suing our own troops and officials in our domestic civilian courts in a time of war. There is no legal or moral imperative to treat them on par with common civilian criminals who are American citizens. Even so, this bill does not cut off terrorist litigation but specifically allows even those found to be enemy combatants, as well as those found guilty of war crimes in trials before military commissions, the

right to appeal to the Court of Appeals for the DC Circuit – the so-called "second highest court in the land."

DOJ_NMG_ 0149736

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 22, 2005 4:23 PM
To: Shaw, Aloma A
Subject: RE: Grp 2 Mtg

Cancel the puppy.

From: Shaw, Aloma A
Sent: Thursday, December 22, 2005 4:20 PM
To: Gorsuch, Neil M
Subject: Grp 2 Mtg

I've had two components call regarding the status of tomorrow morning's meeting. Is it a go?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 22, 2005 4:38 PM
To: Meron, Daniel (CIV); Loeb, Robert (CIV)
Subject: RE: Emailing: gitmomemo.2

Haven't asked when it's likely to be signed but I can try to find out.

-----Original Message-----
From: Meron, Daniel (CIV)
Sent: Thursday, December 22, 2005 4:30 PM
To: Gorsuch, Neil M; Loeb, Robert (CIV)
Subject: FW: Emailing: gitmomemo.2

Neil,

Is this what you are hearing about signing as well?

Dan

-----Original Message-----
From: Liner, Linda (CIV)
Sent: Thursday, December 22, 2005 4:10 PM
To: Meron, Daniel (CIV)
Cc: Zwick, Ken (CIV); Claterbos, Barbara (CIV)
Subject: Emailing: gitmomemo.2

Hi Dan

Here is a draft memo on GITMO resources. JMD just called wanting to know our ETA as they are under the gun to get recommendations out before 1-4.

Pres is on his way to camp david (so I hear) so the bill will not get signed into law until early next week.

Please let me know if you have changes - are you going to pass this along to Carl et al? (Note my questions in bold).

Linda

The message is ready to be sent with the following file or link attachments:

gitmomemo.2

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 22, 2005 4:48 PM
To: Elwood, Courtney
Cc: Swenson, Lily F
Subject: FW: AG-led initiatives

A couple more good pts

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, December 22, 2005 4:11 PM
To: Gorsuch, Neil M
Subject: RE: AG-led initiatives

Sorry, these two things just occurred to me, (1) the AG asked us to consider ways to improve DOJ's internet websites, and (2) we're updating the Department's Pro Bono Policy. Probably too minor to send along now.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 11:12 AM
To: Monheim, Thomas
Subject: Tues Mtg

I agree with your line up --

You
Pat
me
Peter K
Jeff Bucholtz
EDVA - whomever they wish
I'd also invite Kyle, Courtney, and Jeff Taylor

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 11:32 AM
To: Gorsuch, Neil M
Subject: RE: Tues Mtg

And Bruce

From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 11:12 AM
To: Monheim, Thomas
Subject: Tues Mtg

I agree with your line up --

You
Pat
me
Peter K
Jeff Bucholtz
EDVA - whomever they wish
I'd also invite Kyle, Courtney, and Jeff Taylor

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 11:32 AM
To: Monheim, Thomas
Subject: RE: Tues Mtg

And Bruce

From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 11:12 AM
To: Monheim, Thomas
Subject: Tues Mtg

I agree with your line up --

You
Pat
me
Peter K
Jeff Bucholtz
EDVA - whomever they wish
I'd also invite Kyle, Courtney, and Jeff Taylor

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 11:37 AM
To: White, Clifford
Subject: RE: Voice Mail

Thank you for bringing this to my attention. Best wishes, Neil

-----Original Message-----
From: White, Clifford
Sent: Friday, December 23, 2005 11:31 AM
To: Gorsuch, Neil M
Subject: Voice Mail

Thanks! Merry Christmas!

Sent from my BlackBerry Wireless Handheld

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 12:41 PM
To: Santangelo, Mari (JMD)
Subject: RE: REVISED December Leadership Report

Thanks, Mari, and my apologies for the confusion. Have contacted Robert about the bonuses and will be back to you as soon as we can.

From: Santangelo, Mari (JMD)
Sent: Friday, December 23, 2005 12:37 PM
To: Gorsuch, Neil M
Subject: FW: REVISED December Leadership Report

FYI - [redacted] is a GS-15, detailed from CRT. See attached.

Mari

From: Carter, Cyntoria
Sent: Friday, December 16, 2005 1:54 PM
To: Cabell-Edelen, Pamela V; Cooke, Andrew R; Corts, Paul R; Dale, Sandy B; Elston, Michael (ODAG); Gallagher, Elizabeth A; Hoffman, Kathy; Horkan, Nancy; Lofthus, Lee J; Powell, SeLena Y; Raymos, Jeanne; Rodgers, Janice; Sampson, Kyle; Santangelo, Mari (JMD); Slyke, Carla M; Snell, Scott; Tomchek, Debra M; Watson, Ebonye; White, Cynthia (JMD); Williams, Jan
Subject: REVISED December Leadership Report

The ***revised*** December Leadership Report is attached.
Thanks. << File: Ldrship Report 12-16-05.xls >>

Cyntoria E. Carter
Director, Consolidated Executive Office
Justice Management Division
Phone: (202) 514-5537

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 1:14 PM
To: Santangelo, Mari (JMD)
Subject: Re: REVISED December Leadership Report

How about [redacted] who left a couple months ago? What's the policy on bonuses for ses folks who leave before the year is out? Many thanks. NMG

-----Original Message-----
From: Santangelo, Mari (JMD) <Mari.Santangelo@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Dec 23 12:51:21 2005
Subject: RE: REVISED December Leadership Report

Great. Email will work best. Thanks

Mari

From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 12:41 PM
To: Santangelo, Mari (JMD)
Subject: RE: REVISED December Leadership Report

Thanks, Mari, and my apologies for the confusion. Have contacted Robert about the bonuses and will be back to you as soon as we can.

From: Santangelo, Mari (JMD)
Sent: Friday, December 23, 2005 12:37 PM
To: Gorsuch, Neil M
Subject: FW: REVISED December Leadership Report

FYI - [redacted] is a GS-15, detailed from CRT. See attached.

Mari

From: Carter, Cyntoria
Sent: Friday, December 16, 2005 1:54 PM

Sent: Friday, December 16, 2005 1:54 PM
To: Cabell-Edelen, Pamela V; Cooke, Andrew R; Corts, Paul R; Dale, Sandy B; Elston, Michael (ODAG); Gallagher, Elizabeth A; Hoffman, Kathy; Horkan, Nancy; Lofthus, Lee J; Powell, SeLena Y; Raymos, Jeanne; Rodgers, Janice; Sampson, Kyle; Santangelo, Mari (JMD); Slyke, Carla M; Snell, Scott; Tomchek, Debra M; Watson, Ebonye; White, Cynthia (JMD); Williams, Jan
Subject: REVISED December Leadership Report

The revised December Leadership Report is attached.
Thanks. << File: Ldrship Report 12-16-05.xls >>

Cyntoria E. Carter
Director, Consolidated Executive Office
Justice Management Division
Phone: (202) 514-5537

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 2:18 PM
To: Tomchek, Debra M; Santangelo, Mari (JMD)
Subject: RE: REVISED December Leadership Report

Many thanks!

-----Original Message-----
From: Tomchek, Debra M
Sent: Friday, December 23, 2005 1:50 PM
To: Santangelo, Mari (JMD); Gorsuch, Neil M
Subject: RE: REVISED December Leadership Report

That is correct.

-----Original Message-----
From: Santangelo, Mari (JMD)
Sent: Friday, December 23, 2005 1:17 PM
To: Gorsuch, Neil M
Cc: Tomchek, Debra M
Subject: RE: REVISED December Leadership Report

My understanding is that anyone who leaves, regardless of retirement, leaving for another position, etc....that they do not get a bonus. Deb, please confirm.

Mari

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 1:14 PM
To: Santangelo, Mari (JMD)
Subject: Re: REVISED December Leadership Report

How about [redacted] who left a couple months ago? What's the policy on bonuses for ses folks who leave before the year is out? Many thanks. NMG

-----Original Message-----
From: Santangelo, Mari (JMD) <Mari.Santangelo@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Dec 23 12:51:21 2005
Subject: RE: REVISED December Leadership Report

Great. Email will work best. Thanks

Mari

From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 12:41 PM
To: Santangelo, Mari (JMD)
Subject: RE: REVISED December Leadership Report

Thanks, Mari, and my apologies for the confusion. Have contacted Robert about the bonuses and will be back to you as soon as we can.

From: Santangelo, Mari (JMD)
Sent: Friday, December 23, 2005 12:37 PM
To: Gorsuch, Neil M
Subject: FW: REVISED December Leadership Report

FYI - [redacted] is a GS-15, detailed from CRT. See attached.

Mari

From: Carter, Cyntoria
Sent: Friday, December 16, 2005 1:54 PM
To: Cabell-Edelen, Pamela V; Cooke, Andrew R; Corts, Paul R; Dale, Sandy B; Elston, Michael (ODAG); Gallagher, Elizabeth A; Hoffman, Kathy; Horkan, Nancy; Lofthus, Lee J; Powell, SeLena Y; Raymos, Jeanne; Rodgers, Janice; Sampson, Kyle; Santangelo, Mari (JMD); Slyke, Carla M; Snell, Scott; Tomchek, Debra M; Watson, Ebonye; White, Cynthia (JMD); Williams, Jan
Subject: REVISED December Leadership Report

The revised December Leadership Report is attached.
Thanks. << File: Ldrship Report 12-16-05.xls >>

Cyntoria E. Carter
Director, Consolidated Executive Office
Justice Management Division
Phone: (202) 514-5537

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 2:24 PM
To: Silas, Adrien
Subject: RE: Detainee Provisions Summary for Enrolled Bill Memos to the President (DOD Approps and DOD Auth Bills)

It may not be poetry but it works. No comments here. NMG

-----Original Message-----
From: Silas, Adrien
Sent: Friday, December 23, 2005 1:35 PM
To: Rowan, Patrick (ODAG); Monheim, Thomas; Gorsuch, Neil M; Nichols, Carl (CIV); Bradbury, Steve; Eisenberg, John
Cc: Libutti, Tim (CIV); Rybicki, James E; Brinkley, Winnie; Jackson, Wykema C; Jones, Kevin R; Gunn, Currie (SMO); Senger, Jeffrey M; Shaw, Aloma A; Boardman, Michelle; Mitchell, Dyone; Smith, George
Subject: FW: Detainee Provisions Summary for Enrolled Bill Memos to the President (DOD Approps and DOD Auth Bills)

FYI, from OMB:

-----Original Message-----
From: John_D._Burnim@omb.eop.gov [mailto:John_D._Burnim@omb.eop.gov]
Sent: Friday, December 23, 2005 1:28 PM
To: [redacted]@dni.gov; John_B._Wiegmann@nsc.eop.gov
Cc: Silas, Adrien; Brett_C._Gerry@who.eop.gov; [redacted]@dodgc.osd.mil; James_J._Jukes@omb.eop.gov; M._Bryan_Legaspi@omb.eop.gov; John_G._Knepper@omb.eop.gov; Raul_F._Yanes@omb.eop.gov; Joanne_Cianci_Hoff@omb.eop.gov; [redacted]@dni.gov; [redacted]@odci.gov
Subject: RE: Detainee Provisions Summary for Enrolled Bill Memos to the President (DOD Approps and DOD Auth Bills)

Brad/[redacted]--
Your edits and corrections are much appreciated and have been incorporated. Will await hearing from DOJ and DOD on any further suggestions. Thanks again.

-----Original Message-----
From: [redacted]@dni.gov [mailto:[redacted]@dni.gov]
Sent: Friday, December 23, 2005 1:23 PM
To: Wiegmann, John B.
Cc: Burnim, John D.; Gerry, Brett C.; Adrien.Silas@usdoj.gov; [redacted] Mr, DoD OGC; Jukes, James J.; Legaspi, M. Bryan; Knepper, John G.; Yanes, Raul F.; Hoff, Joanne Cianci; [redacted]
Subject: Re: Detainee Provisions Summary for Enrolled Bill Memos to the President (DOD Approps and DOD Auth Bills)

I agree that the last sentence is unnecessary. Moreover, without the final sentence of the DNI's letter (which said that he would evaluate effectiveness and notify the Hill in 180 days), I think it is misleading. I therefore ask that it be removed.

misleading. I, therefore, ask that it be removed.

Thank you,
[redacted]

Wiegmann, John B. wrote:

> See edits/coment below. Thanks.
>
> _____ > From: Burnim, John D.
> Sent: Friday, December 23, 2005 12:21 PM > To: Wiegmann, John B.; Gerry, Brett C.; 'Adrien.Silas@usdoj.gov';
> [redacted] Mr, DoD OGC; [redacted]@dni.gov' > Cc: Jukes, James J.; Legaspi, M. Bryan; Knepper, John G.; Yanes,
> Raul F.; Hoff, Joanne Cianci
> Subject: Detainee Provisions Summary for Enrolled Bill Memos to

> the President (DOD Approps and DOD Auth Bills)
>
> In preparation for presentation of the DOD Approps Bill (HR 2863) and
> the DOD Auth Bill (HR 1815) to the President, this office has drafted
> the following summary of the Detainee provisions. Please review and
> provide any useful edits or corrections. The intent is not to
> enumerate every aspect of the legislation, as the memos must summarize

> the ENTIRE bills for the President. However, this office wants to
> ensure we have accurately captured the key elements of the provisions
> in the Detainee Title. Thanks for your help. Will need your input by

> TUESDAY DECEMBER 27th at 2 PM. For planning purposes, we particularly

> need to have the memo on the Appropriations bill completed -- as the provisions are the > same, we'd want to use the same language. Thanks again.
>
> If you need to reach me for any reason - I can be reached by return
> e-mail or phone [redacted]
>
> Detainee Policy. H.R. 1815 includes the "Detainee Treatment Act of
> 2005" in Title XIV (or Title X in DOD Approps bill), which provides a
> legal framework for U.S. detention and interrogation activities. The

> enrolled bill establishes current U.S. government policy (not to
> subject individuals in its custody or control to cruel, inhuman, or
> degrading treatment, in the United States or abroad) as law and
> requires DOD to codify its treatment or techniques of interrogation in

> the U.S. Army Field Manual on Intelligence Interrogation. H.R. 1815
> restricts habeas corpus and other litigation brought by aliens held at

> Guantanamo Bay, Cuba and requires reports on the procedures (already
> in place) to determine the status of these individuals and the need to

> continue to detain them. It consolidates review of the status
> determinations and of any final decisions rendered by a military commission in the D.C.
> Circuit Court of Appeals and would disallow litigation on any other
> aspects of the aliens' detention (for example, on the conditions of
> their confinement).
>
> H.R. 1815 also includes protections from civil action or criminal
> prosecution for U.S. government personnel involved in authorized
> detention or interrogation of aliens believed to be engaged in or
> associated with international terrorist activity. Such personnel will

> not be liable if they did not know, and a reasonable person would not
> have known, that their activities were unlawful. The bill provides
> that good faith reliance on advice of counsel will be an important
> factor to consider in assessing the reasonableness of the individual's actions.
> The bill also allows for the U.S. government to provide counsel and
> pay attorney fees and other legal expenses for U.S. government
> personnel who are sued or prosecuted in connection with their authorized detention or >
interrogation activities.
>
> DNI Negroponte stated in a letter to House Armed Services Committee
> Chairman Hunter on December 15, 2005 that, under this bill, "our
> intelligence activities, including interrogations, will continue to be

> effective and American personnel involved in such activities will be
> legally protected." [Why do we need this?]
>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 7:36 PM
To: Santangelo, Mari (JMD)
Subject: Re: REVISED December Leadership Report

One last question from Robert - what salary increases did he authorize for [redacted], [redacted] and [redacted]? Many thanks for all of your help with this and warmest holiday wishes. NMG

-----Original Message-----
From: Santangelo, Mari (JMD) <Mari.Santangelo@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Tomchek, Debra M <Debra.M.Tomchek@SMOJMD.USDOJ.gov>
Sent: Fri Dec 23 13:17:19 2005
Subject: RE: REVISED December Leadership Report

My understanding is that anyone who leaves, regardless of retirement, leaving for another position, etc....that they do not get a bonus. Deb, please confirm.

Mari

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 1:14 PM
To: Santangelo, Mari (JMD)
Subject: Re: REVISED December Leadership Report

How about [redacted] who left a couple months ago? What's the policy on bonuses for ses folks who leave before the year is out? Many thanks. NMG

-----Original Message-----
From: Santangelo, Mari (JMD) <Mari.Santangelo@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Dec 23 12:51:21 2005
Subject: RE: REVISED December Leadership Report

Great. Email will work best. Thanks

Mari

From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 12:41 PM
To: Santangelo, Mari (JMD)
Subject: RE: REVISED December Leadership Report

Thanks, Mari, and my apologies for the confusion. Have contacted Robert about the bonuses and will be back to you as soon as we can.

From: Santangelo, Mari (JMD)
Sent: Friday, December 23, 2005 12:37 PM
To: Gorsuch, Neil M
Subject: FW: REVISED December Leadership Report

FYI - [redacted] is a GS-15, detailed from CRT. See attached.

Mari

From: Carter, Cyntoria
Sent: Friday, December 16, 2005 1:54 PM
To: Cabell-Edelen, Pamela V; Cooke, Andrew R; Corts, Paul R; Dale, Sandy B; Elston, Michael (ODAG); Gallagher, Elizabeth A; Hoffman, Kathy; Horkan, Nancy; Lofthus, Lee J; Powell, SeLena Y; Raymos, Jeanne; Rodgers, Janice; Sampson, Kyle; Santangelo, Mari (JMD); Slyke, Carla M; Snell, Scott; Tomchek, Debra M; Watson, Ebonye; White, Cynthia (JMD); Williams, Jan
Subject: REVISED December Leadership Report

The revised December Leadership Report is attached.
Thanks. << File: Ldrship Report 12-16-05.xls >>

Cyntoria E. Carter
Director, Consolidated Executive Office
Justice Management Division
Phone: (202) 514-5537

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, December 25, 2005 7:26 PM
To: McCallum, Robert (SMO); Shaw, Aloma A; Gunn, Currie (SMO); Reyes, Luis (SMO)
Subject: Jury Duty

As I related to Robert, I've been selected for jury duty (EDVa). I will be "on call" for approx the next two weeks. According to a voice mail message I recvd Friday, my first day of service will begin this coming Wednesday. I will be hard to reach at the courthouse - no cell phones and, though the rules aren't clear, I have doubts about the bb too. But I will check in as much as I possibly can and will let you know about the details of my service duties and the specific days I will be serving as soon as they are shared with me. Many thanks to all for your understanding. NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 27, 2005 10:00 AM
To: McCallum, Robert (SMO)
Subject: FW: REVISED December Leadership Report

Here's the salary raises for 2006 that you asked for. Unless I hear otherwise from you, I will ask Mari later today to include bonus nominations as you previously indicated [redacted] $8,500, [redacted] $12,000, [redacted] $22,000).

-----Original Message-----
From: Tomchek, Debra M
Sent: Tuesday, December 27, 2005 8:46 AM
To: Santangelo, Mari (JMD); Gorsuch, Neil M
Subject: RE: REVISED December Leadership Report

Good morning, Neil. Here is the information you requested:

[redacted] $5,324 (total salary to be $154,324)

[redacted] $5,324 (total salary to be $156,924)

[redacted] $10,100 ([redacted] will be paid at the highest SES level of $165,200)

If you have any further questions, please let me know. Deb

-----Original Message-----
From: Santangelo, Mari (JMD)
Sent: Saturday, December 24, 2005 10:15 AM
To: Gorsuch, Neil M
Cc: Tomchek, Debra M
Subject: Re: REVISED December Leadership Report

Neil, sorry, I'm just picking this up now and the info is at work. Deb will be in Tuesday and can give you the exact dollars.
Once you give me your final bonus nominations, I will poll the SERB and this will happen in fairly short order. Have a wonderful holiday!

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Santangelo, Mari (JMD) <Mari.Santangelo@SMOJMD.USDOJ.gov>
Sent: Fri Dec 23 19:35:40 2005
Subject: Re: REVISED December Leadership Report

One last question from Robert - what salary increases did he authorize for [redacted] and [redacted]? Many thanks for all of your help with this and warmest holiday wishes. NMG

-----Original Message-----
From: Santangelo, Mari (JMD) <Mari.Santangelo@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Tomchek, Debra M <Debra.M.Tomchek@SMOJMD.USDOJ.gov>
Sent: Fri Dec 23 13:17:19 2005
Subject: RE: REVISED December Leadership Report

My understanding is that anyone who leaves, regardless of retirement, leaving for another position, etc....that they do not get a bonus. Deb, please confirm.

Mari

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 1:14 PM
To: Santangelo, Mari (JMD)
Subject: Re: REVISED December Leadership Report

How about [redacted] who left a couple months ago? What's the policy on bonuses for ses folks who leave before the year is out? Many thanks. NMG

-----Original Message-----
From: Santangelo, Mari (JMD) <Mari.Santangelo@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Dec 23 12:51:21 2005
Subject: RE: REVISED December Leadership Report

Great. Email will work best. Thanks

Mari

From: Gorsuch, Neil M
Sent: Friday, December 23, 2005 12:41 PM
To: Santangelo, Mari (JMD)
Subject: RE: REVISED December Leadership Report

Thanks, Mari, and my apologies for the confusion. Have contacted Robert about the bonuses and will be back to you as soon as we can.

From: Santangelo, Mari (JMD)
Sent: Friday, December 23, 2005 12:37 PM
To: Gorsuch, Neil M
Subject: FW: REVISED December Leadership Report

FYI - [redacted] is a GS-15, detailed from CRT. See attached.

Mari

From: Carter, Cyntoria
Sent: Friday, December 16, 2005 1:54 PM
To: Cabell-Edelen, Pamela V; Cooke, Andrew R; Corts, Paul R; Dale, Sandy B; Elston, Michael (ODAG); Gallagher, Elizabeth A; Hoffman, Kathy; Horkan, Nancy; Lofthus, Lee J; Powell, SeLena Y; Raymos, Jeanne; Rodgers, Janice; Sampson, Kyle; Santangelo, Mari (JMD); Slyke, Carla M; Snell, Scott; Tomchek, Debra M; Watson, Ebonye; White, Cynthia (JMD); Williams, Jan
Subject: REVISED December Leadership Report

The revised December Leadership Report is attached.
Thanks. << File: Ldrship Report 12-16-05.xls >>

Cyntoria E. Carter
Director, Consolidated Executive Office
Justice Management Division
Phone: (202) 514-5537

Full Name:
Last Name:
First Name:

Home Address:

[redacted]

Full Name:
Last Name:
First Name:

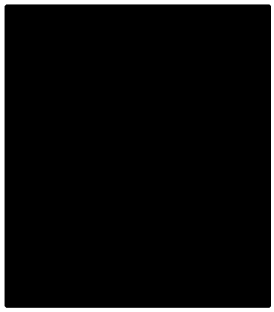
Home Address:

[redacted]

Full Name:
Last Name:
First Name:

Home Address:

E-mail:
E-mail Display As:



Full Name:
Last Name:
First Name:

Home Address:

[redacted]

Full Name:
Last Name:
First Name:

Business Address:

[redacted]

Full Name:
Last Name:
First Name:

Home Address:

[redacted]

Full Name:
Last Name:
First Name:

Home Address:

[redacted]

Full Name:
Last Name:
First Name:

Home Address:



DOJ_NMG_ 0149766

Full Name:
Last Name:
First Name:

Home Address:

[redacted]

Full Name:
Last Name:
First Name:

Home Address:

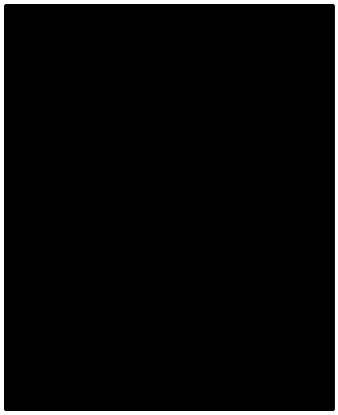
[redacted]

Full Name:
Last Name:
First Name:

Home Address:

Home:
Mobile:

E-mail:
E-mail Display As:



(h) and

Full Name:
Last Name:
First Name:

Business Address:

[redacted]

Full Name:
Last Name:
First Name:

Home Address:

Business:





Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 27, 2005 3:23 PM
To: Gorsuch, Neil M
Subject: Fw: Jury Duty

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Shaw, Aloma A <Aloma.A.Shaw@SMOJMD.USDOJ.gov>; Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Sun Dec 25 19:25:48 2005
Subject: Jury Duty

As I related to Robert, I've been selected for jury duty (EDVa). I will be "on call" for approx the next two weeks. According to a voice mail message I recvd Friday, my first day of service will begin this coming Wednesday. I will be hard to reach at the courthouse - no cell phones and, though the rules aren't clear, I have doubts about the bb too. But I will check in as much as I possibly can and will let you know about the details of my service duties and the specific days I will be serving as soon as they are shared with me. Many thanks to all for your understanding. NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 27, 2005 3:28 PM
To: Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG)
Subject: Jury Duty

Folks,

I thought you ought to know that I've been selected for jury duty (EDVa). I will be "on call" for the next two weeks, starting tomorrow. I will be hard to reach at the courthouse - no cell phones and, though the rules aren't clear, I have doubts about the bb. But I will check in as much as I possibly can and will let you know about the details of my service duties as and when they are shared with me (apparently I am to receive a nightly voice mail message indicating whether I will be needed the following day).

Many thanks for your understanding,

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 27, 2005 3:29 PM
To: Gunn, Currie (SMO)
Subject: RE: Do you have any leave to report for pp 25 12/12 thru 12/24. Please respond asap. I need to process today.

No

From: Gunn, Currie (SMO)
Sent: Tuesday, December 27, 2005 3:28 PM
To: Gorsuch, Neil M; Kessler, Elizabeth A; Henke, Tracy (SMO); Reyes, Luis (SMO); Swenson, Lily F
Subject: Do you have any leave to report for pp 25 12/12 thru 12/24. Please respond asap. I need to process today.
Importance: High

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 28, 2005 5:25 PM
To: Gunn, Currie (SMO); Senger, Jeffrey M
Subject: Re: Do you know ....

Just me. I just got out of court and will call John.

-----Original Message-----
From: Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>
To: Senger, Jeffrey M <Jeffrey.M.Senger@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Dec 28 15:47:11 2005
Subject: FW: Do you know ....

Jeff do you know anything about this? Neil is there a message I can pass along to John.

Thanks

Currie

From: Davis, Deborah J
Sent: Wednesday, December 28, 2005 2:51 PM
To: Gunn, Currie (SMO)
Subject: Do you know ....

Who is handling McCain and Graham Amendment? John Elwood (4-4132) from OAG wanted to talk to Neil. I told him Neil was out today and maybe rest of week. He wants to know who is handling matters in Neil's absence?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 28, 2005 6:34 PM
To: Gorsuch, Neil M
Subject: Fw: Signing statement

-----Original Message-----
From: Elwood, John <John.Elwood@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Dec 28 18:20:24 2005
Subject: Signing statement

Let me know what you think. The prose is leaden, but it's the product of a committee working under time pressure.

==========
The Administration is committed to treating all detainees captured in the war on terror in a manner consistent with applicable law. Title XIV, the Detainee Treatment Act of 2005, addresses certain matters relating to the detention and interrogation of persons by the United States, particularly by the United States Armed Forces. The provisions of this title are an important statement reaffirming the values and principles we share as a nation.

The Constitution makes the President the Commander-in-Chief of the armed forces, a grant that includes the authority -- and duty -- to protect Americans effectively from attacks by our enemies, including the terrorists with whom we are now at war, and to bring those enemies to justice. In some respects, Title XIV simply codifies existing policy. Section 1403, for example, is intended to codify the Administration's existing policy of abiding by the substantive constitutional standard applicable to the United States under Article 16 of the Convention Against Torture in the treatment of detainees. Title XIV nevertheless does touch on an area that involves core presidential responsibility and in which, as a result, Congress traditionally has avoided attempts to regulate. The Executive Branch therefore shall construe this title to ensure that it is consistent with this vital constitutional responsibility for the safety of the Nation.

While this legislation authorizes judicial review of the judgments of military commissions and military detention decisions that is historically unprecedented in scope for any nation at war, it, on balance, will help to ensure that the United States can continue to effectively fight the global war on terror free of a crippling litigation burden. This legislation does not create or authorize any private right of action, and, in section 1404, protects those prosecuting the war on our behalf against litigation or prosecution for authorized detention and interrogation practices undertaken in good faith. Finally, the provisions of this legislation that strictly limit available judicial review will apply in all pending cases.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 28, 2005 6:51 PM
To: Elwood, John
Subject: Re: Signing statement

Works for me. Thanks for tackling this one. Hope to see you back in the offlice and happy new year!

-----Original Message-----
From: Elwood, John <John.Elwood@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Dec 28 18:20:24 2005
Subject: Signing statement

Let me know what you think. The prose is leaden, but it's the product of a committee working under time pressure.

==========
The Administration is committed to treating all detainees captured in the war on terror in a manner consistent with applicable law. Title XIV, the Detainee Treatment Act of 2005, addresses certain matters relating to the detention and interrogation of persons by the United States, particularly by the United States Armed Forces. The provisions of this title are an important statement reaffirming the values and principles we share as a nation.

The Constitution makes the President the Commander-in-Chief of the armed forces, a grant that includes the authority -- and duty -- to protect Americans effectively from attacks by our enemies, including the terrorists with whom we are now at war, and to bring those enemies to justice. In some respects, Title XIV simply codifies existing policy. Section 1403, for example, is intended to codify the Administration's existing policy of abiding by the substantive constitutional standard applicable to the United States under Article 16 of the Convention Against Torture in the treatment of detainees. Title XIV nevertheless does touch on an area that involves core presidential responsibility and in which, as a result, Congress traditionally has avoided attempts to regulate. The Executive Branch therefore shall construe this title to ensure that it is consistent with this vital constitutional responsibility for the safety of the Nation.

While this legislation authorizes judicial review of the judgments of military commissions and military detention decisions that is historically unprecedented in scope for any nation at war, it, on balance, will help to ensure that the United States can continue to effectively fight the global war on terror free of a crippling litigation burden. This legislation does not create or authorize any private right of action, and, in section 1404, protects those prosecuting the war on our behalf against litigation or prosecution for authorized detention and interrogation practices undertaken in good faith. Finally, the provisions of this legislation that strictly limit available judicial review will apply in all pending cases.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, January 02, 2006 10:23 AM
To: Reyes, Luis (SMO); Gorsuch, Neil M
Subject: RE: Word from PPO

We will obviously do whatever is nec to get you over there whenever is best for PPO and the WH. Jan 11 will work fine for us. By the way, I stupidly scheduled [redacted] I didn't realize that today was a holiday. So, I won't be in tomorrow until about 2:30-3pm. Please apologize to every one at the morning meetings for me. Robt.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Sunday, January 01, 2006 3:54 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: Word from PPO

Gentlemen,
I have received word, on a close hold, that Julie Myers will be recess appointed on or about Jan. 5. PPO has requested that I transition over soon thereafter, but have also indicated that they are willing to work with me as to the timing. While I have all my ducks already in a row, there are a few items that I want to push along in the coming days (trafficking report, gao study, oasg admin, and a few others) to ensure that no momentum is lost. I believe that a good final day for me could be Wed. January 11.

Needless to say, this is a bitter sweet change for me as I look forward to serving the President in this new capacity, but can't help but ponder if I will ever again work on as exciting and interesting issues as I have at Justice, or with such outstanding gentlemen and true legal scholars as Robert D. McCallum, Jr. and Neil Gorsuch.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Monday, January 2, 2006 10:57 AM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: Re: Word from PPO

No problem, will do. Will see you in afternoon.

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Jan 02 10:23:07 2006
Subject: RE: Word from PPO

We will obviously do whatever is nec to get you over there whenever is best for PPO and the WH. Jan 11 will work fine for us. By the way, I stupidly scheduled [redacted] I didn't realize that today was a holiday. So, I won't be in tomorrow until about 2:30-3pm. Please apologize to every one at the morning meetings for me. Robt.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Sunday, January 01, 2006 3:54 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: Word from PPO

Gentlemen,
I have received word, on a close hold, that Julie Myers will be recess appointed on or about Jan. 5. PPO has requested that I transition over soon thereafter, but have also indicated that they are willing to work with me as to the timing. While I have all my ducks already in a row, there are a few items that I want to push along in the coming days (trafficking report, gao study, oasg admin, and a few others) to ensure that no momentum is lost. I believe that a good final day for me could be Wed. January 11.

Needless to say, this is a bitter sweet change for me as I look forward to serving the President in this new capacity, but can't help but ponder if I will ever again work on as exciting and interesting issues as I have at Justice, or with such outstanding gentlemen and true legal scholars as Robert D. McCallum, Jr. and Neil Gorsuch.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, January 2, 2006 11:10 AM
To: Sampson, Kyle; Elwood, Courtney
Cc: Gorsuch, Neil M
Subject: Senior Management meeting Tues. Jan 3rd

I stupidly scheduled my hip replacement pre-op work up at the hospital for tomorrow am beginning at 8am and lasting until about 2pm: X-rays, blood donation, med. clearance, anesthesia consult, PT pre-op measurements and instruction on post-op workouts, etc. I didn't realize that today, my first day back, was a holiday. So, I won't be in tomorrow until about 2:30-3pm. Please apologize to every one at the morning meeting for me. Neil will cover and brief me afterwards. Robt.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, January 02, 2006 11:28 AM
To: Thom, Stephen
Cc: Reyes, Luis (SMO); Gorsuch, Neil M
Subject: Thanks for running the shop

Stephen: While I was out over the holidays, I did not have the opportunity to say thanks for all you did to keep things running smoothly at CRS during Sharee's absence. There were some volatile matters that needed the focused and sustained involvement of CRS, and, under your leadership, CRS responded and assisted the local communities in sorting through the difficult issues. And, as it usually is and always should be for CRS to be effective, CRS's assistance was not noted, praised or promoted by the media or others. Please know that I noted it and want you to know that I am grateful for that effort. And thanks as well for all you personally are continuing to do to make CRS as effective and as responsive to local communities as possible. Robt.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, January 02, 2006 12:08 PM
To: Santangelo, Mari (JMD); Sampson, Kyle; McNulty, Paul J; Corts, Paul R
Cc: Gunn, Currie (SMO); Gorsuch, Neil M
Subject: RE: Bonuses

I am back and if we need to meet to discuss, please set up the meeting through Currie. Thanks for your help and I apologize for the confusion that gave rise to this oversight on my part. Robt.

-----Original Message-----
From: Santangelo, Mari (JMD)
Sent: Tuesday, December 27, 2005 9:12 PM
To: Sampson, Kyle; McNulty, Paul J; McCallum, Robert (SMO); Corts, Paul R
Subject: Re: Bonuses

The SERB can meet to discuss if you like, however, that will have to wait until next week when all return from the holidays. If I can assist in the meantime, please don't hesitate to call on me.
Mari

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>
To: Santangelo, Mari (JMD) <Mari.Santangelo@SMOJMD.USDOJ.gov>; McNulty, Paul J <Paul.J.McNulty@SMOJMD.USDOJ.gov>; McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Corts, Paul R <Paul.R.Corts@SMOJMD.USDOJ.gov>
Sent: Tue Dec 27 17:00:08 2005
Subject: RE: Bonuses

Will the SERB meet to discuss?

-----Original Message-----
From: Santangelo, Mari (JMD)
Sent: Tuesday, December 27, 2005 4:21 PM
To: McNulty, Paul J; McCallum, Robert (SMO); Sampson, Kyle; Corts, Paul R
Subject: Fw: Bonuses

For your consideration and approval. Once approved, we'll work to get the bonuses paid in the next paycheck.

Mari

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Santangelo, Mari (JMD) <Mari.Santangelo@SMOJMD.USDOJ.gov>
Sent: Tue Dec 27 15:19:28 2005
Subject: Bonuses

Dear Mari,

I've had a chance to communicate with Robert and he's asked me to convey that'd he'd like to recommend the following for 2005 bonuses -- [redacted]. If you have questions, don't hesitate to let me know, and thank you again for all of your help and patience.

Warm regards,

Neil

Sampson, Kyle

From: Sampson, Kyle
Sent: Monday, January 02, 2006 1:17 PM
To: McCallum, Robert (SMO); Elwood, Courtney
Cc: Gorsuch, Neil M
Subject: RE: Senior Management meeting Tues. Jan 3rd

No problem.

From: McCallum, Robert (SMO)
Sent: Monday, January 02, 2006 11:10 AM
To: Sampson, Kyle; Elwood, Courtney
Cc: Gorsuch, Neil M
Subject: Senior Management meeting Tues. Jan 3rd

I stupidly scheduled my hip replacement pre-op work up at the hospital for tomorrow am beginning at 8am and lasting until about 2pm: X-rays, blood donation, med. clearance, anesthesia consult, PT pre-op measurements and instruction on post-op workouts, etc. I didn't realize that today, my first day back, was a holiday. So, I won't be in tomorrow until about 2:30-3pm. Please apologize to every one at the morning meeting for me. Neil will cover and brief me afterwards. Robt.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, January 02, 2006 4:56 PM
To: Reyes, Luis (SMO)
Cc: Gorsuch, Neil M
Subject: RE: Rose Bowl

[redacted] Go and enjoy. Robt.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Monday, January 02, 2006 4:50 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: Rose Bowl

[redacted]

[redacted]

Beach, Andrew

Subject:	Accepted: Updated: Strategic Initiatives
Location:	5228 OAG Conf Rm
Start:	Tuesday, January 03, 2006 3:00 PM
End:	Tuesday, January 03, 2006 4:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Beach, Andrew

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, January 03, 2006 8:46 AM
To: Reyes, Luis (SMO); McCallum, Robert (SMO)
Subject: RE: Word from PPO

I am not surprised by this news but, even so, I can't begin to tell you how much you will be missed.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Monday, January 02, 2006 10:57 AM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: Re: Word from PPO

No problem, will do. Will see you in afternoon.

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Mon Jan 02 10:23:07 2006
Subject: RE: Word from PPO

We will obviously do whatever is nec to get you over there whenever is best for PPO and the WH. Jan 11 will work fine for us. By the way, I stupidly scheduled [redacted] I didn't realize that today was a holiday. So, I won't be in tomorrow until about 2:30-3pm. Please apologize to every one at the morning meetings for me. Robt.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Sunday, January 01, 2006 3:54 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: Word from PPO

Gentlemen,
I have received word, on a close hold, that Julie Myers will be recess appointed on or about Jan. 5. PPO has requested that I transition over soon thereafter, but have also indicated that they are willing to work with me as to the timing. While I have all my ducks already in a row, there are a few items that I want to push along in the coming days (trafficking report, gao study, oasg admin, and a few others) to ensure that no momentum is lost. I believe that a good final day for me could be Wed. January 11.

Needless to say, this is a bitter sweet change for me as I look forward to serving the President in this new capacity, but can't help but ponder if I will ever again work on as exciting and interesting issues

new capacity, but can't help but ponder if I will ever again work on as exciting and interesting issues as I have at Justice, or with such outstanding gentlemen and true legal scholars as Robert D. McCallum, Jr. and Neil Gorsuch.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, January 3, 2006 8:51 AM
To: Reyes, Luis (SMO)
Subject: Civ Components

Chief, The strategic initiatives mtg is scheduled at 3pm - same time as our civ components mtg. Robert is likely to be back by then but, if not, would you be able to chair the civ comp mtg so that I can attend the other? NMG

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, January 3, 2006 8:57 AM
To: Gorsuch, Neil M
Subject: Re: Civ Components

Sure thing.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Tue Jan 03 08:50:39 2006
Subject: Civ Components

Chief, The strategic initiatives mtg is scheduled at 3pm - same time as our civ components mtg. Robert is likely to be back by then but, if not, would you be able to chair the civ comp mtg so that I can attend the other? NMG

Elwood, Courtney

From: Elwood, Courtney
Sent: Tuesday, January 03, 2006 10:06 AM
To: Bradbury, Steve; Sampson, Kyle; Gorsuch, Neil M
Subject: FW:
Attachments: tmp.htm

Steve, Kyle, and Neil -- Last week was an unusual week with people in and out of the office and no morning meetings. Perhaps that is why the AG was aware of the development of this signing statement. I will print it for him.

Courtney Simmons Elwood
Deputy Chief of Staff and
Counselor to the Attorney General
U.S. Department of Justice
(w) 202.514.2267
(c) 202.532.5202
(fax) 202.305.9687

-----Original Message-----
From: David_S._Addington@ovp.eop.gov [mailto:David_S._Addington@ovp.eop.gov]
Sent: Tuesday, January 03, 2006 9:49 AM
To: Elwood, Courtney
Subject:

Courtney:

Al asked me this morning what we were going to say in the signing statement on the DOD Appropriations Bill on the detainee provisions. I told him the President had already issued a signing statement (and a second, public relations statement) last week and that it was available on the White House website. You might want to have somebody print the statements off for him so he can read them.

Courtney:

Al asked me this morning what we were going to say in the signing statement on the DOD Appropriations Bill on the detainee provisions. I told him the President had already issued a signing statement (and a second, public relations statement) last week and that it was available on the White House website. You might want to have somebody print the statements off for him so he can read them.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, January 3, 2006 10:12 AM
To: Elwood, Courtney
Subject: RE:

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, January 03, 2006 10:06 AM
To: Bradbury, Steve; Sampson, Kyle; Gorsuch, Neil M
Subject: FW:

Steve, Kyle, and Neil -- Last week was an unusual week with people in and out of the office and no morning meetings. Perhaps that is why the AG was aware of the development of this signing statement. I will print it for him.

Courtney Simmons Elwood
Deputy Chief of Staff and
Counselor to the Attorney General
U.S. Department of Justice
(w) 202.514.2267
(c) 202.532.5202
(fax) 202.305.9687

-----Original Message-----
From: David_S._Addington@ovp.eop.gov [mailto:David_S._Addington@ovp.eop.gov]
Sent: Tuesday, January 03, 2006 9:49 AM
To: Elwood, Courtney
Subject:

Courtney:

Al asked me this morning what we were going to say in the signing statement on the DOD Appropriations Bill on the detainee provisions. I told him the President had already issued a signing statement (and a second, public relations statement) last week and that it was available on the White House website. You might want to have somebody print the statements off for him so he can read them.

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, January 03, 2006 10:22 AM
To: USDOJ- Office of Public Affairs
Subject: CRIMINAL INFORMATION FILED IN U.S. V. JACK ABRAMOFF
Attachments: abramoff.info.pdf

The attached criminal information was filed this morning at U.S. District Court in the District of Columbia. A hearing in *U.S. v. Jack Abramoff* will be held in U.S. District Court in the District of Columbia, at 12:15 P.M., before Judge Ellen Segal Huvelle. The hearing will be held in the 4th floor courtroom of Judge Kessler in the new courthouse annex.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	**Criminal Number:**
	:	
	:	**VIOLATION:**
	:	
	:	**Count One:**
	:	**18 U.S.C. § 371**
v.	:	**(Conspiracy)**
	:	
JACK A. ABRAMOFF,	:	**Count Two:**
	:	**18 U.S.C. §§ 1341, 1346 and 2**
Defendant.	:	**(Honest Services Mail Fraud)**
	:	
	:	**Count Three:**
	:	**26 U.S.C. § 7201**
	:	**(Tax Evasion)**

INFORMATION

The United States charges that:

COUNT ONE

18 U.S.C. § 371 - Conspiracy

GENERAL ALLEGATIONS

Unless specified otherwise, at all relevant times:

1. From in or about 1994 to in or about 2004, defendant JACK A. ABRAMOFF was a Washington, D.C. lobbyist. In 1994, defendant ABRAMOFF joined a law and lobbying firm ("Firm A"). In January 2001, defendant ABRAMOFF joined a second law and lobbying firm ("Firm B").

2. Defendant ABRAMOFF solicited and obtained lobbying business from groups and companies throughout the United States, including Native American tribal governments operating, and interested in operating, gaming casinos. Defendant ABRAMOFF sought to further his clients'

interests by lobbying public officials, including, but not limited to, Members of the United States Congress. Defendant ABRAMOFF also sought to further his clients' interests by recommending vendors for grass roots work, public relations services and election campaign support.

3. In or about January 2001, Michael Scanlon ("Scanlon") established a business to provide grass roots work, public relations services and election campaign support. Scanlon also formed other companies that were used primarily to receive money for services and work performed by others (collectively referred to as "CCS").

4. In or about May 2003, defendant ABRAMOFF established a business called GrassRoots Interactive ("GRI"), which had its principal offices in Silver Spring, Maryland. GRI was purportedly formed to provide grass roots work, public relations services, and election campaign support.

5. In July 1999, Abramoff established a private foundation called Capital Athletic Foundation ("CAF") for which he sought and received federal tax-exempt status, in part to provide funding for a non-profit school.

THE CONSPIRACY AND ITS OBJECTS

6. From at least as early as 1997 through at least April 2004, in the District of Columbia and elsewhere, the defendant,

JACK A. ABRAMOFF,

did knowingly conspire and agree with Scanlon and with others to commit the following offenses against the United States:

(A) to devise a scheme and artifice to defraud and deprive defendant ABRAMOFF's clients of their right to defendant ABRAMOFF's honest services, performed free

DOJ_NMG_ 0149796

from deceit, fraud, concealment, conflict of interest and self-dealing, in violation of 18 U.S.C. §§ 1341, 1343, and 1346;

(B) to devise a scheme and artifice to defraud and to obtain money and property from the clients of defendant ABRAMOFF and Scanlon through intentionally and materially false and fraudulent misrepresentations, pretenses, and promises, in violation of 18 U.S.C. §§ 1341 and 1343;

(C) to devise a scheme and artifice to defraud and deprive Firm B of its right to defendant ABRAMOFF's honest services, performed free from deceit, fraud, concealment, conflict of interest and self-dealing, in violation of 18 U.S.C. §§ 1341, 1343, and 1346;

(D) to corruptly give, offer and promise things of value, including money, meals, trips and entertainment, to public officials and their relatives with the intent to influence, and in return for agreements to perform, officials acts benefitting defendant ABRAMOFF, Scanlon, and their clients, in violation of 18 U.S.C. §§ 201(b)(1), 1341, 1343, and 1346; and

(E) to knowingly cause former senior Congressional staff members to make, with the intent to influence, communications to and appearances before Members of Congress, their employees and employees of Congressional Committees, on matters on which the former congressional staff members were seeking official action on behalf of other persons within one year of the Congressional staff members' employment by those Members of Congress or Congressional Committees, in violation of 18 U.S.C. § 207(e).

DOJ_NMG_ 0149797

PURPOSES OF THE CONSPIRACY

7. It was a purpose of the conspiracy for defendant ABRAMOFF, Scanlon and others to enrich themselves by obtaining substantial funds from their clients through fraud and concealment. A further purpose of the conspiracy was to obtain benefits for themselves and others through corrupt means.

MANNER AND MEANS

8. The conspiracy was carried out through the following manner and means:

A. Defendant ABRAMOFF and sometimes others would persuade clients that they needed to hire CCS or GRI to perform certain grass roots and public relations services to accomplish the goals that defendant ABRAMOFF identified for them.

B. Defendant ABRAMOFF and sometimes others would cause CCS or GRI to charge clients prices that incorporated huge profit margins for the purpose of generating funds for and concealing kickbacks that would be paid to defendant ABRAMOFF.

C. Defendant ABRAMOFF received approximately fifty percent of the net profits Scanlon, through CCS, obtained from clients referred by defendant ABRAMOFF. Defendant ABRAMOFF would receive this money through entities he owned and controlled. Defendant ABRAMOFF and Scanlon would conceal these kickbacks from their clients.

D. Defendant ABRAMOFF and others would cause clients to falsely believe that some of the fees charged were being used for specific purposes, when in fact, defendant ABRAMOFF and others would use those funds for their own personal benefit and not for the benefit of their clients.

DOJ_NMG_ 0149798

E. On some occasions, defendant ABRAMOFF would falsely represent to his clients that he had no relationship with, or received no financial benefit from, CCS or GRI, when in fact defendant ABRAMOFF received substantial monetary payments from those entities.

F. Defendant ABRAMOFF and others would offer and provide things of value to public officials, including trips, campaign contributions, meals and entertainment in exchange for agreements that the public officials would use their official positions and influence to benefit defendant ABRAMOFF's clients and defendant ABRAMOFF's businesses.

G. Defendant ABRAMOFF and others would hire senior congressional staff members as lobbyists, and those former congressional staff members, with the knowledge and encouragement of defendant ABRAMOFF and others despite the federal one year lobbying ban, would communicate with their former employers, either Members of Congress or Congressional Committees, and their staffs, in order to influence official action.

OVERT ACTS

9. In furtherance of the conspiracy and to achieve its purposes, defendant ABRAMOFF, Scanlon and others committed the following overt acts, among others, in the District of Columbia and elsewhere:

DOJ_NMG_ 0149799

Deprivation of Abramoff's Clients' Right To Abramoff's Honest Services

Mississippi Tribe

10. In or about 1995, defendant ABRAMOFF was hired by a Native American tribal client based in Mississippi ("Mississippi Tribe") to provide lobbying services on various issues, including taxation of the tribe by the Federal government as well as other issues relating to Tribal sovereignty. Defendant ABRAMOFF used his knowledge of lobbying and grass roots work, which was superior to the Mississippi Tribe's knowledge of these areas, to secure and keep the trust and confidence of the Mississippi Tribe.

11. In or about early 2001, defendant ABRAMOFF advised the Mississippi Tribe to hire CCS while concealing the fact that defendant ABRAMOFF would receive approximately fifty percent of the net profits from the Mississippi Tribe's payments to CCS.

12. From in or about June 2001 until in or about April 2004, the Mississippi Tribe paid CCS approximately $14,765,000. Pursuant to their secret profit-sharing agreement, defendant ABRAMOFF and Scanlon concealed from the Mississippi Tribe that approximately fifty percent of the profit, approximately $6,364,000, including money that was not passed through CCS, was kicked back to defendant ABRAMOFF pursuant to their secret arrangement.

Louisiana Tribe

13. In or about March 2001, defendant ABRAMOFF and Scanlon successfully solicited a Native American tribal client based in Louisiana ("Louisiana Tribe") to hire them to provide lobbying and grass roots services to the tribe. Defendant ABRAMOFF used his knowledge of lobbying and grass roots work, which was superior to the Louisiana Tribe's knowledge of these areas, to secure and keep the trust and confidence of the Louisiana Tribe.

DOJ_NMG_ 0149800

14. In or about March 2001, after CCS had been paid for the first project, defendant ABRAMOFF recommended and advised the Louisiana Tribe to rehire CCS while concealing the fact that defendant ABRAMOFF would receive fifty percent of the net profits from the Louisiana Tribe's payments to CCS.

15. From in or about March 2001 to in or about May 2003, the Louisiana Tribe paid Scanlon and related entities approximately $30,510,000. Defendant ABRAMOFF and Scanlon concealed from the Louisiana Tribe that approximately fifty percent of the profit, approximately $11,450,000, including money that was not passed through CCS, was kicked back to defendant ABRAMOFF pursuant to their secret arrangement.

Michigan Tribe

16. In or about January 2002, defendant ABRAMOFF and Scanlon successfully solicited a Native American tribal client based in Michigan ("Michigan Tribe") to hire them to provide lobbying and grass roots services to the tribe. Defendant ABRAMOFF used his knowledge of lobbying and grass roots work, which was superior to the Michigan Tribe's knowledge of these areas, to secure and keep the trust and confidence of the Michigan Tribe.

17. In or about June 2002, defendant ABRAMOFF encouraged the Michigan Tribe to expand its contract with CCS while concealing the fact that defendant ABRAMOFF would receive approximately fifty percent of the profits from the Michigan Tribe's payments to CCS.

18. From in or about June 2002 to in or about October 2003, the Michigan Tribe paid CCS approximately $3,500,000. Pursuant to their secret arrangement, defendant ABRAMOFF and Scanlon concealed from the Michigan Tribe that approximately fifty percent of the profit, approximately $540,000, was kicked back to defendant ABRAMOFF.

DOJ_NMG_ 0149801

Texas Tribe

19. In or about February 2002, defendant ABRAMOFF and Scanlon successfully solicited a Native American tribal client based in Texas ("Texas Tribe #1") to hire them to provide lobbying and grass roots services to the tribe to reopen their casino through federal legislation. After Texas Tribe #1 paid $4,200,000 to CCS, defendant ABRAMOFF concealed his work to oppose Texas Tribe #1's efforts to reopen its casino under state law. Defendant ABRAMOFF falsely represented that he would work for free to represent Texas Tribe #1, all the while concealing from the Texas Tribe #1 that approximately fifty percent of CCS's net profits, approximately $1,850,000, was kicked back to Abramoff pursuant to his secret arrangement with Scanlon.

Fraud Based on Affirmative Misrepresentations

20. On or about June 6, 2002, defendant ABRAMOFF and a lobbying colleague, who was also a former congressional staffer ("Staffer A") successfully solicited one of Firm B's clients, a distilled beverages company, for a $25,000 payment to CAF. Instead of using the money for CAF and contrary to CAF's tax exempt purpose, defendant ABRAMOFF used this money for his personal and professional benefit to partially pay for a golfing trip to Scotland for public officials, members of his staff and others.

Deprivation of Abramoff's Employer's Right To Abramoff's Honest Services

21. In 2001, defendant ABRAMOFF successfully solicited a wireless telephone company ("Wireless Company") to make at least $50,000 in payments to CAF. In exchange for making the payments to this entity, defendant ABRAMOFF stated that no lobbying payments need be made to Firm B, and that defendant ABRAMOFF would undertake a lobbying effort to assist Wireless Company in securing a license to install wireless telephone infrastructure for the United States

DOJ_NMG_ 0149802

House of Representatives. In 2001 and early 2002, defendant ABRAMOFF and his Firm B colleagues lobbied for the Wireless Company without any formal retainer agreement or any payments to Firm B. At no time did defendant ABRAMOFF inform his employer, Firm B, of the payments totaling $50,000 to CAF that were diverted from Firm B.

Bribery and Honest Services Fraud Involving Public Officials

22. From in or about 1999 through in or about April 2004, defendant ABRAMOFF, Scanlon and others, together and separately, provided a stream of things of value to a Member of the United States House of Representatives ("Representative #1") and members of his staff, including but not limited to a lavish trip to Scotland to play golf on world-famous courses, tickets to sporting events and other entertainment, regular meals at defendant ABRAMOFF's upscale restaurant, and campaign contributions for Representative #1, his political action committee, and other political committees on behalf of Representative #1.

23. In exchange for those things of value, from in or about March 2000 through in or about April 2004, defendant ABRAMOFF, Scanlon and others, together and separately, sought and received Representative #1's agreement to perform a series of official acts to benefit defendant ABRAMOFF's businesses, clients and others, including but not limited to, agreements to support and pass legislation, agreements to place statements into the Congressional Record, meetings with defendant ABRAMOFF's clients, and advancing the application of a client of defendant ABRAMOFF for a license to install wireless telephone infrastructure in the House of Representatives.

DOJ_NMG_ 0149803

Post-Employment Restrictions of Congressional Staffers

24. Beginning in March 2002, defendant ABRAMOFF and a former staffer to Representative #1 ("Staffer B") contacted Representative #1, officials employed by the Office of Representative #1, and officials employed by a House Committee ("Committee"), of which Representative #1 was the chairman. These contacts occurred within one year of Staffer B having served as the Staff Director of the Committee and Chief of Staff for Representative #1. Defendant ABRAMOFF intended that Staffer B make these appearances and communications for the purpose of influencing official action on behalf of defendant ABRAMOFF's and Staffer B's clients, including Texas Tribe #1 and Wireless Company.

All in violation of 18 United States Code, Section 371.

DOJ_NMG_ 0149804

COUNT TWO

18 U.S.C. §§ 1341, 1346 and 2 - Honest Services Mail Fraud of a Public Official

25. Paragraphs 1 through 5, 19, and 22 through 24 are realleged as though fully stated herein.

26. From in or about 1999 through in or about April 2004, in the District of Columbia and elsewhere, having devised and intending to devise a scheme and artifice to defraud and deprive the United States, his constituents and the United States House of Representatives of the right to the honest services of a Member of the United States House of Representatives, Representative #1, and his staff, including the right to conscientious, loyal, faithful, disinterested, unbiased service, to be performed free of deceit, undue influence, conflict of interest, self-enrichment, self-dealing, concealment, bribery, fraud and corruption, by corruptly offering and providing a stream of things of value, including money, meals, trips and entertainment to Representative #1 and his staff, in return for their agreements to perform official acts benefitting defendant ABRAMOFF and his clients as described in paragraphs 1 through 5, 19, and 22 through 24, defendant,

JACK A. ABRAMOFF,

knowingly and willfully, for the purpose of executing, and aiding and abetting, the above-described scheme and artifice and attempting to do so, that is funding a Scotland golf trip for Representative #1 and his staff, caused a $50,000 check solicited by Texas Tribe # 1 and defendant ABRAMOFF to be delivered by mail and commercial delivery service from Texas on or about August 12, 2002 according to the directions thereon to defendant ABRAMOFF in the District of Columbia.

All in violation of 18 United States Code, Sections 1341, 1346 and 2.

DOJ_NMG_ 0149805

COUNT THREE

26 U.S.C. § 7201 - Tax Evasion

27. Paragraphs 1 through 5 and 7 through 24 are realleged as though fully stated herein.

28. Beginning on or about January 1, 2002, the exact date being unknown, through October 17, 2003, in the District of Columbia and elsewhere, defendant

JACK A. ABRAMOFF,

a resident of Silver Spring, Maryland, did willfully attempt to evade and defeat a large part of the income tax due and owing by him to the United States of America for the calendar year 2002, by committing at least one affirmative act of evasion including, but not limited to:

(a) Making and using, and causing to be made and used, false documents, false entries and alterations to financial books and records, and false invoices;

(b) Concealing assets and sources of income through the use of nominees including, but not limited to, tax-exempt organizations;

(c) Concealing substantial amounts of illegally derived income; and

(d) Filing, and causing to be filed, a false joint U.S. Individual Income Tax Return, Form 1040, for the 2002 calendar year

all for the purpose of concealing additional unreported taxable income received by, or on behalf of, the defendant during the 2002 calendar year, on which income, as the defendant then and there well knew and believed, there was due and owing to the United States of America a substantial amount of income tax.

All in violation of Title 26, United States Code, Section 7201.

DOJ_NMG_ 0149806

NOEL L. HILLMAN
Chief, Public Integrity Section

Mary K. Butler
M. Kendall Day
Trial Attorneys

Date: 1/3/06

PAUL E. PELLETIER
Acting Chief, Fraud Section

Guy D. Singer
Nathaniel B. Edmonds
Trial Attorneys

Date: 1/3/06

BRUCE M. SALAD
Chief, Southern Criminal Enforcement Section

Stephanie D. Evans
Trial Attorney
Tax Division
U.S. Department of Justice

Date: January 3, 2006

DOJ_NMG_ 0149807

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Tuesday, January 03, 2006 10:53 AM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov; John_B._Wiegmann@nsc.eop.gov
Subject: FW: Interrogation and Treatment of Detainees by the Department of Defense (OSD 75003-06)
Attachments: tmp.htm; image001.jpg; image002.gif; OSD 75003-06.pdf

FYI

-----Original Message-----
From: [redacted] DoD OGC
Sent: Tuesday, January 03, 2006 10:19
To: [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC
Cc: [redacted] DoD OGC
Subject: FW: Interrogation and Treatment of Detainees by the Department of Defense (OSD 75003-06)

FYI. v/r, [redacted]
-----Original Message-----
From: [redacted] CIV WHS/ESD
Sent: Tuesday, January 03, 2006 10:05
To: MLA - WHS/ESCD - Multimemo; RSS DHRA Headquarters; Admin_Logistics; [redacted]@dla.mil; [redacted] CIV, OASD-PA; [redacted] CIV, OSD-P&R; [redacted] TSGT (USAF), OSD-POLICY-DTSA; [redacted]@cifa.mil; [redacted]@dfas.mil; [redacted]@ncr.disa.mil; [redacted]@nima.mil [redacted] CIV, WSO-OEA; [redacted]@dcaa.mil; [redacted]@dcma.mil; DIA_Correspondence; DSCAFO (All Members); [redacted]@tditc.mil; [redacted]@DTRA.MIL; [redacted] OSD-DPM0; [redacted] WHS/DFD; [redacted] OSD-P&R; [redacted]@mail.dss.mil; [redacted]@tima.osd.mil; [redacted] CIV, OSD-P&R [redacted] CIV, WSO-OEA; [redacted] OSD-NII; [redacted] AFIS-HQ/AFRTS-D: [redacted]@darpa.mil; [redacted]@dodig.mil; [redacted] TSGT (USAF), OSD-POLICY-DTSA; [redacted]@dfas.mil; [redacted] CIV, WSO-OEA; [redacted] CIV, OASD(HA)/TMA; [redacted], WHS/DFD; [redacted] OSD-NII [redacted] RSS dd - DTRMC, OSD-ATL; [redacted]@dfas.mil; [redacted] (USAF) OSD-POLICY-DTSA; [redacted] YN1, OSD-ODA&M [redacted] CIV, OSD - P&R; [redacted]@mda.mil; [redacted] CTR, WHS/APSD; [redacted]@hq.dodea.edu; [redacted]@stratcom.mil;

[redacted]@eucom.mil; [redacted]@socom.mil; [redacted]@jfcom.mil;
[redacted]CIV WHS/ESD; NORAD USNORTHCOM CS - OMB;
[redacted]@pacom.mil; [redacted]@centom.mil;
[redacted]@korea.army.mil; [redacted]@hq.southcom.mil; USSTRATCOM LNO;
[redacted]@hq.transcom.mil
Subject: Interrogation and Treatment of Detainees by the Department of Defense (OSD 75003-06)

The attached Deputy Secretary of Defense Memorandum dated December 30, 2005, Subject: Interrogation and Treatment of Detainees by the Department of Defense, OSD 75003-06, is forwarded in PDF format for dissemination throughout your Component.

[redacted]

WHS/ESD



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

DEC 30 2005

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
COMMANDERS OF THE COMBATANT COMMANDS
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Interrogation and Treatment of Detainees by the Department of Defense

The following provision appears in the Defense Appropriations Act, 2006 (§ 1402):

> No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

Pursuant to the above, effective immediately, and until further notice, no person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or interrogation approach or technique that is not authorized by and listed in United States Army Field Manual 34-52, "Intelligence Interrogation," September 28, 1992. Department of Defense Directive 3115.09, "DoD Intelligence Interrogations, Detainee Debriefings and Tactical Questioning," November 3, 2005, remains in effect.

This guidance does not apply to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

The President's February 7, 2002 direction that all persons detained by the U.S. Armed Forces in the War on Terrorism shall be treated humanely remains in effect. Consistent with the President's guidance, DoD shall continue to ensure that no person in the custody or under the control of the Department of Defense, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

[redacted]

OSD 75003-06

DOJ_NMG_0149812

FYI

-----Original Message-----
From: [redacted] DoD OGC
Sent: Tuesday, January 03, 2006 10:19
To: [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC
Cc: [redacted] DoD OGC
Subject: FW: Interrogation and Treatment of Detainees by the Department of Defense (OSD 75003-06)

FYI. v/r, [redacted]
-----Original Message-----
From: Hawley, Ed CIV WHS/ESD
Sent: Tuesday, January 03, 2006 10:05
To: MLA - WHS/ESCD - Multimemo; RSS DHRA Headquarters; Admin_Logistics; [redacted]@dla.mil; [redacted] OASD-PA; [redacted] OSD-P&R; [redacted] (USAF), OSD-POLICY-DTSA; [redacted]@cifa.mil; [redacted]@dfas.mil; [redacted]@ncr.disa.mil; [redacted]@nima.mil; [redacted] WSO-OEA; [redacted]@dcaa.mil; [redacted]@dcma.mil; DIA_Correspondence; DSCAFO (All Members); [redacted]@tditc.mil [redacted]@DTRA.MIL; [redacted] OSD-DPM0; [redacted] WHS/DFD; [redacted] OSD-P&R; [redacted]@mail.dss.mil; [redacted]@tima.osd.mil; [redacted] CIV, OSD-P&R; [redacted] CIV, WSO-OEA [redacted] OSD-NII; [redacted] AFIS-HQ/AFRTS-D; [redacted]@darpa.mil; [redacted]@dodig.mil; [redacted] TSGT (USAF), OSD-POLICY-DTSA; [redacted]@dfas.mil; [redacted] CIV, WSO-OEA; [redacted] CIV, OASD(HA)/TMA; [redacted], WHS/DFD; [redacted] Col, OSD-NII; [redacted] RSS dd - DTRMC, OSD-ATL; [redacted]@dfas.mil; [redacted] (USAF) OSD-POLICY-DTSA; [redacted] N1, OSD-ODA&M; [redacted] CIV, OSD - P&R; [redacted]@mda.mil [redacted] CTR, WHS/APSD; [redacted]@hq.dodea.edu; [redacted]@stratcom.mil; [redacted]@eucom.mil; [redacted]@socom.mil; [redacted]@jfcom.mil; [redacted] CIV WHS/ESD; NORAD USNORTHCOM CS - OMB; [redacted]@pacom.mil; [redacted]@centom.mil; [redacted]@korea.army.mil; [redacted]@hq.southcom.mil; USSTRATCOM LNO; [redacted]@hq.transcom.mil
Subject: Interrogation and Treatment of Detainees by the Department of Defense (OSD 75003-06)

The attached Deputy Secretary of Defense Memorandum dated December 30, 2005, Subject: Interrogation and Treatment of Detainees by the Department of Defense, OSD 75003-06, is forwarded in PDF format for dissemination throughout your Component.

[redacted]

WHS/ESD

Owens, Angela (ENRD)

From: Owens, Angela (ENRD)

Sent: Tuesday, January 03, 2006 10:56 AM

To: Alexander, Craig (ENRD); Barsky, Seth (ENRD); Baylor, Lewis (ENRD); Bogan, Shanedda L. (ENRD); Brighton, William (ENRD); Brook, Bob (ENRD); Brookshire, James (ENRD); Bruffy, Robert (ENRD); Burgess, Wells (ENRD); Butler, Virginia (ENRD); Clark, Tom (ENRD); Cruden, John (ENRD); Davis, Deborah J; Disheroon, Fred (ENRD); Dworkin, Karen (ENRD); Edgar, Mary (ENRD); Elston, Michael (ODAG); Findlay, Charles (ENRD); Fisherow, Benjamin (ENRD); Fowler, Liane (SMO); Gelber, Bruce (ENRD); Gluck, Ronald (ENRD); Goldman, Greer (ENRD); Gorsuch, Neil M; Grishaw, Letitia (ENRD); Gunn, Currie (SMO); Gustafson, Kristen (ENRD); Haugrud, Jack (ENRD); Henderson, Charles V; Hoang, Anthony (ENRD); Katz, Maureen (ENRD); Keeney, John; Kessler, Elizabeth A; Kilbourne, Jim (ENRD); Lazarus, William (ENRD); Lesch, Jaclyn; Mahan, Ellen (ENRD); Maher, Robert (ENRD); Mariani, Tom (ENRD); McCabe, Catherine (ENRD); McCallum, Robert (SMO); McKeown, Matt (ENRD); Mergen, Andy (ENRD); Milius, Pauline (ENRD); Miller, Charles S; Miranda, Gail (ENRD); Monson, Peter C (ENRD); Neumayr, Mary (ENRD); Newton, Cullen (ENRD); O'Connor, Eileen J. (AAG/TAX); Oppenheimer, Peter (ENRD); Owen, Peter B; Randall, Gary (ENRD); Rogers, Cherie (ENRD); Rubin, Jim (ENRD); Samuels, Stephen (ENRD); Saxe, Keith (ENRD); Schachter, Scott (ENRD); Schiffer, Stuart (CIV); Shaw, Aloma A; Shockey, Charles (ENRD); Sither, John (ENRD); Smith, Justin (ENRD-LPS Attorney); Smith, Marc (ENRD); Sobeck, Eileen (ENRD); Turner, John (ENRD); Uhlmann, David (ENRD); Vaden, Christopher (ENRD); Wardzinski, Karen (ENRD); Webb, John T. (ENRD); Williams, Jean (ENRD); Wooldridge, Sue Ellen (ENRD); Young, Russell (ENRD); Zwick, Ken (CIV)

Subject: Attached is ENRD's Weekly Report to the AG....

Attachments: #110024-v1-ENRD_s_AG_Weekly_--_January3.DOC

U.S. Department of Justice

Environment and Natural Resources Division

Assistant Attorney General
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Telephone (202) 514-2701
Facsimile (202) 514-0557

January 3, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sue Ellen Wooldridge
Assistant Attorney General
Environment and Natural Resources Division

NEXT WEEK

Nothing to report.

THIS WEEK

Nothing to report.

LAST WEEK

- ***Generally Favorable Decision in Hydropower Case***

  On December 30, the United States District Court for the District of Oregon upheld the Army Corps of Engineers' 2006 plan for operating the Columbia River Power System and rejected the National Wildlife Federation's request for further injunctive relief in the form of additional spill and flow augmentation during the spring and summer months. The Court, however, rejected the Corps' proposals to allocate more water for transportation purposes at four dams and to shut down spill after August 15 if 95 percent of the fish had already passed.

DIVISION CONTACT

Sue Ellen Wooldridge
Assistant Attorney General
(202) 514-2701

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Tuesday, January 3, 2006 10:57 AM
To: Henry, Terry (CIV); Loeb, Robert (CIV); Gorsuch, Neil M
Cc: Katerberg, Robert (CIV)
Subject: FW: Interrogation and Treatment of Detainees by the Department of Defense (OSD 75003-06)
Attachments: tmp.htm; OSD 75003-06.pdf; image002.gif; image001.jpg

DOD response to McCain legislation.

Karen L. Hecker
Office of the DoD General Counsel (Legal Counsel)

Room 3B652
[redacted](DSN [redacted]
(fax)

This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without prior approval from the Office of the DoD General Counsel.

-----Original Message-----
From: [redacted]DoD OGC
Sent: Tuesday, January 03, 2006 10:54
To: [redacted]DoD OGC; [redacted]DoD OGC; [redacted]DoD OGC; [redacted]DoD OGC
Subject: FW: Interrogation and Treatment of Detainees by the Department of Defense (OSD 75003-06)

-----Original Message-----
From: [redacted]DoD OGC
Sent: Tuesday, January 03, 2006 10:19
To: [redacted]DoD OGC; [redacted]DoD OGC; [redacted]DoD OGC; [redacted]DoD OGC; [redacted]DoD OGC; [redacted]DoD OGC; [redacted]DoD OGC; [redacted]DoD OGC
Cc: [redacted]DoD OGC
Subject: FW: Interrogation and Treatment of Detainees by the Department of

Defense (OSD 75003-06)

FYI. v/r [redacted]
-----Original Message-----
From: [redacted] CIV WHS/ESD
Sent: Tuesday, January 03, 2006 10:05
To: MLA - WHS/ESCD - Multimemo; RSS DHRA Headquarters; Admin_Logistics;
[redacted]@dla.mil; [redacted] CIV, OASD-PA; [redacted]
[redacted] CIV, OSD-P&R; [redacted] TSGT (USAF), OSD-POLICY-DTSA;
[redacted]@cifa.mil [redacted]@dfas.mil; [redacted]@ncr.disa.mil;
[redacted]@nima.mil; [redacted] CIV, WSO-OEA [redacted]@dcaa.mil;
[redacted]@dcma.mil; DIA_Correspondence; DSCAFO (All Members);
[redacted]@tditc.mil; [redacted]@DTRA.MIL; [redacted]
[redacted] OSD-DPM0; [redacted] WHS/DFD [redacted]
[redacted] OSD-P&R;
[redacted]@mail.dss.mil; [redacted] @tima.osd.mil;
[redacted] CIV, OSD-P&R; [redacted] CIV, WSO-OEA; [redacted]
[redacted] OSD-NII; [redacted] AFIS-HQ/AFRTS-D;
[redacted]@darpa.mil; [redacted]@dodig.mil; [redacted] TSGT (USAF),
OSD-POLICY-DTSA; [redacted]@dfas.mil [redacted] CIV, WSO-OEA;
[redacted] CIV, OASD(HA)/TMA [redacted] WHS/DFD [redacted]
[redacted] Col, OSD-NII; [redacted] RSS dd - DTRMC, OSD-ATL;
[redacted]@dfas.mil [redacted] Lt Col, (USAF)
OSD-POLICY-DTSA; [redacted] YN1, OSD-ODA&M; [redacted], CIV, OSD -
P&R; [redacted]@mda.mil; [redacted] CTR, WHS/APSD;
[redacted]@hq.dodea.edu; [redacted]@stratcom.mil;
[redacted]@eucom.mil; [redacted]@socom.mil; [redacted]@jfcom.mil;
[redacted] CIV WHS/ESD; NORAD USNORTHCOM CS - OMB;
[redacted]@pacom.mil; [redacted]@centom.mil;
[redacted]@korea.army.mil; [redacted]@hq.southcom.mil; USSTRATCOM LNO;
[redacted]@hq.transcom.mil
Subject: Interrogation and Treatment of Detainees by the Department of
Defense (OSD 75003-06)

The attached Deputy Secretary of Defense Memorandum dated December 30, 2005, Subject: Interrogation and Treatment of Detainees by the Department of Defense, OSD 75003-06, is forwarded in PDF format for dissemination throughout your Component.

[redacted]

Chief, Unclassified Control Section

WHS/ESD



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

DEC 30 2005

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
COMMANDERS OF THE COMBATANT COMMANDS
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Interrogation and Treatment of Detainees by the Department of Defense

The following provision appears in the Defense Appropriations Act, 2006 (§ 1402):

> No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

Pursuant to the above, effective immediately, and until further notice, no person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or interrogation approach or technique that is not authorized by and listed in United States Army Field Manual 34-52, "Intelligence Interrogation," September 28, 1992. Department of Defense Directive 3115.09, "DoD Intelligence Interrogations, Detainee Debriefings and Tactical Questioning," November 3, 2005, remains in effect.

This guidance does not apply to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

The President's February 7, 2002 direction that all persons detained by the U.S. Armed Forces in the War on Terrorism shall be treated humanely remains in effect. Consistent with the President's guidance, DoD shall continue to ensure that no person in the custody or under the control of the Department of Defense, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

Gordon England
Acting

OSD 75003-06

DOJ_NMG_0149821

DOD response to McCain legislation.

Karen L. Hecker
Office of the DoD General Counsel (Legal Counsel)

Room 3B652
[redacted] *(DSN* [redacted]
[redacted] *(fax)*

This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without prior approval from the Office of the DoD General Counsel.

-----Original Message-----
From: [redacted] DoD OGC
Sent: Tuesday, January 03, 2006 10:54
To: [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC
Subject: FW: Interrogation and Treatment of Detainees by the Department of Defense (OSD 75003-06)

-----Original Message-----
From: [redacted] DoD OGC
Sent: Tuesday, January 03, 2006 10:19
To: [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC
Cc: [redacted] DoD OGC
Subject: FW: Interrogation and Treatment of Detainees by the Department of Defense (OSD 75003-06)

FYI. v/r [redacted]
-----Original Message-----
From: Hawley, Ed CIV WHS/ESD
Sent: Tuesday, January 03, 2006 10:05
To: MLA - WHS/ESCD - Multimemo; RSS DHRA Headquarters: Admin_Logistics [redacted]@dla.mil; [redacted] CIV, OASD-PA; [redacted] CIV, OSD-P&R; [redacted] TSGT (USAF), OSD-POLICY-DTSA; [redacted]@cifa.mil; [redacted]@dfas.mil; [redacted]@ncr.disa.mil; [redacted]@nima.mil; [redacted] CIV, WSO-OEA; [redacted]@ucaa.mil; [redacted]@dcma.mil; DIA_Correspondence; DSCAFO (All Members); [redacted]@tditc.mil; [redacted]@DTRA.MIL; [redacted] OSD-DPM0; [redacted] WHS/DFD; [redacted] OSD-P&R; [redacted]@mail.dss.mil; [redacted]@tima.osd.mil; [redacted] CIV, OSD-P&R; [redacted] CIV, WSO-OEA; [redacted] OSD-NII; [redacted]; [redacted]@darpa.mil; [redacted]@dodig.mil; [redacted] TSGT (USAF), OSD-POLICY-DTSA; [redacted]@dfas.mil; [redacted] CIV, WSO-OEA; [redacted] CIV, OASD(HA)/TMA; [redacted] WHS/DFD; [redacted] OSD-NII; [redacted] RSS dd - DTRMC, OSD-ATL; [redacted]@dfas.mil; [redacted] (USAF) OSD-POLICY-DTSA; [redacted] YN1, OSD-ODA&M; [redacted] CIV, OSD - P&R; [redacted]@mda.mil; [redacted] TR, WHS/APSD; [redacted]@hq.dodea.edu; [redacted]@stratcom.mil; [redacted]@eucom.mil; [redacted]@socom.mil; [redacted]@jfcom.mil; [redacted] CIV WHS/ESD; NORAD USNORTHCOM CS - OMB; [redacted]@pacom.mil; [redacted]@centcom.mil; [redacted]@korea.army.mil; [redacted]@hq.southcom.mil; USSTRATCOM [redacted]@hq.transcom.mil

Subject: Interrogation and Treatment of Detainees by the Department of Defense (OSD 75003-06)

The attached Deputy Secretary of Defense Memorandum dated December 30, 2005, Subject: Interrogation and Treatment of Detainees by the Department of Defense, OSD 75003-06, is forwarded in PDF format for dissemination throughout your Component.

[redacted]
Chief, Unclassified Control Section
WHS/ESD

Gorsuch, Neil M

Subject:	Great Hall Pro Bono Reception. Speech at 10
Start:	Tuesday, January 17, 2006 9:30 AM
End:	Tuesday, January 17, 2006 11:00 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

[redacted]

From: [redacted]
Sent: Tuesday, January 03, 2006 11:54 AM
To: [redacted]
Cc: Gorsuch, Neil M
Subject: RE: Update

[redacted] has a conflict for our date. Human Rights Watch will send someone else to speak, but I am still waiting to confirm the identity with them. Let's hold off until later this week when we have the speaker finalized.

Hope you had a great Christmas and New Years.

[redacted]

-----Original Message-----
From: [redacted] [mailto [redacted]
Sent: Wednesday, December 21, 2005 7:34 PM
To: [redacted]
Cc: [redacted] Neil.Gorsuch@usdoj.gov
Subject: RE: Update

Dear [redacted] & Neil-

That's great news. I plan to resend the invite on 1/3 when I return to the office. I agree about reworking the title a bit. Let me know if I can help in any way.

Best wishes to you and your families for the holidays.

Sincerely,

[redacted]

[redacted]
Program Associate, Term Member Program
Council on Foreign Relations
[redacted]
Tel: [redacted]
Fax: (212) 434-9801
www.cfr.org

To [redacted]
cc <Neil.Gorsuch@usdoj.gov>
bcc
Subject RE: Update

[redacted]

12/21/2005 06:47 AM PST

Yes - we are on for the 24th. Neil and I did want to massage the Title and we are reconfirming our speakers for that date. When should we plan to recirculate the invitation?

-----Original Message-----
From [redacted] mailto [redacted]
Sent: Tuesday, December 20, 2005 3:28 PM
To: [redacted]
Cc: Neil.Gorsuch@usdoj.gov
Subject: Update

Dear [redacted] & Neil-

Just checking in on the seminar; we're still advertising 1/24. Please let me know if that should be removed. I am out of the office until January 3rd, but will check email once a day.

Best wishes for the holidays!
[redacted]

[redacted]
Program Associate, Term Member Program
Council on Foreign Relations
[redacted]
Tel: [redacted]
Fax: (212) 434-9801
www.cfr.org

Harrison, Mia (CRT)

From:	Harrison, Mia (CRT)
Sent:	Tuesday, January 3, 2006 11:59 AM
To:	Davis, Deborah J; Fowler, Liane; Gorsuch, Neil M; Henderson, George; Jorge Martinez (E-mail); Longwitz, Tobi (CRT); Scott-Finan, Nancy; Shaw, Aloma A
Subject:	Weekly Report for January 3, 2006
Attachments:	Weekly 1-3-05.wpd

Weekly 1-3-05

January 3, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE ACTING DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Wan J. Kim
Assistant Attorney General

SUBJECT: Weekly Report[1] for the Week ending December 29, 2005

NEXT WEEK

· ***Supreme Court to Hear Oral Argument on Title VII Case:***
On January 11, the Supreme Court will hear oral argument in Arbaugh v. Y & H Corp. Petitioner brought this action against her former employer, alleging sexual harassment and constructive discharge in violation of Title VII and state tort law. After a jury trial and entry of judgment for petitioner, respondent moved to dismiss the action, contending for the first time that it was not covered by Title VII because it had fewer than the requisite 15 employees. The district court agreed and dismissed the action, ruling that the numerosity requirement in the statute is jurisdictional and, therefore, is not waivable and may be raised at any time. The Fifth Circuit affirmed. The United States will argue as amicus curiae that the numerosity requirement is an element of the plaintiff's cause of action under Title VII, but is not jurisdictional, and that, therefore, the lower courts' dismissal of this action should be reversed.

THIS WEEK

---

[1]This report is an internal document that is not intended for distribution outside of the Department of Justice.

- ***Division to Participate in Seventh Circuit Oral Argument:***
  On January 5, the Seventh Circuit will hear oral argument in *White* v. *HUD.* The Division will argue that a HUD Administrative Law Judge (ALJ) correctly dismissed a charge of discrimination under the Fair Housing Act because an August 1998 telephone conversation did not indicate an impermissible preference based on familial status in violation of 42 U.S.C. 3604(c). The Division will also argue that the ALJ did not abuse his discretion in refusing to grant petitioner's belated motion to amend the charge of discrimination to add a 42 U.S.C. 3617 claim based on an allegation that the owner of an apartment petitioner was interested in renting twice called petitioner's grandfather in retaliation for petitioner's filing a housing discrimination complaint with the Cook County Commission on Human Rights.

- ***Trial To Begin in Arkansas Color of Law Case:***
  On January 4, trial is scheduled to begin in *United States v. Miller* (Eastern District of Arkansas). Defendant Jody Ray Miller, a jailer at the Craighead County Jail, is charged with violating two counts of 18 U.S.C. §242, one count of 18 U.S.C. §1519 (falsification of records in a federal investigation), and one count of 18 U.S.C. §1001 (false statements to the FBI). These charges related to the assault of arrestee Terry O'Neil while he was compliant and restrained in handcuffs as well as the assault of a second inmate.

- ***Trial To Begin Against Border Patrol Agent in Texas:***
  On January 4, trial is scheduled to begin in *United States v. Sullivan* (Southern District of Texas). On September 14, 2005, defendant Scott Anthony Sullivan, a United States Border Patrol Agent, was charged with violating two counts of 18 U.S.C. §242. Defendant Sullivan was indicted for allegedly sexually assaulting a young woman who had been detained at a border checkpoint and for subjecting another minor female to multiple unreasonable searches.

LAST WEEK

- ***Guilty Plea in Civil Rights Criminal Case:***
  On December 22, in *United States v. Baalman, et al.* (District of Utah), defendants Rob Baalman, a member of a national white supremacist group, entered a guilty plea to violating one count of 18 U.S.C. 245 (interference with a federally protected activity). Defendants Keith Cotter and David Gardner, also members of the national white supremacist group, remain charged with violating 18 U.S.C. §245. On March 12, the defendants allegedly assaulted George Stephenson, an African American male, as he was riding to work on

his bicycle. As a result of the assault, the victim's face and scalp were lacerated and his ankle was broken in two places.

- ***Division Reaches ADA Agreement with City of Waukegan, Illinois:***
On December 15, the Division entered into a settlement agreement with the City of Waukegan, Illinois to bring their municipal buildings and services into compliance with title II of the Americans with Disabilities Act. This Agreement is part of Project Civic Access, a departmental initiative to ensure that local governments comply with title II. The City's government officials worked cooperatively with the Department throughout the investigation in order to reach this settlement agreement.

- ***Division Files Lawsuit against a Milwaukee Nightclub Alleging Discrimination against African Americans:***
On December 29, the Division filed a complaint in United States v. Candy II, d/b/a Eve (Eastern District of Wisconsin), alleging that a Milwaukee nightclub violated Title II by discriminating against African Americans. According to the complaint, Eve employees falsely told African Americans that they could not enter because a private party was underway, at the same time the employees admitted whites. On other occasions, the complaint alleges, Eve employees told African Americans that Eve was at capacity, while at the same time the employees admitted whites.

LONG RANGE EVENTS

- ***Division To Make Presentation at National Home Builder Show:***
On January 13, 2006, the Housing and Civil Enforcement Section Chief will speak about multi-family housing accessibility enforcement and other issues at the National Association of Home Builders' International Builders' Show.

Division Contact: Tobi Longwitz – 202/514-3845

Neil Gorsuch

N e i l G o r s u c h n

t€‹ □€□ |€‹ □€□ ˜€‹ □€□ ´€‹ □€□ Ð€‹ □€□ Ø€‹ □€□ ô€‹ □€

Lyon, Jaime

From: Lyon, Jaime
Sent: Tuesday, January 03, 2006 12:17 PM
To: CRS AG Weekly Report Recipients
Subject: CRS AG Weekly 1-3-06
Attachments: CRS AG Weekly 1-3-06.doc

Attached please find the CRS Weekly Report for the Attorney General for January 3, 2006.

Jaime Lyon
Confidential Assistant to the Director
Community Relations Service
United States Department of Justice
(202) 305-2934

January 3, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sharee Freeman
Acting Director, Community Relations Service

SUBJECT: Weekly Report[1]

A. Next Week

- ***CRS to Assess Community Racial Tensions in New Orleans, LA***
  On January 12, 2006, CRS will be onsite in New Orleans, LA to meet with New Orleans Police Department officials and local community leaders in response to elevated community racial tensions and concerns surrounding allegations of police use of excessive force following the December 26, 2005 shooting death of an African American male by a Caucasian police officer during a reported confrontation in which the African American suspect lunged at the police officer with a knife. CRS will conduct an assessment and provide appropriate services to defuse immediate tensions where appropriate.

- ***CRS to Conduct School Problem Identifying and Resolving Issues Together (SPIRIT) Program in Roanoke, AL***
  On January 9-11, 2006, CRS will be onsite in Roanoke, AL to conduct a Student Problem Identifying and Resolving Issues Together (SPIRIT) program. The program is being held in response to continued community racial tensions following Hurricane Katrina and Rita disaster recovery efforts. This intervention program is designed to enhance students' cultural awareness and promote a multicultural learning environment.

- ***CRS to Respond to Community Racial Tensions in McFarland, WI***
  On January 16, 2006, CRS will be onsite in McFarland, WI to meet with McFarland High School administrators in response to growing racial tensions surrounding a series of reported physical confrontations and use of racial slurs between African American and White students, following recent demographic shifts in the Madison metropolitan area. CRS will assess tensions and provide information on CRS' School Problem Identifying and Resolving Issues Together (SPIRIT) program.

[1] This report is an internal document that is not intended for distribution outside of the Department of Justice.

DOJ_NMG_ 0149837

B. This Week

No entries to report.

C. Last Week

No entries to report.

COMMUNITY RELATIONS SERVICE CONTACT:
JAIME LYON AT (202) 305-2934

DOJ_NMG_ 0149838

Garre, Gregory G

From: Garre, Gregory G
Sent: Tuesday, January 03, 2006 12:27 PM
To: Gorsuch, Neil M
Subject: Read: South Dakota

Mercer, Bill (ODAG)

From: Mercer, Bill (ODAG)
Sent: Tuesday, January 03, 2006 12:35 PM
To: Gorsuch, Neil M
Subject: Read: South Dakota
Importance: High

Roehrkasse, Brian

From: Roehrkasse, Brian
Sent: Tuesday, January 03, 2006 1:08 PM
To: Gorsuch, Neil M
Cc: Scolinos, Tasia
Subject: Fw: privilege waivers
Attachments: tmp.htm

Neil,
Per the request below do you have time to do a backgrounder on this?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]@businessweek.com <[redacted]@businessweek.com>
To: Roehrkasse, Brian <Brian.Roehrkasse@SMOJMD.USDOJ.gov>
Sent: Tue Jan 03 13:03:47 2006
Subject: privilege waivers

Hi Brian - Happy new year. [redacted] tells me you're the best contact for a story we're doing on attorney-client privilege waivers. We're doing a story about corporations' growing unease over DOJ and SEC requests for attorney-client privilege waivers in white collar investigations. I'm getting an earful from the business community, which is making a lot of claims about DOJ's supposed increasing demands for waivers, etc.

I need to wrap up the reporting by Thursday p.m. Can we get a backgrounder from someone over there, and also a for-the-record interview? McCallum maybe? Besides the obvious questions (are waiver requests increasing? How do you respond to business' complaints that privilege waivers hinder their ability to conduct internal investigations?, are we asking Congress for some sort of limited waiver?, etc), I have some background questions about what sort of pushback (if any) you're getting from business on this.

Thanks,
[redacted]

[redacted]
Correspondent
Business Week
[redacted]

Hi Brian - Happy new year. [redacted] tells me you're the best contact for a story we're doing on attorney-client privilege waivers. We're doing a story about corporations' growing unease over DOJ and SEC requests for attorney-client privilege waivers in white collar investigations. I'm getting an earful from the business community, which is making a lot of claims about DOJ's supposed increasing demands for waivers, etc.

I need to wrap up the reporting by Thursday p.m. Can we get a backgrounder from someone over there, and also a for-the-record interview? McCallum maybe? Besides the obvious questions (are waiver requests increasing? How do you respond to business' complaints that privilege waivers hinder their ability to conduct internal investigations?, are we asking Congress for some sort of limited waiver?, etc), I have some background questions about what sort of pushback (if any) you're getting from business on this.

Thanks,

[redacted]

[redacted]
Correspondent
Business Week
[redacted]

From: USDOJ- Office of Public Affairs
Sent: Tuesday, January 03, 2006 1:16 PM
To: USDOJ- Office of Public Affairs
Subject: FEDERAL OFFICIALS TO HOLD PRESS CONFERENCE REGARDING JACK ABRAMOFF GUILTY PLEA

Department of Justice

FOR PLANNING PURPOSES ONLY
TUESDAY, JANUARY 3, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2007
TDD (202) 514-1888

*********MEDIA ADVISORY*********

FEDERAL OFFICIALS TO HOLD PRESS CONFERENCE REGARDING JACK ABRAMOFF GUILTY PLEA

WASHINGTON, D.C. – Justice Department, FBI and IRS officials will hold a press conference regarding the guilty plea of Jack Abramoff **TODAY, JANUARY 3, 2006 at 3:00 P.M. EST**.

WHO: Assistant Attorney General Alice Fisher, Criminal Division
Assistant Attorney General Eileen J. O'Connor, Tax Division
FBI Assistant Director Chris Swecker, Criminal Investigative Division
IRS Commissioner Mark Everson

WHAT: Press Conference

WHEN: **TUESDAY, JANUARY 3, 2006**
3:00 P.M. EST
Cameras must pre-set **BY 2:30 P.M. EST**

WHERE: 7th Floor Conference Center
Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

NOTE: ALL media MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as driver's license) as well as VALID MEDIA CREDENTIALS. Media interested in attending should enter through the Visitor Center at the Constitution Avenue entrance, between Ninth and Tenth Streets. Cameras must pre-set by 2:30 P.M. EST. All press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

###

DOJ_NMG_ 0149843

DOJ_NMG_ 0149844

Image not available for this document, ID: 0.7.10316.58649-000001

Image not available for this document, ID: 0.7.10316.58649-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, January 03, 2006 1:24 PM
To: 'David.Javdan@sba.gov'
Subject: RE: Lunch

Can you give me a call at your convenience?

-----Original Message-----
From: David.Javdan@sba.gov [mailto:David.Javdan@sba.gov]
Sent: Thursday, December 08, 2005 9:27 AM
To: Gorsuch, Neil M; MARK.ROBBINS@opm.gov
Subject: Re: Lunch

Given your time constraints - and something that came up on my end - any objection to starting 15 minutes later? Ie, 12:15?

-----Original Message-----
From: Robbins, Mark A <MARK.ROBBINS@opm.gov>
To: 'Javdan, David A.' <David.Javdan@sba.gov>; 'neil.gorsuch@usdoj.gov' <neil.gorsuch@usdoj.gov>
Sent: Thu Dec 08 08:26:44 2005
Subject: Lunch

Gentlemen â?? see you at noon at the Caucus Room. Reservations are in my name. Iâ??ve got a TRO hearing at District Court in Alexandria this morning, so will likely be coming from there. If Iâ??m not there exactly at noon, go ahead and order and Iâ??ll catch up.

Mark A. Robbins

General Counsel

U.S. Office of Personnel Management

Tel: (202) 606-1700

Fax: (202) 606-2609

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free

-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
---ro

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, January 03, 2006 1:26 PM
To: Roehrkasse, Brian
Cc: Scolinos, Tasia
Subject: RE: privilege waivers

Sure. I can do after 6 today, or tomorrow 12-2 or 5-6. Is this off the record?

-----Original Message-----
From: Roehrkasse, Brian
Sent: Tuesday, January 03, 2006 1:08 PM
To: Gorsuch, Neil M
Cc: Scolinos, Tasia
Subject: Fw: privilege waivers

Neil,
Per the request below do you have time to do a backgrounder on this?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]@businessweek.com <[redacted]@businessweek.com>
To: Roehrkasse, Brian <Brian.Roehrkasse@SMOJMD.USDOJ.gov>
Sent: Tue Jan 03 13:03:47 2006
Subject: privilege waivers

Hi Brian - Happy new year. [redacted] tells me you're the best contact for a story we're doing on attorney-client privilege waivers. We're doing a story about corporations' growing unease over DOJ and SEC requests for attorney-client privilege waivers in white collar investigations. I'm getting an earful from the business community, which is making a lot of claims about DOJ's supposed increasing demands for waivers, etc.

I need to wrap up the reporting by Thursday p.m. Can we get a backgrounder from someone over there, and also a for-the-record interview? McCallum maybe? Besides the obvious questions (are waiver requests increasing? How do you respond to business' complaints that privilege waivers hinder their ability to conduct internal investigations?, are we asking Congress for some sort of limited waiver?, etc), I have some background questions about what sort of pushback (if any) you're getting from business on this.

Thanks,
[redacted]

[redacted]
Correspondent
Business Week
[redacted]

Murphy, Stephen J. (USAMIE)

From: Murphy, Stephen J. (USAMIE)
Sent: Tuesday, January 03, 2006 1:55 PM
To: Gorsuch, Neil M
Attachments: tmp.htm

Neil --

Happy new year. Hope the holiday season was terrific for you and the family.

I'm betting you know this, but the Fed Soc is sponsoring a presentation of George Terwilliger's paper on the a/c privilege waiver at the National Press Club midday on 1/12. I am thinking of scheduling some meetings at EOUSA I'm overdue for in connection with this so that I can come and attend. I think Mary Beth Buchanan is on the panel.

In any event, I was wondering if you and Robert are around that day. I'd like to say hello, buy you a cup of coffee and pay my respects.

All the best, SJM

Neil --

Happy new year. Hope the holiday season was terrific for you and the family.

I'm betting you know this, but the Fed Soc is sponsoring a presentation of George Terwilliger's paper on the a/c privilege waiver at the National Press Club midday on 1/12. I am thinking of scheduling some meetings at EOUSA I'm overdue for in connection with this so that I can come and attend. I think Mary Beth Buchanan is on the panel.

In any event, I was wondering if you and Robert are around that day. I'd like to say hello, buy you a cup of coffee and pay my respects.

All the best, SJM

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, January 3, 2006 2:04 PM
To: USDOJ- Office of Public Affairs
Subject: PLEA AGREEMENT IN U.S. V. JACK ABRAMOFF
Attachments: Abramoff plea agreement.pdf

Attached please find the court documents filed in the U.S. District Court in the District of Columbia in *U.S. v Jack Abramoff*.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	**Criminal Number:**
	:	
	:	**VIOLATIONS:**
	:	
	:	**Count One:**
	:	**18 U.S.C. § 371**
v.	:	**(Conspiracy)**
	:	
JACK A. ABRAMOFF,	:	**Count Two:**
	:	**18 U.S.C. §§ 1341, 1346 and 2**
Defendant.	:	**(Honest Services Mail Fraud)**
	:	
	:	**Count Three:**
	:	**26 U.S.C. § 7201**
	:	**(Tax Evasion)**

PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the United States of America and the defendant, JACK A. ABRAMOFF, agree as follows:

1. The defendant is entering into this agreement and is pleading guilty freely and voluntarily without promise or benefit of any kind, other than contained herein, and without threats, force, intimidation, or coercion of any kind.

2. The defendant knowingly, voluntarily and truthfully admits the facts contained in the attached Factual Basis for Plea.

3. The defendant agrees to waive indictment and plead guilty to the offenses charged in the attached Information which are:

A. one count of conspiracy to violate the following federal laws in violation of 18 U.S.C. § 371:

(1) honest services wire and mail fraud, in violation of Title 18 U.S.C. §§ 1341, 1343 and 1346;

(2) mail and wire fraud, in violation of 18 U.S.C. §§ 1341 and 1343;

(3) bribery and honest services fraud of public officials, in violation of 18 U.S.C. §§ 201(b), 1341, 1343 and 1346;

(4) post-employment restrictions for former Congressional staff members, in violation of 18 U.S.C. § 207(e);

B. one count of honest services mail fraud, in violation of 18 U.S.C. §§ 1341, 1346 and 2; and

C. one count of evasion of federal income tax, in violation of 26 U.S.C. § 7201.

The defendant admits that he is guilty of these crimes, and the defendant understands that he will be adjudicated guilty of these offenses if the Court accepts his guilty plea.

4. The defendant understands the nature of the offenses to which he is pleading guilty, and the elements thereof, including the penalties provided by law. The maximum penalty for violating the law specified in the Information is:

A. Count 1 (Conspiracy): five years of imprisonment, a fine of $250,000 or not more than the greater of twice the gross gain or twice the gross loss, and a mandatory special assessment of $100;

B. Count 2 (Honest Services Mail Fraud): twenty years of imprisonment, a fine of $250,000 or not more than the greater of twice the gross gain or twice the gross loss, and a mandatory special assessment of $100;

DOJ_NMG_ 0149855

C. Count 3 (Tax Evasion): five years of imprisonment, a fine of $250,000 or not more than the greater of twice the gross gain or twice the gross loss, the costs of prosecution, and a mandatory special assessment of $100;

The parties understand that the statutory maximum term of imprisonment for the three offenses charged in the Information is 30 years. The defendant understands that the Court may impose a term of supervised release to follow any incarceration, in accordance with 18 U.S.C. § 3583. The authorized term of supervised release for each of the counts is not more than three years. The defendant also understands that the Court will impose restitution, and may impose costs of incarceration, supervision and prosecution.

5. The defendant understands and agrees that restitution to victims in the offense described in Count 1 of the Information is mandatory. The loss to the victims as a result of crimes charged in Count 1 of the Information is estimated to be approximately $25,000,000. The defendant agrees not to transfer or otherwise encumber his assets except with notice to, and consent of, the undersigned representatives of the United States until such time as this agreement is filed with the Court, at which point the defendant must seek leave of Court to transfer or otherwise encumber his assets. The parties agree that the defendant will not be required to obtain the consent of the United States for property transfers necessary to pay ordinary living expenses, ordinary business expenses and attorneys fees. The defendant agrees as part of this agreement that he will provide to the United States detailed and accurate information identifying all of his income, assets, expenses and liabilities within 45 days of the date of this agreement in a format requested by the United States and will truthfully answer all questions relative to his finances. Thereafter, the defendant will

DOJ_NMG_ 0149856

provide on a monthly basis or as otherwise requested a report of all financial transactions valued at $2,500 or more, including all income, expenditures and transfers of funds or property.

6. This agreement does not resolve the defendant's civil tax liability for any years and does not bind the Internal Revenue Service in any way regarding its efforts to examine or collect defendant's civil tax liabilities. The defendant agrees that he will cooperate fully with the Internal Revenue Service in determining any tax liabilities (civil or criminal) of any entities or persons for any years relating to this prosecution, including but not limited to his personal tax liabilities for the years 2000 through 2003, and in paying all appropriate tax liabilities, penalties and interest. To this end, the defendant specifically agrees to file complete and accurate amended individual income tax returns, Forms 1040X, for tax years 2000 through 2003, as soon as possible upon the signing of this plea agreement, and in any event, no later than the time of the defendant's sentencing. If for any reason complete and accurate returns, prepared in accordance with the revenue agent's report dated November 28, 2005, are not filed by the time of defendant's sentencing, the United States will no longer be bound by the terms of paragraph 11(c) below. The defendant further agrees to waive the statute of limitations with respect to the assessment and collection of his taxes due and owing for these tax years. The defendant also agrees to provide the Internal Revenue Service with all requested documents and information for purposes of any civil audits, examinations, collections, or other proceedings, and to waive any rights regarding disclosure to the Internal Revenue Service Examination and Collection Divisions of all documents obtained and reports produced during the criminal investigation, including but not limited to tax return related information and information obtained from the defendant pursuant to grand jury subpoena. Nothing in this agreement shall limit the Internal Revenue Service in its assessment and collection of any taxes, penalties and interest

DOJ_NMG_ 0149857

due from the defendant or other parties. The defendant agrees to waive venue for any tax charges for purpose of this plea agreement and any rights he may have under 18 U.S.C. § 3237(b).

7. The defendant also agrees to pay restitution to the Internal Revenue Service pursuant to 18 U.S.C. § 3663(a)(3). The defendant further agrees that, pursuant to 18 U.S.C. § 3663(a)(3) and this agreement, the Court will order as restitution the amount of the criminal tax computation which the defendant agrees is $1,724,054, and which will be applied to the defendant's civil tax liability for the years 2001 through 2003, as later determined by the Internal Revenue Service.

8. If the Court accepts the defendant's plea of guilty and the defendant fulfills each of the terms and conditions of this agreement, the United States agrees that it will not further prosecute the defendant for crimes described in the factual basis attached as Exhibit A or disclosed by the defendant in debriefing sessions with the United States on or before January 3, 2006. Nothing in this agreement is intended to provide any limitation of liability arising out of any acts of violence.

9. The defendant understands and agrees that federal sentencing law requires the Court to impose a sentence which is reasonable and that the Court must consider the advisory U.S. Sentencing Guidelines in effect at the time of the sentencing in determining a reasonable sentence. Defendant also understands that sentencing is within the discretion of the Court and that the Court is not bound by this agreement. Defendant understands that facts that determine the offense level will be found by the Court at sentencing and that in making those determinations the Court may consider any reliable evidence, including hearsay, as well as provisions or stipulations in this plea agreement. Both parties agree to recommend that the sentencing guidelines should apply pursuant to United States v. Booker and the final Sentencing Guidelines offense level as calculated herein provides for a reasonable sentence. Defendant further understands the obligation of the United

DOJ_NMG_ 0149858

States to provide all relevant information regarding the defendant, including charged and uncharged criminal offenses, to the United States Probation Office. The United States agrees to recommend that any sentence imposed in this case run concurrently to any sentence imposed in United States v. Jack A. Abramoff, No. 05 CR 60204 (SDFL) ("SDFL Case"). Moreover, the United States agrees to recommend that the conduct at issue in the SDFL Case is not relevant conduct for sentencing purposes in the instant plea provided that the defendant is found guilty in the SDFL Case by plea or otherwise. Defendant also states that he has had ample opportunity to discuss, and has in fact discussed, the impact of the sentencing guidelines and the statutory maximum sentence with his attorney and is satisfied with his attorney's advice in this case.

10. Except to the extent it would be inconsistent with other provisions of this agreement, the United States and the defendant reserve, at the time of sentencing, the right of allocution, that is the right to describe fully, both orally and in writing, to the Court the nature, seriousness and impact of the defendant's misconduct related to the charges against him or to any factor lawfully pertinent to the sentence in this case. The United States will also advise the court of the nature, extent and timing of the defendant's cooperation. The defendant further understands and agrees that in exercising this right, the United States may solicit and make known the views of the law enforcement agencies which investigated this matter.

11. The defendant and the United States agree that the following United States Sentencing Guidelines ("U.S.S.G.") apply based upon the facts of this case:

a. The parties agree that the 2003 Sentencing Guidelines Manual governs the guideline calculations in this case. All references in this agreement to the U.S.S.G. refer to that manual.

DOJ_NMG_ 0149859

b. The parties agree that the total offense level applicable to the defendant's offense conduct is Level 31. This level is calculated as follows:

I. Fraud Offenses:

Base Offense level § 2B1.1	6
§ 2B1.1(b)(1)(L) loss of more than $20,000,000	22
§ 3B1.1(c) organizer or leader	2
§ 3B1.3 abuse of trust	2
	32

II. Corruption Offenses:

Base Offense level § 2C1.1	10
§ 2C1.1(b)(1) more than one bribe	2
§ 2C1.1(b)(2)(b) involving a high level public official	8
§ 3B1.1(a) organizer or leader or was involving more than five participants or was otherwise extensive	4
	24

III. Tax Offense

Base Offense Level § 2T4.1 tax loss of more than $1,000,000 but less than $2,500,000	22
§ 2T1.1(b)(1) failure to identify the source of income from criminal activity	2
§ 2T1.1(b)(2) sophisticated means	2
	26

DOJ_NMG_ 0149860

IV. Treatment of Multiple Counts/Objects	
§3D1.4 (2 total)	2 34
VII. Expected Adjustment under § 3E1.1	- 3
TOTAL	31 (108-135 months)

c. As indicated above, the United States agrees that it will recommend that the Court reduce by three levels the sentencing guideline applicable to the defendant's offense, pursuant to U.S.S.G § 3E1.1, based upon the defendant's recognition and affirmative and timely acceptance of personal responsibility. The United States, however, will not be required to make these recommendations if any of the following occurs: (1) defendant fails or refuses to make a full, accurate and complete disclosure to this office or the probation office of the circumstances surrounding the relevant offense conduct and his present financial condition; (2) defendant is found to have misrepresented facts to the United States prior to entering this plea agreement; (3) defendant commits any misconduct after entering into this plea agreement, including but not limited to, committing a state or federal offense, violating any term of release, or making false statements or misrepresentations to any governmental entity or official; or (4) defendant fails to comply with any terms of this plea agreement.

d. The defendant understands that his Criminal History Category will be determined by the Court after the completion of a Pre-Sentence Investigation by the U.S. Probation Office. The defendant acknowledges that the United States has not promised or agreed that the defendant will or will not fall within any particular criminal history category and that such determinations could affect his guideline range and/or offense level as well as his final sentence. The parties understand

DOJ_NMG_ 0149861

that the order in which the pleas are entered or sentences are imposed in the SDFL Case and the instant matter could result in the imposition of an additional criminal history category and an increased period of incarceration. Consequently, if a plea or sentence in the SDFL Case results in a criminal history category greater than I, and the defendant has fully complied with all provisions in this agreement, the United States agrees to recommend a downward departure based on U.S.S.G. Section 4A1.3(b).

12. The defendant and the United States agree that neither party will seek or advocate for or suggest in any way an adjustment to or a departure from the sentencing guidelines other than those explicitly set forth in this agreement or for a sentence outside of the range determined to be applicable under the advisory Sentencing Guidelines, provided that those guidelines are calculated as set forth above. In the event that the defendant breaches any term of the plea agreement, the United States may move for upward departures based on any grounds the United States deems appropriate.

13. The parties agree that U.S.S.G. § 5E1.2 provides that the Court shall impose a fine for a guideline offense at level 31 of $15,000 to $150,000, unless the Court finds that the defendant is unable to pay a fine. The defendant understands that the Court must order that the defendant make restitution to victims of these offenses for the full amount of the loss.

14. The defendant agrees to fully cooperate in this and any other case or investigation with attorneys for the United States of America, and federal and state law enforcement agencies by providing truthful and complete information, evidence and testimony, if required, concerning any matter. The defendant understands that if he makes material false statements intentionally to law enforcement, commits perjury, suborns perjury, or obstructs justice, he may be found to have

DOJ_NMG_ 0149862

breached this agreement and nothing in this agreement precludes the United States of America or any other law enforcement authority from prosecuting him fully for those crimes or any other crimes of which he may be guilty and from using any of his sworn or unsworn statements against him. The defendant understands that this plea agreement is explicitly dependent upon his providing completely truthful testimony in any trial or other proceeding, whether called as a witness by the United States, the defense or the Court.

15. Further, in the event that the United States determines in its exclusive discretion that the defendant has fully complied with this agreement and provided "substantial assistance" to law enforcement officers in the investigation and prosecution of others, the United States agrees it will file a motion for a downward departure pursuant to Section 5K1.1 and 18 U.S.C. § 3553(e) of the United States Sentencing Guidelines or Rule 35 of the Federal Rules of Criminal Procedure, respectively. Such assistance by the defendant shall include his cooperation in providing truthful and complete testimony before any grand jury and at any trial as requested by the United States and in interviews by investigators. If the United States files a motion either under § 5K1.1 of the guidelines or Rule 35, both parties will have the right to present facts regarding Abramoff's cooperation in any judicial district and to argue for the extent of the departure that is appropriate based on the defendant's cooperation. However, the defendant further understands that the decision whether to depart, and the extent of any departure for substantial assistance is the exclusive province of the Court.

16. The United States cannot and does not make any promise or representation as to what sentence the defendant will receive or what fines or restitution the defendant may be ordered to pay. The defendant understands that the sentence in this case will be determined solely by the Court,

DOJ_NMG_ 0149863

with the assistance of the United States Probation Office and that the Court may impose the maximum sentence permitted by the law. The Court is not obligated to follow the recommendations of either party at the time of sentencing. The defendant will not be permitted to withdraw his plea regardless of the sentence recommended by the Probation Office or the sentence imposed by the Court.

17. The defendant, knowing and understanding all of the facts set out herein, including the maximum possible penalty that could be imposed, and knowing and understanding his right to appeal the sentence as provided in 18 U.S.C. § 3742, hereby expressly waives the right to appeal any sentence within the maximum provided in the statutes of conviction or the manner in which that sentence was determined and imposed, including on the grounds set forth in 18 U.S.C. § 3742, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b). If the United States appeals the defendant's sentence, the defendant will be entitled to appeal his sentence as set forth in 18 U.S.C. § 3742(a) as to any aspects of his sentence inconsistent with the sentencing provisions of this agreement.

18. If the defendant fails to comply with any of the terms and conditions set forth in this agreement, the United States may fully prosecute the defendant on all criminal charges that can be brought against the defendant. With respect to such a prosecution:

a. The defendant shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(e)(6) of the Federal Rules of Criminal Procedure, or any other federal rule, that the defendant's statements pursuant to this agreement or any leads derived therefrom should be suppressed or are inadmissible;

DOJ_NMG_ 0149864

b. The defendant waives any right to claim that evidence presented in such prosecution is tainted by virtue of the statements the defendant has made; and

c. The defendant waives any and all defenses based on the statute of limitations with respect to any such prosecution that is not time-barred on the date that this agreement is signed by the parties.

19. If a dispute arises as to whether defendant has knowingly committed any material breach of this agreement, and the United States chooses to exercise its rights under Paragraph 18, at the defendant's request, the matter shall be submitted to the Court for its determination in an appropriate proceeding. At such proceeding, the defendant's disclosures and documents shall be admissible and the United States shall have the burden to establish the defendant's breach by a preponderance of the evidence.

20. The parties agree that if the Court does not accept the defendant's plea of guilty, then this agreement shall be null and void.

21. The defendant understands that this agreement is binding only upon the Public Integrity Section and the Fraud Section of the Criminal Division, and the Tax Division of the United States Department of Justice. This agreement does not bind any other prosecutor's office or agency. It does not bar or compromise any civil claim that has been or may be made against the defendant.

22. This agreement and the attached Factual Basis for Plea constitute the entire agreement between the United States and the defendant. No other promises, agreements, or representations exist or have been made to the defendant or the defendant's attorneys by the Department of Justice

DOJ_NMG_ 0149865

in connection with this case. This agreement may be amended only by a writing signed by all parties.

FOR THE DEFENDANT
Dated: 1/3/06

JACK A. ABRAMOFF
Defendant

ABBE DAVID LOWELL, ESQ.
Counsel for Defendant

DOJ_NMG_ 0149866

FOR THE UNITED STATES
Dated: 1/3/06

NOEL L. HILLMAN
Chief, Public Integrity Section

Mary K. Butler
M. Kendall Day
Trial Attorneys
Criminal Division
U.S. Department of Justice

PAUL E. PELLETIER
Acting Chief, Fraud Section

Guy D. Singer
Nathaniel B. Edmonds
Trial Attorneys
Criminal Division
U.S. Department of Justice

BRUCE M. SALAD
Chief, Southern Criminal Enforcement Section

Stephanie D. Evans
Trial Attorney
Tax Division
U.S. Department of Justice

DOJ_NMG_ 0149867

ATTACHMENT A

FACTUAL BASIS FOR THE PLEA
OF JACK A. ABRAMOFF

This statement is submitted to provide a factual basis for my plea of guilty to the charges filed against me.

1. From 1994 to 2004, Abramoff was a Washington, D.C. lobbyist. In 1994, Abramoff joined a law and lobbying firm ("Firm A"). In January 2001, Abramoff joined a second law and lobbying firm ("Firm B").

2. At all relevant times, Abramoff solicited and obtained business with groups and companies throughout the United States, including Native American tribal governments operating, and interested in operating, gambling casinos. Abramoff sought to further his clients' interests by lobbying public officials, including Members of the United States Congress. Abramoff also sought to further his clients' interests by recommending vendors for grass roots work, public relations services and election campaign support. Typically, Abramoff communicated with his clients by interstate electronic mail, interstate telephone calls, and private or commercial interstate mail carriers.

3. From March 2000 through 2001, Michael Scanlon ("Scanlon") worked for Firm A and Firm B in Washington, D.C. as a public relations specialist engaged in providing public relations services to clients throughout the United States. At these firms, Scanlon worked on many matters, often together with, and at the direction of, Abramoff. Abramoff was influential in Scanlon being hired by both firms.

4. In or about January 2001, Scanlon established a business called Capital Campaign Strategies LLC which had its principal offices in Washington, D.C. Capital Campaign

DOJ_NMG_ 0149868

Strategies LLC was formed to provide grass roots work, public relations services, and election campaign support. Scanlon also formed other companies that were used primarily to receive money for the services and work performed by others (collectively referred to as "CCS"). The services that CCS provided frequently involved use of interstate mail and telephone calls. Payments were often made by interstate wire transfer or checks that foreseeably caused interstate funds transfers between banks.

5. In May 2003, Abramoff established a business called GrassRoots Interactive ("GRI"), which had its principal offices in Silver Spring, Maryland. Abramoff represented that GRI would provide grass roots work, public relations services, and election campaign support.

6. In July 1999, Abramoff established a private foundation called Capital Athletic Foundation ("CAF") for which he sought and received federal tax-exempt status, in part to provide funding for a non-profit school. In November 2001, Abramoff organized a solely owned entity, Kaygold, LLC. Abramoff used these entities in part to receive funds for his personal benefit, to conceal the destination of the funds, and, with respect to CAF, to evade income taxes. Payments were often made by interstate wire transfer or checks involving interstate funds transfers.

Fraud Based on Violations of Abramoff's Duty of Honest Services

7. Abramoff was hired by at least four Native American tribes with gaming operations to provide professional services and develop programs to limit market competition or to assist in opening casinos. In 2001, Abramoff and Scanlon agreed that Abramoff would encourage his existing and potential clients to obtain grass roots and public relations

DOJ_NMG_ 0149869

services as a critical part of the lobbying program and strategy that Abramoff had been hired to provide. Abramoff promoted and recommended primarily CCS to provide this grass roots and public relations work. The prices CCS charged for its services were significantly in excess of CCS's costs.

8. Abramoff and Scanlon knew and agreed that Abramoff would receive fifty percent of the net profits received by CCS from those clients. Most of the payments from clients under the contracts with CCS were made to CCS. Scanlon then paid Abramoff his share of the net profits to various organizations that Abramoff controlled. The transfer of funds to Abramoff foreseeably involved the interstate transfer of funds.

9. Abramoff and Scanlon understood that the payments to Abramoff would not be disclosed to Abramoff's and Scanlon's four clients. Abramoff and Scanlon understood that disclosure of the profit-sharing arrangement to the clients would likely jeopardize the contracts for services and/or the profit margins of both Abramoff's law firm and CCS because disclosure could encourage the clients to seek competitive proposals from other vendors. Abramoff knew that his clients could receive the same services at significantly reduced prices because the quoted prices incorporated the undisclosed fees Scanlon paid to Abramoff of approximately fifty percent of CCS's net profits.

10. Abramoff promoted himself as having knowledge superior to his clients regarding lobbying and grass roots activity. Abramoff encouraged his clients to trust his judgment in these matters. Abramoff knew his clients did in fact trust and rely upon him in these matters. Abramoff further knew he had a duty to disclose all relevant facts to his lobbying clients, including conflicts of interest and any financial interest in fees paid to others.

DOJ_NMG_ 0149870

Mississippi Tribe

11. In 1995, Abramoff was hired by a Native American Indian tribal client based in Mississippi ("Mississippi Tribe") to hire him to provide lobbying services on various issues. Abramoff used his knowledge of lobbying and grass roots work, which was superior to the Mississippi Tribe's knowledge of these areas, to secure the trust and confidence of the Mississippi Tribe.

12. In early 2001, Abramoff recommended and advised the Mississippi Tribe to hire CCS, while concealing the fact that Abramoff would receive approximately fifty percent of the net profits from the Mississippi Tribe's payments to Scanlon.

13. From June 2001 until April 2004, the Mississippi Tribe paid Scanlon and related entities approximately $14,765,000. Abramoff and Scanlon concealed from the Mississippi Tribe that approximately fifty percent of the profit, approximately $6,364,000 including money not passed through CCS, was paid to Abramoff pursuant to their undisclosed arrangement.

Louisiana Tribe

14. In March 2001, Abramoff and Scanlon successfully solicited a Native American Indian tribal client based in Louisiana ("Louisiana Tribe") to hire them to provide lobbying and grass roots services to the tribe. Abramoff used his knowledge of lobbying and grass roots work, which was superior to the Louisiana Tribe's knowledge of these areas, to secure the trust and confidence of the Louisiana Tribe.

15. In March 2001, after CCS had been paid for the first project, Abramoff advised the Louisiana Tribe to rehire CCS, while concealing the fact that Abramoff would receive fifty percent of the profits from the Louisana Tribe's payments to CCS.

DOJ_NMG_ 0149871

16. From March 2001 to May 2003, the Louisiana Tribe paid CCS and related entities approximately $30,510,000. Abramoff and Scanlon concealed from the Louisiana Tribe that approximately fifty percent of the profit, approximately $11,450,000, was paid to Abramoff pursuant to their undisclosed arrangement.

Michigan Tribe

17. In January 2002, Abramoff and Scanlon successfully solicited a Native American Indian tribal client based in Michigan ("Michigan Tribe") to hire them to provide lobbying and grass roots services. Abramoff used his knowledge of lobbying and grass roots work, which was superior to the Michigan Tribe's knowledge of these areas, to secure the trust and confidence of the Michigan Tribe.

18. In June 2002, Abramoff advised the Michigan Tribe to expand its contract with CCS, while concealing the fact that Abramoff would receive approximately fifty percent of the profits from the Michigan Tribe's payments to CCS.

19. From June 2002 to October 2003, the Michigan Tribe paid Scanlon and related entities approximately $3,500,000. Abramoff and Scanlon concealed from the Michigan Tribe that approximately fifty percent of the profit, approximately $540,000, was paid to Abramoff pursuant to their undisclosed arrangement.

Texas Tribe #1

20. In February 2002, Abramoff and Scanlon successfully solicited a Native American Indian tribal client based in Texas ("Texas Tribe #1") to hire them to provide lobbying and grass roots services designed to reopen Texas Tribe #1's gaming operations that had been closed by Texas authorities because Texas Tribe #1 did not have federal or state authority to operate a casino. Specifically, Abramoff and Scanlon represented that they would

DOJ_NMG_ 0149872

work first to open the casino as a Class II gaming facility and then work to expand Texas Tribe #1's casino as a more lucrative Class III facility. Abramoff and Scanlon further proposed that, in return for their work, Texas Tribe #1 would pay CCS $4,200,000 in fees and make additional and substantial political campaign contributions at the direction of Abramoff and Scanlon. Abramoff falsely represented that he would work for free to represent Texas Tribe #1, all the while concealing from the Texas Tribe #1 that approximately fifty percent of CCS's net profits, approximately $1,850,000, was paid to Abramoff pursuant to his undisclosed arrangement with Scanlon.

21. At no time did Abramoff, Scanlon, or others working with them disclose to Texas Tribe #1 that, beginning in 2001, Abramoff, Firm B, and Scanlon had collected millions of dollars in fees from the Louisiana Tribe to oppose all gaming in the Texas legislature. Abramoff's conduct prevented consideration by Firm B of whether to disclose his representation of Texas Tribe #1 pursuant to the Lobbying Disclosure Act.

22. After being retained by Texas Tribe #1 in early 2002 to reopen its casino through federal legislation, Abramoff continued representing the Louisiana Tribe for millions of dollars in fees. Pursuant to this representation of the Louisiana Tribe, Abramoff failed to disclose to Texas Tribe #1 that he opposed legislation in the 2003 Texas state legislative session that would have provided a basis to reopen Texas Tribe #1's casino under state law. Abramoff knew that Texas Tribe #1 supported and promoted this legislation while he worked to prevent its passage for the benefit of his other client, the Louisiana Tribe.

DOJ_NMG_ 0149873

Wireless Company

23. From January 2001 until April 2004, Abramoff was employed by Firm B. As an employee of Firm B, Abramoff had a duty to act in Firm B's best interests and not to divert lobbying fees owed to Firm B.

24. In 2001, Abramoff was hired by a wireless telephone company ("Wireless Company") to undertake a lobbying effort to assist Wireless Company in securing a license to install wireless telephone infrastructure for the United States House of Representatives. In 2001 and early 2002, Abramoff and his Firm B colleagues lobbied for the Wireless Company without any formal retainer agreement. Rather than make lobbying payments to Firm B, Abramoff directed Wireless Company to make payments totaling at least $50,000 to CAF.

25. At no time did Abramoff inform his employer, Firm B, of the $50,000 in payments to CAF, of which Firm B was entitled to a portion.

Fraud Based on Abramoff's Affirmative Misrepresentations

Michigan Tribe

26. From June 2002 to November 2002, Abramoff and a former lobbying colleague, who was also a former congressional staffer ("Staffer A") successfully solicited the Michigan Tribe for a $25,000 payment to CAF. Instead of using the funds for CAF, Abramoff used this money for his personal and professional benefit to partially pay for a golfing trip to Scotland for himself, public officials, members of his staff and others.

DOJ_NMG_ 0149874

Distilled Beverages Company

27. On or about June 6, 2002, Abramoff and Staffer A successfully solicited one of Firm B's clients, a distilled beverages company, for a $25,000 payment to CAF. Instead of using the funds for CAF, Abramoff used this money for his personal and professional benefit to partially pay for a golfing trip to Scotland for himself, public officials, members of his staff and others.

New Mexico Tribe

28. In February 2002, Abramoff and others successfully solicited a Native American Indian tribal client based in New Mexico ("New Mexico Tribe") to hire them to provide lobbying and grass roots services to the tribe.

29. In March 2002, the New Mexico Tribe paid Scanlon and related entities approximately $2,750,000. Abramoff and Scanlon materially understated to the New Mexico Tribe the size of CCS's profit margins and concealed from the New Mexico Tribe that CCS's profit margin was approximately eighty percent and that approximately fifty percent of the net profit, $1,175,000, was paid to Abramoff pursuant to the undisclosed arrangement. At no time prior to March 2004 did Abramoff or others inform Firm B or the New Mexico Tribe of the undisclosed payments.

Manufacturing and Services Company

30. On May 2, 2003, Abramoff sent a business proposal to a manufacturing and services company ("Company A") to handle its lobbying effort regarding a tax issue. In addition to his services, Abramoff recommended that Company A hire GRI, while concealing from Company A his interest in GRI. In his proposal, Abramoff falsely advised that GRI

DOJ_NMG_ 0149875

had no relationship with Abramoff's law and lobbying firm, even though GRI was controlled by Abramoff and paid the vast majority of its profits to Abramoff or entities he controlled. Additionally, Abramoff represented to Company A that he was negotiating on their behalf with GRI to try to save Company A money, when in fact he was simply setting a high price on services that he controlled and from which he would profit.

31. In May and June 2003, Company A paid GRI, directly and through Firm B's bank account, approximately $1,841,429. Abramoff and entities he controlled received approximately $1,655,695 from GRI.

Corruption of Public Officials

32. Beginning as early as January 2000, Abramoff, Scanlon and others engaged in a course of conduct through which one or both of them offered and provided a stream of things of value to public officials in exchange for a series of official acts and influence and agreements to provide official action and influence. These things of value included, but are not limited to, foreign and domestic travel, golf fees, frequent meals, entertainment, election support for candidates for government office, employment for relatives of officials, and campaign contributions. As one part of this course of conduct, things of value were offered to and given to a Member of the United States Congress ("Representative #1") and members of Representative #1's staff, including, but not limited to:

a. All-expenses-paid trips, including a trip to the Commonwealth of the Northern Marianas Islands ("CNMI") in 2000, a trip to the Super Bowl in Tampa, Florida in 2001, and a golf trip to Scotland in 2002;

DOJ_NMG_ 0149876

b. Numerous tickets for entertainment, including concerts and sporting events;

c. Fundraising events, including providing box suites and food at various sport and concert venues and at a restaurant in the Washington, D.C. area owned by Abramoff;

d. Campaign contributions to campaign committees and to political action committees and organizations, including, but not limited to, the following:

i. $4,000 in contributions to Representative #1's campaign committee in 2000; and

ii. A $10,000 contribution to the National Republican Campaign Committee ("NRCC") in 2000 at Representative #1's request;

e. Regular meals and drinks at an upscale restaurant owned by Abramoff in Washington, D.C.; and

f. Frequent golf and related expenses at courses in the Washington, D.C area.

33. As part of this course of conduct, Abramoff, Scanlon and others provided things of value to public officials in exchange for a series of official acts and influence, and agreements to provide official acts and influence, including, but not limited to, agreements to support and pass legislation, agreements to place statements in the Congressional Record, agreements to contact personnel in United States Executive Branch agencies and offices to influence decisions of those agencies and offices, meetings with Abramoff and CCS's clients, and awarding contracts for services with CCS and Abramoff's law firms. As one part of this course of conduct, Representative #1 and members of his staff agreed to use and did use their official positions and influence, including, but not limited to, the following:

DOJ_NMG_ 0149877

a. Travel by a senior staff member of Representative #1 with others in January 2000 to CNMI for the purpose of assisting Abramoff, his firm and others in obtaining and maintaining lobbying clients;

b. Representative #1's agreement in March 2000 to place a statement drafted by Scanlon into the Congressional Record that was critical of the then-owner of a Florida gaming company, and was calculated to pressure the then-owner to sell on terms favorable to Abramoff and his partners;

c. Representative #1's agreement in October 2000 with Scanlon to insert a statement into the Congressional Record which praised the new owner of the Florida gaming company, Abramoff's business partner;

d. Representative #1's agreement in approximately August 2001 to use his position as Chairman of a Committee of the House to endorse and support a client of Abramoff as the provider of wireless telephone infrastructure to the House of Representatives;

e. Representative #1's agreement in approximately March 2002 that, as the Co-Chairman of a Conference Committee of House and Senate Members of Congress, he would introduce and seek passage of legislation that would lift an existing federal ban against commercial gaming in order to benefit a client of Abramoff and CCS, Texas Tribe #1;

f. Representative #1's agreement in approximately June 2002 that, as the Co-Chairman of a Conference Committee of House and Senate Members of Congress, he would introduce and seek passage of legislation that would lift an

DOJ_NMG_ 0149878

existing federal ban against commercial gaming for another Native American Tribe in Texas ("Texas Tribe #2") at Abramoff's request;

g. Representative #1 met in August 2002 with representatives of Texas Tribe #1 to assure them that they were effectively represented by Abramoff and that he continued to agree to work to pass the legislation they wanted;

h. Representative #1's agreement in December 2002 to seek support from a Member of another Committee of the House of Representatives for passage of legislation to lift the federal gaming ban for Texas Tribe #1;

i. Representative #1 met in 2002 with a Native American Tribal client of CCS and Abramoff from California ("California Tribe") to discuss Representative #1's agreement to assist in passing legislation regarding taxation of certain payments received by members of the California Tribe, and to assist in an issue relating to a post office of interest to the California Tribe;

j. Representative #1 agreed to meet with some of Abramoff's clients and others in Russia while Representative #1 was there on official business in August 2003 to, among other things, influence the process of obtaining a visa for travel to the United States for the relative of one of Abramoff's clients; and

k. Representative #1 at various times, directly and indirectly, contacted public officials at additional government agencies and offices on behalf of clients of Abramoff and CCS in an effort to influence decisions and actions by those officials.

DOJ_NMG_ 0149879

34. As one part of the same course of conduct outlined in paragraphs 32 and 33 above, in June 2002, Abramoff informed Representative #1 that Texas Tribe #1 was raising funds to pay for a golfing trip to Scotland that Representative #1 and members of his staff were to, and did, attend. In August 2002, Texas Tribe #2, at the request of Abramoff and Texas Tribe #1, sent a $50,000 check made out to CAF via private interstate mail delivery to Abramoff at 1101 Pennsylvania Ave, N.W., Washington, D.C.

35. As one part of the same conduct outlined in paragraphs 32 and 33 above, beginning at least in 1999 through January 2001, Abramoff and others sought Staffer A's agreement to perform a series of official acts, including assisting in stopping legislation regarding internet gambling and opposing postal rate increases. With the intent to influence those official acts, Abramoff provided things of value including, but not limited to, from June 2000 through February 2001, ten equal monthly payments totaling $50,000 through a non-profit entity to the wife of Staffer A. The total amount paid to the wife of Staffer A was obtained from clients that would and did benefit from Staffer A's official actions regarding the legislation on internet gambling or opposing postal rate increases.

36. As one part of the same course of conduct outlined in paragraphs 32 and 33 above, beginning in March 2002, Abramoff and a former staffer to Representative #1 ("Staffer B") contacted Representative #1, officials employed by the Office of Representative #1, and officials employed by a House Committee ("Committee") of which Representative #1 was the chairman. These contacts occurred within one year of Staffer B having served as the Chief of Staff for Representative #1 and Staff Director of the Committee. Abramoff intended that Staffer B communicate with Representative #1, his staff, and the

DOJ_NMG_ 0149880

Committee staff for the purpose of influencing official action on behalf of Abramoff's and Staffer B's clients, including Texas Tribe #1 and Wireless Company.

Tax Evasion Offense

37. During the calendar year 2002, Abramoff had and received a substantial amount of income from the conduct discussed in paragraphs 1 through 31. In order to conceal this income from the Internal Revenue Service and others, Abramoff used entities exempt from taxation under Title 26, United States Code Section 501(c), including a private foundation he created and a public policy organization for which he served as a director, to receive income and to make expenditures for his own personal benefit. To further conceal this income, Abramoff and others created, or caused to be created, false invoices and false entries to financial records, which made it appear as if the funds had been received and expended for tax-exempt purposes. In fact, Abramoff and others knew that these activities constituted a misuse of these tax-exempt entities. Through these activities, Abramoff and others intended to and did benefit Abramoff, the entities he controlled or financially supported, and the public policy organization.

38. On or about October 15, 2003, Abramoff signed and filed a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040, which underreported Abramoff's total income for 2002. Specifically, Abramoff willfully and intentionally failed to report the income received from the illegal schemes described in paragraphs 1 to 32 above resulting in the evasion of approximately $628,557 in individual income taxes for the 2002 tax year.

DOJ_NMG_ 0149881

39. Abramoff signed and filed false and fraudulent Returns of Private Foundations, Forms 990PF, which misrepresented the receipt of diverted funds as charitable donations and mischaracterized personal and business expenditures as being used for a tax exempt purpose.

40. Furthermore, Abramoff caused false Returns of Organizations Exempt from Income Tax, Forms 990, to be filed by a public policy organization, which misrepresented the receipt of diverted funds as charitable donations and mischaracterized personal and business expenditures of Abramoff as being used for a tax exempt purpose.

41. Abramoff engaged in similar evasive conduct for the tax years 2001 and 2003. Due to this and other evasive conduct, Abramoff attempted to evade approximately $1,724,054 in individual income taxes for the 2001 through 2003 tax years.

The preceding statement is a summary, made for the purpose of providing the Court with a factual basis for my guilty plea to the charges against me. It does not include all of the facts known to me concerning criminal activity in which I or others engaged. I make this statement knowingly and voluntarily and because I am in fact guilty of the crimes charged.

DATE: 1/3/06

JACK A. ABRAMOFF
Defendant

ABBE DAVID LOWELL, ESQ.
Attorney for Defendant

DOJ_NMG_ 0149882

Rubin, Jim (ENRD)

From:	Rubin, Jim (ENRD)
Sent:	Tuesday, January 03, 2006 2:17 PM
To:	Gorsuch, Neil M
Cc:	Larm, Richard; Kessler, Elizabeth A
Subject:	FW: TPRG Meeting scheduled for 2:00pm, Friday, January 6, 2006 in Conference Room 305, Winder Building
Attachments:	tmp.htm

Neil, fyi, I will attend this tprg as observer, to get a sense of where the USG is going on these FTAs, but do not think anyone from OASG needs to be involved yet; I can report back by email to our group.

Dick, pls be sure to let me know when papers are out.

-----Original Message-----
From: Larm, Richard
Sent: Friday, December 30, 2005 2:29 PM
To: Rubin, Jim (ENRD)
Subject: FW: TPRG Meeting scheduled for 2:00pm, Friday, January 6, 2006 in Conference Room 305, Winder Building

Jim:
FYI. Please go if you have any interest; Stu and I will both be out. Or, forego the aggravation and wait for the next one. Happy New Year!
Dick

-----Original Message-----
From: Gloria_Blue@USTR.EOP.GOV [mailto:Gloria_Blue@USTR.EOP.GOV]
Sent: Friday, December 30, 2005 2:25 PM
[redacted]@State.gov; [redacted]@epa.gov; [redacted]@ita.doc.gov; [redacted]@usitc.gov; Faisal_Z._Ahmed@cea.eop.gov; Eric_G._Altbach@nsc.eop.gov; [redacted]@fas.usda.gov; [redacted]@fas.usda.gov; [redacted]@ost.dot.gov; [redacted]@ita.doc.gov; [redacted]@do.treas.gov; [redacted]@usaid.gov; [redacted](DHS); [redacted]@usaid.gov; [redacted]@OC.FDA.GOV; Charmin_David@nsc.eop.gov; [redacted]@state.gov; Christine_A._McDaniel@cea.eop.gov; Nova_J._Daly@nsc.eop.gov; [redacted]@ios.doi.gov; [redacted]@ost.dot.gov [redacted]@ios.doi.gov; [redacted]@hq.doe.gov; [redacted]@OC.FDA.Gov; [redacted]@dhs.gov; ferrante.joe@epamail.epa.gov; [redacted]@dol.gov; [redacted]@ucia.gov; [redacted]@osd.mil; howard_dickenson@omb.eop.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@ita.doc.gov; [redacted]@dhs.gov;

John_M._Hermann@nsc.eop.gov, [redacted]@ios.doi.gov;
Keith_A._Krulak@nsc.eop.gov; [redacted]@ita.doc.gov;
Lisa_D._Branch@cea.eop.gov; [redacted]@ita.doc.gov;
Christine_A._McDaniel@cea.eop.gov; [redacted]@ita.doc.gov;
Elaine_M._Mitsler@nsc.eop.gov; [redacted]@epa.gov; [redacted]@usaid.gov;
Kenneth_L._Peel@ceq.eop.gov; [redacted]@epa.gov;
[redacted]@do.treas.gov; [redacted]@State.gov; [redacted]@usaid.gov;
[redacted]@usitc.gov; Sharon_Thomas@CEA.eop.gov; [redacted]@dhs.gov;
Ronald_L._Silberman@omb.eop.gov; [redacted]@ucia.gov;
Tracy_McKibben@nsc.eop.gov; [redacted]@usaid.gov; [redacted]@do.treas.gov;
[redacted]@state.gov; [redacted]@usda.gov; [redacted]@usda.gov;
[redacted]@HQ.DOE.gov; [redacted]@State.gov; [redacted]@State.gov;
Lisa_D._Branch@cea.eop.gov; [redacted]@epamail.epa.gov;
[redacted]@do.treas.gov; [redacted]@do.treas.gov;
[redacted]@do.treas.gov; Charmin_David@nsc.eop.gov;
[redacted]@mail.doc.gov; Roszell_Hunter@nsc.eop.gov; [redacted]@State.gov;
[redacted]@dol.gov; [redacted]@mail.doc.gov; [redacted]
Elaine_M._Mitsler@nsc.eop.gov; Faryar_Shirzad@nsc.eop.gov
Cc: DL-USTR-Austr@eopds.eop.gov; DL-USTR-DAUSTR@eopds.eop.gov;
Douglas_Bell@USTR.EOP.GOV; Mary_Sullivan@USTR.EOP.GOV;
Charlotte_Brown@USTR.EOP.GOV; Amy_Wilkinson@USTR.EOP.GOV;
Robert_Lehman@ustr.eop.gov; Paul_H._DeLaney@ustr.eop.gov;
Scott_Ki@USTR.EOP.GOV; Edmund_Saums@USTR.EOP.GOV;
Kevin_Richardson@ustr.eop.gov
Subject: TPRG Meeting scheduled for 2:00pm, Friday, January 6, 2006 in Conference Room 305, Winder Building

Ambassadors [redacted] and [redacted], Deputy USTRs, are chairing a TPRG Meeting next week beginning at 10:00am, Friday, January 6, 2006 in Conference Room 305 of the Winder Building. The agenda is as follows:

Subject Chaired by Time

[redacted] 10:00am Malaysia

[redacted] 11:30am

TPRG Papers for the meeting will be available for pickup early next week. I will send an e-mail, when they are available.

Ambassadors Bhatia and Schwab, Deputy USTRs, are chairing a TPRG Meeting next week beginning at **10:00am, Friday, January 6, 2006 in Conference Room 305 of the Winder Building.** The agenda is as follows:

Subject	Chaired by	Time
[redacted]		10:00am
[redacted]		11:30am

TPRG Papers for the meeting will be available for pickup early next week. I will send an e-mail, when they are available.

[redacted]

From: [redacted]
Sent: Tuesday, January 03, 2006 2:21 PM
To: [redacted]
Cc: Gorsuch, Neil M
Subject: RE: Update

Dear [redacted]

Too bad to hear about [redacted] Once you let me know who his substitute is, I'll send out another invite. Let me know if either of you have any questions!

Sincerely,
[redacted]

[redacted]
Program Associate, Term Member Program
Council on Foreign Relations
[redacted]
Tel: [redacted]
Fax: (212) 434-9801
www.cfr.org

[redacted]
cc
01/03/2006 11:54 <Neil.Gorsuch@usdoj.gov>
AM Subject
RE: Update

[redacted] has a conflict for our date. Human Rights Watch will send someone else to speak, but I am still waiting to confirm the identity with them. Let's hold off until later this week when we have the speaker finalized.

Hope you had a great Christmas and New Years.

[redacted]

-----Original Message-----
From: [redacted] [mailto[redacted]
Sent: Wednesday, December 21, 2005 7:34 PM
To[redacted]
Cc: [redacted] Neil.Gorsuch@usdoj.gov
Subject: RE: Update

Dear[redacted]& Neil-

That's great news. I plan to resend the invite on 1/3 when I return to the office. I agree about reworking the title a bit. Let me know if I can help in any way.

Best wishes to you and your families for the holidays.

Sincerely,
[redacted]

[redacted]
Program Associate, Term Member Program
Council on Foreign Relations
[redacted]
Tel: [redacted]
Fax: (212) 434-9801
www.cfr.org

To [redacted]
cc <Neil.Gorsuch@usdoj.gov>
bcc
Subject RE: Update
[redacted]

12/21/2005 06:47 AM PST

Yes - we are on for the 24th. Neil and I did want to massage the Title and we are reconfirming our speakers for that date. When should we plan to recirculate the invitation?

-----Original Message-----
From: [redacted] [mailto [redacted]
Sent: Tuesday, December 20, 2005 3:28 PM
To: [redacted]
Cc: Neil.Gorsuch@usdoj.gov
Subject: Update

Dear [redacted] & Neil-

Just checking in on the seminar; we're still advertising 1/24. Please let me know if that should be removed. I am out of the office until January 3rd, but will check email once a day.

Best wishes for the holidays!
[redacted]

_____

[redacted]
Program Associate, Term Member Program

Council on Foreign Relations
[redacted]
Tel: [redacted]
Fax: (212) 434-9801
www.cfr.org

Beach, Andrew

From: Beach, Andrew
Sent: Tuesday, January 03, 2006 2:22 PM
To: Gorsuch, Neil M
Subject: AG travel on Jan 12

Neil,
Would you be available to travel with the AG to St. Louis on Thursday, January 12? 7:00 AM departure from Reagan National. He'll get back around 6:00 PM, I think. He'l visit USAOs in St. Louis and SD Illinois and speak at a Justice Family Center Opening in St. Louis.

Let me know.

Thanks.

Andy Beach
Assistant to the Attorney General
Director of Scheduling
Department of Justice - Washington, DC 20530
Tel: (202) 514-4195; FAX: (202) 307-2825

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, January 03, 2006 2:32 PM
To: Sampson, Kyle
Bcc: McCallum, Robert (SMO)
Subject: RE: SERB

Thanks very much! Appreciate your help clearing this up.

From: Sampson, Kyle
Sent: Tuesday, January 03, 2006 2:27 PM
To: Gorsuch, Neil M
Subject: FW: SERB

fyi

From: Sampson, Kyle
Sent: Tuesday, January 03, 2006 2:21 PM
To: Santangelo, Mari (JMD)
Cc: McCallum, Robert (SMO); McNulty, Paul J; Corts, Paul R
Subject: SERB

From my perspective, the SERB does not need to meet to consider the bonuses Robert has proposed. No objection to the bonuses from OAG.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, January 03, 2006 2:32 PM
To: Beach, Andrew
Subject: RE: AG travel on Jan 12

Of course!

From: Beach, Andrew
Sent: Tuesday, January 03, 2006 2:22 PM
To: Gorsuch, Neil M
Subject: AG travel on Jan 12

Neil,
Would you be available to travel with the AG to St. Louis on Thursday, January 12? 7:00 AM departure from Reagan National. He'll get back around 6:00 PM, I think. He'l visit USAOs in St. Louis and SD Illinois and speak at a Justice Family Center Opening in St. Louis.

Let me know.

Thanks.

Andy Beach
Assistant to the Attorney General
Director of Scheduling
Department of Justice - Washington, DC 20530
Tel: (202) 514-4195; FAX: (202) 307-2825

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, January 03, 2006 2:33 PM
To: Shaw, Aloma A
Subject: FW: Reminder - Lessons Learned Four 1/13/06

Please could you accept and put it on my calendar?

-----Original Message-----
From: [redacted]@cfr.org [mailto:[redacted]@cfr.org]
Sent: Tuesday, January 03, 2006 2:06 PM
To: Gorsuch, Neil M
Subject: Reminder - Lessons Learned Four 1/13/06

COUNCIL ON FOREIGN RELATIONS

WASHINGTON OFFICE
1779 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20036-2109
Email dcmeetings@cfr.org
Meetings Response Line Tel 202 518 3479
Fax 202 986 2984

REMINDER - LESSONS LEARNED: JUDGE WEBSTER

[redacted]

James Lambright
Chairman and President (acting),
U.S. Export-Import Bank
presiding

Friday, January 13, 2006

8:00-8:30 AM Breakfast Reception
8:30-9:30 AM Meeting

at

Council on Foreign Relations
1779 Massachusetts Avenue, N.W.
Washington, D.C. 20036

Prior to joining [redacted]

[redacted]

our "Lessons Learned" series, [redacted] will discuss [redacted] experiences in these various capacities and how they have helped to shape [redacted] professional and personal philosophies.

To attend, please reply directly to this email [redacted]@cfr.org), call [redacted] or fax your acceptance to [redacted] Acceptances only please.

This invitation is non-transferable.

Please update the information below if necessary:
Member Name: Neil M. Gorsuch 00355063
Company/Affiliation: U.S. Department of Justice
Telephone: 202-305-1434
Fax: 202-514-0238
E-mail: neil.gorsuch@usdoj.gov
I prefer to receive invitations and meeting updates via: email fax



Otus2005, Ag

Subject:	Updated: St. Louis
Start:	Thursday, January 12, 2006 12:00 AM
End:	Friday, January 13, 2006 12:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Gorsuch, Neil M

When: Thursday, January 12, 2006 12:00 AM to Friday, January 13, 2006 12:00 AM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

Otus2005, Ag

Subject:	Updated: AG TRAVEL TO ST. LOUIS
Start:	Thursday, January 12, 2006 7:00 AM
End:	Thursday, January 12, 2006 6:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Gorsuch, Neil M

When: Thursday, January 12, 2006 7:00 AM-6:00 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, January 03, 2006 2:54 PM
To: Murphy, Stephen J. (USAMIE)
Subject: RE:

Steve,

I may have to travel with the AG that day, but if you're around the night before or the morning afterward, I'd very much enjoy the opportunity to catch up. I am sure Robert would like to see you as well and I'd be happy to set something up. Just let me know what might work for you.

Warmest wishes for the new year,

NMG

-----Original Message-----
From: Murphy, Stephen J. (USAMIE)
Sent: Tuesday, January 03, 2006 1:55 PM
To: Gorsuch, Neil M
Subject:

Neil --

Happy new year. [redacted]

I'm betting you know this, but the Fed Soc is sponsoring a presentation of George Terwilliger's paper on the a/c privilege waiver at the National Press Club midday on 1/12. I am thinking of scheduling some meetings at EOUSA I'm overdue for in connection with this so that I can come and attend. I think [redacted] is on the panel.

In any event, I was wondering if you and Robert are around that day. I'd like to say hello, buy you a cup of coffee and pay my respects.

All the best, SJM

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, January 03, 2006 2:56 PM
To: Rubin, Jim (ENRD)
Cc: Larm, Richard; Kessler, Elizabeth A
Subject: RE: TPRG Meeting scheduled for 2:00pm, Friday, January 6, 2006 in Conference Room 305, Winder Building

Thanks, I will look forward to the report. Please say hello to [redacted] for me - [redacted]

-----Original Message-----
From: Rubin, Jim (ENRD)
Sent: Tuesday, January 03, 2006 2:17 PM
To: Gorsuch, Neil M
Cc: Larm, Richard; Kessler, Elizabeth A
Subject: FW: TPRG Meeting scheduled for 2:00pm, Friday, January 6, 2006 in Conference Room 305, Winder Building

Neil, fyi, I will attend this tprg as observer, to get a sense of where the USG is going on these FTAs, but do not think anyone from OASG needs to be involved yet; I can report back by email to our group.

Dick, pls be sure to let me know when papers are out.

-----Original Message-----
From: Larm, Richard
Sent: Friday, December 30, 2005 2:29 PM
To: Rubin, Jim (ENRD)
Subject: FW: TPRG Meeting scheduled for 2:00pm, Friday, January 6, 2006 in Conference Room 305, Winder Building

Jim:
FYI. Please go if you have any interest; Stu and I will both be out. Or, forego the aggravation and wait for the next one. Happy New Year!
Dick

-----Original Message-----
From: Gloria_Blue@USTR.EOP.GOV [mailto:Gloria_Blue@USTR.EOP.GOV]
Sent: Friday, December 30, 2005 2:25 PM
To: [redacted]@State.gov; [redacted]@epa.gov; [redacted]@ita.doc.gov; [redacted]@usitc.gov; [redacted]@cea.eop.gov; Eric_G._Altbach@nsc.eop.gov; [redacted]@fas.usda.gov; [redacted]@fas.usda.gov; [redacted]@ost.dot.gov; [redacted]@ita.doc.gov; [redacted]@do.treas.gov; [redacted]@usaid.gov; [redacted](DHS); [redacted]

[redacted]v;
[redacted]@state.gov; Christine_A._McDaniel@cea.eop.gov;
Nova_J._Daly@nsc.eop.gov; [redacted]@ios.doi.gov;
[redacted]@ost.dot.gov; [redacted]@ucia.gov; [redacted]@ios.doi.gov;
[redacted]@hq.doe.gov; [redacted]@do.treas.gov; [redacted]@OC.FDA.Gov;
[redacted]@dhs.gov; [redacted]@epamail.epa.gov;
[redacted]@dol.gov; [redacted]@dol.gov; [redacted]@ucia.gov;
[redacted]@osd.mil; howard_dickenson@omb.eop.gov;
[redacted]@dol.gov; [redacted](DHS); [redacted]@state.gov;
[redacted]@ita.doc.gov; [redacted]@dhs.gov;
John_M._Herrmann@nsc.eop.gov; [redacted]@ios.doi.gov;
Keith_A._Krulak@nsc.eop.gov; [redacted]@ita.doc.gov;
Lisa_D._Branch@cea.eop.gov; [redacted]@ita.doc.gov;
Christine_A._McDaniel@cea.eop.gov; [redacted]@ita.doc.gov;
Elaine_M._Mitsler@nsc.eop.gov; [redacted]@epa.gov; [redacted]@usaid.gov;
Kenneth_L._Peel@ceq.eop.gov; [redacted]@epa.gov;
[redacted]@do.treas.gov; [redacted]@State.gov; [redacted]@usaid.gov;
[redacted]@usitc.gov; Sharon_Thomas@CEA.eop.gov; [redacted]@dhs.gov;
Ronald_L._Silberman@omb.eop.gov; [redacted]@ucia.gov;
Tracy_McKibben@nsc.eop.gov; [redacted]@usaid.gov; [redacted]@do.treas.gov;
[redacted]@state.gov; [redacted]@usda.gov; [redacted]@usda.gov;
[redacted]@HQ.DOE.gov; [redacted]@State.gov; [redacted]@State.gov;
Lisa_D._Branch@cea.eop.gov; [redacted]@epamail.epa.gov;
[redacted]@do.treas.gov; [redacted]@do.treas.gov;
[redacted]@do.treas.gov; Charmin_David@nsc.eop.gov;
[redacted]@mail.doc.gov; Roszell_Hunter@nsc.eop.gov; [redacted]@State.gov;
[redacted]@dol.gov; [redacted]@mail.doc.gov;
Elaine_M._Mitsler@nsc.eop.gov; Faryar_Shirzad@nsc.eop.gov
Cc: DL-USTR-Austr@eopds.eop.gov; DL-USTR-DAUSTR@eopds.eop.gov;
Douglas_Bell@USTR.EOP.GOV; Mary_Sullivan@USTR.EOP.GOV;
Charlotte_Brown@USTR.EOP.GOV; Amy_Wilkinson@USTR.EOP.GOV;
Robert_Lehman@ustr.eop.gov; Paul_H._DeLaney@ustr.eop.gov;
Scott_Ki@USTR.EOP.GOV; Edmund_Saums@USTR.EOP.GOV;
Kevin_Richardson@ustr.eop.gov
Subject: TPRG Meeting scheduled for 2:00pm, Friday, January 6, 2006 in Conference Room 305, Winder Building

Ambassadors Bhatia and Schwab, Deputy USTRs, are chairing a TPRG Meeting next week beginning at 10:00am, Friday, January 6, 2006 in Conference Room 305 of the Winder Building. The agenda is as follows:

Subject Chaired by Time

Korea and Karan Bhatia 10:00am Malaysia

Egypt Susan Schwab 11:30am

TPRG Papers for the meeting will be available for pickup early next week. I will send an e-mail, when they are available.

Kessler, Elizabeth A

From:	Kessler, Elizabeth A
Sent:	Tuesday, January 03, 2006 3:00 PM
To:	Gorsuch, Neil M
Subject:	Read: TPRG Meeting scheduled for 2:00pm, Friday, January 6, 2006 in Conference Room 305, Winder Building

Otus2005, Ag

Subject:	Updated: St. Louis
Start:	Thursday, January 12, 2006 12:00 AM
End:	Friday, January 13, 2006 12:00 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Jenkins, Linda A; Elwood, Courtney; Goodling, Monica; Scolinos, Tasia; Gorsuch, Neil MJenkins, Linda A; Elwood, Courtney; Goodling, Monica; Scolinos, Tasia; Gorsuch, Neil M

Rubin, Jim (ENRD)

From: Rubin, Jim (ENRD)

Sent: Tuesday, January 03, 2006 3:34 PM

Subject: Read: TPRG Meeting scheduled for 2:00pm, Friday, January 6, 2006 in Conference Room 305, Winder Building

From: USDOJ- Office of Public Affairs
Sent: Tuesday, January 03, 2006 3:39 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER LOBBYIST JACK ABRAMOFF PLEADS GUILTY TO CHARGES INVOLVING CORRUPTION, FRAUD CONSPIRACY, AND TAX EVASION

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, JANUARY 3, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

FORMER LOBBYIST JACK ABRAMOFF PLEADS GUILTY TO CHARGES INVOLVING CORRUPTION, FRAUD CONSPIRACY, AND TAX EVASION

WASHINGTON, D.C. – Former lobbyist Jack A. Abramoff has pleaded guilty to a three-count information charging him with conspiracy, aiding and abetting honest services mail fraud, and tax evasion, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today.

Abramoff, 47, entered his plea today in U.S. District Court in the District of Columbia, before Judge Ellen Segal Huvelle. Under the terms of a plea agreement, Abramoff faces up to 30 years in prison, a fine of more than $750,000 and mandatory restitution estimated to be approximately $26.7 million. Abramoff has agreed to cooperate with law enforcement officials in an ongoing criminal investigation. Abramoff's former business partner, Michael Scanlon, previously pleaded guilty in this investigation and is cooperating with law enforcement officials.

According to the plea agreement signed by Abramoff, from 1994 through early 2004 he was employed in the Washington, D.C. offices of two law firms. During this time, Abramoff lobbied public officials in the federal government, principally members of Congress. He also sought to further his client's interests through grassroots work, public relations services and election campaign support.

The information charges Abramoff with receiving undisclosed kickbacks from Scanlon, who owned and operated Capital Campaign Strategies, LLC (CCS). Abramoff and Scanlon conspired to defraud four Native American Indian tribes that either operated or were interested in operating gaming casinos. Each of these four clients, which were tribes located in Mississippi, Louisiana, Texas, and Michigan, hired Abramoff through his employers to give advice regarding how best to limit competition from competing casinos or, in one instance, to re-open a previously closed casino. Once Abramoff had established a relationship with the tribal clients, he recommended Scanlon and CCS as the primary provider for grassroots work and public relations services. As Abramoff and Scanlon knew, the clients relied on Abramoff's recommendation because of his expertise in these matters.

As part of the scheme described in the information and plea agreement, Abramoff and Scanlon charged fees that incorporated huge profit margins and then split the net profits in a secret kickback arrangement. As both men knew, the secrecy of the kickback arrangement was crucial to the success of their scheme, and

DOJ_NMG_ 0149907

Scanlon and Abramoff concealed the arrangement from the tribal clients. Scanlon also formed other companies which were used essentially to receive funds from clients for work performed by CCS and others.

Abramoff also admitted that as one means of accomplishing results for their clients, he, Scanlon, and others engaged in a pattern of corruptly providing things of value to public officials, including trips, campaign contributions, and meals and entertainment, with the intent to influence acts by the public officials that would benefit Abramoff and Abramoff's clients.

For example, Abramoff and Scanlon provided things of value to a public official (described as Representative #1) and members of his staff, including, but not limited to, a lavish trip to Scotland to play golf on world-famous courses, tickets to sporting events and other entertainment, regular meals at Abramoff's upscale restaurant, and campaign contributions for the Representative, his political action committee, his campaign committee, and other political committees on behalf of the Representative. At the same time, and in exchange for these things of value, Scanlon and Abramoff sought and received the Representative's agreement to perform directly and through others a series of official acts, including but not limited to agreements to support and pass legislation, and agreements to place statements in the *Congressional Record*. Count Two of the criminal information charged Abramoff with aiding and abetting honest services fraud for arranging with a Texas Indian tribe to solicit another Indian tribe to mail a $50,000 payment, in order to assist Abramoff in paying for the golf trip he offered and provided to Representative #1 and some of his staff members.

As stipulated in the agreement, through Abramoff's scheme with Scanlon as well as several frauds he committed with others not including Scanlon, Abramoff received approximately $25 million in undisclosed criminal kickbacks and other fraudulently obtained funds.

The tax evasion charge stems largely from Abramoff's failure to report and pay taxes on income payments which he attempted to hide by causing them to be sent instead to certain non-profit entities that he controlled. Abramoff used the unreported income for his personal benefit and to carry out the fraud and corruption schemes described in the plea agreement and information. Abramoff also admitted that, in order to carry out his tax evasion, he caused others to prepare false invoices and false entries in books and records of certain non-profit entities and he caused them to file false reports with the Internal Revenue Service. Through this conduct, Abramoff evaded payment of approximately $1.7 million in federal income tax from 2001 to 2003.

"Government officials and governmental action are not for sale," said Assistant Attorney General Fisher. "The Justice Department will aggressively investigate and prosecute these types of cases, which have such a devastating impact on the public's trust of the government. We will not shy away from this responsibility."

"Today's plea is the result of determined efforts by United States investigators and attorneys working to vindicate the trust the American people deserve to have in the institutions of their government, including the tax system that supports it," said Eileen J. O'Connor, Assistant Attorney General for the Tax Division. "People who enrich themselves by engaging in illegal activities compound their crimes by failing to pay taxes on their ill-gotten gains."

"Beyond the illegal evasion of $1.7 million in taxes owed, one of the most disturbing elements of this whole sordid story is the blatant misuse of charities in a scheme to peddle political influence," said IRS Commissioner Mark W. Everson. "At the IRS, one of our four service-wide enforcement priorities is deterring abuse within tax-exempt entities for tax avoidance or other unintended purposes."

"Today's pleas are not a victory, but rather milestones in ensuring that our citizens are indeed provided honest government services," said FBI Assistant Director Chris Swecker of the Criminal Investigative Division.

DOJ_NMG_ 0149908

"This has been a lengthy and exhaustive investigation involving multiple FBI Field Offices, the Internal Revenue Service, and Inspectors General of the Department of Interior and General Services Administration. Protecting the interests of our government processes is the number one criminal priority of the FBI.. No criminal resources of the FBI will be spared in support of this important mission. "

The Inspector General for the Department of the Interior, Earl E. Devaney, said, "As a partner in this task force for over two years, our focus has been on ensuring the integrity of both the Department's programs and the officials who oversee them. To the extent that Mr. Abramoff can shed light in this regard, we welcome today's events."

This case is being prosecuted by Trial Attorneys Mary K. Butler and M. Kendall Day of the Public Integrity Section, which is headed by Chief Noel L. Hillman; Guy D. Singer and Nathaniel B. Edmonds of the Fraud Section, which is headed by Acting Chief Paul E. Pelletier; and Stephanie D. Evans of the Tax Division's Southern Criminal Enforcement Section, which is headed by Chief Bruce M. Salad. The case was investigated by various law enforcement agencies, including Special Agents of the Federal Bureau of Investigation, Internal Revenue Service Criminal Investigation Division, General Services Administration Office of Inspector General, and the Department of the Interior Office of the Inspector General.

Abramoff has also been indicted by a federal grand jury in the Southern District of Florida. The Miami prosecution is being handled by U.S. Attorney R. Alexander Acosta and Assistant U.S. Attorneys Lawrence D. LaVecchio and Paul F. Schwartz.

###

06-002



abramoff.pleaagre...

DOJ_NMG_ 0149909

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	**Criminal Number:**
	:	
	:	**VIOLATIONS:**
	:	
	:	**Count One:**
	:	**18 U.S.C. § 371**
v.	:	**(Conspiracy)**
	:	
JACK A. ABRAMOFF,	:	**Count Two:**
	:	**18 U.S.C. §§ 1341, 1346 and 2**
Defendant.	:	**(Honest Services Mail Fraud)**
	:	
	:	**Count Three:**
	:	**26 U.S.C. § 7201**
	:	**(Tax Evasion)**

PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the United States of America and the defendant, JACK A. ABRAMOFF, agree as follows:

1. The defendant is entering into this agreement and is pleading guilty freely and voluntarily without promise or benefit of any kind, other than contained herein, and without threats, force, intimidation, or coercion of any kind.

2. The defendant knowingly, voluntarily and truthfully admits the facts contained in the attached Factual Basis for Plea.

3. The defendant agrees to waive indictment and plead guilty to the offenses charged in the attached Information which are:

A. one count of conspiracy to violate the following federal laws in violation of 18 U.S.C. § 371:

(1) honest services wire and mail fraud, in violation of Title 18 U.S.C. §§ 1341, 1343 and 1346;

(2) mail and wire fraud, in violation of 18 U.S.C. §§ 1341 and 1343;

(3) bribery and honest services fraud of public officials, in violation of 18 U.S.C. §§ 201(b), 1341, 1343 and 1346;

(4) post-employment restrictions for former Congressional staff members, in violation of 18 U.S.C. § 207(e);

B. one count of honest services mail fraud, in violation of 18 U.S.C. §§ 1341, 1346 and 2; and

C. one count of evasion of federal income tax, in violation of 26 U.S.C. § 7201.

The defendant admits that he is guilty of these crimes, and the defendant understands that he will be adjudicated guilty of these offenses if the Court accepts his guilty plea.

4. The defendant understands the nature of the offenses to which he is pleading guilty, and the elements thereof, including the penalties provided by law. The maximum penalty for violating the law specified in the Information is:

A. Count 1 (Conspiracy): five years of imprisonment, a fine of $250,000 or not more than the greater of twice the gross gain or twice the gross loss, and a mandatory special assessment of $100;

B. Count 2 (Honest Services Mail Fraud): twenty years of imprisonment, a fine of $250,000 or not more than the greater of twice the gross gain or twice the gross loss, and a mandatory special assessment of $100;

DOJ_NMG_ 0149911

C. Count 3 (Tax Evasion): five years of imprisonment, a fine of $250,000 or not more than the greater of twice the gross gain or twice the gross loss, the costs of prosecution, and a mandatory special assessment of $100;

The parties understand that the statutory maximum term of imprisonment for the three offenses charged in the Information is 30 years. The defendant understands that the Court may impose a term of supervised release to follow any incarceration, in accordance with 18 U.S.C. § 3583. The authorized term of supervised release for each of the counts is not more than three years. The defendant also understands that the Court will impose restitution, and may impose costs of incarceration, supervision and prosecution.

5. The defendant understands and agrees that restitution to victims in the offense described in Count 1 of the Information is mandatory. The loss to the victims as a result of crimes charged in Count 1 of the Information is estimated to be approximately $25,000,000. The defendant agrees not to transfer or otherwise encumber his assets except with notice to, and consent of, the undersigned representatives of the United States until such time as this agreement is filed with the Court, at which point the defendant must seek leave of Court to transfer or otherwise encumber his assets. The parties agree that the defendant will not be required to obtain the consent of the United States for property transfers necessary to pay ordinary living expenses, ordinary business expenses and attorneys fees. The defendant agrees as part of this agreement that he will provide to the United States detailed and accurate information identifying all of his income, assets, expenses and liabilities within 45 days of the date of this agreement in a format requested by the United States and will truthfully answer all questions relative to his finances. Thereafter, the defendant will

DOJ_NMG_ 0149912

provide on a monthly basis or as otherwise requested a report of all financial transactions valued at $2,500 or more, including all income, expenditures and transfers of funds or property.

6. This agreement does not resolve the defendant's civil tax liability for any years and does not bind the Internal Revenue Service in any way regarding its efforts to examine or collect defendant's civil tax liabilities. The defendant agrees that he will cooperate fully with the Internal Revenue Service in determining any tax liabilities (civil or criminal) of any entities or persons for any years relating to this prosecution, including but not limited to his personal tax liabilities for the years 2000 through 2003, and in paying all appropriate tax liabilities, penalties and interest. To this end, the defendant specifically agrees to file complete and accurate amended individual income tax returns, Forms 1040X, for tax years 2000 through 2003, as soon as possible upon the signing of this plea agreement, and in any event, no later than the time of the defendant's sentencing. If for any reason complete and accurate returns, prepared in accordance with the revenue agent's report dated November 28, 2005, are not filed by the time of defendant's sentencing, the United States will no longer be bound by the terms of paragraph 11(c) below. The defendant further agrees to waive the statute of limitations with respect to the assessment and collection of his taxes due and owing for these tax years. The defendant also agrees to provide the Internal Revenue Service with all requested documents and information for purposes of any civil audits, examinations, collections, or other proceedings, and to waive any rights regarding disclosure to the Internal Revenue Service Examination and Collection Divisions of all documents obtained and reports produced during the criminal investigation, including but not limited to tax return related information and information obtained from the defendant pursuant to grand jury subpoena. Nothing in this agreement shall limit the Internal Revenue Service in its assessment and collection of any taxes, penalties and interest

DOJ_NMG_ 0149913

due from the defendant or other parties. The defendant agrees to waive venue for any tax charges for purpose of this plea agreement and any rights he may have under 18 U.S.C. § 3237(b).

7. The defendant also agrees to pay restitution to the Internal Revenue Service pursuant to 18 U.S.C. § 3663(a)(3). The defendant further agrees that, pursuant to 18 U.S.C. § 3663(a)(3) and this agreement, the Court will order as restitution the amount of the criminal tax computation which the defendant agrees is $1,724,054, and which will be applied to the defendant's civil tax liability for the years 2001 through 2003, as later determined by the Internal Revenue Service.

8. If the Court accepts the defendant's plea of guilty and the defendant fulfills each of the terms and conditions of this agreement, the United States agrees that it will not further prosecute the defendant for crimes described in the factual basis attached as Exhibit A or disclosed by the defendant in debriefing sessions with the United States on or before January 3, 2006. Nothing in this agreement is intended to provide any limitation of liability arising out of any acts of violence.

9. The defendant understands and agrees that federal sentencing law requires the Court to impose a sentence which is reasonable and that the Court must consider the advisory U.S. Sentencing Guidelines in effect at the time of the sentencing in determining a reasonable sentence. Defendant also understands that sentencing is within the discretion of the Court and that the Court is not bound by this agreement. Defendant understands that facts that determine the offense level will be found by the Court at sentencing and that in making those determinations the Court may consider any reliable evidence, including hearsay, as well as provisions or stipulations in this plea agreement. Both parties agree to recommend that the sentencing guidelines should apply pursuant to United States v. Booker and the final Sentencing Guidelines offense level as calculated herein provides for a reasonable sentence. Defendant further understands the obligation of the United

DOJ_NMG_ 0149914

States to provide all relevant information regarding the defendant, including charged and uncharged criminal offenses, to the United States Probation Office. The United States agrees to recommend that any sentence imposed in this case run concurrently to any sentence imposed in United States v. Jack A. Abramoff, No. 05 CR 60204 (SDFL) ("SDFL Case"). Moreover, the United States agrees to recommend that the conduct at issue in the SDFL Case is not relevant conduct for sentencing purposes in the instant plea provided that the defendant is found guilty in the SDFL Case by plea or otherwise. Defendant also states that he has had ample opportunity to discuss, and has in fact discussed, the impact of the sentencing guidelines and the statutory maximum sentence with his attorney and is satisfied with his attorney's advice in this case.

10. Except to the extent it would be inconsistent with other provisions of this agreement, the United States and the defendant reserve, at the time of sentencing, the right of allocution, that is the right to describe fully, both orally and in writing, to the Court the nature, seriousness and impact of the defendant's misconduct related to the charges against him or to any factor lawfully pertinent to the sentence in this case. The United States will also advise the court of the nature, extent and timing of the defendant's cooperation. The defendant further understands and agrees that in exercising this right, the United States may solicit and make known the views of the law enforcement agencies which investigated this matter.

11. The defendant and the United States agree that the following United States Sentencing Guidelines ("U.S.S.G.") apply based upon the facts of this case:

a. The parties agree that the 2003 Sentencing Guidelines Manual governs the guideline calculations in this case. All references in this agreement to the U.S.S.G. refer to that manual.

DOJ_NMG_ 0149915

b. The parties agree that the total offense level applicable to the defendant's offense conduct is Level 31. This level is calculated as follows:

I. Fraud Offenses:

Base Offense level § 2B1.1	6
§ 2B1.1(b)(1)(L) loss of more than $20,000,000	22
§ 3B1.1(c) organizer or leader	2
§ 3B1.3 abuse of trust	2
	32

II. Corruption Offenses:

Base Offense level § 2C1.1	10
§ 2C1.1(b)(1) more than one bribe	2
§ 2C1.1(b)(2)(b) involving a high level public official	8
§ 3B1.1(a) organizer or leader or was involving more than five participants or was otherwise extensive	4
	24

III. Tax Offense

Base Offense Level § 2T4.1 tax loss of more than $1,000,000 but less than $2,500,000	22
§ 2T1.1(b)(1) failure to identify the source of income from criminal activity	2
§ 2T1.1(b)(2) sophisticated means	2
	26

DOJ_NMG_ 0149916

IV. Treatment of Multiple Counts/Objects	
§3D1.4 (2 total)	+2 34
VII. Expected Adjustment under § 3E1.1	-3
TOTAL	31 (108-135 months)

c. As indicated above, the United States agrees that it will recommend that the Court reduce by three levels the sentencing guideline applicable to the defendant's offense, pursuant to U.S.S.G § 3E1.1, based upon the defendant's recognition and affirmative and timely acceptance of personal responsibility. The United States, however, will not be required to make these recommendations if any of the following occurs: (1) defendant fails or refuses to make a full, accurate and complete disclosure to this office or the probation office of the circumstances surrounding the relevant offense conduct and his present financial condition; (2) defendant is found to have misrepresented facts to the United States prior to entering this plea agreement; (3) defendant commits any misconduct after entering into this plea agreement, including but not limited to, committing a state or federal offense, violating any term of release, or making false statements or misrepresentations to any governmental entity or official; or (4) defendant fails to comply with any terms of this plea agreement.

d. The defendant understands that his Criminal History Category will be determined by the Court after the completion of a Pre-Sentence Investigation by the U.S. Probation Office. The defendant acknowledges that the United States has not promised or agreed that the defendant will or will not fall within any particular criminal history category and that such determinations could affect his guideline range and/or offense level as well as his final sentence. The parties understand

DOJ_NMG_ 0149917

that the order in which the pleas are entered or sentences are imposed in the SDFL Case and the instant matter could result in the imposition of an additional criminal history category and an increased period of incarceration. Consequently, if a plea or sentence in the SDFL Case results in a criminal history category greater than I, and the defendant has fully complied with all provisions in this agreement, the United States agrees to recommend a downward departure based on U.S.S.G. Section 4A1.3(b).

12. The defendant and the United States agree that neither party will seek or advocate for or suggest in any way an adjustment to or a departure from the sentencing guidelines other than those explicitly set forth in this agreement or for a sentence outside of the range determined to be applicable under the advisory Sentencing Guidelines, provided that those guidelines are calculated as set forth above. In the event that the defendant breaches any term of the plea agreement, the United States may move for upward departures based on any grounds the United States deems appropriate.

13. The parties agree that U.S.S.G. § 5E1.2 provides that the Court shall impose a fine for a guideline offense at level 31 of $15,000 to $150,000, unless the Court finds that the defendant is unable to pay a fine. The defendant understands that the Court must order that the defendant make restitution to victims of these offenses for the full amount of the loss.

14. The defendant agrees to fully cooperate in this and any other case or investigation with attorneys for the United States of America, and federal and state law enforcement agencies by providing truthful and complete information, evidence and testimony, if required, concerning any matter. The defendant understands that if he makes material false statements intentionally to law enforcement, commits perjury, suborns perjury, or obstructs justice, he may be found to have

DOJ_NMG_ 0149918

breached this agreement and nothing in this agreement precludes the United States of America or any other law enforcement authority from prosecuting him fully for those crimes or any other crimes of which he may be guilty and from using any of his sworn or unsworn statements against him. The defendant understands that this plea agreement is explicitly dependent upon his providing completely truthful testimony in any trial or other proceeding, whether called as a witness by the United States, the defense or the Court.

15. Further, in the event that the United States determines in its exclusive discretion that the defendant has fully complied with this agreement and provided "substantial assistance" to law enforcement officers in the investigation and prosecution of others, the United States agrees it will file a motion for a downward departure pursuant to Section 5K1.1 and 18 U.S.C. § 3553(e) of the United States Sentencing Guidelines or Rule 35 of the Federal Rules of Criminal Procedure, respectively. Such assistance by the defendant shall include his cooperation in providing truthful and complete testimony before any grand jury and at any trial as requested by the United States and in interviews by investigators. If the United States files a motion either under § 5K1.1 of the guidelines or Rule 35, both parties will have the right to present facts regarding Abramoff's cooperation in any judicial district and to argue for the extent of the departure that is appropriate based on the defendant's cooperation. However, the defendant further understands that the decision whether to depart, and the extent of any departure for substantial assistance is the exclusive province of the Court.

16. The United States cannot and does not make any promise or representation as to what sentence the defendant will receive or what fines or restitution the defendant may be ordered to pay. The defendant understands that the sentence in this case will be determined solely by the Court,

DOJ_NMG_ 0149919

with the assistance of the United States Probation Office and that the Court may impose the maximum sentence permitted by the law. The Court is not obligated to follow the recommendations of either party at the time of sentencing. The defendant will not be permitted to withdraw his plea regardless of the sentence recommended by the Probation Office or the sentence imposed by the Court.

17. The defendant, knowing and understanding all of the facts set out herein, including the maximum possible penalty that could be imposed, and knowing and understanding his right to appeal the sentence as provided in 18 U.S.C. § 3742, hereby expressly waives the right to appeal any sentence within the maximum provided in the statutes of conviction or the manner in which that sentence was determined and imposed, including on the grounds set forth in 18 U.S.C. § 3742, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b). If the United States appeals the defendant's sentence, the defendant will be entitled to appeal his sentence as set forth in 18 U.S.C. § 3742(a) as to any aspects of his sentence inconsistent with the sentencing provisions of this agreement.

18. If the defendant fails to comply with any of the terms and conditions set forth in this agreement, the United States may fully prosecute the defendant on all criminal charges that can be brought against the defendant. With respect to such a prosecution:

a. The defendant shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(e)(6) of the Federal Rules of Criminal Procedure, or any other federal rule, that the defendant's statements pursuant to this agreement or any leads derived therefrom should be suppressed or are inadmissible;

DOJ_NMG_ 0149920

b. The defendant waives any right to claim that evidence presented in such prosecution is tainted by virtue of the statements the defendant has made; and

c. The defendant waives any and all defenses based on the statute of limitations with respect to any such prosecution that is not time-barred on the date that this agreement is signed by the parties.

19. If a dispute arises as to whether defendant has knowingly committed any material breach of this agreement, and the United States chooses to exercise its rights under Paragraph 18, at the defendant's request, the matter shall be submitted to the Court for its determination in an appropriate proceeding. At such proceeding, the defendant's disclosures and documents shall be admissible and the United States shall have the burden to establish the defendant's breach by a preponderance of the evidence.

20. The parties agree that if the Court does not accept the defendant's plea of guilty, then this agreement shall be null and void.

21. The defendant understands that this agreement is binding only upon the Public Integrity Section and the Fraud Section of the Criminal Division, and the Tax Division of the United States Department of Justice. This agreement does not bind any other prosecutor's office or agency. It does not bar or compromise any civil claim that has been or may be made against the defendant.

22. This agreement and the attached Factual Basis for Plea constitute the entire agreement between the United States and the defendant. No other promises, agreements, or representations exist or have been made to the defendant or the defendant's attorneys by the Department of Justice

DOJ_NMG_ 0149921

in connection with this case. This agreement may be amended only by a writing signed by all parties.

FOR THE DEFENDANT
Dated: 1/3/06

JACK A. ABRAMOFF
Defendant

ABBE DAVID LOWELL, ESQ.
Counsel for Defendant

DOJ_NMG_ 0149922

FOR THE UNITED STATES
Dated: 1/3/06

NOEL L. HILLMAN
Chief, Public Integrity Section

Mary K. Butler
M. Kendall Day
Trial Attorneys
Criminal Division
U.S. Department of Justice

PAUL E. PELLETIER
Acting Chief, Fraud Section

Guy D. Singer
Nathaniel B. Edmonds
Trial Attorneys
Criminal Division
U.S. Department of Justice

BRUCE M. SALAD
Chief, Southern Criminal Enforcement Section

Stephanie D. Evans
Trial Attorney
Tax Division
U.S. Department of Justice

DOJ_NMG_ 0149923

ATTACHMENT A

FACTUAL BASIS FOR THE PLEA
OF JACK A. ABRAMOFF

This statement is submitted to provide a factual basis for my plea of guilty to the charges filed against me.

1. From 1994 to 2004, Abramoff was a Washington, D.C. lobbyist. In 1994, Abramoff joined a law and lobbying firm ("Firm A"). In January 2001, Abramoff joined a second law and lobbying firm ("Firm B").

2. At all relevant times, Abramoff solicited and obtained business with groups and companies throughout the United States, including Native American tribal governments operating, and interested in operating, gambling casinos. Abramoff sought to further his clients' interests by lobbying public officials, including Members of the United States Congress. Abramoff also sought to further his clients' interests by recommending vendors for grass roots work, public relations services and election campaign support. Typically, Abramoff communicated with his clients by interstate electronic mail, interstate telephone calls, and private or commercial interstate mail carriers.

3. From March 2000 through 2001, Michael Scanlon ("Scanlon") worked for Firm A and Firm B in Washington, D.C. as a public relations specialist engaged in providing public relations services to clients throughout the United States. At these firms, Scanlon worked on many matters, often together with, and at the direction of, Abramoff. Abramoff was influential in Scanlon being hired by both firms.

4. In or about January 2001, Scanlon established a business called Capital Campaign Strategies LLC which had its principal offices in Washington, D.C. Capital Campaign

DOJ_NMG_ 0149924

Strategies LLC was formed to provide grass roots work, public relations services, and election campaign support. Scanlon also formed other companies that were used primarily to receive money for the services and work performed by others (collectively referred to as "CCS"). The services that CCS provided frequently involved use of interstate mail and telephone calls. Payments were often made by interstate wire transfer or checks that foreseeably caused interstate funds transfers between banks.

5. In May 2003, Abramoff established a business called GrassRoots Interactive ("GRI"), which had its principal offices in Silver Spring, Maryland. Abramoff represented that GRI would provide grass roots work, public relations services, and election campaign support.

6. In July 1999, Abramoff established a private foundation called Capital Athletic Foundation ("CAF") for which he sought and received federal tax-exempt status, in part to provide funding for a non-profit school. In November 2001, Abramoff organized a solely owned entity, Kaygold, LLC. Abramoff used these entities in part to receive funds for his personal benefit, to conceal the destination of the funds, and, with respect to CAF, to evade income taxes. Payments were often made by interstate wire transfer or checks involving interstate funds transfers.

Fraud Based on Violations of Abramoff's Duty of Honest Services

7. Abramoff was hired by at least four Native American tribes with gaming operations to provide professional services and develop programs to limit market competition or to assist in opening casinos. In 2001, Abramoff and Scanlon agreed that Abramoff would encourage his existing and potential clients to obtain grass roots and public relations

DOJ_NMG_ 0149925

services as a critical part of the lobbying program and strategy that Abramoff had been hired to provide. Abramoff promoted and recommended primarily CCS to provide this grass roots and public relations work. The prices CCS charged for its services were significantly in excess of CCS's costs.

8. Abramoff and Scanlon knew and agreed that Abramoff would receive fifty percent of the net profits received by CCS from those clients. Most of the payments from clients under the contracts with CCS were made to CCS. Scanlon then paid Abramoff his share of the net profits to various organizations that Abramoff controlled. The transfer of funds to Abramoff foreseeably involved the interstate transfer of funds.

9. Abramoff and Scanlon understood that the payments to Abramoff would not be disclosed to Abramoff's and Scanlon's four clients. Abramoff and Scanlon understood that disclosure of the profit-sharing arrangement to the clients would likely jeopardize the contracts for services and/or the profit margins of both Abramoff's law firm and CCS because disclosure could encourage the clients to seek competitive proposals from other vendors. Abramoff knew that his clients could receive the same services at significantly reduced prices because the quoted prices incorporated the undisclosed fees Scanlon paid to Abramoff of approximately fifty percent of CCS's net profits.

10. Abramoff promoted himself as having knowledge superior to his clients regarding lobbying and grass roots activity. Abramoff encouraged his clients to trust his judgment in these matters. Abramoff knew his clients did in fact trust and rely upon him in these matters. Abramoff further knew he had a duty to disclose all relevant facts to his lobbying clients, including conflicts of interest and any financial interest in fees paid to others.

DOJ_NMG_ 0149926

Mississippi Tribe

11. In 1995, Abramoff was hired by a Native American Indian tribal client based in Mississippi ("Mississippi Tribe") to hire him to provide lobbying services on various issues. Abramoff used his knowledge of lobbying and grass roots work, which was superior to the Mississippi Tribe's knowledge of these areas, to secure the trust and confidence of the Mississippi Tribe.

12. In early 2001, Abramoff recommended and advised the Mississippi Tribe to hire CCS, while concealing the fact that Abramoff would receive approximately fifty percent of the net profits from the Mississippi Tribe's payments to Scanlon.

13. From June 2001 until April 2004, the Mississippi Tribe paid Scanlon and related entities approximately $14,765,000. Abramoff and Scanlon concealed from the Mississippi Tribe that approximately fifty percent of the profit, approximately $6,364,000 including money not passed through CCS, was paid to Abramoff pursuant to their undisclosed arrangement.

Louisiana Tribe

14. In March 2001, Abramoff and Scanlon successfully solicited a Native American Indian tribal client based in Louisiana ("Louisiana Tribe") to hire them to provide lobbying and grass roots services to the tribe. Abramoff used his knowledge of lobbying and grass roots work, which was superior to the Louisiana Tribe's knowledge of these areas, to secure the trust and confidence of the Louisiana Tribe.

15. In March 2001, after CCS had been paid for the first project, Abramoff advised the Louisiana Tribe to rehire CCS, while concealing the fact that Abramoff would receive fifty percent of the profits from the Louisana Tribe's payments to CCS.

DOJ_NMG_ 0149927

16. From March 2001 to May 2003, the Louisiana Tribe paid CCS and related entities approximately $30,510,000. Abramoff and Scanlon concealed from the Louisiana Tribe that approximately fifty percent of the profit, approximately $11,450,000, was paid to Abramoff pursuant to their undisclosed arrangement.

Michigan Tribe

17. In January 2002, Abramoff and Scanlon successfully solicited a Native American Indian tribal client based in Michigan ("Michigan Tribe") to hire them to provide lobbying and grass roots services. Abramoff used his knowledge of lobbying and grass roots work, which was superior to the Michigan Tribe's knowledge of these areas, to secure the trust and confidence of the Michigan Tribe.

18. In June 2002, Abramoff advised the Michigan Tribe to expand its contract with CCS, while concealing the fact that Abramoff would receive approximately fifty percent of the profits from the Michigan Tribe's payments to CCS.

19. From June 2002 to October 2003, the Michigan Tribe paid Scanlon and related entities approximately $3,500,000. Abramoff and Scanlon concealed from the Michigan Tribe that approximately fifty percent of the profit, approximately $540,000, was paid to Abramoff pursuant to their undisclosed arrangement.

Texas Tribe #1

20. In February 2002, Abramoff and Scanlon successfully solicited a Native American Indian tribal client based in Texas ("Texas Tribe #1") to hire them to provide lobbying and grass roots services designed to reopen Texas Tribe #1's gaming operations that had been closed by Texas authorities because Texas Tribe #1 did not have federal or state authority to operate a casino. Specifically, Abramoff and Scanlon represented that they would

DOJ_NMG_ 0149928

work first to open the casino as a Class II gaming facility and then work to expand Texas Tribe #1's casino as a more lucrative Class III facility. Abramoff and Scanlon further proposed that, in return for their work, Texas Tribe #1 would pay CCS $4,200,000 in fees and make additional and substantial political campaign contributions at the direction of Abramoff and Scanlon. Abramoff falsely represented that he would work for free to represent Texas Tribe #1, all the while concealing from the Texas Tribe #1 that approximately fifty percent of CCS's net profits, approximately $1,850,000, was paid to Abramoff pursuant to his undisclosed arrangement with Scanlon.

21. At no time did Abramoff, Scanlon, or others working with them disclose to Texas Tribe #1 that, beginning in 2001, Abramoff, Firm B, and Scanlon had collected millions of dollars in fees from the Louisiana Tribe to oppose all gaming in the Texas legislature. Abramoff's conduct prevented consideration by Firm B of whether to disclose his representation of Texas Tribe #1 pursuant to the Lobbying Disclosure Act.

22. After being retained by Texas Tribe #1 in early 2002 to reopen its casino through federal legislation, Abramoff continued representing the Louisiana Tribe for millions of dollars in fees. Pursuant to this representation of the Louisiana Tribe, Abramoff failed to disclose to Texas Tribe #1 that he opposed legislation in the 2003 Texas state legislative session that would have provided a basis to reopen Texas Tribe #1's casino under state law. Abramoff knew that Texas Tribe #1 supported and promoted this legislation while he worked to prevent its passage for the benefit of his other client, the Louisiana Tribe.

DOJ_NMG_ 0149929

Wireless Company

23. From January 2001 until April 2004, Abramoff was employed by Firm B. As an employee of Firm B, Abramoff had a duty to act in Firm B's best interests and not to divert lobbying fees owed to Firm B.

24. In 2001, Abramoff was hired by a wireless telephone company ("Wireless Company") to undertake a lobbying effort to assist Wireless Company in securing a license to install wireless telephone infrastructure for the United States House of Representatives. In 2001 and early 2002, Abramoff and his Firm B colleagues lobbied for the Wireless Company without any formal retainer agreement. Rather than make lobbying payments to Firm B, Abramoff directed Wireless Company to make payments totaling at least $50,000 to CAF.

25. At no time did Abramoff inform his employer, Firm B, of the $50,000 in payments to CAF, of which Firm B was entitled to a portion.

Fraud Based on Abramoff's Affirmative Misrepresentations

Michigan Tribe

26. From June 2002 to November 2002, Abramoff and a former lobbying colleague, who was also a former congressional staffer ("Staffer A") successfully solicited the Michigan Tribe for a $25,000 payment to CAF. Instead of using the funds for CAF, Abramoff used this money for his personal and professional benefit to partially pay for a golfing trip to Scotland for himself, public officials, members of his staff and others.

DOJ_NMG_ 0149930

Distilled Beverages Company

27. On or about June 6, 2002, Abramoff and Staffer A successfully solicited one of Firm B's clients, a distilled beverages company, for a $25,000 payment to CAF. Instead of using the funds for CAF, Abramoff used this money for his personal and professional benefit to partially pay for a golfing trip to Scotland for himself, public officials, members of his staff and others.

New Mexico Tribe

28. In February 2002, Abramoff and others successfully solicited a Native American Indian tribal client based in New Mexico ("New Mexico Tribe") to hire them to provide lobbying and grass roots services to the tribe.

29. In March 2002, the New Mexico Tribe paid Scanlon and related entities approximately $2,750,000. Abramoff and Scanlon materially understated to the New Mexico Tribe the size of CCS's profit margins and concealed from the New Mexico Tribe that CCS's profit margin was approximately eighty percent and that approximately fifty percent of the net profit, $1,175,000, was paid to Abramoff pursuant to the undisclosed arrangement. At no time prior to March 2004 did Abramoff or others inform Firm B or the New Mexico Tribe of the undisclosed payments.

Manufacturing and Services Company

30. On May 2, 2003, Abramoff sent a business proposal to a manufacturing and services company ("Company A") to handle its lobbying effort regarding a tax issue. In addition to his services, Abramoff recommended that Company A hire GRI, while concealing from Company A his interest in GRI. In his proposal, Abramoff falsely advised that GRI

DOJ_NMG_ 0149931

had no relationship with Abramoff's law and lobbying firm, even though GRI was controlled by Abramoff and paid the vast majority of its profits to Abramoff or entities he controlled. Additionally, Abramoff represented to Company A that he was negotiating on their behalf with GRI to try to save Company A money, when in fact he was simply setting a high price on services that he controlled and from which he would profit.

31. In May and June 2003, Company A paid GRI, directly and through Firm B's bank account, approximately $1,841,429. Abramoff and entities he controlled received approximately $1,655,695 from GRI.

Corruption of Public Officials

32. Beginning as early as January 2000, Abramoff, Scanlon and others engaged in a course of conduct through which one or both of them offered and provided a stream of things of value to public officials in exchange for a series of official acts and influence and agreements to provide official action and influence. These things of value included, but are not limited to, foreign and domestic travel, golf fees, frequent meals, entertainment, election support for candidates for government office, employment for relatives of officials, and campaign contributions. As one part of this course of conduct, things of value were offered to and given to a Member of the United States Congress ("Representative #1") and members of Representative #1's staff, including, but not limited to:

a. All-expenses-paid trips, including a trip to the Commonwealth of the Northern Marianas Islands ("CNMI") in 2000, a trip to the Super Bowl in Tampa, Florida in 2001, and a golf trip to Scotland in 2002;

DOJ_NMG_ 0149932

b. Numerous tickets for entertainment, including concerts and sporting events;

c. Fundraising events, including providing box suites and food at various sport and concert venues and at a restaurant in the Washington, D.C. area owned by Abramoff;

d. Campaign contributions to campaign committees and to political action committees and organizations, including, but not limited to, the following:

i. $4,000 in contributions to Representative #1's campaign committee in 2000; and

ii. A $10,000 contribution to the National Republican Campaign Committee ("NRCC") in 2000 at Representative #1's request;

e. Regular meals and drinks at an upscale restaurant owned by Abramoff in Washington, D.C.; and

f. Frequent golf and related expenses at courses in the Washington, D.C area.

33. As part of this course of conduct, Abramoff, Scanlon and others provided things of value to public officials in exchange for a series of official acts and influence, and agreements to provide official acts and influence, including, but not limited to, agreements to support and pass legislation, agreements to place statements in the Congressional Record, agreements to contact personnel in United States Executive Branch agencies and offices to influence decisions of those agencies and offices, meetings with Abramoff and CCS's clients, and awarding contracts for services with CCS and Abramoff's law firms. As one part of this course of conduct, Representative #1 and members of his staff agreed to use and did use their official positions and influence, including, but not limited to, the following:

DOJ_NMG_ 0149933

a. Travel by a senior staff member of Representative #1 with others in January 2000 to CNMI for the purpose of assisting Abramoff, his firm and others in obtaining and maintaining lobbying clients;

b. Representative #1's agreement in March 2000 to place a statement drafted by Scanlon into the Congressional Record that was critical of the then-owner of a Florida gaming company, and was calculated to pressure the then-owner to sell on terms favorable to Abramoff and his partners;

c. Representative #1's agreement in October 2000 with Scanlon to insert a statement into the Congressional Record which praised the new owner of the Florida gaming company, Abramoff's business partner;

d. Representative #1's agreement in approximately August 2001 to use his position as Chairman of a Committee of the House to endorse and support a client of Abramoff as the provider of wireless telephone infrastructure to the House of Representatives;

e. Representative #1's agreement in approximately March 2002 that, as the Co-Chairman of a Conference Committee of House and Senate Members of Congress, he would introduce and seek passage of legislation that would lift an existing federal ban against commercial gaming in order to benefit a client of Abramoff and CCS, Texas Tribe #1;

f. Representative #1's agreement in approximately June 2002 that, as the Co-Chairman of a Conference Committee of House and Senate Members of Congress, he would introduce and seek passage of legislation that would lift an

DOJ_NMG_ 0149934

existing federal ban against commercial gaming for another Native American Tribe in Texas ("Texas Tribe #2") at Abramoff's request;

g. Representative #1 met in August 2002 with representatives of Texas Tribe #1 to assure them that they were effectively represented by Abramoff and that he continued to agree to work to pass the legislation they wanted;

h. Representative #1's agreement in December 2002 to seek support from a Member of another Committee of the House of Representatives for passage of legislation to lift the federal gaming ban for Texas Tribe #1;

i. Representative #1 met in 2002 with a Native American Tribal client of CCS and Abramoff from California ("California Tribe") to discuss Representative #1's agreement to assist in passing legislation regarding taxation of certain payments received by members of the California Tribe, and to assist in an issue relating to a post office of interest to the California Tribe;

j. Representative #1 agreed to meet with some of Abramoff's clients and others in Russia while Representative #1 was there on official business in August 2003 to, among other things, influence the process of obtaining a visa for travel to the United States for the relative of one of Abramoff's clients; and

k. Representative #1 at various times, directly and indirectly, contacted public officials at additional government agencies and offices on behalf of clients of Abramoff and CCS in an effort to influence decisions and actions by those officials.

DOJ_NMG_ 0149935

34. As one part of the same course of conduct outlined in paragraphs 32 and 33 above, in June 2002, Abramoff informed Representative #1 that Texas Tribe #1 was raising funds to pay for a golfing trip to Scotland that Representative #1 and members of his staff were to, and did, attend. In August 2002, Texas Tribe #2, at the request of Abramoff and Texas Tribe #1, sent a $50,000 check made out to CAF via private interstate mail delivery to Abramoff at 1101 Pennsylvania Ave, N.W., Washington, D.C.

35. As one part of the same conduct outlined in paragraphs 32 and 33 above, beginning at least in 1999 through January 2001, Abramoff and others sought Staffer A's agreement to perform a series of official acts, including assisting in stopping legislation regarding internet gambling and opposing postal rate increases. With the intent to influence those official acts, Abramoff provided things of value including, but not limited to, from June 2000 through February 2001, ten equal monthly payments totaling $50,000 through a non-profit entity to the wife of Staffer A. The total amount paid to the wife of Staffer A was obtained from clients that would and did benefit from Staffer A's official actions regarding the legislation on internet gambling or opposing postal rate increases.

36. As one part of the same course of conduct outlined in paragraphs 32 and 33 above, beginning in March 2002, Abramoff and a former staffer to Representative #1 ("Staffer B") contacted Representative #1, officials employed by the Office of Representative #1, and officials employed by a House Committee ("Committee") of which Representative #1 was the chairman. These contacts occurred within one year of Staffer B having served as the Chief of Staff for Representative #1 and Staff Director of the Committee. Abramoff intended that Staffer B communicate with Representative #1, his staff, and the

DOJ_NMG_ 0149936

Committee staff for the purpose of influencing official action on behalf of Abramoff's and Staffer B's clients, including Texas Tribe #1 and Wireless Company.

Tax Evasion Offense

37. During the calendar year 2002, Abramoff had and received a substantial amount of income from the conduct discussed in paragraphs 1 through 31. In order to conceal this income from the Internal Revenue Service and others, Abramoff used entities exempt from taxation under Title 26, United States Code Section 501(c), including a private foundation he created and a public policy organization for which he served as a director, to receive income and to make expenditures for his own personal benefit. To further conceal this income, Abramoff and others created, or caused to be created, false invoices and false entries to financial records, which made it appear as if the funds had been received and expended for tax-exempt purposes. In fact, Abramoff and others knew that these activities constituted a misuse of these tax-exempt entities. Through these activities, Abramoff and others intended to and did benefit Abramoff, the entities he controlled or financially supported, and the public policy organization.

38. On or about October 15, 2003, Abramoff signed and filed a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040, which underreported Abramoff's total income for 2002. Specifically, Abramoff willfully and intentionally failed to report the income received from the illegal schemes described in paragraphs 1 to 32 above resulting in the evasion of approximately $628,557 in individual income taxes for the 2002 tax year.

DOJ_NMG_ 0149937

39. Abramoff signed and filed false and fraudulent Returns of Private Foundations, Forms 990PF, which misrepresented the receipt of diverted funds as charitable donations and mischaracterized personal and business expenditures as being used for a tax exempt purpose.

40. Furthermore, Abramoff caused false Returns of Organizations Exempt from Income Tax, Forms 990, to be filed by a public policy organization, which misrepresented the receipt of diverted funds as charitable donations and mischaracterized personal and business expenditures of Abramoff as being used for a tax exempt purpose.

41. Abramoff engaged in similar evasive conduct for the tax years 2001 and 2003. Due to this and other evasive conduct, Abramoff attempted to evade approximately $1,724,054 in individual income taxes for the 2001 through 2003 tax years.

The preceding statement is a summary, made for the purpose of providing the Court with a factual basis for my guilty plea to the charges against me. It does not include all of the facts known to me concerning criminal activity in which I or others engaged. I make this statement knowingly and voluntarily and because I am in fact guilty of the crimes charged.

DATE: 1/3/06

JACK A. ABRAMOFF
Defendant

ABBE DAVID LOWELL, ESQ.
Attorney for Defendant

DOJ_NMG_ 0149938

Image not available for this document, ID: 0.7.10316.58604-000002

Image not available for this document, ID: 0.7.10316.58604-000003

Roehrkasse, Brian

From: Roehrkasse, Brian
Sent: Tuesday, January 03, 2006 3:54 PM
To: Gorsuch, Neil M
Cc: Scolinos, Tasia
Subject: RE: privilege waivers

This would be on background. So in other words you wouldn't be quoted by name but it would quote you attributing it to a 'Senior DOJ official.'

Let's try for tomorrow at 1:30.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, January 03, 2006 1:26 PM
To: Roehrkasse, Brian
Cc: Scolinos, Tasia
Subject: RE: privilege waivers

Sure. I can do after 6 today, or tomorrow 12-2 or 5-6. Is this off the record?

-----Original Message-----
From: Roehrkasse, Brian
Sent: Tuesday, January 03, 2006 1:08 PM
To: Gorsuch, Neil M
Cc: Scolinos, Tasia
Subject: Fw: privilege waivers

Neil,
Per the request below do you have time to do a backgrounder on this?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]@businessweek.com <[redacted]@businessweek.com>
To: Roehrkasse, Brian <Brian.Roehrkasse@SMOJMD.USDOJ.gov>
Sent: Tue Jan 03 13:03:47 2006
Subject: privilege waivers

Hi Brian - Happy new year. [redacted] tells me you're the best contact for a story we're doing on attorney-client privilege waivers. We're doing a story about corporations' growing unease over DOJ and SEC requests for attorney-client privilege waivers in white collar investigations. I'm getting an earful from the business community, which is making a lot of claims about DOJ's supposed increasing demands for waivers, etc.

I need to wrap up the reporting by Thursday p.m. Can we get a backgrounder from someone over there, and also a for-the-record interview? McCallum maybe? Besides the obvious questions (are waiver requests increasing? How do you respond to business' complaints that privilege waivers hinder their ability to conduct internal investigations?, are we asking Congress for some sort of limited waiver?, etc), I have some background questions about what sort of pushback (if any) you're getting from business on this.

Thanks,

[redacted]

[redacted]
Correspondent
Business Week
[redacted]

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, January 3, 2006 4:07 PM
To: Fisher, Alice
Cc: Gorsuch, Neil M
Subject: FW: Good Day

Alice: I presume that you will know where to direct this email regarding cyber-fraud. This scam may be the sort of thing that isn't investigated or pursued but maybe it is. Robt.

-----Original Message-----
From: [redacted] [mailto [redacted]
Sent: Tuesday, January 03, 2006 3:45 PM
To: McCallum, Robert (SMO)
Subject: FW: Good Day

This was just received. This kind of scam is almost a daily occurance but this is different in that it suggests government involvement.

-----Original Message-----
From: [redacted]
Sent: Tuesday, January 03, 2006 1:35 PM
Subject: Good Day

Dear Friend,

I am sorry for contacting you through this medium without a Previous notice,I had to use E-mail because it is an easier and more confidential way of making contact with people around the world. My name is Sgt Ryan Morgan, I am serving here in Iraq as a member of the American 1st Armoured Division.
Last year I and my partners discovered some of the stolen money looted by the former Iraq leader Saddam Hussien which he kept in one of the Security finance Firm near his home town. The amount involved here is $9.5 million.

As an American serving soldiers, you should agree with me that we should not be in position of such huge amount while we are still in active service to our dear country. We want to move this funds to you so that you can assist us to invest it in a lucrative business or alternatively keep our share in a safety keep. We have made every arrangement to deliver the funds to you cash via diplomatic courier means which is more safety and easiest way of delivering the funds.

As soon as the funds is delivered to you, do remember that you be given 20% percent of the total funds while 80% percent will be left for me and my partners. If you are ready to proceed and work with us, Kindly furnish us with this below infomation of yours:

(1) FULL NAME
(2) CONTACT ADDRESS
(3) CONTACT TELEPHONE NUMBER
(4) YOUR AGE AND WHAT YOU DO FOR A LIVING

The above information of yours will assist us and the diplomats who will be delivering the funds to you for speedy delivery. NOTE: that the diplomats that will be delivering the funds to you does not know the content of the consignment, we told them that the consignment is containing some highly qaulity fabric while my partners, you and I are the only one that knows the real content of the consignment. Do remember that this transaction os 100% rick free and will never in any way put you into any trouble is as much as you will follow all my rules and regulation guiding this transaction.

I await your immediate response,

Sincerely,

[redacted]

CONFIDENTIALITY NOTICE:
This e-mail and any attachments contain information from the law firm of McKenna Long & Aldridge LLP, and are intended solely for the use of the named recipient or recipients. This e-mail may contain privileged attorney/client communications or work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, January 3, 2006 4:13 PM
To: Henke, Tracy (SMO); Gorsuch, Neil M; Senger, Jeffrey M; Reyes, Luis (SMO); Kessler, Elizabeth A
Subject: Voice Activation on new blackberries

Please verify for me your current DOJ cell phone number before I have the voice feature activated on the new blackberry

Neil - [redacted]

Tracy - [redacted]

Luis Reyes - [redacted]

Elizabeth Kessler - [redacted]

Jeff Senger - [redacted]

For those that will be departing soon (Liz & Luis), I will have the voice feature activated so when/if the unit is reassigned we don't have to worry about getting it done.

Thanks.

Currie

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, January 3, 2006 4:17 PM
To: Gunn, Currie (SMO); Henke, Tracy (SMO); Senger, Jeffrey M; Reyes, Luis (SMO); Kessler, Elizabeth A
Subject: Re: Voice Activation on new blackberries

My number is [redacted] Thanks!

-----Original Message-----
From: Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Senger, Jeffrey M <Jeffrey.M.Senger@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>
Sent: Tue Jan 03 16:13:27 2006
Subject: Voice Activation on new blackberries

Please verify for me your current DOJ cell phone number before I have the voice feature activated on the new blackberry

Neil - [redacted]

Tracy - [redacted]

Luis Reyes - [redacted]

Elizabeth Kessler - [redacted]

Jeff Senger - [redacted]

For those that will be departing soon (Liz & Luis), I will have the voice feature activated so when/if the unit is reassigned we don't have to worry about getting it done.

Thanks.

Currie

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, January 3, 2006 4:19 PM
To: Gorsuch, Neil M
Subject: RE: Voice Activation on new blackberries

Oops, typo on my part.

Thanks

Currie

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, January 03, 2006 4:17 PM
To: Gunn, Currie (SMO); Henke, Tracy (SMO); Senger, Jeffrey M; Reyes, Luis (SMO); Kessler, Elizabeth A
Subject: Re: Voice Activation on new blackberries

My number is [redacted] Thanks!

-----Original Message-----
From: Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>
To: Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Senger, Jeffrey M <Jeffrey.M.Senger@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>
Sent: Tue Jan 03 16:13:27 2006
Subject: Voice Activation on new blackberries

Please verify for me your current DOJ cell phone number before I have the voice feature activated on the new blackberry

Neil - [redacted]

Tracy - [redacted]

Luis Reyes - [redacted]

Elizabeth Kessler - [redacted]

Jeff Senger - [redacted]

For those that will be departing soon (Liz & Luis), I will have the voice feature activated so when/if the unit is reassigned we don't have to worry about getting it done.

Thanks.

Currie

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, January 03, 2006 4:26 PM
To: Gorsuch, Neil M
Subject: Pls call Mike Battle 4-2121

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, January 3, 2006 4:39 PM
To: Gorsuch, Neil M
Subject: Call Monica 3-4435 in AG's office

Beach, Andrew

Subject:	Budget Briefing
Start:	Tuesday, January 03, 2006 2:00 PM
End:	Tuesday, January 03, 2006 3:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Sellers, Kiahna (OAG); Goodling, Monica; Fisher, Alice

When: Tuesday, January 03, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Tucker McNeil

Beach, Andrew

Subject:	Updated: Budget Briefing
Start:	Friday, February 03, 2006 2:00 PM
End:	Friday, February 03, 2006 3:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Sellers, Kiahna (OAG); Goodling, Monica; Fisher, Alice

When: Friday, February 03, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Tucker McNeil

Beach, Andrew

Subject:	Updated: Budget Briefing
Location:	OAG Conf Rm 5228
Start:	Friday, February 3, 2006 2:00 PM
End:	Friday, February 3, 2006 3:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Sellers, Kiahna (OAG); Goodling, Monica; Fisher, Alice; Corts, Paul R

When: Friday, February 03, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: OAG Conf Rm 5228

~~*~*~*~*~*~*~*~*~*

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Tucker McNeil, Paul Corts

Beach, Andrew

Subject:	Updated: Budget Briefing
Start:	Friday, February 3, 2006 2:00 PM
End:	Friday, February 3, 2006 3:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Roberts, Crystal; Moschella, William; Sellers, Kiahna (OAG); Goodling, Monica; Fisher, Alice; Corts, Paul R; Lauria-Sullens, Jolene; Lofthus, Lee J

When: Friday, February 03, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).

~~*~*~*~*~*~*~*~*~*

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Roberts, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Tucker McNeil, Paul Corts, Jolene Lauria-Sullens, Lee Lofthus

Elwood, Courtney

From: Elwood, Courtney
Sent: Tuesday, January 03, 2006 7:22 PM
To: Gorsuch, Neil M
Subject: Read: South Dakota

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, January 3, 2006 7:28 PM
To: Gorsuch, Neil M; Shaw, Aloma A
Subject: Please fill out these forms by week's end!
Attachments: JCON-S & TS Application Forms.msg

Boss, these are for your access to certain computer systems. Need to shoot these to Suzanne Mitchell by 1/10 and sign up for training on 1/13.

From: Whitacre, Charlotte T
Sent: Tuesday, January 03, 2006 7:14 PM
To: Reyes, Luis (SMO)
Subject:

Mr. Reyes,

Per our earlier phone conversation regarding the training exercise on Jan. 26th, I have attached the applications needed to obtain JCON-S and JCON-TS accounts. Suzanne Mitchell is the POC for this training. She can be reached at 202-305-9227. She would like all applications to be submitted by Jan. 10th. The training date is scheduled for Jan. 13th with a backup date of Jan. 19th. If you have any further questions regarding this matter, please don't hesitate to call us at 202. 616. 2288.

Thanks,
Charlotte Whitacre

Sprouse, Connie S

From: Sprouse, Connie S
Sent: Friday, December 23, 2005 10:37 AM
To: Vanyur, John; Renkiewicz, Martin
Cc: Whitacre, Charlotte T
Subject: JCON-S & TS Application Forms
Attachments: JCON-S CSAT Certification Form 05_07_042.doc; JCON-S User Agreement 02_07_05 .doc; JCON-TS User Access (final as of 02_07_05).doc; READ ME.txt

All,

As discussed attached please find the Application Forms, like I mentioned if you have trouble opening these files there are CDs at JCC with the forms.
Merry Christmas….Connie

Connie Sprouse
Telecommunications Manager

JCON-S Computer Security Awareness and Training Certification

The Computer Security Awareness and Training Certification is to be completely filled out, **originally signed** and returned to your component point of contact (POC) before system access will be granted.

**Please note that if the form is not completed the form will be returned to the component POC.

**Please note that the Computer Security Awareness training is provided to users on a DVD and written presentation is provided via CD.

JCON - S Network User Agreement Form

Computer Security Awareness Certification

I understand that as result of performing my duties, I am being granted access to United States SECRET level information. I understand that my being granted access to this information involves me in this position of special trust and confidence concerning matters of national security. I hereby acknowledge that I have been briefed concerning my obligations with respect to such access.

I understand that safeguarding SECRET Level information is of the utmost importance and that the loss or compromise could cause serious or exceptionally grave damage to the national security of the United States. I understand that I am obligated to protect the SECRET Level information and I have been instructed in the special nature of this information and the reasons for the protection of such information. I agree to comply with any special instructions issued by my department or office regarding unofficial foreign travel or contracts with foreign nationals.

I understand fully the information presented in the DVD, oral and/or written briefing I have received. I have read this certificate and my questions if any, have been satisfactorily answered. I understand that, if I willfully disclose to any unauthorized person any of SECRET Level information to which I might have access, I may be subject to prosecution under the criminal laws of the United States, as appropriate. I understand and accept that unless I am released in writing by an authorized representative of my department or office, the terms of this certificate and my obligation to protect SECRET Level information to which I have access, apply during the time of my access and at all time thereafter.

_____ _____

Signature Date

_____

Print Name

DOJ_NMG_ 0149959

JCON-S User Account Application

The User Account Application consists of two forms: 1) JCON-S Network User Agreement Form and 2) The COMSEC Access Certification Form. Each form consists of pertinent information and a signature block. Please be sure to fully complete, sign, and obtain approval (if necessary). All forms must be completely filled out, **originally signed** and returned to your component point of contact (POC) before system access will be granted.

**Please note that if sections of the forms are not completed they will be returned to the component POC.

JCON - S Network User Agreement Form

This check-in brief outlines basic computer or automated information system (AIS) security practices that shall be followed while utilizing JCON - S System workstations processing Collateral Secret Information. Users requesting access to the AIS, shall:

1. Read pages 7-11 of this package. **Initial the bottom of each page**.
2. Fill out, sign, and date the JCON - S User Agreement Form, COMSEC Form and CSAT Form.
3. Have your Supervisor fill out, sign and date his/her section of the JCON - S User Agreement Form. Please be sure to fill in the reason you need system access.
4. Keep pages 1-5 for your reference.
5. Send the **originally signed** package to your Component Point of Contact for processing.

Basic User Responsibilities are discussed below. More detailed information is available in the Department of Justice SPOM and individual JCON-S SOPs.

USER RESPONSIBILITIES

AIS Security Officials	The Information System Security Manager **(ISSO)** is responsible for establishing and enforcing AIS security policy for the JCON-S system. The system **ISSO** implements AIS security policy and procedures on individual workstations. Each user shall know how to contact the security officials for the information system that he/she is authorized to access.
User Access	Each user will protect the confidentiality, integrity and availability of the JCON-S system and the information it contains. Users will not employ JCON-S assets for private or personal use. JCON-S users will not attempt to have multiple concurrent active sessions.
Physical Security	Physical security and environmental controls will be used to provide an acceptable level of security to all information systems. Physical security can be achieved through basic measures such as challenging strangers/unknown personnel in your workplace or computer area and by never leaving an active terminal unattended. In temporary classified workspaces the cubicle or office should be prepared for classified processing. Preparation activities include ensuring that the computer monitor is not facing the entrance ways or windows or that the monitor has a privacy filter covering the screen, glass doors are covered with paper, and a notification sign is posted on the outside of the door. The removable hard drive and Crypto Ignition Key (CIK) may be retrieved from the safe. The safe must then be closed and secured. The cubicle or office door has been locked the session may begin. At the end of a session the printer and computer must be shut down and powered off for at least 10 seconds. Secure everything (hard drive, CIK key and all classified materials) in the GSA-approved safe except the key to the hard drive. As an added precaution (layered defense) the key to the hard drive should not be stored in the same location as the hard drive. These are important practices that safeguard against unauthorized use. Individuals providing escort duty are responsible for ensuring the person being escorted does not gain unauthorized access to a JCON - S automated information system. Failure to do so may result in a security incident and adverse action
System Monitoring	Users activities on the JCON-S system may be monitored by the Department of Justice and by DISA. **JCON-S users have no expectation of privacy while using the system.**

DOJ_NMG_ 0149961

Passwords	Every user of a JCON - S system will use a "strong" password of twelve ALPHANUMERIC CHARACTERS (combination of numbers and letters). A "strong" password must contain **all four** types of characters: upper case letter, lower case letter, western Arabic numeric and non-alphanumeric. To prevent passwords from being easily guessed, they shall not be names/numbers that can easily be associated with your person (i.e. well known nicknames, spouse's or close relatives (son, daughter, mother, etc.) name, favorite sports teams, type of car you drive, etc.) nor should they be dictionary words (e.g. "SPIDER" or "OFFICE"). Choose a password that is easy for you to remember but is not easily guessed. Passwords are for individual use only. The sharing of passwords is prohibited as is writing it down in easily accessible places (such as "post-it" notes on your desk or in your organizer file under "P", etc.). Your password is used to authenticate you and only you as a valid user of the system. Protect passwords, when combined with user account names, at the highest classification level of the system to which the passwords allow access. If you feel your password has been compromised or that unauthorized personnel are accessing your files, report it immediately to the system **ISSO**.
Individual Account Protection	To ensure individual account and system protection log-off the system each time you leave the workstation. **Ensure this is always done!** Failure to secure the workstation by logging off is a practice dangerous to security and may result in adverse administrative action.
Processing Restrictions	Information systems connected to the JCON - S LAN can process, store, and transmit information up to a classification level of **SECRET**. If higher classification is inadvertently processed on the JCON - S LAN, report the incident immediately to the **ISSO and his/her Security Program Manager (SPM).** The contaminated workstation(s) and servers will be disconnected from the network and sanitized. Users will not forward E-mails automatically outside the JCON-S system. The JCON-S network is a closed network, except for the SIPRNet connection. Users will not attempt to connect any JCON-S assets or resources to any other system.
Hardware	JCON-S users will not introduce new hardware to the JCON-S workstation or workstation suite. The use of modems, wireless adapters, or USB devices on JCON-S. is strictly prohibited.
Software	Requests to use non-standard JCON - S software, including free and unsolicited demonstration software, shall be submitted to the **JCON - S ISSO**. Personally owned software, regardless of source, may not be introduced into JCON - S computers.
Removable Media	All removable magnetic media must bear a label indicating the classification level of information to which the media contains. A color-coded security classification label must be affixed to media. Place the labels in a conspicuous place where they will not adversely affect operation of the equipment. Media may not be moved from the JCON-S workstation suite to an unclassified system.

	JCON-S users will protect media that has been used on JCON-S at the SECRET Level, even if they believe the media contains only unclassified information. Users will dispose of medial when it is no longer required for mission completion.
Output	Users will ensure that all output contains proper classification and control markings and is adequately protected, including classified information cover sheets. This includes all messages and correspondence generated on electronic mail systems. Printed Secret information that does not leave the restricted area is normally exempt from accountability. See the **ISSO** with questions regarding printed collateral Secret material.
Electronic Mail	E-mail is a DOJ owned communications system used to supplement the record message system. It is subject to the same for official use only constraints as government mail or telephones, and shall be used to conduct Government business only. Users should be aware that administrators and technicians have the ability to review e-mail and disseminate it as necessary. **There is no expectation of privacy while using DOJ information systems!**
Electronic Equipment	Items generally prohibited in restricted areas include personally owned: photographic, video, audio recording equipment, computers & associated media, and **cell phones**. Personally owned electronic calculators, electronic spell-checkers, wristwatches, receive only pagers and radios are allowed in a Restricted Area.
Virus/Malicious Programs	Users shall make every effort to prevent the transmission of computer viruses and Trojan horses. Anti-virus software is installed on all JCON - S workstations. Users will use the installed anti-viral software to scan any removable media introduced to the JCON-S system prior to its being accessed by other JCON-S resources.
Disposal and Output media.	JCON S users will dispose of classified material properly. Disposal methods may in clued burning, shredding, pulping, melting, mutilating, using chemical decomposition, pulverizing, or degaussing. Users will properly dispose of toner cartridges.

To begin using the classified system:

1. Make sure the hard drive key is accessible.

Note: *Some workstations may not have removable hard drives. If working on a machine without a hard drive please disregard the steps referring to the removable hard drives.*

2. Clear work area of all unauthorized personnel.

3. Review System Security Plan.

4. Do not leave classified material unattended or unsecured during processing.

5. Retrieve removable hard drive and Crypto Ignition Key (CIK) from GSA-approved container.

6. Insert and lock the hard drive.

7. Turn the computer on.

8. Insert the CIK into the TACLANE and turn the key 1/8th of a turn in the clockwise direction.

9. Turn the TACLANE on and use the following procedure to establish a secure connection.
   - After the start up process runs the "-----Offline Main Menu-----" should appear.
   - Use the arrows on the key pad to move the selection cursor '>' to the "Operation" option and press the select button.
   - Use the arrows to select the "Select Lvl" option and press the **Select** button.
   - Use the arrows to select "Secret" as the level and press the **Select** button.
   - Select "Operation" and press the **Select** button.
   - Select "Secure Comm" and press the **Select** button. ***Note:*** *The Green Run light blinks when Secure Comm mode is functioning properly.*

10. Upon completion of the computer boot-up, Log on, and initiate desired program.

11. If storage media is needed ensure that it is properly labeled and insert it into its drive.

12. If system malfunctions, immediately notify the TSVC Help Desk at 202-307-5368.

13. If you need to print, use **only** the locally associated printer. (Network printing is not allowed.)

14. Ensure all printer material is properly labeled with highest level of classification contained therein.

15. Do not load any unauthorized software on system.

To shut down the system:

Note: *Some workstations may not have removable hard drives. If working on a machine without a hard drive please disregard the steps referring to the removable hard drives.*

1. Save any material to the A: drive or the removable hard drive.

2. Remove any diskettes in the A: drive or CDs, label them with appropriate classification and set aside for storage in the GSA-approved container.

3. Shut down the computer. ***Note:*** *A logoff script will run when the computer is shutting down. Depending upon the type of printer (inkjet or laser) the printer may print 3 sheets of paper to clear the memory and clean the drum.*

4. Turn off the printer.

5. Shut down the TACLANE using the following procedures.
   - Select "Operations" and press the **Select** button.
   - Select the "Shutdown" and press the **Select** button.
   - The prompt "Perform Shutdown?" will appear.
   - Select "Yes". – Wait a moment until the TACLANE states you may shut the TACLANE off.
   - Turn off the TACLANE.
   - Turn the CIK key 1/8th of a turn in the counter clockwise direction and remove the CIK.

6. Remove the hard drive from the workstation.

7. Ensure all products/media are properly marked.

8. Place all classified media (hard drive and the CIK key) into the GSA-approved security container.

9. Store the hard drive key.

JCON - S Network User Agreement Form

Part 1	USER INFORMATION				
Last Name	**First Name, MI**	**SSN**	**Grade**	**Phone**	**Dept/Compont/Sec.**

Access requested to system: *(Check one. Submit separate form for each system requested)*

☐ **JCON - S Network**

Are you a Cadre Member?

Yes_____ **No**_____

Contractor? No_____ ***Yes***_____ ***Company***_____ United States Citizen? ____Yes ____No

If yes Govt. COTAR_____ ***Phone#***_____ If **Yes** place of birth_____

Reason for access: : This person requires access and is authorized to a SECRET workstation to perform his/her duties.

Supervisor Certification

_____ _____

Signature *Date*

_____ _____

Government *Supervisor's Name (print)* *Supervisor's Phone Number*

Part 2 USER AUTHORIZATION & ACKNOWLEDGEMENT

Scope of Authorization

Subject to the limitations detailed in the User Responsibilities of this brief and the respective system Standard Operating Procedures (SOP), the user is authorized access to JCON - S information systems classified Secret as required. This authorization contains no implied authorization to access any computer system of the United States Government not specifically identified herein. This authorization shall be revoked upon separation, retirement, reassignment of duties, change of organization or when determined by the Information Systems Security Officer **(ISSO)** to be in the best interest of the Government.

WARNING: **Only Authorized Users May Use These Systems**. Individuals using DOJ computer systems without authority, or in excess of their authority, are subject to having all of their activities on these systems monitored and recorded by system personnel. In the course of monitoring individuals improperly using these systems, or in the course of system maintenance, the activities of authorized users may be monitored. Anyone using these systems expressly consents to such monitoring and is advised that if such monitoring reveals possible evidence of criminal activity, management may authorize system personnel to provide the evidence of such monitoring to law enforcement officials.

JCON - S ISSO Review:

User is authorized/not authorized access to: _____ _____ _____

System Signature Date

User Acknowledgement

I understand that I am authorized to access to Department of Justice computer systems as necessary. Access for purposes beyond the Scope of Authorization is a violation of Federal law (18 U.S.C. 1030 et al.). I acknowledge the above briefing along with my responsibility to protect information processed by the Department of Justice owned and operated computer systems, directly or via remote access. I understand that only official Department of Justice business may be conducted on the system. Any records produced are government records and must be handled in accordance with the Paperwork Management and Information Security Manuals.

I understand THERE IS NO EXPECTATION OF PRIVACY WHILE USING THIS CLASSIFIED DEPARTMENT OF JUSTICE SYSTEM and that ALL DEPARTMENT OF JUSTICE SYSTEMS ARE SUBJECT TO MONITORING BY AUTHORIZED PERSONNEL. I further understand that if security monitoring reveals evidence of possible improper or criminal activity, such evidence will be provided to appropriate management and/or law enforcement personnel and may result in prosecution and/or removal of my account.

I have read and initialed the user responsibilities pages attached to this form and retained a copy for my reference. I agree to abide by the applicable system SOP.

User Signature: _____ Date: _____

If users need access to shared directories, please indicate the directory name and check the appropriate type of access below:

Shared Directory	Read	Write	Delete

PRIVACY ACT STATEMENT: SSN info will be used to verify personal identification and security clearance levels to allow individuals access to classified computer systems.

DOJ_NMG_ 0149966

JCON - S Network User Agreement Form

This check-in brief outlines basic computer or automated information system (AIS) security practices that shall be followed while utilizing JCON - S System workstations processing Collateral Secret Information. Users requesting access to the AIS, shall:

1. Read pages 7-11 of this package. **Initial the bottom of each page**.
2. Fill out, sign, and date the JCON - S User Agreement Form.
3. Have your Supervisor fill out, sign and date his/her section of the JCON - S User Agreement Form. Please be sure to fill in the reason you need system access.
4. Keep pages 1-5 for your reference.
5. Send the **originally signed** package to your Component Point of Contact for processing.

Basic User Responsibilities are discussed below. More detailed information is available in the Department of Justice SPOM and individual JCON-S SOPs.

USER RESPONSIBILITIES

AIS Security Officials	The Information System Security Manager **(ISSO)** is responsible for establishing and enforcing AIS security policy for the JCON - S system. The system **ISSO** implements AIS security policy and procedures on individual workstations. Each user shall know how to contact the security officials for the information system that he/she is authorized to access.
User Access	Each user will protect the confidentiality, integrity and availability of the JCON-S system and the information it contains. Users will not employ JCON-S assets for private or personal use. JCON-S users will not attempt to have multiple concurrent active sessions.
Physical Security	Physical security and environmental controls will be used to provide an acceptable level of security to all information systems. Physical security can be achieved through basic measures such as challenging strangers/unknown personnel in your workplace or computer area and by never leaving an active terminal unattended. In temporary classified workspaces the cubicle or office should be prepared for classified processing. Preparation activities include ensuring that the computer monitor is not facing the entrance ways or windows or that the monitor has a privacy filter covering the screen, glass doors are covered with paper, and a notification sign is posted on the outside of the door. The removable hard drive and Crypto Ignition Key (CIK) may be retrieved from the safe. The safe must then be closed and secured. The cubicle or office door has been locked the session may begin. At the end of a session the printer and computer must be shut down and powered off for at least 10 seconds. Secure everything (hard drive, CIK key and all classified materials) in the GSA-approved safe except the key to the hard drive. As an added precaution (layered defense) the key to the hard drive should not be stored in the same location as the hard drive. These are important practices that safeguard against unauthorized use. Individuals providing escort duty are responsible for ensuring the person being escorted does not gain unauthorized access to a JCON - S automated information system. Failure to do so may result in a security incident and adverse action
System Monitoring	Users activities on the JCON-S system may be monitored by the Department of Justice and by DISA. **JCON-S users have no expectation of privacy while using the system.**

Passwords	Every user of a JCON - S system will use a "strong" password of twelve ALPHANUMERIC CHARACTERS (combination of numbers and letters). A "strong" password must contain **all four** types of characters: upper case letter, lower case letter, western Arabic numeric and non-alphanumeric. To prevent passwords from being easily guessed, they shall not be names/numbers that can easily be associated with your person (i.e. well known nicknames, spouse's or close relatives (son, daughter, mother, etc.) name, favorite sports teams, type of car you drive, etc.) nor should they be dictionary words (e.g. "SPIDER" or "OFFICE"). Choose a password that is easy for you to remember but is not easily guessed. Passwords are for individual use only. The sharing of passwords is prohibited as is writing it down in easily accessible places (such as "post-it" notes on your desk or in your organizer file under "P", etc.). Your password is used to authenticate you and only you as a valid user of the system. Protect passwords, when combined with user account names, at the highest classification level of the system to which the passwords allow access. If you feel your password has been compromised or that unauthorized personnel are accessing your files, report it immediately to the system **ISSO**.
Individual Account Protection	To ensure individual account and system protection log-off the system each time you leave the workstation. **Ensure this is always done!** Failure to secure the workstation by logging off is a practice dangerous to security and may result in adverse administrative action.
Processing Restrictions	Information systems connected to the JCON - S LAN can process, store, and transmit information up to a classification level of **SECRET**. If higher classification is inadvertently processed on the JCON - S LAN, report the incident immediately to the **ISSO and his/her Security Program Manager (SPM).** The contaminated workstation(s) and servers will be disconnected from the network and sanitized. Users will not forward E-mails automatically outside the JCON-S system. The JCON-S network is a closed network, except for the SIPRNet connection. Users will not attempt to connect any JCON-S assets or resources to any other system.
Hardware	JCON-S users will not introduce new hardware to the JCON-S workstation or workstation suite. The use of modems, wireless adapters, or USB devices on JCON-S. is strictly prohibited.
Software	Requests to use non-standard JCON - S software, including free and unsolicited demonstration software, shall be submitted to the **JCON - S ISSO**. Personally owned software, regardless of source, may not be introduced into JCON - S computers.
Removable Media	All removable magnetic media must bear a label indicating the classification level of information to which the media contains. A color-coded security classification label must be affixed to media. Place the labels in a conspicuous place where they will not adversely affect operation of the equipment. Media may not be moved from the JCON-S workstation suite to an unclassified system. JCON-S users will protect media that has been used on JCON-S at the SECRET

DOJ_NMG_ 0149968

	Level, even if they believe the media contains only unclassified information. Users will dispose of medial when it is no longer required for mission completion.
Output	Users will ensure that all output contains proper classification and control markings and is adequately protected, including classified information cover sheets. This includes all messages and correspondence generated on electronic mail systems. Printed Secret information that does not leave the restricted area is normally exempt from accountability. See the **ISSO** with questions regarding printed collateral Secret material.
Electronic Mail	E-mail is a DOJ owned communications system used to supplement the record message system. It is subject to the same for official use only constraints as government mail or telephones, and shall be used to conduct Government business only. Users should be aware that administrators and technicians have the ability to review e-mail and disseminate it as necessary. **There is no expectation of privacy while using DOJ information systems!**
Electronic Equipment	Items generally prohibited in restricted areas include personally owned: photographic, video, audio recording equipment, computers & associated media, and **cell phones**. Personally owned electronic calculators, electronic spell-checkers, wristwatches, receive only pagers and radios are allowed in a Restricted Area.
Virus/Malicious Programs	Users shall make every effort to prevent the transmission of computer viruses and Trojan horses. Anti-virus software is installed on all JCON - S workstations. Users wil use the installed anti-viral software to scan any removable media introduced to the JCON-S system prior to its being accessed by other JCON-S resources.
Disposal and Output media.	JCON S users will dispose of classified material properly. Disposal methods may in clued burning, shredding, pulping, melting, mutilating, using chemical decomposition, pulverizing, or degaussing. Users will properly dispose of toner cartridges.

JCON - S Network User Agreement Form

To begin using the classified system:

1. Make sure the hard drive key is accessible.

Note: *Some workstations may not have removable hard drives. If working on a machine without a hard drive please disregard the steps referring to the removable hard drives.*

2. Clear work area of all unauthorized personnel.

3. Review System Security Plan.

4. Do not leave classified material unattended or unsecured during processing.

5. Retrieve removable hard drive and Crypto Ignition Key (CIK) from GSA-approved container.

6. Insert and lock the hard drive.

7. Turn the computer on.

8. Insert the CIK key into the TACLANE and turn the key 1/8th of a turn in the clockwise direction.

9. Turn the TACLANE on and use the following procedure to establish a secure connection.
   - After the start up process runs the "-----Offline Main Menu-----" should appear.
   - Use the arrows on the key pad to move the selection cursor '>' to the "Operation" option and press the select button.
   - Use the arrows to select the "Select Lvl" option and press the **Select** button.
   - Use the arrows to select "Secret" as the level and press the **Select** button.
   - Select "Operation" and press the **Select** button.
   - Select "Secure Comm" and press the **Select** button. ***Note:*** *The Green Run light blinks when Secure Comm mode is functioning properly.*

10. Upon completion of the computer boot-up, Log on, and initiate desired program.

11. If storage media is needed ensure that it is properly labeled and insert it into its drive.

12. If system malfunctions, immediately notify the TSVC Help Desk at 202-307-5368.

13. If you need to print, use **only** the locally associated printer. (Network printing is not allowed.)

14. Ensure all printer material is properly labeled with highest level of classification contained therein.

15. Do not load any unauthorized software on system.

To shut down the system:

1. Save any material to the A: drive or the removable hard drive.

Note: *Some workstations may not have removable hard drives. If working on a machine without a hard drive please disregard the steps referring to the removable hard drives.*

2. Remove any diskettes in the A: drive or CDs, label them with appropriate classification and set aside for storage in the GSA-approved container.

3. Shut down the computer. ***Note:*** *A logoff script will run when the computer is shutting down. Depending upon the type of printer (inkjet or laser) the printer may print 3 sheets of paper to clear the memory and clean the drum.*

4. Turn off the printer.

5. Shut down the TACLANE using the following procedures.
   - Select "Operations" and press the **Select** button.
   - Select the "Shutdown" and press the **Select** button.
   - The prompt "Perform Shutdown?" will appear.
   - Select "Yes". – Wait a moment until the TACLANE states you may shut the TACLANE off.
   - Turn off the TACLANE.
   - Turn the CIK key 1/8th of a turn in the counter clockwise direction and remove the CIK.

6. Remove the hard drive from the workstation.

7. Ensure all products/media are properly marked.

8. Place all classified media (hard drive and the CIK key) into the GSA-approved security container.

9. Store the hard drive key.

JCON - S Network User Agreement Form

COMSEC ACCESS BRIEFING

You have been selected to perform duties requiring access to sensitive COMSEC information. It is, therefore, essential that you are made fully aware of certain facts relative to the protection of this information before access is granted. This briefing will provide you with a description of the types of COMSEC information you may have access to, the reasons why special safeguards are necessary for protecting this information, the directives and rules, which prescribe those safeguards, and the penalties that you will incur for willful disclosure of this information to unauthorized persons.

COMSEC equipment and keying material are especially sensitive because they are used to protect other sensitive information against unauthorized access during the process of communicating that information from one point to another. Any particular piece of COMSEC equipment, keying material, or other cryptographic material may be the critical element, which protects large amounts of sensitive information from interception, analysis, and exploitation. If the integrity of the COMSEC system is weakened at any point, all the sensitive information protected by that system might be compromised; even more damaging, this loss of sensitive information may never be detected. The procedural safeguards placed on physical security, covering every phase of their existence from creation through disposition, are designed to reduce or eliminate the possibility of such compromise.

Communications Security (COMSEC) is the general term used for all steps taken to protect information of value when it is being communicated. COMSEC is usually considered to have four main components: Transmission security, physical security, emission security, and cryptographic security. Transmission security is that component of COMSEC which is designed to protect transmissions from unauthorized intercept, traffic analysis, imitative deception and disruption. Physical security is that component of COMSEC, which results from all physical measures to safeguard cryptographic materials, information, documents, and equipment from access by unauthorized persons. Emission security is that component of COMSEC which results from all measures taken to prevent compromising emanations from cryptographic equipment or telecommunications systems. Finally, cryptographic security is that component of COMSEC which results from the use of technically sound cryptosystems, and from their proper use. To ensure that telecommunications are secure, all four of these components must be considered.

Part of the physical security protection given to COMSEC equipment and materials is afforded by the special handling it receives from distribution and accounting. There are two separate channels used for handling of such equipment and materials: "COMSEC channels" and "administrative channels". The COMSEC channel, called the COMSEC Material Control System (CMCS) is used to distribute accountable COMSEC items such as keying material, maintenance manuals, and classified and CCI equipment. (EXCEPTION: Some military departments have been authorized to distribute CCI equipment through their standard logistics system.) The CMCS channel is comprised of a series of COMSEC accounts, each of which has an appointed COMSEC Custodian who is personally responsible and accountable for all COMSEC material charged to the account. The COMSEC Custodian assumes responsibility for the material upon receipt, and then controls its dissemination to authorized individuals on a need-to-know basis. The administrative channel is used to distribute COMSEC information and material other than that which is accountable in the CMCS.

COMSEC ACCESS BRIEFING (cont'd)

Particularly important to the protection of COMSEC equipment and material are an understanding of all security regulations and the timely reporting of any compromise, suspected compromise, or other security problem involving these materials. If a COMSEC system is compromised but the compromise is not reported, the continued use of the system, under the incorrect assumption that it is secure, can result in the loss of all information that was ever protected by that system. If the compromise is reported, steps can be taken to change the system, replace the keying material, etc. to reduce the damage done. In short, it is your individual responsibility to know and to put into practice all the provisions of the appropriate publications, which relate to the protection of the COMSEC equipment and material to which you will have access.

Public disclosure of any COMSEC information is not permitted without the specific approval of your Government contracting office representative or the National Security Agency (NSA). This applies to both classified and unclassified COMSEC information, and means that you may not prepare newspaper articles, speeches, technical papers, or make any other "release" of COMSEC information without the specific Government approval. The best personal policy is to avoid any discussions, which reveal your knowledge of, or access to COMSEC information and thus avoid making yourself of interest to those who would seek the information you possess.

Finally, you must know that should you willfully disclose or give to any unauthorized persons any of the classified or CCI COMSEC equipment, associated keying material, or other classified COMSEC information to which you have access, you will be subjected to prosecution under the criminal laws of the United States. The laws, which apply, are contained in Title 18, United States Code, and sections 641, 793, 794, 798, and 952.

If your duties include access to classified COMSEC information, in addition to the above, you should avoid travel to any countries which are adversaries of the United States, or to their establishments/facilities within the U.S. Should such travel become necessary, however, your security office must be notified sufficiently in advance so that you may receive a defense security briefing. Any attempt to elicit the classified COMSEC information you have, either through friendship, favors, or coercion must be reported immediately to your security office.

JCON - S Network User Agreement Form

COMSEC ACCESS CERTIFICATION

I understand that as result of performing my duties as Primary/Alternate COMSEC Representative, I am being granted access to United States cryptographic information. I understand that my being granted access to this information involves me in this position of special trust and confidence concerning matters of national security. I hereby acknowledge that I have been briefed concerning my obligations with respect to such access.

I understand that safeguarding United States Cryptographic information is of the utmost importance and that the loss or compromise could cause serious or exceptionally grave damage to the national security of the United States. I understand that I am obligated to protect U. S. cryptographic information and I have been instructed in the special nature of this information and the reasons for the protection of such information. I agree to comply with any special instructions issued by my department or office regarding unofficial foreign travel or contracts with foreign nationals.

I understand fully the information presented in the written briefing I have received. I have read this certificate and my questions if any, have been satisfactorily answered. I understand that, if I willfully disclose to any unauthorized person any of the U. S. cryptographic information to which I might have access, I may be subject to prosecution under the criminal laws of the United States, as appropriate. I understand and accept that unless I am released in writing by an authorized representative of my department or office, the terms of this certificate and my obligation to protect U. S. cryptographic information to which I have access, apply during the time of my access and at all time thereafter.

_____ _____

Signature Date

_____

Print Name

JCON - S Network User Agreement Form

Computer Security Awareness Certification

I understand that as result of performing my duties, I am being granted access to United States SECRET level information. I understand that my being granted access to this information involves me in this position of special trust and confidence concerning matters of national security. I hereby acknowledge that I have been briefed concerning my obligations with respect to such access.

I understand that safeguarding SECRET Level information is of the utmost importance and that the loss or compromise could cause serious or exceptionally grave damage to the national security of the United States. I understand that I am obligated to protect the SECRET Level information and I have been instructed in the special nature of this information and the reasons for the protection of such information. I agree to comply with any special instructions issued by my department or office regarding unofficial foreign travel or contracts with foreign nationals.

I understand fully the information presented in the DVD, oral and/or written briefing I have received. I have read this certificate and my questions if any, have been satisfactorily answered. I understand that, if I willfully disclose to any unauthorized person any of SECRET Level information to which I might have access, I may be subject to prosecution under the criminal laws of the United States, as appropriate. I understand and accept that unless I am released in writing by an authorized representative of my department or office, the terms of this certificate and my obligation to protect SECRET Level information to which I have access, apply during the time of my access and at all time thereafter.

_____ _____

Signature Date

_____

Print Name

JCON-TS (JWICS) User Agreement Form

The User Account Application consists of two forms: 1) JCON-TS User Agreement Form and 2) The COMSEC Access Certification Form. Each form consists of pertinent information and a signature block. Please be sure to fully complete, sign, and obtain approval (if necessary). All forms must be completely filled out, **originally signed** and returned to your component point of contact (POC) before system access will be granted.

**Please note that if sections of the forms are not completed they will be returned to the component POC.

DOJ_NMG_ 0149976

JCON-TS (JWICS) User Agreement Form

This check-in brief outlines basic computer or automated information system (AIS) security practices that shall be followed while utilizing DOJ JWICS System workstations processing Top Secret / SCI Information. Users requesting access to the AIS, shall:

1. Read pages 5-7 of this package. **Initial the bottom of each page**.
2. Fill out, sign, and date the DOJ JWICS User Agreement Form.
3. Have your Supervisor fill out, sign and date his/her section of the DOJ JWICS User Agreement Form.
4. Keep pages 1-3 for your reference.
5. Send the package to the system Information System Security Officer **(ISSO)** for processing.

Basic User Responsibilities are discussed below. More detailed information is available in the SPOM and individual system SOPs.

USER RESPONSIBILITIES

AIS Security Officials	The Information System Security Manager **(ISSO)** is responsible for establishing and enforcing AIS security policy for the DOJ JWICS system. The system **ISSO** implements AIS security policy and procedures on individual workstations. Each user shall know how to contact the security officials for the information system that he/she is authorized to access. The ISSO is Dale Long and he can be reached at 202-353-9856.
Passwords	Every user of a DOJ JWICS system will use a "strong" password of eight ALPHANUMERIC CHARACTERS (combination of numbers and letters). A "strong" password must contain **all four** types of characters: upper case letter, lower case letter, western Arabic numeric and non-alphanumeric. To prevent passwords from being easily guessed, they shall not be names/numbers that can easily be associated with your person (i.e. well known nicknames, spouse's or close relatives (son, daughter, mother, etc.) name, favorite sports teams, type of car you drive, etc.) nor should they be dictionary words (e.g. "SPIDER" or "OFFICE"). Choose a password that is easy for you to remember but is not easily guessed. Passwords are for individual use only. The sharing of passwords is prohibited as is writing it down in easily accessible places (such as "post-it" notes on your desk or in your organizer file under "P", etc.). Your password is used to authenticate you and only you as a valid user of the system. Protect passwords, when combined with user account names, at the highest classification level of the system to which the passwords allow access. If you feel your password has been compromised or that unauthorized personnel are accessing your files, report it immediately to the system **ISSO**.
Physical Security	Physical security and environmental controls shall be used to provide an acceptable level of security to all information systems. Physical security can be achieved through basic measures such as challenging strangers/unknown personnel in your workplace or computer area and by never leaving an active terminal unattended. At the end of a session the printer and computer must be shut down and powered off for at least 10 seconds. These are important practices that safeguard against unauthorized use. Individuals providing escort duty are responsible for ensuring the person being escorted does not gain unauthorized access to a DOJ JWICS automated information system. Failure to do so may result in a security incident and adverse action
Individual Account Protection	To ensure individual account and system protection log-off the system each time you leave the workstation. Users are required to logoff when departing for the day. **Ensure this is always done!** Failure to secure the workstation by logging off is a practice dangerous to security and may result in adverse administrative action.

DOJ_NMG_ 0149977

JCON-TS (JWICS) User Agreement Form

Processing Restrictions	Information systems connected to the DOJ JWICS LAN can process, store, and transmit information up to a classification level of Top Secret/ SCI. If higher classification is inadvertently processed on the DOJ JWICS LAN, report the incident immediately to the **ISSO.** The contaminated workstation(s) and servers will be disconnected from the network and sanitized.
Software	Requests to use non-standard DOJ JWICS software, including free and unsolicited demonstration software, shall be submitted to the **DOJ JWICS ISSO**. Personally owned software, regardless of source, may not be introduced into DOJ JWICS computers.
Modems	The use of modems is prohibited.
Wireless adapters	The use of wireless adapters are prohibited.
Removable Media	All removable magnetic media must bear a label indicating the classification level of information to which the media contains. A color-coded security classification label must be affixed to media. Place the labels in a conspicuous place where they will not adversely affect operation of the equipment. **For destruction, return removable media to the system ISSO**.
Output	Users will ensure that all output contains proper classification and control markings and is adequately protected, including classified information cover sheets. This includes all messages and correspondence generated on electronic mail systems. Printed Top Secret information that does not leave the restricted area is normally exempt from accountability. See the **ISSO** with questions regarding printed collateral Top Secret material.
Toner Cartridges	**Return used toner cartridges from classified laser printers and secure fax to the system ISSO for recycling or disposal.** Generally, used toners from classified systems, that have successfully completed a printing cycle, are considered unclassified.
Copying Files	**Users are not authorized to move files between systems with differing classifications unless designated in writing by the ISSO.** When a user has a requirement to copy or move files between systems with differing classifications, the user shall contact the system **ISSO** for assistance. The **ISSO** has software utilities and procedures to comply with secure copy policy.
Electronic Mail	E-Mail is a DOJ owned communications system used to supplement the record message system. It is subject to the same for official use only constraints as government mail or telephones, and shall be used to conduct Government business only. Users should be aware that administrators and technicians have the ability to review e-mail and disseminate it as necessary. **There is no expectation of privacy while using DOJ information systems!**
Electronic Equipment	Items generally prohibited in restricted areas include personally owned: photographic, video, audio recording equipment, computers & associated media, and **cell phones**. Personally owned electronic calculators, electronic spell-checkers, wristwatches, receive only pagers and radios are allowed in a Restricted Area.
Virus/Malicious Programs	Users shall make very effort to prevent the transmission of computer viruses and Trojan horses. Anti-virus software is installed on all DOJ JWICS workstations. Any removable media introduced from outside **DOJ** shall be inspected by the **ISSO** prior to being placed into a DOJ JWICS workstation.

JCON-TS (JWICS) User Agreement Form

To begin using the classified system:

1. Make sure the hard drive key is accessible.

Note: *The hard drive key may not be stored in the same location as the hard drive.*

2. Clear work area of all unauthorized personnel.

3. Review System Security Plan.

4. Do not leave classified material unattended or unsecured during processing.

5. Upon completion of boot-up initiate desired program.

6. If storage media is needed ensure that it is properly labeled and insert it into its drive.

7. If system malfunctions, immediately notify the TSVC Help Desk at 202-307-5368.

8. If you need to print, use only the associated printer.

9. Ensure all printer material is properly labeled with highest level of classification contained therein.

10. Do not load any unauthorized software on system.

To shut down the system:

1. Save any material to the A: drive or the removable hard drive.

2. Clear printer memory and clear the paper path by turning off the printer for at least 10 seconds.

3. Remove any diskette in the A: drive, label it with appropriate classification and set aside for storage in the GSA-approved container.

4. Clear computer memory by turning off the computer for at least 10 seconds.

5. Ensure all products/media are properly marked.

6. Store the hard drive key.

Remember: The hard drive key may not be stored in the same location as the hard drive.

DOJ_NMG_ 0149979

JCON-TS User Agreement Form

Part 1	USER INFORMATION				
Last Name	**First Name, MI**	**SSN**	**Grade**	**Phone**	**Dept/Compnt/Sec.**

Access requested to system: *(Check one. Submit separate form for each system requested)*

☐ **JCON TS**

Are you a Cadre Member?

Yes_____ **No**_____

Contractor? No_____ ***Yes***_____ ***Company***_____

If yes Govt. COTAR_____ ***Phone#***_____

Reason for access:

This person requires access and is authorized to a TOP SECRET(SCI)workstation to perform his/her duties

_____

Government *Supervisor's Name (print)* *Phone Number*

Supervisor Certification:

.

_____ _____ _____

Signature *Staff Symbol* *Date*

Part 2 USER AUTHORIZATION & ACKNOWLEDGEMENT

Scope of Authorization

Subject to the limitations detailed in the User Responsibilities of this brief and the respective system Standard Operating Procedures (SOP), the user is authorized access to DOJ JWICS information systems classified Top Secret/ SCI as required. This authorization contains no implied authorization to access any computer system of the United States Government not specifically identified herein. This authorization shall be revoked upon separation, retirement, reassignment of duties, change of organization or when determined by the Information Systems Security Officer **(ISSO)** to be in the best interest of the Government.

WARNING: **Only Authorized Users May Use These Systems**. Individuals using DOJ computer systems without authority, or in excess of their authority, are subject to having all of their activities on these systems monitored and recorded by system personnel. In the course of monitoring individuals improperly using these systems, or in the course of system maintenance, the activities of authorized users may be monitored. Anyone using these systems expressly consents to such monitoring and is advised that if such monitoring reveals possible evidence of criminal activity, management may authorize system personnel to provide the evidence of such monitoring to law enforcement officials.

DOJ JWICS ISSO Review:

User is authorized/not authorized access to: _____ _____ _____

System Signature Date

User Acknowledgement

I understand that I am authorized to access to Department of Justice computer systems as necessary. Access for purposes beyond the Scope of Authorization is a violation of Federal law (18 U.S.C. 1030 et al.). I acknowledge the above briefing along with my responsibility to protect information processed by the Department of Justice owned and operated computer systems, directly or via remote access. I understand that only official Department of Justice business may be conducted on the system. Any records produced are government records and must be handled in accordance with the Paperwork Management and Information Security Manuals.

I understand THERE IS NO EXPECTATION OF PRIVACY WHILE USING THIS CLASSIFIED DEPARTMENT OF JUSTICE SYSTEM and that ALL DEPARTMENT OF JUSTICE SYSTEMS ARE SUBJECT TO MONITORING BY AUTHORIZED PERSONNEL. I further understand that if security monitoring reveals evidence of possible improper or criminal activity, such evidence will be provided to appropriate management and/or law enforcement personnel and may result in prosecution and/or removal of my account.

I have read and initialed the user responsibilities pages attached to this form and retained a copy for my reference. I agree to abide by the applicable system SOP.

User Signature: _____ Date: _____

DOJ JWICS ISSO USE ONLY	Activated on:
Username:	Hostname:

PRIVACY ACT STATEMENT: SSN info will be used to verify personal identification and security clearance levels to allow individuals access to classified computer systems.

DOJ_NMG_ 0149980

JCON – TS (JWICS) User Agreement Form

This check-in brief outlines basic computer or automated information system (AIS) security practices that shall be followed while utilizing DOJ JWICS System workstations processing Top Secret / SCI Information. Users requesting access to the AIS, shall:

6. Read pages 5-7 of this package. **Initial the bottom of each page**.
7. Fill out, sign, and date the DOJ JWICS User Agreement Form.
8. Have your Supervisor fill out, sign and date his/her section of the DOJ JWICS User Agreement Form.
9. Keep pages 1-3 for your reference.
10. Send the package to the system Information System Security Officer **(ISSO)** for processing.

Basic User Responsibilities are discussed below. More detailed information is available in the SPOM and individual system SOPs.

USER RESPONSIBILITIES

AIS Security Officials	The Information System Security Manager **(ISSO)** is responsible for establishing and enforcing AIS security policy for the DOJ JWICS system. The system **ISSO** implements AIS security policy and procedures on individual workstations. Each user shall know how to contact the security officials for the information system that he/she is authorized to access. The ISSO is Dale Long and he can be reached at 202-353-9856.
Passwords	Every user of a DOJ JWICS system will use a "strong" password of eight ALPHANUMERIC CHARACTERS (combination of numbers and letters). A "strong" password must contain **all four** types of characters: upper case letter, lower case letter, western Arabic numeric and non-alphanumeric. To prevent passwords from being easily guessed, they shall not be names/numbers that can easily be associated with your person (i.e. well known nicknames, spouse's or close relatives (son, daughter, mother, etc.) name, favorite sports teams, type of car you drive, etc.) nor should they be dictionary words (e.g. "SPIDER" or "OFFICE"). Choose a password that is easy for you to remember but is not easily guessed. Passwords are for individual use only. The sharing of passwords is prohibited as is writing it down in easily accessible places (such as "post-it" notes on your desk or in your organizer file under "P", etc.). Your password is used to authenticate you and only you as a valid user of the system. Protect passwords, when combined with user account names, at the highest classification level of the system to which the passwords allow access. If you feel your password has been compromised or that unauthorized personnel are accessing your files, report it immediately to the system **ISSO**.
Physical Security	Physical security and environmental controls shall be used to provide an acceptable level of security to all information systems. Physical security can be achieved through basic measures such as challenging strangers/unknown personnel in your workplace or computer area and by never leaving an active terminal unattended. At the end of a session the printer and computer must be shut down and powered off for at least 10 seconds. These are important practices that safeguard against unauthorized use. Individuals providing escort duty are responsible for ensuring the person being escorted does not gain unauthorized access to a DOJ JWICS automated information system. Failure to do so may result in a security incident and adverse action
Individual Account Protection	To ensure individual account and system protection log-off the system each time you leave the workstation. Users are required to logoff when departing for the day. **Ensure this is always done!** Failure to secure the workstation by logging off is a practice dangerous to security and may result in adverse administrative action.
Processing	Information systems connected to the DOJ JWICS LAN can process, store, and transmit information

JCON – TS (JWICS) User Agreement Form

Restrictions	up to a classification level of Top Secret/ SCI. If higher classification is inadvertently processed on the DOJ JWICS LAN, report the incident immediately to the **ISSO.** The contaminated workstation(s) and servers will be disconnected from the network and sanitized.
Software	Requests to use non-standard DOJ JWICS software, including free and unsolicited demonstration software, shall be submitted to the **DOJ JWICS ISSO**. Personally owned software, regardless of source, may not be introduced into DOJ JWICS computers.
Modems	The use of modems is prohibited.
Wireless adapters	The use of wireless adapters are prohibited.
Removable Media	All removable magnetic media must bear a label indicating the classification level of information to which the media contains. A color-coded security classification label must be affixed to media. Place the labels in a conspicuous place where they will not adversely affect operation of the equipment. **For destruction, return removable media to the system ISSO**.
Output	Users will ensure that all output contains proper classification and control markings and is adequately protected, including classified information cover sheets. This includes all messages and correspondence generated on electronic mail systems. Printed Top Secret information that does not leave the restricted area is normally exempt from accountability. See the **ISSO** with questions regarding printed collateral Top Secret material.
Toner Cartridges	**Return used toner cartridges from classified laser printers and secure fax to the system ISSO for recycling or disposal.** Generally, used toners from classified systems, that have successfully completed a printing cycle, are considered unclassified.
Copying Files	**Users are not authorized to move files between systems with differing classifications unless designated in writing by the ISSO.** When a user has a requirement to copy or move files between systems with differing classifications, the user shall contact the system **ISSO** for assistance. The **ISSO** has software utilities and procedures to comply with secure copy policy.
Electronic Mail	E-Mail is a DOJ owned communications system used to supplement the record message system. It is subject to the same for official use only constraints as government mail or telephones, and shall be used to conduct Government business only. Users should be aware that administrators and technicians have the ability to review e-mail and disseminate it as necessary. **There is no expectation of privacy while using DOJ information systems!**
Electronic Equipment	Items generally prohibited in restricted areas include personally owned: photographic, video, audio recording equipment, computers & associated media, and **cell phones**. Personally owned electronic calculators, electronic spell-checkers, wristwatches, receive only pagers and radios are allowed in a Restricted Area.
Virus/Malicious Programs	Users shall make very effort to prevent the transmission of computer viruses and Trojan horses. Anti-virus software is installed on all DOJ JWICS workstations. Any removable media introduced from outside **DOJ** shall be inspected by the **ISSO** prior to being placed into a DOJ JWICS workstation.

JCON – TS (JWICS) User Agreement Form

To begin using the classified system:

1. Make sure the hard drive key is accessible.

Note: *The hard drive key may not be stored in the same location as the hard drive.*

2. Clear work area of all unauthorized personnel.

3. Review System Security Plan.

4. Do not leave classified material unattended or unsecured during processing.

5. Upon completion of boot-up initiate desired program.

6. If storage media is needed ensure that it is properly labeled and insert it into its drive.

7. If system malfunctions, immediately notify the TSVC Help Desk at 202-307-5368.

8. If you need to print, use only the associated printer.

9. Ensure all printer material is properly labeled with highest level of classification contained therein.

10. Do not load any unauthorized software on system.

To shut down the system:

1. Save any material to the A: drive or the removable hard drive.

2. Clear printer memory and clear the paper path by turning off the printer for at least 10 seconds.

3. Remove any diskette in the A: drive, label it with appropriate classification and set aside for storage in the GSA-approved container.

4. Clear computer memory by turning off the computer for at least 10 seconds.

5. Ensure all products/media are properly marked.

6. Store the hard drive key.

Remember: The hard drive key may not be stored in the same location as the hard drive.

DOJ_NMG_ 0149983

JCON-TS (JWICS) User Agreement

COMSEC ACCESS BRIEFING

You have been selected to perform duties requiring access to sensitive COMSEC information. It is, therefore, essential that you are made fully aware of certain facts relative to the protection of this information before access is granted. This briefing will provide you with a description of the types of COMSEC information you may have access to, the reasons why special safeguards are necessary for protecting this information, the directives and rules, which prescribe those safeguards, and the penalties that you will incur for willful disclosure of this information to unauthorized persons.

COMSEC equipment and keying material are especially sensitive because they are used to protect other sensitive information against unauthorized access during the process of communicating that information from one point to another. Any particular piece of COMSEC equipment, keying material, or other cryptographic material may be the critical element, which protects large amounts of sensitive information from interception, analysis, and exploitation. If the integrity of the COMSEC system is weakened at any point, all the sensitive information protected by that system might be compromised; even more damaging, this loss of sensitive information may never be detected. The procedural safeguards placed on physical security, covering every phase of their existence from creation through disposition, are designed to reduce or eliminate the possibility of such compromise.

Communications Security (COMSEC) is the general term used for all steps taken to protect information of value when it is being communicated. COMSEC is usually considered to have four main components: Transmission security, physical security, emission security, and cryptographic security. Transmission security is that component of COMSEC which is designed to protect transmissions from unauthorized intercept, traffic analysis, imitative deception and disruption. Physical security is that component of COMSEC, which results from all physical measures to safeguard cryptographic materials, information, documents, and equipment from access by unauthorized persons. Emission security is that component of COMSEC which results from all measures taken to prevent compromising emanations from cryptographic equipment or telecommunications systems. Finally, cryptographic security is that component of COMSEC which results from the use of technically sound cryptosystems, and from their proper use. To ensure that telecommunications are secure, all four of these components must be considered.

Part of the physical security protection given to COMSEC equipment and materials is afforded by the special handling it receives from distribution and accounting. There are two separate channels used for handling of such equipment and materials: "COMSEC channels" and "administrative channels". The COMSEC channel, called the COMSEC Material Control System (CMCS) is used to distribute accountable COMSEC items such as keying material, maintenance manuals, and classified and CCI equipment. (EXCEPTION: Some military departments have been authorized to distribute CCI equipment through their standard logistics system.) The CMCS channel is comprised of a series of COMSEC accounts, each of which has an appointed COMSEC Custodian who is personally responsible and accountable for all COMSEC material charged to the account. The COMSEC Custodian assumes responsibility for the material upon receipt, and then controls its dissemination to authorized individuals on a need-to-know basis. The administrative channel is used to distribute COMSEC information and material other than that which is accountable in the CMCS.

JCON-TS (JWICS) User Agreement

COMSEC ACCESS BRIEFING (cont'd)

Particularly important to the protection of COMSEC equipment and material are an understanding of all security regulations and the timely reporting of any compromise, suspected compromise, or other security problem involving these materials. If a COMSEC system is compromised but the compromise is not reported, the continued use of the system, under the incorrect assumption that it is secure, can result in the loss of all information that was ever protected by that system. If the compromise is reported, steps can be taken to change the system, replace the keying material, etc. to reduce the damage done. In short, it is your individual responsibility to know and to put into practice all the provisions of the appropriate publications, which relate to the protection of the COMSEC equipment and material to which you will have access.

Public disclosure of any COMSEC information is not permitted without the specific approval of your Government contracting office representative or the National Security Agency (NSA). This applies to both classified and unclassified COMSEC information, and means that you may not prepare newspaper articles, speeches, technical papers, or make any other "release" of COMSEC information without the specific Government approval. The best personal policy is to avoid any discussions, which reveal your knowledge of, or access to COMSEC information and thus avoid making yourself of interest to those who would seek the information you possess.

Finally, you must know that should you willfully disclose or give to any unauthorized persons any of the classified or CCI COMSEC equipment, associated keying material, or other classified COMSEC information to which you have access, you will be subjected to prosecution under the criminal laws of the United States. The laws, which apply, are contained in Title 18, United States Code, and sections 641, 793, 794, 798, and 952.

If your duties include access to classified COMSEC information, in addition to the above, you should avoid travel to any countries which are adversaries of the United States, or to their establishments/facilities within the U.S. Should such travel become necessary, however, your security office must be notified sufficiently in advance so that you may receive a defense security briefing. Any attempt to elicit the classified COMSEC information you have, either through friendship, favors, or coercion must be reported immediately to your security office.

JCON-TS (JWICS) User Agreement

COMSEC ACCESS CERTIFICATION

I understand that as result of performing my duties as Primary/Alternate COMSEC Representative, I am being granted access to United States cryptographic information. I understand that my being granted access to this information involves me in this position of special trust and confidence concerning matters of national security. I hereby acknowledge that I have been briefed concerning my obligations with respect to such access.

I understand that safeguarding United States Cryptographic information is of the utmost importance and that the loss or compromise could cause serious or exceptionally grave damage to the national security of the United States. I understand that I am obligated to protect U. S. cryptographic information and I have been instructed in the special nature of this information and the reasons for the protection of such information. I agree to comply with any special instructions issued by my department or office regarding unofficial foreign travel or contracts with foreign nationals.

I understand fully the information presented in the written briefing I have received. I have read this certificate and my questions if any, have been satisfactorily answered. I understand that, if I willfully disclose to any unauthorized person any of the U. S. cryptographic information to which I might have access, I may be subject to prosecution under the criminal laws of the United States, as appropriate. I understand and accept that unless I am released in writing by an authorized representative of my department or office, the terms of this certificate and my obligation to protect U. S. cryptographic information to which I have access, apply during the time of my access and at all time thereafter.

_____ _____

Signature Date

_____

Print Name

To apply for the JCON-TS and JCON-S accounts:

Please complete the JCON-S User Agreement and COMSEC Agreement form (on this CD).
Please complete the JCON-TS User Agreement and COMSEC Agreement form (on this CD).
Please view the Computer Security Awareness Briefing and JCON-S System Training, parts a and b, on this CD
Please sign the Computer Security Awareness and System training form (on this CD).

Please return all completed and signed forms to Suzanne Mitchell by special messenger or hand carried at:

PHB 601 D ST. NW
LL506 Washington, D.C. 20530
phone number 202-305-9227

Call Ms. Mitchell if you have any questions regarding the application process.

Katsas, Gregory (CIV)

From: Katsas, Gregory (CIV)
Sent: Tuesday, January 3, 2006 7:30 PM
To: Gorsuch, Neil M
Subject: Read: South Dakota

Katsas, Gregory (CIV)

From: Katsas, Gregory (CIV)
Sent: Tuesday, January 3, 2006 7:30 PM
To: Gorsuch, Neil M
Subject: Read: South Dakota

Elwood, Courtney

From: Elwood, Courtney
Sent: Tuesday, January 03, 2006 7:32 PM
To: Gorsuch, Neil M
Subject: Read: South Dakota

Hart, Rosemary

From: Hart, Rosemary
Sent: Tuesday, January 3, 2006 7:47 PM
To: Gorsuch, Neil M
Subject: Read: South Dakota

Hart, Rosemary

From: Hart, Rosemary
Sent: Tuesday, January 3, 2006 7:47 PM
To: Gorsuch, Neil M
Subject: Read: South Dakota

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, January 3, 2006 7:54 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M; Henke, Tracy (SMO)
Cc: Gunn, Currie (SMO)
Subject: There is an off site exercise on Jan. 26

I am getting more details. Robert I know that you will be out and we will plan accordingly. The cadre list is being updated by SEPS to add Neil to the list. I will send around the revised list once it is set.

From: Whitacre, Charlotte T
Sent: Tuesday, January 03, 2006 7:14 PM
To: Reyes, Luis (SMO)
Subject: FYI

This was extracted from the original email sent in November.

In accordance with the April 8, 2005 memorandum from then DAG James Comey directing Continuity of Government cadre members to attend orientation sessions at the site semiannually, AAG for Administration Dr. Paul Corts has determined that there will be an Emergency Relocation Facility deployed training session on January 26, 2006. If unforeseen events require postponement, the session will take place on February 2, 2006. The session will take place from 10:00 a.m. until 3:00 p.m.. and will include site orientation and training activities utilizing IT/communication systems.

Please provide this office with the names of those cadre members who will participate. We recommend that your office take this opportunity to select cadre members who neither participated in last June's Pinnacle exercise nor have attended an orientation session since Pinnacle. Participants must have JCON-S and JCON-TS accounts and training prior to the training session.

If there are any questions please call 202-616-2288.

Thanks for your time.

Charlotte Whitacre

Margolis, David

From: Margolis, David
Sent: Tuesday, January 03, 2006 8:24 PM
To: Gorsuch, Neil M
Subject: Read: South Dakota

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, January 4, 2006 7:13 AM
To: McCallum, Robert (SMO); Gunn, Currie (SMO); Reyes, Luis (SMO)
Subject: Today

This [redacted] and I don't feel like I'd add much value in the office this morning. I will touch base around midday.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Wednesday, January 4, 2006 8:08 AM
To: Gorsuch, Neil M
Subject: RE: Today

No problem. Get well. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, January 04, 2006 7:13 AM
To: McCallum, Robert (SMO); Gunn, Currie (SMO); Reyes, Luis (SMO)
Subject: Today

This [redacted] and I don't feel like I'd add much value in the office this morning. I will touch base around midday.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, January 4, 2006 8:23 AM
To: Gorsuch, Neil M
Subject: Read: Reminder - Lessons Learned Four 1/13/06

Scolinos, Tasia

From: Scolinos, Tasia
Sent: Wednesday, January 04, 2006 8:26 AM
To: Gorsuch, Neil M
Subject: FW: Neil Lewis article
Attachments: tmp.htm

ine=nyt-per>

WASHINGTON, Jan. 3 - The Bush administration notified federal trial judges in Washington that it would soon ask them to dismiss all lawsuits brought by prisoners at Guantánamo Bay, Cuba, challenging their detentions, Justice Department officials said Tuesday.

The action means that the administration is moving swiftly to take advantage of an amendment to the military bill that President Bush signed into law last Friday. The amendment strips federal courts from hearing habeas corpus petitions from Guantánamo detainees.

On Tuesday, the Justice Department sent notices to all the federal judges in Washington who have cases involving challenges brought by Guantánamo inmates, informing them of the new amendment. The officials said the department would file formal notices within several days asking the judges to dismiss more than 160 cases involving at least 300 detainees.

If the administration wins its argument it would mean an abrupt end to a wide effort by dozens of lawyers to use the right of habeas corpus in federal courts to challenge the imprisonment of suspected terrorists at Guantánamo as enemy combatants.

The administration had selected Guantánamo as the site for a detention camp for terrorism suspects in the expectation that its actions would not be subject to review by federal courts. But in June 2004, the Supreme Court ruled that the naval base at Guantánamo was not outside the jurisdiction of United States law and that the habeas corpus statute that allows prisoners to challenge their detentions was applicable.

The challenges were brought in various district courts in Washington. After some federal judges disagreed over the meaning of the Supreme Court ruling, the United States Court of Appeals for the District of Columbia Circuit took up the issue, and during arguments in September, the appeals judges seemed skeptical of the administration's contentions.

In addition to arguing in court, the administration separately pressed its case in Congress and found a strong ally in Senator Lindsey Graham, Republican of South Carolina, who said the challenges brought by Guantánamo inmates were frivolous and were clogging the courts. Mr. Graham, along with Senators Carl Levin, Democrat of Michigan, and Jon Kyl, Republican of Arizona, sponsored the amendment to the Defense Act eliminating habeas corpus jurisdiction in federal courts.

The amendment instead allows the District of Columbia appellate court to review the results of military

tribunals at Guantánamo in which the prisoners were found to have been properly deemed imprisoned as enemy combatants.

Administration critics have complained that the tribunals at Guantánamo, in which panels of three officers decide whether a prisoner is an enemy combatant, are unfair in several respects. The prisoners are not represented by lawyers and they often may not see evidence used against them for national security reasons.

Tasia Scolinos, the Justice Department spokeswoman, said the detainees had ample opportunity to be heard.

"We are aware of no other country that has provided their enemies with such extensive legal review during an ongoing conflict," Ms. Scolinos said. "Detainees are entitled to legal review both within the military system and to the highest civilian courts in the country."

The Justice Department requests asking the district judges to dismiss all the habeas corpus petitions are expected to be challenged by lawyers for the detainees, making it likely that the issue will be resolved by the appeals court or the Supreme Court.

Although the courts and Congress are co-equal branches of government, the Constitution allows Congress to define the scope of jurisdiction for all federal courts below the Supreme Court.

John Nowacki

?There cannot be an absence of moral content in American foreign policy. Europeans giggle at this, but we are not European, we are American, and we have different principles.? ? Secretary of State Condoleezza Rice